

Nr. Prot. 056 /B/16

DECISION No.905

On

INDIVIDUAL AUTHORIZATION

On

'Spectrum usage by enterprise“mts” D.O.O. during the temporary authorization for provision of mobile telephony services under limited infrastructure in Kosovo'

Pursuant to the Law No.04/L-109 on Electronic Communications, article, 1, article 9, paragraph 1), article 10, paragraphs 12) and 14), article 45 paragraphs 1) and 2), article 46 paragraphs 1) and 2.2), article 47 paragraphs 10), article 54 paragraph 2, article 57 paragraphs 1) and 2) and article 79 paragraphs 1) and 2)(*Hereinafter referred as: Law*); Regulation No. 22 on allocating and usage of radiofrequencies (*Ref. No.Prot. 054/B/ 13*), articles 4 and 6 (*hereinafter referred as: Regulation on spectrum allocation and usage*); Regulation on payment for radio frequency usage (*Ref. No.Prot.082/B/12*), article 5 (*hereinafter referred as: Regulation on spectrum payments*); Decision (*Ref. No.Prot.005/B/16*) for derogation of Decision No.452; Point 4) of the Telecommunications Agreement between Kosovo and Serbia approved with Government Decision No.03/148; Government Decision No.07/70; Confirmation of Notification for temporary authorization for “mts” D.O.O. for mobile telephony (*Ref. No.Prot. 009/A/16*); Decision No.400 (*Ref. No.Prot.031/B/13*) on further liberalisation of mobile broadband services through allowing to use new technologies which enable advanced mobile services; at the request of the enterprise (*NewCo*) “mts” D.O.O. dated 30 December 2015 (*Ref. No.Prot.1055/2/15*); in accordance with the provisions of Article 20 of the Internal Regulation of the Regulatory Authority of Electronic and Postal Communications (*hereinafter referred as; ARKEP or Authority*), the managing Board of the Authority consists of:

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|-----------------------|-----------------------|
| 1) Mr. Kreshnik Gashi | Chairman of the Board |
| 2) Mr. Bahri Anadolli | Board member |
| 3) Mr. Hazir Hajdari | Board member |
| 4) Mr. Nijazi Ademaj | Board member |
| 5) Mr. Shqiprim Pula | Board member |

at its meeting held on 18 of November 2016, after reviewing all the application documents and other materials related to this case, in order to implement the provisions of the applicable legislation, approved this:

DECISION

- I. The request of the enterprise “mts” D.O.O. for usage of frequency bands 900MHz, 1800MHz and 2100MHz is approved as specified in the following table.

Frequency Band	Capacity	Frequency Range	Locations
900MHz	2x3.2MHz	900.3 -903.5 & 945.3 – 948.5 MHz	30 Locations as is specified in Annex I
1800 MHz	2x15MHz	1730 - 1745 & 1825 - 1840 MHz	17 Locations as is specified in Annex I
	2x5MHz	1735 - 1740 & 1830 – 1835 MHz	8 Locations as is specified in Annex I
2100 MHz	2x10MHz	1940,1 – 1950,1 & 2130,1 - 2140,1 MHz	17 Locations as is specified in Annex I
	2x5MHz	1940,1 – 1945,1 & 2130,1 - 2135,1 MHz	8 Locations as is specified in Annex I

- II. The frequency spectrum allocated in paragraph I) of this decision shall be used for the provision of public mobile telephone services and mobile broadband services on a technologically neutral basis, under limited infrastructure in accordance with temporary authorization (*Ref. No.Prot. 009/A/16*) and point 4 of Telecommunications Agreement, as it is specified in Annex I of this decision.
- III. The “mts” D.O.O. within 30 (thirty) days upon entry into force of this decision shall pay to the ARKEP the following fees:
- i. **One-off fee** in the amount of **157,084.94€** (34,549.78€ for 900MHz; 95,114.71 € for 1800MHz and 27,420.46€ for 2100 MHz) for the period of 12 months, calculated based on ARKEP’s methodology on the basis of 60,000 number block;
 - ii. **Annual fee** in the amount of **26,235.70€** (4,275.20€ for 900MHz; 15,280.50 € for 1800MHz and 6,680.20 € for 2100MHz) for the period of 12 months, calculated based in the Regulation No.17 with scaling factor 3.34%;
 - iii. **One off fee** in the amount of **22,000 €** for the usage of the technology on neutral basis;
 - iv. **Administrative tax** in the amount of **75 €** for Individual Authorization, based in the Regulation No.22, Annex 1 (2.1).

