

# Liability and Compliance Issues in the Execution of Telecommunications Service Agreements

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## Abstract:

This article examines the legal nature of liability and regulatory compliance in the execution of telecommunications service agreements within the framework of civil and commercial law. The study analyzes the contractual obligations of telecommunications operators and subscribers, focusing on the principles of proper performance, good faith, proportionality, and consumer protection. Particular attention is paid to issues of breach of contract, improper service delivery, interruption of services, data protection violations, and non-compliance with licensing and regulatory requirements.

The paper explores the correlation between contractual liability and public-law sanctions imposed by regulatory authorities, highlighting the dual nature of responsibility in the telecommunications sector. It also evaluates legal remedies available to parties, including damages, penalties, termination, specific performance, and dispute resolution mechanisms such as arbitration and judicial proceedings. Comparative legal approaches and doctrinal interpretations are used to identify existing gaps in legislation and enforcement practice. The author proposes recommendations aimed at strengthening compliance mechanisms, improving contractual drafting standards, and ensuring a balanced protection of operator and consumer rights in the rapidly evolving digital environment.

**Keywords:** Telecommunications service agreement, contractual liability, regulatory compliance, breach of contract, civil liability, consumer protection, licensing requirements, service interruption, data protection, enforcement mechanisms, legal remedies, dispute resolution.

## Introduction

According to modern scholars, studying the legal essence of any civil contract requires examining the grounds for distinguishing the relevant contract within the system of civil contracts, which allows one to determine its relationship with a specific group of civil contracts or establish its

independence. Such grounds represent specific classification criteria for dividing contracts into types within a unified system of contractual structures.

At the same time, the study of the legal essence of a telecommunications service contract should be conducted from a systems perspective, in the context of establishing system-forming links with other groups of civil contracts.

Determining the place of a telecommunications service contract within the system of civil contracts is of great practical importance, as it allows one to determine its industry, specific features, and classification forms (type, subtype, form, subform, etc.). It also identifies key features and important characteristics, thereby allowing one to distinguish the mechanism regulating these relations from the elements of a type or subtype and regulatory acts, which, in turn, facilitates its application.

Much attention is paid to the work of G. Yu. Sharkova on determining the place of individual types of service contracts within the system of modern civil contracts. However, determining the legal characteristics of a telecommunications service contract and its place within the system of contract law requires additional scientific analysis. The main objectives of this study are as follows:

1. To define the legal description of a telecommunications service contract and its place within the system of contract law.
2. Identify promising areas for further research on the issues under study.

Russian civil scientists M.B. Braginsky and V.V. Vitryansky noted that any classification of civil contracts implies their division into the same classification forms (genus, type, kind, etc.) based on one criterion or another [1]. At the same time, there are a number of controversial issues in the academic literature related to defining criteria or grounds for classifying all civil contracts. In this regard, one can agree with the scholarly position of I.R. Shishka. According to him, the classification of a contract includes its purpose and the nature of the general legal consequences of civil rights considered "binding" for specific or particular objects, the subjective right, and the nature of the specific legal obligations of the parties to the contract [2].

One can also agree with the conclusion that a contract represents a kind of action plan coordinating the activities of the parties [3]. Specifically, the purpose of a telecommunications services contract is to define its subject matter, the outcome (the emergence of beneficial consequences for the client), the legal status of the parties to the contract, their rights and obligations, and liability for the proper performance of the contract, as well as for improper or incorrect performance. The use of multiple criteria in forming most classifications of civil contracts implies their division into similar classification structures (type, type, type, etc.), which, in turn, requires establishing their concept and interrelationship [4]. In civil law doctrine, classification rules for grouping individual contracts into a specific system typically include group, type, and subtype [5].

