



EU4Digital

EU4Digital: supporting digital economy
and society in the Eastern Partnership

Framework law on Electronic Communications for Moldova

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TITLE I NRA GOVERNANCE

CHAPTER II NRA legal nature and purpose

The articles below this box cover the following criteria:

- Legislative initiative powers of NRA (1.1.9.)

Article 8

Legislative and advisory powers

1. NRA will pronounce itself on all matters within its area of responsibilities that are submitted to it by the Parliament or the Government and may, on its own initiative, suggest or propose political or legislative measures in matters pertinent to its responsibilities to the Parliament or the Government.
2. NRA will respond within a maximum of 60 days to consultations addressed to it by authorised entities on matters within its jurisdiction.

Article 9

Regulatory and supervisory procedures

In the scope of its powers of regulation and supervision, NRA may adopt, under terms of the law, the following procedures:

- a) The elaboration of regulations in cases anticipated by law and when shown to be indispensable for the exercise of its responsibilities;
- b) Accompany activities of the entities subject to its oversight and the functioning of communications markets;
- c) Monitor compliance with the law and applicable regulations in the communications sector;
- d) Approval of acts anticipated by law;
- e) Effect registration as anticipated by law;
- f) The initiation and accompaniment of cases involving sanctions, and the punishment of infractions within its jurisdiction;
- g) Give orders and formulate tangible recommendations;
- h) Disseminate information;
- i) Publish studies;
- j) Others anticipated by law.



Chapter VI Composition and appointment and dismissal of the board

The articles below this box cover the following criteria:

- Procedure and conditions set for recruitment of head or collegiate body performing that function (1.2.1.)

Article 25 Composition and appointment

1. The members of the board are nominated from among people of recognised capacity, independence and technical and professional competence.
2. Ineligible for nomination are those who have been members of the managing bodies of companies in the communications sector for the past two years, i.e., who have worked with or been permanent collaborators of same with directorial or leadership duties during that same period of time.
3. The members of the board may not retain interests of a financial nature or shares in regulated companies in the sectors of communications.
4. The members of the board are appointed for once renewable period of five years; the members remain in office until their effective replacement or declaration of cessation of functions.

TITLE II NRA POWERS AND OBLIGATIONS

CHAPTER I Supervision and monitoring

The articles below this box cover the following criteria:

- Powers of enforcement of regulation (2.1.1.)

Article 34 Exercise of oversight

1. Under terms of the law, NRA may proceed with inquiries and tests at any site or entity within the scope of those functions.
2. For effects of the aforementioned paragraph, the NRA may accredit especially skilled or qualified persons or entities.
3. In exercising powers on supervision and control as set forth by this law, the NRA shall carry out its activities autonomously and requirements under Law On State Supervision of Entrepreneurship No. 131 of 08.06.2012 shall not be applicable to the NRA.

Article 35 Procedures for sanctions

1. NRA is responsible for initiation legal cases and punishing administrative infractions of the laws and regulations whose implementation or supervision is within its jurisdiction, as well as those resulting from non-fulfilment of its own determinations.



2. The sanction procedures respect the principle of hearing for the interested parties, the contesting party and the other divers principles contained in the Code of Administrative Procedure, and, when appropriate, the regime for offences.
3. It is also incumbent upon NRA to report to the proper authorities when it learns of infractions during the performance of its duties.

CHAPTER III Access to open internet and quality of service

The articles below this box cover the following criteria:

- Powers to regulate net neutrality (2.1.5.)

Article 40 Access to open internet

The NRA shall have necessary powers and obligations under Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union related to access to open internet and Articles 3, 4 and 5 thereof in particular.

The articles below this box cover the following criteria:

- Powers to supervise EU Broadband Cost Reduction Directive implementation from 2014 (2.1.7.)

Article 42 On measures to reduce cost of rollout of broadband networks

The NRA shall have necessary powers and obligations under Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks related to dispute settlement body and single information point Articles 4, 6 and 7 thereof in particular.

