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A new telecommunications regulator, the National Commission for State Regulation of Electronic Communications, Radio Spectrum and Postal Services, is to be established in Ukraine. The respective law was adopted by the Ukrainian Parliament on 16 December 2021. Upon the President of Ukraine signing the law and its official publication, the Na-

**On 16 December Parliament adopted Draft Law No. 6055 about the new telecommunications regulator in its second reading. Why was this necessary and what amendments does it include?**

tional Commission for the State Regulation of Communications and Informatization of Ukraine (NCCIR, the former regulatory authority) will assume the status of a new regulator and all its powers as provided under the respective new law.

The establishment of the new telecom regulator has been dictated by the new regulatory framework provided by the Law of Ukraine *On Electronic Communications* enacted on 1 January 2022. The implementation of the said law requires a new regulator with stronger powers and independency. For example, in line with the current EU approaches as reflected in the *European Electronic Communication Code*, the new regulator is supposed to control and ensure broadband coverage through respective geographical sur-

veys among network and/or service providers and be more efficient in monitoring and ensuring the quality of services which shall be done as per the parameters established by the Law of Ukraine *On Electronic Communications*. In terms of the independency of the new regulator, among other things, its regulations will no longer require an approval by the State Regulatory Service (earlier, mandatory review by the State Regulatory Service has blocked on numerous occasions draft regulations of the NCCIR).

Due to delayed adoption by Parliament of the law on the new telecom regulator, formally, in Ukraine, there is no state authority exercising control over telecommunications sector since 1 January 2022 and up until the new law comes into force.

It is also worth noting that proper functioning of the new regulator requires adopting and updating secondary legislation and most likely expanding the existing staff of the NCCIR, so that the new regulator is able to efficiently exercise its increased powers.

Given the above circumstances, market players are currently prevented from receiving administrative services which may be necessary to continue their respective telecom operations, e.g., receiving or renewing the spectrum licenses, permits on usage of numbering resource, etc. Hopefully, the transition period for the new regulator will not be long, and soon both market players and consumers of telecommunications will benefit from the newly established telecom regulator.



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According to the authors of Draft Law No. 6464, it is aimed at implementing a number of provisions of the *EU-Ukraine Association Agreement* into Ukrainian legislation, namely:

**The Cabinet of Ministers of Ukraine registered Draft Law No. 6464 regarding stepping up the protection of international property rights. What is this Draft about?**

Article 235 “Right to Information” (regarding possibility for a court to request information on the origin and network for distribution of goods and/or services infringing intellectual property rights); Article 236 “Provisional and Precautionary Measures” (regarding application of preliminary injunctions with respect to intermediaries whose services are used by a defendant to infringe intellectual property rights); Article 239 “Alternative Measures” (regarding the possibility to apply one-time compensation instead of other remedies); Article 240 “Dam-

ages” (regarding principles for compensation of damages, including lost profit, or collecting the infringer’s income, or compensation, and/or moral damages); Article 242 “Publication of judicial decisions” (regarding the possibility to make public information on intellectual property rights infringement and the content of a court verdict), and respective provisions of Directive 2004/48/EC of the EU Parliament and Council of 29 April 2004 on protection of intellectual property rights.

Though Ukraine should fully implement the *EU-Ukraine*

*Association Agreement*, enforcement of the above right to information raises a lot of questions as it would be too easy to avoid providing the information on the origin and network for distribution of goods and/or services infringing intellectual property rights requested by a court.

An alternative draft law has already been registered with the Ukrainian Parliament since, according to the authors thereof, Draft Law No. 6464 incompletely implements the *Association Agreement* into Ukrainian legislation.