The division of contracts into types is the most general category, to which the contract itself fits as the sole regulator of relations based on the will of its parties. Thus, a type of contract for the provision of telecommunications services is a civil contract—an agreement between two or more parties aimed at establishing, modifying, or terminating civil rights and obligations (Article 353 of the Civil Code). In turn, the multi-stage principle of constructing a system of types, subtypes, and subtypes is embodied in the following aspect: a type is a general concept; a type is an element resulting from the division of types.

The classification of civil contracts has always been a central issue in academic literature, particularly with regard to contract types. Since the concept and essence of the category "contract type" is beyond the scope of our study, we will utilize the scholarly position of S.M. Berveno, who studies the classification of civil contracts. The Civil Code classifies contracts by their legal purpose (legal content) and arranges them according to their intended purpose [6]. For example, contracts for the alienation of property are ranked first, followed by contracts for the use of property, contracts for the performance of labor, and contracts for the provision of services.

In analyzing the scientific question of the contract type that is the subject of this study, we believe that a contract for the provision of telecommunications services is classified as a contract for the provision of services for a fee (Chapter 38 of the Civil Code), since by their legal nature, relations involving the provision of telecommunications services are related to civil-law obligations to provide services. Thus, according to Article 703 of the Civil Code, under a contract for the provision of services for a fee, one party (the contractor) undertakes to provide a service consumed in the course of carrying out a certain activity or performing a certain action on behalf of the other party (the client), and the client undertakes to pay the agreed fee for the service provided within the framework of this activity and in the interests of the client.

According to current legislation, a telecommunications service or telecommunications service is a product of the activities of an operator or telecommunications provider aimed at satisfying the needs of consumers in the telecommunications sector. Given that the subject of a telecommunications services contract is specifically telecommunications services, we consider a service contract to be a type of telecommunications services contract, since a communications service possesses all the characteristics of a service subject to civil law.

Specifically, actual performance, legal admissibility (legality), breadth, complexity of explanations, and inseparability from the service source, synchronicity of provision and receipt of services, their instability (the latter two groups can be combined with the concept of using services only in the proper process), instability of quality and the impossibility of determining it, including the difficulty of defining quality criteria—these are characteristics inherent to telecommunications services. The above allows us to use the classification of services existing in modern civil law when determining the legal nature of a telecommunications services contract [7].

A distinctive feature of a telecommunications services contract is that this contract is generally public and, by its very nature, an adhesion contract. The public nature of this contract is determined by the provisions of the Law "On Telecommunications" and the rules for the provision of telecommunications services. According to these legislative acts, concluding a contract is mandatory for all categories of subscribers without exception. Thus, the rules for the provision and receipt of telecommunications services stipulate that services are provided on the basis of a contract concluded at the consumer's request; it is established that services are provided only if the contract is concluded in accordance with the basic requirements. The only exception to the rule regarding the mandatory nature of a contract concerns cases where the operator lacks the technical capacity to provide network access and has not provided the necessary documents for concluding the contract. The burden of proof of the lack of technical capacity to provide the service lies with the telecom operator [8]. The established rule regarding the obligation to conclude a contract indicates that telecommunications networks have reached a level of development where virtually anyone can become a subscriber if there is a network in their location. This rule applies

regardless of registration or place of residence. In accordance with the provisions of consumer protection legislation, the subscriber may file a complaint in court regarding the consequences of the operator's refusal to conclude a contract or evasion of its fulfillment.

This provision fully applies to the contract for the provision of telecommunications services. Therefore, in accordance with the rules for the provision of telecommunications services, the operator has no right to refuse to enter into a contract with the consumer, with the exception of the following cases: technical impossibility of providing access to the operator's telecommunications at the locations specified by the consumer, except in cases where the operator is obligated to establish and provide general telecommunications services; the existence of a subscriber's outstanding debt to the operator; non-compliance of the subscriber's terminal equipment with established requirements; failure to provide documents necessary for concluding the contract, as stipulated by the rules and other regulations. In the event of refusal to enter into a contract, the operator-provider is obligated to notify the consumer of this, stating the reasons for the refusal, in particular orally when ordering the service or in writing upon the consumer's written request, within a timeframe not exceeding the established one. The public nature of these contracts allows the interested party to set uniform prices for the services provided and require traffic to be passed for all consumers.

