

**ISSUES OF THE LEGAL STATUS OF THE PARTIES TO THE CONTRACT FOR THE
PROVISION OF MOBILE COMMUNICATION SERVICES**

Nizamatinov K.K.

Independent researcher of Karakalpak State University, candidate of legal sciences, associate professor.

Abstract: The information specified in this article should be placed at the points of sale of mobile communication services and payments for them, payphones (for telephone services using payphones), as well as on websites, directories, operators, service providers to consumers. rendering services can be delivered through mass media.

Key words: Contracts, provider, mobile communication services, business entities, Telecommunications operator, licenses.

Аннотация: Информация, указанная в настоящей статье, должна размещаться в местах продажи услуг мобильной связи и оплаты за них, таксофонах (при услугах телефонной связи с использованием таксофонов), а также на сайтах, в справочниках, у операторов, поставщиков услуг потребителям. Доведение услуг до потребителей может осуществляться через средства массовой информации.

Ключевые слова: договоры, провайдер, услуги мобильной связи, субъекты предпринимательства, оператор связи, лицензии

INTRODUCTION

Like other contracts for the provision of services, the contract for the provision of mobile communication services is usually bilateral (reciprocal), since both the service recipient and the service provider have subjective civil rights under the obligation, and civil undertakes its obligations. The FC defines the general definition of the contract for the provision of services, referring to the parties to this contract, calling them the executor (that is, the person providing the service) and the customer (the person to be served) (Part 1 of Article 703 of the FC). These terms ("executor" and "customer") are universal in the provision of any services that fall under the scope of legal regulation of Chapter 38 of the FC. At the same time, taking into account the variety of services provided, the use of single universal concepts does not always fully reflect the nature of the legal relations that develop between the parties to the contract¹. There are other names for parties, such as service provider and service recipient².

Therefore, the parties to the contract for the provision of mobile communication services are operators, providers on the one hand, and consumers of mobile communication services on the other hand. The range of rights and obligations of the parties is largely determined by the contract itself. As noted, the contract for the provision of mobile communication services is a public contract and a contract of inclusion, so the consumer cannot always determine the terms of the

¹ Мишушин О.М. Правовое регулирование деятельности в области оказания телематических услуг связи: автореф. дис. ... канд. юрид. наук: 12.00.03 / О.М. Мишушин. – М., 2007. – 74 с.

² Санникова Л.В. Обязательства об оказании услуг в российском гражданском праве / Л.В.Санникова. – М.: Волтерс Клувер, 2007. – 17-18 с.

contract independently, but only joins the proposed ones. He requires more protection to ensure his rights, because he is not an expert and may not know the details of the provision of relevant services, so he requires additional guarantees to ensure his interests.

Almost all rights and obligations of the parties are directly established in legal documents. Based on the definition of the contract for the provision of services, which is found in part 1 of Article 703 of the FC and is common to the contract for the provision of mobile communication services, the main tasks of the executor and the customer are to provide services and pay for them. All other rights and obligations are defined in the Law "On Telecommunications", Provision of Telecommunications Services. These regulatory documents include the norms defining the rights and obligations of the parties during the conclusion of the contract, during its validity period, and after its termination.

It should be noted that, depending on the situation, the term "executor" corresponds to the concept of "operator, telecommunications provider" in the relations developing in the provision of mobile communication services.

Taking into account the importance of mobile communication services for the life of citizens and the activities of enterprises, the technical complexity of telecommunication services and the importance of communications for ensuring the information security of the state, the legal status of telecommunications, the legal status of the operator is based on the need to ensure a comprehensive, secure communication system. elements include: the activities of telecommunications operators are licensed, state control over activities in the field of telecommunications is carried out, tariffs for telecommunications services are regulated in most cases, the procedure for using radio frequency spectrum and numbering resources is determined (this is important for some telecommunications services), telecommunications the openness of the operators' activities is determined. Thus, it is possible to indicate the special legal status of the executor under the contract for the provision of mobile communication services.

