

MEMORANDUM OF UNDERSTANDING OF THE EASTERN PARTNERSHIP REGULATORS NETWORK

Preamble

The Eastern Partnership (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine) Electronic Communications Regulators Network, established on 11th September 2012 in Moldova, is an independent platform of National Regulatory Authorities for Electronic Communications Networks and Services.

In view of the differences in market structure and regulatory approaches across the region, the Regulatory Authorities recognise that more harmonisation of the principles of their frameworks will contribute to creating a level playing field and increase regulatory predictability. This will promote investment and leverage national development efforts, which will have positive socioeconomic impacts on the electronic communications sectors. Regional cooperation of the regulators is an efficient way to facilitate these developments.

In line with the objectives of the Eastern Partnership (EaP) Communication of 2008¹ and the recent Joint Communication on an Eastern Partnership Roadmap², Regulatory Authorities for Electronic Communications Networks and Services in the Eastern Partnership region have joined forces to set up a network with the aim of facilitating and strengthening cooperation in the field of electronic communications.

The EaP Regulators and a number of EU regulators have already participated and been active in technical workshops, organised under platform 4 of the Eastern Partnership. The first such workshop was held at the initiative and with the support of the European Commission and the Austrian Regulator RTR in Vienna in October 2010. A second workshop was organised at the initiative and with the support of the European Commission and the Lithuanian Regulator RRT was held in Trakai at the end of June 2011. The last meeting was held in November 2011 in Barcelona, bringing together the EaP regulators as well as the members of the Body of European Regulators for Electronic Communications (BEREC) and REGULATEL. During these workshops the interest of participants for a deeper and more formalised cooperation became evident. The creation of a network of electronic regulators from the EaP region and the EU was supported by the European Union institutions, the Eastern Partnership regulators, as well as the regulators of the European Union Member States present at the meeting.

The EaP Network Members, hereinafter referred to as “Members”, gathered in Chisinau for the Plenary Assembly of 11th September 2012, approve the following Memorandum of Understanding provisions:

Article 1: Objectives and their fulfilment

The members of the EaP Network commit themselves to improving relations and fostering cooperation amongst them by:

1. Providing a forum for regular exchanges of information and expertise on issues relating to electronic communications regulation;
2. Promoting the approximation to the European Union electronic communications and information society services regulatory framework, where appropriate, and promoting regulatory best practices among its Members;
3. Monitoring the development of the electronic communications markets and regulatory frameworks in the Eastern Partnership region;

¹http://ec.europa.eu/europeaid/where/neighbourhood/eastern_partnership/documents/eastern_partnership_communication_from_the_commission_to_the_european_parliament_and_the_council_en.pdf

²http://ec.europa.eu/world/enp/docs/2012_enp_pack/e_pship_roadmap_en.pdf

4. Facilitating the exchange of information and expertise with international organisations, other regional networks of regulators and sector experts;
5. Contributing to the preparation of documents, reports, benchmarks, presentations, analyses and common positions at international meetings and workshops.

In the attainment of its objectives, the Network will be supported by the project of technical assistance for regulators of the EaP countries, financed by the European Union, which is expected to start at the end of 2012.

Article 2: Membership

Membership does not require any fee.

In addition to the Regulators who signed the Chisinau Declaration in 2012, membership is open to any National Regulatory Authority concerned with the electronic communications sector that is a member of or an observer in BEREC.

The new candidatures, presented in the form of written requests and accompanied by the documentation relating to the legal status of the National Regulatory Authority, shall be sent to the coordinator of the Network, who informs the Members and submits the requests to the Plenary Assembly.

The status of “Observer” may be granted to the countries that are potential members, but have not applied for Membership. The European institutions have the right to send observers of an appropriate level to any meeting/activity of the EaP Regulators Network.

The Plenary Assembly is the only body of the EaP Regulators Network that may grant the status of “Member” (with the right to vote) or “Observer” to applying regulators.

A Member may withdraw its membership at any time, by written notice, to the Plenary Assembly.

Article 3: The Plenary Assembly

The **Plenary Assembly** is composed of all the Members and convenes **at least once a year**.

Members attending the Plenary Assembly are represented by their Presidents, CEOs or designated Board Members and their supporting delegates which accompany them or by any other person mandated by them.

Tasks of the Plenary Assembly include:

- Appointing the new Chairperson and the new Vice-Chairperson;
- Approving the annual work plan of the network;
- Approving the Annual Report and the Benchmarking Reports;
- Approving the list of expert working groups of the Network;
- Approving documents, reports, analyses and common positions;
- Granting membership and/or observer status to candidates;
- Adopting and amending the present Memorandum of Understanding;
- Adopting and amending its own rules of procedure;
- Discussing regulatory issues and proposals emerging from the benchmarking or working group activities with a view to approximation;
- Adopting and/or publishing any document as it sees fit.