- IV. During the temporary authorization as it is defined in the point 4 of Telecommunications Agreement, after the period of 12 months upon entry into force of this decision, “mts” D.O.O is obligated to pay spectrum fees to the ARKEP on quarterly basis:
- *One-off* fee calculated based on ARKEP’s methodology calculated on the basis of 60,000 number block; and
 - Annual fee calculated based in the Regulation No.17 with scaling factor 3.34%.
- V. All payments effected by the “mts” D.O.O. in accordance with paragraphs III) and IV) of this decision are not refundable by the ARKEP and/or Government of Kosovo.
- VI. The “mts” D.O.O. shall ensure that the terrestrial mobile system specified in the Annex I of this decision at all times complies with the technical standards and Kosovo Regulatory Framework and ensure to not cause harmful interference to any other electronic communications networks and/or services.
- VII. Within the period of ninety (90) days from the date of entry into force of this decision ‘mts’ D.O.O. is obliged to adjust all frequency bands as specified in paragraph I) and Annex I of this decision.
- VIII. This decision shall expire once Kosovo Authorities issue a new full/unrestricted mobile telephony authorization as a result of a tender or an auction as it defined in point 4 of Telecommunications Agreement and in accordance with Kosovo Regulatory Framework.
- IX. Any modification of network, as defined by this decision, prior to approval by ARKEP shall constitute a breach of this decision and entitle the ARKEP to terminate this decision.
- X. ARKEP reserves the right to change this decision in the future, if it considers appropriate in accordance with the applicable laws in Kosovo and Arrangements Regarding Telecommunications and for any possible amendments of the decision will inform on time all the relevant stakeholders.
- XI. This decision shall enter into force in the same day that ITU (*International Telecommunication Union*) allocates to Kosovo three digit dialing code as defined in the Telecommunications Agreement.

REASONING

The purpose of the Law is to regulate electronic communications activities based on the principle of technological neutrality and EU Regulatory Framework (*Ref. Article 1 of the Law*).

Article 9, paragraph 1) of the Law specifies that ARKEP shall perform its functions in compliance with this Law and other legal and by-legal acts, as well as in accordance with the national sector policy and national strategies for the development of the electronic communications, and in compliance with the international agreements in the field of electronic communications.

Article 10, paragraph 12 of the Law, determines that: *“ARKEP manages scarce resources- the radio frequency spectrum and numbering space in electronic communications”*

Telecommunications agreement reached between Kosovo and Serbia in 2013, point 4 specifies that Kosovo Authorities will permit the new company a temporary authorization, under Kosovo Regulatory Framework, for current operations, limited to the current infrastructure on the grounds.

Decision No.07/70 of the Government of Kosovo, instruct the ARKEP to allocate to the “mts” D.O.O. only the necessary resources that are needed for provision of services, though also assuring an appropriate environment and without interferences for the currently authorized operators, which are providing mobile telephony services under Regulatory Framework.

The enterprise “mts” D.O.O., on December 30th 2015 submitted an application to ARKEP for Temporary Authorization for mobile telephony. After reviewing the application, ARKEP issued on 22 January 2016 a Confirmation of Notification for temporary authorization for mobile telephony (*Ref. No.Prot.009/A/16*).

On December 30th 2015 the enterprise “mts” D.O.O submitted an application to ARKEP for the use of radio frequencies (*Ref. No.Prot.1055/2/15*).

Based on ARKEP-s methodology the evaluation of frequency band for the period of 15 years calculated according to the formula:

$$CS = C_{MHz/POP} \times BW_{MHz} \times P$$

CS- is Spectrum fee. $C_{MHz/POP}$ - is Spectrum value for 1 MHz per population; P - is number of population.

Whence, after taking into account a number of factors based on benchmarking methodology (based on the auction results collected for auctions from public sources where full range of data for modeling was available), it has determined the value of the frequency bands for a period of 15 years:

- 800/900 MHz of € 0.63/MHz/Pop;
- 1800 MHz of € 0.37/MHz/Pop; and
- 2100 MHz of € 0.16/MHz/Pop.