The articles below this box cover the following criteria:

- Powers to organise associated councils or consulting bodies (2.1.9.)

Article 43 NRA advisory body

The advisory council is a body for consultation, support and participation in definition of the general guidelines for the activity of NRA. The NRA may setup such a council following a consultation procedure.



CHAPTER V Access and interconnection

SECTION I General provisions

The articles below this box cover the following criteria:

- Powers to regulate interconnection and access (2.2.3.)

Article 51 Freedom of negotiation

Undertakings providing electronic communications networks and services are entitled to negotiate and agree between themselves technical and commercial arrangements for access and interconnection, without prejudice to the competence of the NRA provided for in the present chapter.

Article 52 Competence of the national regulatory authority

1. In exercising the powers set out in the present chapter, the NRA shall, acting in pursuit of the regulatory objectives set out in article DDD, encourage and, where appropriate, ensure suitable access and interconnection, as well as interoperability of services, aiming at promoting efficiency and sustainable competition, and at providing maximum benefit to end-users.
2. The NRA is charged with:
 - a) Imposing obligations in matters of access and interconnection on undertakings providing electronic communications networks and services;
 - b) Intervening upon its own initiative whenever justified or, in the absence of an agreement between undertakings, at the request of either of the parties involved pursuant to articles DDD and DDD, in order to secure the objectives established in article DDD, in accordance with the provisions of the present law.
3. Operators shall comply with obligations in the form, way and time to be determined by the NRA.

Article 53 Access and interconnection conditions

1. The terms and conditions of access and interconnection provision shall be consistent with obligations imposed by the NRA in such respect.
2. Operators shall have a right and, when requested by other undertakings, an obligation to negotiate interconnection with each other for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services.
3. Traffic shall remain the property of the undertaking operating the network or providing the service where the traffic is originated, unless otherwise agreed, and the respective conveyance, as well as the delivery point, may be freely negotiated between the parties.
4. In the case of transnational agreements, the undertaking requesting access or interconnection does need to be covered by the general authorisation laid down in the present law, provided that it does not provide electronic communications networks and services within the national territory.



Article 54 Confidentiality

1. Undertakings shall respect the confidentiality of information received, transmitted or stored, before, during or after the process of negotiating and making agreement in respect of access or interconnection, and shall use that information solely for the purpose for which it was supplied.
2. The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could constitute a competitive advantage.
3. The provision of the preceding paragraphs does not prejudice the exercise of the supervisory and monitoring powers of the NRA, particularly in respect of information requested pursuant to article DDD.

SECTION II Obligations applicable to undertakings with significant market power

Article 55 Imposition, maintenance, amendment or withdrawal of obligations

1. The NRA is charged with determining the imposition, maintenance, amendment or withdrawal of the following obligations, in respect of access or interconnection applicable to undertakings designated as having significant market power:
 - a) Obligation of transparency in relation to the publication of information, including reference offers, pursuant to articles DDD to DDD;
 - b) Obligation of non-discrimination, in relation to the provision of access and interconnection and the respective provision of information, pursuant to article DDD;
 - c) Obligation for accounting separation in respect of specific activities related to access and interconnection, pursuant to article DDD;
 - d) Obligation to respond to reasonable requests for access, pursuant to article DDD;
 - e) Obligation of price control and cost accounting, pursuant to article DDD to DDD;
 - f) Obligation of functional separation.
2. For the purposes of the preceding paragraph, the NRA shall impose the appropriate obligations, having regard to the nature of the problem identified, which obligations shall be proportionate and justified according to the objectives set out in article DDD.
3. The obligations set out in paragraph 1 shall not be imposed on undertakings which have not been designated as having significant market power, except in the cases where such imposition is necessary to comply with international commitments.