The decisions of the Plenary Assembly shall be taken jointly, in accordance with the General Guidelines and Rules of Procedure of the Eastern Partnership Multilateral Platforms.

Appointment of the National Regulatory Authority as the Coordinator of the Network, the Chairperson and the Vice-Chairperson of the Network, as well as the procedures for their appointment, shall be set in the internal Regulation of the Network.

The Chairperson, the coordinator and the Members shall make their best effort to reach unanimity for the decisions of the Plenary Assembly. However, should it prove impossible to reach unanimity, the decisions may be adopted by a vote:

- of a qualified majority of two thirds of all the Members for changes to this Memorandum of Understanding or granting of new membership or observer status or election of the coordinator (Chair);
- of a simple majority of members present in the meeting for all other decisions.

In case there is more than one participant from the same country, they will cast one joint vote, or be deemed to have abstained. The voting system used will be one country/one vote. Institutions having Observer status may participate at the Plenary Assembly without the right to vote. The Chairperson may invite experts and observers to take part in case a public workshop takes place alongside the Plenary Assemblies.

The decisions of the Plenary Assembly shall be made public, and shall indicate the reservations of an NRA at its request.

Article 4: Chairmanship and Vice-Chairmanship

Taking into account that the network will not have a Permanent Secretariat and in order to enable co-operation to work, the network shall appoint a **coordinating National Regulatory Authority (referred to as "coordinator")** for a fixed term of **one year**. The coordinator may be a regulatory authority either from an EaP country or from an EU Member State joining the Network.

The coordinator will be supported by the contractor implementing the technical assistance project funded by the European Union and will have the following main tasks:

- Facilitating the implementation and monitoring the results of the work plan, in particular concerning the organisation of the workshops and of the Plenary Assembly;
- Drafting the Annual Report of the Network and presenting it to the Plenary Assembly;
- Drafting the minutes of meetings;
- Providing assistance in drafting questionnaires, documents and reports.

The **Chairperson** shall be appointed from the regulatory authority of the coordinating country, by the Plenary Assembly. A **Vice-Chairperson** shall also be appointed **for one year**, in order to support the work of the Chairperson. If the Chairperson is from one of the EaP countries, the Vice-Chairperson should be from one of the EU Member States and vice versa.

During his/her mandate, the Chairperson shall ensure the implementation of the work plan approved by the Plenary Assembly, make the necessary efforts to remove any obstacles which might jeopardize the activities planned and ensure the external representation of the Network (also in relation to the European Union institutions and the contractor implementing the future technical assistance project). The Chairperson will be supported by the Vice-Chairperson in pursuing his/her relevant responsibilities.

The annual work plan is to be developed by the Chair in close cooperation with the Vice-Chair and to be analysed by the Contact Network before being tabled in the Plenary Assembly meeting.

In the event of absence or incapacity of the Chairman, the Vice-Chairman shall be empowered to exercise the responsibilities of the Chairman.

At the end of the one year term, if the Plenary Assembly does not decide differently, the serving Vice-Chairman shall be appointed as the Chairman of the EaP Regulators Network for the subsequent one year term.

Article 5: The Contact Network

Each Member and Observer of the EaP regulators network will appoint a senior representative to participate in the EaP regulators Contact Network mandated to represent and take decisions on behalf of the respective NRA.

The Contact Network shall meet at least twice a year (once before the Plenary Assembly and one benchmarking meeting) in order to:

- Provide an analysis of the draft six-monthly/annual Benchmarking Reports to be presented to the Plenary Assembly;
- Assess the implementation of the previous work plan and the recommendations and decisions adopted by the Assembly and ensure their follow-up;
- Provide an analysis of the future work plan to be presented to the Plenary Assembly;
- Discuss the tasks and rules of procedures of the Network and propose modifications to the Plenary Assembly whenever necessary;
- Study the issues of common interest likely to be the object of debates and discussions during the Plenary Assembly;
- Propose the setting up of working groups, when necessary;
- Propose any document to be approved and/or published to the Plenary Assembly;
- Propose a draft agenda for the following Plenary Assembly.

The Contact Network also operates as an informal network whose members are the key contact points between Members for seeking and exchanging information on regulatory issues.

Article 6: Activities

A **needs assessment** will be carried out in all partner countries in order to identify those specific areas where regulatory authorities would require capacity building. The members of the network, together with the contractor implementing the technical assistance project funded by the EU, will define a **training plan** to be implemented by the project.