Since a subscriber agreement is an agreement concluded by one party in a standard form or other format, its conclusion is possible only by attaching the agreement proposed to the other party, taking into account current legislation in the field of telecommunications services and existing practice. Current legislation allows operators or providers to publish the terms of the agreement on their websites or at points of sale. A characteristic feature is that the terms of such an agreement are defined only in forms containing the essential terms of the agreement, while the remaining terms are determined based on the rules for the provision and acceptance of telecommunications services, which do not always apply to the developed forms. Its terms are standard, meaning they are the same for all recipients. The conclusion of an agreement with a subscriber is accomplished by attaching the terms proposed to the consumer in the established format. The consumer is deprived of the opportunity to influence the formation of the agreement's terms.

In general, the provision classifying such agreements as public allows an interested party to: a) demand the conclusion of such an agreement in the manner established by legislative acts for public agreements; b) prevent preferential conclusion of the agreement; c) demand the establishment of uniform prices for the services provided under the agreement. The presence of the elements of a merger agreement allows for the application of the provisions of Article 360 of the Civil Code, which defines the conditions for protecting consumer rights in the event of a violation of their rights and interests when concluding a merger agreement.

According to our research, telecommunications services are considered actual services, as they are integral to the actual performance of actions. Thus, using S.M. Berveno's classification, which is present in modern civil law, we can note that a contract for the provision of telecommunications services belongs to a group of contracts aimed at establishing obligations to provide actual services [9]. Legal literature holds that all service contracts, depending on the subject matter, can be divided into two broad groups: consumer and non-consumer contracts. Consumer contracts are understood to be contracts aimed at satisfying the personal needs of individuals. Such obligations can exist in any area of human activity. According to modern scholars, consumer contracts include contracts

for the provision of services: communications, medical, veterinary, consulting, information, educational, tourism, etc. Due to the constant development of the service sector, it is impossible to compile an exhaustive list of services [10]. According to the proposed classification, a telecommunications services contract is a consumer contract, since the subject of such a contract is the provision of a service that can be consumed by an individual to meet their needs and has a complex delivery mechanism.

Thus, a consumer contract is a subtype of a telecommunications services contract. The most comprehensive form of contract classification by scope is the type of contract. Typically, separate chapters of the Civil Code are devoted to contract types [11]. However, a telecommunications services contract is an unspecified civil law contract, and the Civil Code does not provide a mechanism for its legal regulation. It should be noted that the Law "On Telecommunications" stipulates that one of the conditions for the provision of telecommunications services is the conclusion of an agreement between the operator, telecommunications provider, and consumer of telecommunications services in accordance with the basic requirements. In accordance with the basic requirements for a telecommunications services contract, operators and providers may approve standard contracts and establish the terms of mass contracts for the provision of certain types of services, including the procedure for amending such terms. Operators and providers are required to publish standard contracts and terms of bulk contracts on their websites and at points of sale, including at least seven calendar days prior to such changes.

Thus, although the Civil Code does not contain a mechanism for legally regulating telecommunications service contracts, the specifics of their conclusion, the terms of the contract, the rights and obligations of the parties, and liability for failure to perform or improper performance of the telecommunications service contract are regulated by laws and regulations in the relevant area of public relations. Therefore, to determine the type of telecommunications service contract, in addition to the provisions of the Civil Code, it is necessary to conduct a scientific analysis of the relevant legislative framework regulating not only the telecommunications sector but also related industries [12].