Article 56 Obligation of transparency

1. The obligation of transparency consists of the requirement to publish appropriate information in respect of the provision of access and interconnection by an operator, including accounting information, technical specifications, network characteristics and terms and conditions for supply and use, including prices.
2. For the purposes of the preceding paragraph, the NRA is charged with specifying the information to be published, and the form and manner of its publication.



Article 57

Reference offer

1. The NRA may, on a case by case basis, determine, in particular to operators which have obligations of non-discrimination, that access or interconnection reference offers be published, which offers shall:
 - a) Be sufficiently unbundled to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested;
 - b) Give a description of the relevant offerings broken down into components according to market needs;
 - c) Give a description of the associated terms and conditions, including prices.
2. For the purposes of the preceding paragraph, the NRA may determine the components which as a minimum shall be included in the reference offers, specifying the precise information to be made available, the level of detail required and the manner of publication.
3. The NRA may further determine:
 - a) Changes to published reference offers, at any time and where necessary with retroactive effect, to give effect to obligations imposed under the provision of article DDD;
 - b) The immediate inclusion of the imposed changes in the agreements concluded, provided that such changes have specific and sufficient content.

Article 58

Reference offer for access to the local loop

1. Where an operator is subject to the obligation to offer unbundled access to the local loop, it shall publish the respective reference offer for access to the local loop including as a minimum the following list of components, without prejudice to the provision of paragraph 2 of the Article DDD:
 - a) Conditions for unbundled access to the local loop;
 - b) Co-location;
 - c) Information systems;
 - d) Supply conditions.
2. For the purposes of point a) of paragraph 1, the following items shall be specified:
 - a) Network components to which access is offered, covering in particular access to local loops and access to non-voice band frequency spectrum of a local loop, in the case of shared access to the local loop;
 - b) Information concerning the location of physical access sites, the availability of which may be restricted to interested parties, in order to avoid public security concerns, as well as availability of local loops in specific parts of the access network;
 - c) Technical conditions related to access and use of local loops, including the technical characteristics of the twisted metallic pair in the local loop;
 - d) Ordering and provisioning procedures and usage restrictions.
3. For the purposes of point b) of paragraph 1, the following items shall be specified:
 - a) Information on the notified operator's relevant sites, the availability of which may be restricted to interested parties, in order to avoid public security concerns;



- b) Co-location options at the sites indicated in the preceding point, including physical colocation and, as appropriate, distant co-location and virtual co-location;
 - c) Equipment characteristics, including restrictions, if any, on equipment that may be installed under the regime of co-location;
 - d) Security issues, including measures put in place by notified operators to ensure the security of their locations;
 - e) Access conditions for staff of competing operators;
 - f) Safety standards;
 - g) Rules for the allocation of co-location space where this is limited;
 - h) Conditions whereby beneficiaries may visit the locations at which physical co-location is available, or sites where co-location has been refused on grounds of lack of capacity.
4. For the purposes of point c) of paragraph 1, the conditions governing access to the notified operator's operational support systems, information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing shall be specified.
 5. For the purposes of point d) of paragraph 1, the following items shall be specified:
 - a) Time needed to respond to requests for supply of services and facilities; service level agreements, fault resolution, procedures to return to a normal level of service and quality of service parameters;
 - b) Standard contract terms, including, where appropriate, compensation provided for failure to meet the time limit applicable for replying to requests;
 - c) Prices or pricing formulae for each feature, function and facility provided for.

Article 59

Obligation of non-discrimination

The imposition of the obligation of non-discrimination consists particularly of the requirement for an undertaking to apply equivalent conditions in equivalent circumstances to other undertakings providing equivalent services and to provide services and information to third parties under the same conditions and with the same quality as the services and information provided to its own departments or to those of its subsidiaries or partners.

