



ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE
Mission to Serbia and Montenegro

MEDIA DEPARTMENT

Country Report
Internet Regulation in Serbia and Montenegro

Serbia and Montenegro had witnessed the repression over media and a strong restriction of freedom of expression during the 1990s, when the Internet became the alternative source of information. For example, Radio B92, shut down many times, launched the web site where it started broadcasting its programme through live stream. Unfortunately, only a small number of people were privileged enough to have the access to Internet, hence to enjoy the basic freedom to receive information.

According to ITU statistics, Serbia and Montenegro had 400.000 Internet users in 2000, while in 2002 that number was significantly increased for more than 50% - to 640.000 users. While there were 376 users per 10.000 inhabitants in 2000, this number has almost been doubled in 2002 on approximately 600 users per 10.000 inhabitants. In 2000, we had 2.26 PCs per 100 inhabitants, while in that number was increased in 2002 but still only 2.71. The European average is 20.01 PCs per 100 inhabitants.

There was no law in Serbia that regulated the Internet before April 2003. Telekom Srbija, having the exclusive rights until 09th June 2005, took the advantage of the loophole by trying to unite new technologies under its umbrella, which considered illegal by private providers, subproviders and users. The Law on telecommunications has been in its "final phase" for almost two years. The Article 33 that comprised the monopoly was an integral part of the law, but the problem was the non-existence of a body (Organization, Association) that could fight against it. In the meantime, Internet service providers (ISPs) were trying to become involved in the process of Internet regulation together with Internet users, but individually, and/or through Internet forums, which were very popular, but without any wider impact on public. After several unsuccessful attempts, the final result was their institutionalization through Yugoslav Association of Internet Service Providers (YUISPA - in the process of registration as Serbia and Montenegro Association), Center for Internet Development, Global Internet Policy Initiative as well as the Association of Telecommunications Users. The International Community has been also trying to point out serious problems within the draft Law on Telecommunications. Pressure exerted from both sides resulted in moving the article concerning the monopoly to the transitory provisions (Article 109, Paragraph 1) and at the same time taking Internet and multimedia services out of the exclusive rights.

For some time, a certain number of ISPs had been offered Voice-over-Internet-Protocol (VoIP) services in Serbia. Telekom Srbija had been obstructing operations of ISPs that provide VoIP by reducing their leased capacities starting February until June 2002, when the group of ISPs were simply disconnected by Telekom Srbija from public switched telephone network (PSTN) services. It was done without prior notice, warning, or consent. The affected ISPs brought their cases in front of the Economic Court in Belgrade and the Inspector of the Ministry of Transport and Telecommunications of the Republic of Serbia, which both ruled in ISP's favour. These decisions also ordered Telekom Srbija to fully restore the disconnected services to ISPs and to stop with similar practices. Telekom Srbija refused to follow the respective decisions that have not been enforced until today.

Law on Public Information ("Official Gazette" No. 43/03) is the first law in Serbia that defines electronic publication of media outlet on Internet as a media outlet. According to the Law on Public Information, media outlets shall comprise newspapers, radio and television programs, news agency services, Internet and other electronic editions of media outlets as well as other public information media that use words, images and sound to publish ideas, information and opinions intended for public dissemination and to be used by an unspecified number of users.

On the other hand, Law on Telecommunications ("Official Gazette" No. 44/03) is the first law that regulates Internet service as a public telecommunications service realized by applying Internet technology, while public telecommunications service is a publicly available telecommunications service provided by a public telecommunications operator. Law on Telecommunications prescribes that "Telekom Srbija", the operator of Serbia's public fixed telecommunications network, has the exclusive right to provide all existing and future types of fixed telecommunications services to users in the Republic of Serbia until 9 June, 2005 at the latest. This exclusive right does not affect Internet services, multimedia services nor any other radio-television and other broadcasting services of cable television that can be provided freely and under equal conditions according to the provisions of the law. The Agency shall issue a general authorization to any person whose intention is to operate a public telecommunications network or provide public telecommunications services under this regime, provided that such person has met or agreed to meet all requirements prescribed for that network or service. The general authorization shall be particularly issued for Internet services.

Upon completion of the legal framework, the following, very important step will be the proper implementation of these laws.

Situation in Montenegro is quite different from that in Serbia. Internet service is regulated through Law on Telecommunications ("Official Gazette of the Republic of Montenegro", 59/00) which states that the existing operator of the public fixed telecommunications network (Telekom Montenegro) or his legal successor shall have the exclusive right, up to December 31, 2003, to provide public fixed telephone services, telex and telegraphy services, public payphone services and services of leasing lines to users in the Republic, and to construct, own and exploit the public fixed telecommunications network, as well as to organize, encourage or provide service of 'back-call' and service of transferring voice through Internet in the Republic.

The existing monopolies in the telecommunications sector may destroy any competition and slow down the process of market liberalization, necessary for further convergence towards the European Union, but also to restrict the users from receiving information through the Internet.

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