Since the “mts” D.O.O. during the temporary authorization is limited in terms of infrastructure and operations as defined in the point 4 (four) of the Telecommunications Agreement the scaling factor 3.34% is applied and calculated on the basis of 60,000 number block divided by the total population of Kosovo.

Finally, for frequency blocks approved for usage by ‘mts’ D.O.O. in accordance with the paragraph I) of this Decision, we have calculate:

$$CS (900MHz) = C_{\frac{MHz}{POP}} \times BW_{MHz} \times P = 0.63 \left[\frac{\frac{\text{€}}{\text{MHz}}}{\text{Pop}} \right] \times 6.4 [MHz] \times 60,000 [Pop]$$

$$= 241,920.00\text{€}$$

For 12 months:

$$Spectrum Value_D = \frac{Spectrum Value_{15years}}{\sum_{t=0}^{179} \left(\frac{1}{1+WACC} \right)^{t/12}} * \sum_{t=0}^{D-1} \left(\frac{1}{1+WACC} \right)^{t/12}$$

Or after we set the values, we obtain:

$$Spectrum Value (900 MHz)_{12} = \frac{241,920.00\text{€}}{\sum_{t=0}^{179} \left(\frac{1}{1+0.14} \right)^{t/12}} * \sum_{t=0}^{11} \left(\frac{1}{1+0.14} \right)^{t/12} = 34,549.78 \text{ €}$$

After following the same procedure, spectrum fee for other two bands is calculated:

$$Spectrum Value (1800 MHz)_{12} = \frac{666,000.00\text{€}}{\sum_{t=0}^{179} \left(\frac{1}{1+0.14} \right)^{t/12}} * \sum_{t=0}^{11} \left(\frac{1}{1+0.14} \right)^{t/12} = 95,114.71 \text{ €}$$

$$Spectrum Value (2100 MHz)_{12} = \frac{192,000.00\text{€}}{\sum_{t=0}^{179} \left(\frac{1}{1+0.14} \right)^{t/12}} * \sum_{t=0}^{11} \left(\frac{1}{1+0.14} \right)^{t/12} = 27,420.46 \text{ €}$$

In total:

$$Spectrum Value (900 MHz + 1800 MHz + 2100 MHz)_{12} = 157,084.94 \text{ €}$$

On the other hand, based on the Regulation No. 17 on spectrum payments, the annual fee for above frequency bands is:

900 MHz 20€/kHz, 1800MHz 15.25€/kHz, and 2100MHz 10€/kHz

For frequency blocks approved by ARKEP, after applying scaling factor 3.34%, we calculate:

900z: 4,275.20€ €, 1800MHz: 15,280.50 €, and 2100MHz: 6,680.20 €

According to the point 4 of Telecommunications Agreement, temporary authorization shall expire once Kosovo Authorities issue a new full/unrestricted mobile telephony authorization as a result of a tender or an auction based on Kosovo Regulatory Framework.

During the temporary authorization as it is defined in the point 4 of Telecommunication Agreement, after the period of 12 months upon entry into force of this decision, "mts" D.O.O is obligated to pay spectrum fees to the ARKEP on quarterly basis:

- *One-off* fee calculated based on ARKEP's methodology calculated on the basis of 60,000 number block;
- Annual fee calculated based in the Regulation No.17 with scaling factor 3.34%.

Taking into consideration the above clarifications and in order to:

- Ensure efficient management of scarce resources in accordance with the Regulatory Framework,
- Satisfy the reasonable needs of operators and providers of the public electronic communications service for the allocation of the radio frequencies under the Law on electronic communications and other regulations approved by ARKEP,
- Ensure that the allocation and use of radio frequencies is fair, transparent and nondiscriminatory,
- Eliminate interference and complies with technical standards.

Then it is decided as in the provision of this decision.

Legal advice:

The unsatisfied parties with this decision may initiate an administrative dispute before the competent court within thirty (30) days from the date of receipt of the decision.

Prishtinë, December 2nd, 2016

Regulatory Authority of Electronic and Postal Communications

Kreshnik Gashi
Chairman of the Board

Decision is sent to:

- The enterprise "mts" D.O.O.
- Frequency Management Department, ARKEP
- Legal Department, ARKEP; and
- Archive of ARKEP.