Thematic and technical workshops, training seminars, conferences, study visits based on the needs assessments carried out in the preliminary stage will be organised by the external contractor, with the support from the coordinator of the Network.

At least one plenary meeting, one benchmarking meeting and an indicative number of **5 workshops on specific regulatory issues** will be organised each year. Extraordinary meetings shall also be convened at the initiative of the Chair or at the request of at least one third of the members of the Network. They will offer the opportunity for exchange of expertise and experiences as well as of best practices concerning the development of the electronic communications sector. Wherever possible, the meetings and workshops will bring together regulatory staff that holding similar positions in the regulatory bodies and/or are working on similar topics. The topics of the workshops are to be determined in the work plan. Each workshop is chaired and co-organised by one of the Network's member, on a voluntary basis.

In case specific experience and expertise are deemed useful, external experts may be involved in the work of the EaP Regulators Network, either financed by its members or by the technical assistance project for electronic communications regulators of the Eastern Partnership countries, financed by the European Union, in order to conduct research, draft reports and give presentations.

Benchmarking Reports will be carried out in the framework of the technical assistance project on the electronic communications market developments and the evolution of the regulatory frameworks of participating countries. The reports will be updated on a six-monthly/yearly basis by the external contractor with the support of the coordinator.

Furthermore, with the support of the contractor and coordinator, the Network will be carrying out **prioritisation exercises**, defining areas of common interest and relevance to all participating countries.

A **website** will be created with the support of the contractor, providing updated information on relevant developments in the EaP and EU countries on matters relating to the electronic communications markets and regulations. The website will also provide a permanent platform for discussion for the members of the EaP Regulators Network and will be fully bilingual English-Russian during the set-up phase.

The EaP regulators network may also undertake any other activities useful to pursue its objectives.

Article 7: Funding of Activities

The major source of funding for the activities mentioned above, in particular for the participation of the regulatory authorities from EaP countries, will be the technical assistance project for electronic communications regulators of the Eastern Partnership countries, financed by the European Union and covering 2013 and 2014 and the funding provided by the EU for activities under the multilateral dimension of the EaP. All other regulatory authorities taking part in the meetings of the EaP Network will bear their own costs of participation. Organisations co-organising and hosting meetings are expected to provide at least the conference venue and, to some extent, catering. The two years period should also allow the members of the Network to analyse the ways in which the Network could become sustainable, beyond the limited European Union funding.

At a later stage, it should also be explored whether a membership fee would represent a realistic and sustainable source of funding for the future activities of the Network.

In case a membership fee is necessary for the sustainability of the Network operation, the relevant conditions should be defined in a timely manner for the members of the Network, in order to provide them with a possibility to foresee such voluntary fees to be included into their own budgets in the process of forming the annual requests for the state budget inquiry.

The financing of activities may be reviewed if and when new resources become available; however any financing from market players, companies or entities providing electronic communication services, subsidiaries and/or associates thereto is not permitted.

Article 8: Official Language of the EaP Regulators Network

The default working language of Network is English both for meetings and for documents. Interpreting and document translation into Russian can be provided, subject to the needs and available financing provided by external bodies or voluntarily by host national regulatory authorities.

Article 9: Confidentiality of exchanged information

The members of the EaP Regulators Network will use information solely for the purposes specified by the regulator providing this information. Furthermore, they will handle information defined as confidential by the regulator providing this information with the same degree of protection as if it was confidential according to EU rules and standards.

Article 10: Review

The members of the EaP Regulators Network will review this Memorandum of Understanding on a regular basis, in particular in case of important developments in the EU policy on the Eastern Partnership or major changes in the EU regulatory framework.

The EaP Regulators Network' is not an international intergovernmental organization and the status of this Memorandum of Understanding is not the one of an international treaty.

Signed on 11th of September, 2012, in 12 original copies, in English and Russian, all texts being authentic. In the case of divergences of the interpretation of this Memorandum, the English text shall prevail.

**For and on behalf of the Public
Services Regulation Commission
of the Republic of Armenia**

**For and on behalf of the
Ministry of Communications
and Information of the Republic
of Azerbaijan**

**For and on behalf of the
Ministry of Communications
and Informatization of the
Republic of Belarus**

**For and on behalf of the National
Communications Commission of
Georgia**

**For and on behalf of the
National Regulatory Agency for
Electronic Communications and
Information Technology of the
Republic of Moldova**

**For and on behalf of the
National Commission for the
State Regulation of
Communications and
Informatization of the Ukraine**