Article 60

Obligation of accounting separation

1. The imposition of the obligation for accounting separation in relation to specified activities related to access and interconnection consists, particularly, of the requirement that operators, and especially those that are vertically integrated, present their wholesale and internal transfer prices in a form that has transparency in order to ensure, inter alia, compliance with the obligation of non-discrimination where applicable or, where necessary, to prevent unfair cross-subsidy.
2. For the purposes of the provision of the preceding paragraph, the NRA may specify the format and accounting methodology to be used.
3. Operators shall make available to the NRA, upon request, their accounting records, including data on revenues received from third parties, in order that compliance with obligations of transparency and non-discrimination may be verified.



4. The NRA may publish the information made available pursuant to the preceding paragraph, to the extent that is necessary to contribute to an open and competitive market, while respecting the commercial or confidentiality of such information.

Article 61

Obligations of access to, and use of, specific network facilities

1. The NRA may impose obligations on operators to respond to reasonable requests for access to and use of specific network components and associated facilities, including passive infrastructure such as but not limited to ducts, masts, poles, particularly in situations where the denial of access or the setting of unreasonable conditions would hinder the emergence of a sustainable competitive market at the retail level or harm the interests of end-users.
2. In exercising the competence provided for in the preceding paragraph, the NRA may, in particular, impose the following obligations on operators:
 - a) To give third parties access to specified network components and/or facilities, including unbundled access to the local loop;
 - b) Not to withdraw access to facilities where access has been already granted;
 - c) To interconnect networks or network facilities;
 - d) To provide co-location or other forms of facility sharing, including duct, building or mast sharing;
 - e) To provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;
 - f) To grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services;
 - g) To provide specified services on a wholesale basis for resale by third parties;
 - h) To provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;
 - i) To negotiate in good faith with undertakings requesting access.
3. The NRA may attach conditions in respect of fairness, reasonableness and timeliness to the imposition of obligations provided for in the preceding paragraph.
4. In considering whether or not to impose the obligations set forth in the preceding paragraphs, the NRA shall take special account of the following factors, particularly when assessing whether such obligations would be proportionate to the regulatory objectives set out in article DDD:
 - a) The technical and economic viability of using or installing competing facilities, in the light of the rate of market development and taking into account the nature and type of interconnection and access involved;
 - b) The feasibility of providing the proposed access, in relation to the available capacity;
 - c) The initial investment by the facility owner, taking into account the risks involved in making such investment;
 - d) The need to safeguard competition over the long term;
 - e) Any relevant intellectual property rights, where appropriate;



- f) The provision of pan-European services.

Article 62

Technical and operational conditions

1. Where necessary and to ensure the normal functioning of the network, the NRA may, when imposing the obligations provided for in paragraphs 1 and 2 of the preceding article, impose technical or operational conditions on the provider and/or beneficiaries of access.
2. The conditions imposed pursuant to the preceding paragraph shall be objective, transparent, proportionate and non-discriminatory, and where they refer to the application of technical rules or specifications, shall comply with rules on standardization, in accordance with the terms of article DDD.

Article 63

Obligation of price control and cost accounting

1. Where a market analysis indicates that, as a result of a lack of effective competition, the operator concerned might sustain prices at an excessively high level or apply a price squeeze to the detriment of end-users, the NRA may impose obligations in respect of cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems for the provision of specific types of access or interconnection.
2. In imposing the obligations referred to in the preceding paragraph, the NRA shall:
 - a) Take into account the investment made by the operator and allow said operator a reasonable rate of return on the capital invested, taking the risks involved into account;
 - b) Ensure that any mandatory cost recovery mechanism or pricing methodology promotes efficiency and sustainable competition and maximises benefits for consumers; further account may also be taken of prices available in comparable competitive markets.

Article 64

Demonstration of cost orientation

1. Operators subject to the obligation of cost orientation of prices shall demonstrate that charges are based on costs, including a reasonable rate of return on the investments made.
2. The NRA may require an operator to provide full justification for its prices, and may, where appropriate, require such prices to be adjusted.
3. The NRA may use cost accounting methods independent of those used by the undertaking, for the purpose of calculating the cost of efficient provision of services.

