

Spain

A new version of the General Telecommunications Law is currently in the last phase of amendments and a new version will probably be released in early 2014. The new law aims at simplifying administrative procedures and bureaucracy in general and at avoiding administrative barriers to the deployment of the networks.

Exposure guidelines

Royal Decree 1066/2001 of 28 September, which approves the Regulation establishing conditions for the protection of public radio, radio emissions restrictions and measures of health protection against radio emissions (based ICNIRP limits).

Planning Authority

Municipality and Autonomous Community / Regional Government (Spain has 17 Autonomous Communities).

Requirements for planning permission

First: Construction License (Municipality), Activity License (Municipality or Autonomous Community / Regional Government – Spain has 17 Autonomous Communities).

2nd: Once the station is built, the Municipality checks:

- That what was planned is indeed built: Occupation License
- The activity: Functional License (regular inspection, no RF)

Documentation: Building project certificated by an architect, Environmental impact study (does not include anything regarding radiation), deployment plans. Depends on the Municipality / Autonomous Community.

Timescales for Permission

More or less three months. This depends on the ordinance; the typical period to receive approval to build a site is 18 months (if obtained).

The worst case length of time to get approval to build a site is from two to three years.

Appeals process

First appeal can be made against the local administration (Juzgado Contencioso Administrativo) that issued the permit. In second instance the standard judicial procedure has to be followed. If it goes further, Justice Superior Court (Auto. Comuni) or Supreme Court (National). Any interested party, including neighbours has the right to lodge an appeal. Appeals typically one to three years. Eight to 10 years in extreme cases. New Doctrine of the Constitutional Court and Supreme Court jurisprudence establishing the exclusive competence of State regulation on basic health facilities and telecommunications radio. The Constitutional Court, a body of interpretation of the Spanish Constitution, by judgment on the constitutionality of a regional law (Ley de Castilla-La Mancha) regulating technical aspects

of radio facilities. The Constitutional Court passes verdict on any regional/local legislation which regulates telecommunications and technical aspects of health protection other than the rules of the States are considered void. The Supreme Court (highest court), and some chambers of the Regional Superior Courts of Justices, are agreeing to cancel regional and local standards governing technical aspects of the radio installations specified following the Doctrine of the Constitutional Court.

Public Consultation

The consultation or notification is not required for all sites, depends on the ordinance / municipality. When operators apply for a license, depending on the ordinance, there may be an obligation to notify all the neighbors. Some Town Councils may not only impose public inquiry but even an individual notice to each potentially interested party. In such a case, the residents have the right to make claims, which is part of the process of obtaining license. The operator then has to prove that communication and subsequent report in the Bulletin have been carried out. The Operator and/or the Municipality undertake the consultation. Approval of new release endorsing State regulation of municipal authorizations on matters affecting the radio installations. The Spanish government, implementing structural reforms Plan submitted the European Commission, is reforming all laws applicable to the obligation to obtain authorizations from the authorities to provide services, modifying, in general, these rules liberalizing other administrative processes. A reduced procedure only requiring advance notice to the Administration to provide services, interpreting the permissions needed to install base stations, compliance with state standards of control, would be within this new scheme of advance notice.

Exemptions & Existing site upgrade

In some areas, e.g. Galicia, there are simplified procedures when operators decide to install microcells.

There are exemptions or simplified procedures for changes to existing sites, sometimes. The need to follow complete procedures depends on the level of details in the application submitted in the first place. If the initial project was well described to include possible changes in the installation, and if the change made on the existing site was considered in the initial project, then the Town Council may authorize to make the change without applying again. If any change, even small, was not planned or identified in the initial project, then there should be no exemption. If the change is major (e.g. tower replacement), full submission will be requested.