Based on this analysis, we found that contractual regulation of the telecommunications sector is also characteristic of other activities in the communications sector. Thus, in accordance with Article 6 of the Law "On Postal Communications," postal services are provided on a contractual basis in accordance with the rules for the provision of postal services approved by the Cabinet of Ministers and must meet established quality standards. A contract for the provision of postal services, if concluded in writing, must include the text of the contract, or if concluded orally, on a receipt, cash register, etc., the name of the operator and post office providing the service, the date and type of service, and its cost.

A contract concluded in any form, to which the national communications operator is a party, must contain a warning prohibiting the sending of printed and duplicate written correspondence without specifying the original data (circulation, name of the printing house, order number, etc.). The postal operator is liable for failure to comply with this requirement. A contract for the provision of postal services is considered concluded upon payment by the user of the fee for the service, unless otherwise provided in the relevant contracts.

Indeed, a scientific analysis of the provisions of the Civil Code, as well as the relevant legislative framework regulating not only the telecommunications sector but also related industries, shows

that a contract for the provision of telecommunications services is one type of contract for the provision of communications services. Finally, the final classification consists of groups of contracts that form subtypes. The main subtypes of a contract for the provision of telecommunications services are contracts for the provision of fixed-line services and contracts for the provision of mobile services.

The list of essential terms of a contract for the provision of telecommunications services should be determined based on the content of the legal norms governing legal matters arising under the contract for the provision of services. The Law "On Telecommunications" does not contain a list of essential terms of a contract for the provision of telecommunications services. This, of course, is not a peculiarity of national legislation. The telecommunications legislation of Germany, the Russian Federation, Latvia, Armenia, and other countries also lack mandatory terms for concluding a contract for the provision of telecommunications services. Access to a telecommunications network, as a specific action by the operator, does not entail any material consequences. It is consumed simultaneously with the performance of this action, thus falling under the legal definition of a service as a civil concept. Access to a telecommunications network begins with connecting to it and may take some time. Therefore, services provided under a telecommunications service agreement must ensure access to the telecommunications network for each person. Activities related to the technical maintenance and use of the telecommunications network cannot be the subject of a telecommunications service agreement, since both before the conclusion of the agreement for the provision of these services and after its termination, the relevant telecommunications system operates in accordance with certain technical specifications. In addition to access to a specific telecommunications network, telecommunications services may consist of other actions by the operator or provider (transmission of signals, sounds, replacement of end equipment, etc.) or a combination of these actions.

At the current stage of evolution, methods of telecommunication systems theory allow for a generalized structural synthesis of distributed service network platforms. However, such methods require refinement, taking into account the specifics of their development (scalability, load characteristics, design, functionality, and other quality requirements). Therefore, it is necessary to study the probabilistic and temporal characteristics of such systems, especially the legal and organizational aspects of using open structures, which have recently become widespread.

When analyzing such characteristics of a service category, the transformation of theoretical rules, such as the impossibility of their accumulation, is of great importance. Indeed, medical and educational services cannot be accumulated, saved, or stored. However, telecommunications services, unlike classical types of services—medical, educational, tourist, etc.—can be accumulated and stored. This accumulation also occurs with images, virtual "wallets," etc. A website can collect a large amount of information, store it indefinitely, and the website owner can access it at any time. It is this crucial feature of telecommunications services that significantly distinguishes them from classical types of services and traditional methods of provision, distinguishing them as a separate theoretical group.

It is advisable to define criteria for classifying telecommunications service contracts based on their subject matter and structure. Based on these criteria, it will be possible to determine the sources of their legal regulation, dividing telecommunications service contracts into distinct types.

"Telecommunications service contract" is used in the following sense: an agreement between a consumer and an operator-provider for the provision and receipt of telecommunications services, according to which the operator-provider undertakes to provide telecommunications services at the consumer's request, and the consumer undertakes to pay for these services (unless otherwise provided in the contract). However, an agreement with an internet provider has its own clearly defined characteristics that must be taken into account, but it has no legal definition. Therefore, an agreement with an internet provider can be defined as an open-ended contract.

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