Article 65

Verification of the cost accounting system

1. The NRA, or another independent body appointed by the NRA, shall, in order to ensure compliance, undertake an annual audit of the cost accounting system intended to allow the control of prices, and shall, in addition, issue and publish the respective statement.
2. Operators upon whom the NRA imposes the obligation of implementing cost accounting systems shall make public the respective description, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs.



CHAPTER VII Frequencies and numbers

The articles below this box cover the following criteria:

- Powers to monitor radio frequencies (2.3.2.)

Article 75

Responsibilities in field of radio frequencies spectrum

1. The responsibilities of the NRA in the field of radio frequencies spectrum are to assure management of the radio spectrum, including planning, the assignment of spectrum resources and their supervision, and also to oversee co-ordination between civil, military and paramilitary communications;
2. The space where radio waves may propagate constitutes a public domain of the State.

Article 76

Frequencies

1. The NRA is charged with the management of the spectrum which shall be understood as being the set of frequencies associated with radio waves.
2. The NRA shall, in respect of the management of the spectrum, plan frequencies in accordance with the following criteria:
 - a) Availability of radio spectrum;
 - b) Guarantee of conditions of effective competition in the relevant markets;
 - c) Effective and efficient use of frequencies.
3. The NRA shall allocate and assign rights of use of frequencies according to criteria which are objective, transparent, non-discriminatory and proportionate.
4. The NRA shall promote a harmonised usage of frequencies in the European Union, in order to ensure the effective and efficient use thereof, within the scope of Decision no 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision).

Article 77

National Frequency Allocation Plan

1. The NRA shall adopt and publish the National Frequency Allocation Plan (NFAP), which shall include:
 - a) The frequency bands and number of channels already allocated to undertakings providing publicly available electronic communications networks and services, including the date on which each allocation is to be reviewed;
 - b) The frequency bands which are reserved and are to be made available in the following year, in respect of electronic communications networks and services, whether publicly available or not, specifying the cases where frequencies usage rights are required and the respective procedure of allocation;
 - c) The frequencies whose usage rights may be transferred, pursuant to article DDD.
2. The requirements for publication set out in preceding paragraph do not apply to frequencies which are 78 to the Armed Forces and to security forces and services.



Article 78 Numbering

1. Suitable numbering resources shall be available for all publicly available electronic communications services.
2. The NRA is charged with:
 - a) Defining the guidelines and general principles of the National Numbering Plan;
 - b) Managing the National Numbering Plan according to the principles of transparency, efficiency, equality and non-discrimination, including the establishment of conditions for the allocation and assignment of national numbering resources;
 - c) Allocating rights of use of numbering resources according to objective, transparent and non-discriminatory assigning procedures;
 - d) Publishing the guidelines, general principles and principle components of the National Numbering Plan, as well as all subsequent additions or amendments thereto, allocation and retrieval procedures, which publication shall be subject only to limitations imposed on the grounds of national security;
 - e) Ensuring that an undertaking which has been allocated a range of numbers does not discriminate against other providers of electronic communications services in respect of the number sequences used to allow access to their services;
 - f) Supporting the harmonisation of numbering resources within the European Union where such is necessary for facilitating the development of pan European services, and coordinating its position with the other competent bodies of the Union in respect of international organisations and forums in which decisions are taken on issues related to numbering, where such is appropriate in order to ensure full and global interoperability of services;
 - g) The allocation of numbering resources to electronic communications services which are not publicly available, where this is necessary and without prejudice to the guarantee of availability of numbering resources for publicly available services pursuant to the preceding paragraphs;
 - h) Entities responsible for the allocation of names and addresses of electronic communications networks and services shall coordinate their positions with the other competent bodies of the European Union in international organisations and forums in which decisions are taken on these issues, where such is appropriate in order to ensure full global interoperability of services.