ANNEX I

Base Stations of “mts” D.O.O. under limited scope of current operations

Technical parameters regarding Base Stations shall be applied in accordance with the applicable technical standards and the regulatory framework of Kosovo and the table below.

No	Location	Latitude/ Longitude	Frequency Band 900MHz	Frequency Capacity	Frequency Range	Antenna Height (m)
1	KM Kamenica	43°01'12.08"N 20°49'11.14"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	13
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	13
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	13
2	Zubin Potok - PTT	42°55'3.09"N 20°41'10.30"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	13
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	13
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	13
3	Zhupçë/Zupce	42°54'23.55"N 20°44'27.19"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	23
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	23
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	23
4	Maticki Krs	42°54'52.35"N 20°49'41.67"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	17
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	17
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	17
5	Manastiri i Sokolicës /KM-Manastir_Sokolica	42°55'38.31"N 20°51'44.39"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	3
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	3
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	3
6	Josanica	43°05'0.70"N	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	8

		20°49'21.72"E	1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	8
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	8
7	Zvecan	42°54'36.57"N 20°50'55.88"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	79
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	79
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	79
8	Kom-Leshak	43°09'43.77"N 20°42'3.97"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	17
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	17
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	17
9	Kurilo	42°51'17.51"N 20°37'55.99"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	28
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	26
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	28
10	Zubin Potok	42°55'53.87"N 20°39'23.65"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	20
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	20
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	20
11	Mitrovica	42°53'50.39"N 20°51'52.37"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	36
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	36
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	36
12	KM-Qendra / KM-Centar	42°53'40.41"N 20°51'54.60"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	47
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	47
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	47
13	TV Ura e Zveqanit të vogël/ TVMost_Mali_Zvecan	42°53'59"N 20°50'42"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	21.5
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	21.5
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	21.5
14	Banjska	42°58'45.08"N	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	30

		20°48'43.30"E	1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	30
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	30
15	Soqanica	43°03'22.10"N 20°49'18.02"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	23
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	23
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	23
16	Spitali i Mitrovicës/ KM-bolnica	42°53'28.11"N 20°51'40.78"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	24
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	24
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	24
17	Leposaviq	43°06'8.30"N 20°48'14.65"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	14
			1800 MHz	2 x 15 MHz	1730 - 1745 & 1825 - 1840 MHz	14
			2100 MHz	2 x 10 MHz	1940,1 - 1950,1 & 2130,1 - 2140,1 MHz	14
18	Manastiri i Deçanit / MANASTIR VISOKI DEÇANI	42°32'49.22"N 20°15'59.76"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	5
19	P. e Pejë/PEĆKA PATRIJARŠIJA	42°39'39.63"N 20°15'52.48"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	10
20	M. Deviqit/ MANASTIR DEVIČ	42°43'5.35"N 20°46'25.31"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	15
21	M.i Hoqës së M./MANASTIR VELIKA HOČA	42°23'19.17"N 20°40'48.03"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	12
22	Gračanica	42°35'56.68"N 21°11'38.10"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	12
23	Kamenicë/ Kamenica	42°34'46.64"N	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	35

		21°34'29.33"E	1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	35
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	35
24	Vërboc/Vrbovac	42°19'37.19"N 21°24'33.34"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	35
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	35
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	35
25	Ranillugë/ Ranilug	42°29'38.89"N 21°36'10.12"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	35
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	35
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	35
26	Shillovë/Silovo	42°28'38.13"N 21°30'08.36"E (Within a 1,5km radius from these coordinates)	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	35
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	35
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	35
27	Budrigë e Poshtme/ Donja Budriga	42°24'29.54"N 21°27'37.98"E (Within a 1,5km radius from these coordinates)	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	25
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	25
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	25
28	Shtërpce/Strpce	42°15'03.08"N 21°01'26.81"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	20
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	20
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	20
29	Brezovicë/Brezovica	42°13'03.90"N 21°00'19.56"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	25
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	25
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	25
30	Graçanicë/ Gracanica	42°35'56.68"N 21°11'38.10"E	900 MHz	2 x 3.2 MHz	900.3 -903.5 & 945.3 - 948.5 MHz	20
			1800 MHz	2 x 5 MHz	1735-1740 & 1830 - 1835 MHz	20
			2100 MHz	2 x 5 MHz	1940,1 - 1945,1 & 2130,1 - 2135,1 MHz	20