In addition, it is impossible to ignore such an important point as the legality of activity in the provision of mobile communication services. It should be noted that the legality of the activities of mobile communication operators in the provision of services is based on the strict implementation of the legislation and other legal documents regulating the provision of mobile communication services.

It should also be remembered that the legality of the telecommunication operator's actions is determined by the fact that it has a license to provide mobile communication services in accordance with the requirements of the law.

A telecommunications operator is an enterprise that has the right to carry out activities in the field of telecommunications, which has the right to provide technical service and use of telecommunication networks (Article 2 of the law).

This right is given to the operator only if the appropriate permission is obtained from licenses to carry out certain types of activities in the field of mobile communication carried out by business entities. Types of operator activities that must be licensed include:

1) provision of telecommunication channels for the provision and use of fixed telephone services with the right to maintain and use telecommunication networks: local; intercity; international;

2) the right to provide landline telephone services using a wireless connection to the telecommunications network, to provide technical service for local, long-distance, and international telecommunication channels and to use them;

3) provision of telecommunication channels for the provision and use of mobile (cellular) telephone services with the right to provide technical service and use of telecommunication networks; providing services for the maintenance and use of telecommunication networks, terrestrial television and radio broadcasting networks, cable radio broadcasting and television networks;

4) local intercity; providing international electronic communication channels.

Licensing of telecommunication services is carried out by the executive authority in the field of telecommunications. Currently, the Ministry of Digital Technologies Development is the authorized body that carries out state regulation in the field of communication and information.

Norms forming the special legal status of the telecommunications operator have not been adopted. This allows us to conclude that the telecommunications operator has the right to freely carry out other types of business activities not related to telecommunications, which are not prohibited by law or the charter of a legal entity.

All other rights of the operator, except for the right to carry out activities in the field of telecommunications with the right to provide services and use telecommunication networks, are established in Articles 21-22 of the law, including the right to obtain licenses in accordance with the law; get a digitized resource; planning and development of own networks; setting tariffs for telecommunication services provided by them, except for services whose tariffs are regulated by the state; providing telephone numbers to consumers within the digital resource allocated to the operator and using personal numbers in the manner established by the authorized body; connecting telecommunication networks owned or used by the operator with telecommunication networks owned or used by other operators in accordance with the law; to reduce or terminate the list of providing telecommunication services to consumers who violate the rules of provision and reception of mobile communication services, if they do not have a document confirming compliance with the requirements of regulatory documents in the manner prescribed by legislation in the field of telecommunications, or to replace the consumer's latest equipment decay etc.

The main requirements indicate that the contract must also state the following rights of the operator, the provider, in particular: if no confirmation of payment has been received within 10 days after the notification of the payment term, stop providing services in the manner prescribed by law (except for the notification of the payment term). cases of obtaining services) personalized (anonymous), reduction or termination of the list of providing mobile services in accordance with the legislation, termination of the activities of providing mobile services in accordance with the legislation, other rights are in accordance with the law, therefore it can be concluded that the basic requirements establish certain rights enshrined in the law and complement them.

Until the conclusion of the contract for the provision of mobile services, regardless of its form (written or oral), the operator, the provider is determined with respect to the territory of the coverage area of the local teleofn network, which services are provided (for stationary local teleofn services), the conditions for obtaining mobile services, the contract and its content, , it is necessary to provide information about the territory covered by the operator's networks (for

mobile (cellular) communication services, etc. These aspects also arise from the consumer status of the subscriber

The information provided should be posted at the points of sale of mobile services and payments for them, on taxophones (for telephone services using taxophones), and can also be communicated to consumers through websites, references, operators, service services of providers, media.

The tasks of the Operator, provider and telecommunications include: the obligation to provide a connection with any subscriber of the telecommunications network of general use by the order of the consumer; to provide free access to emergency services: Fire Service (101), internal affairs (102), ambulance (103), emergency gas service (104), assistance service (112), as well as guarantees and conditions of access to telephone information

The legislation imposes certain requirements on the quality of mobile communication services and telecommunications activities in general. Thus, in accordance with the law, one of the tasks of a telecommunications operator and provider is to provide mobile services in accordance with the established quality indicators (Article 22 of the law).

In providing mobile communications services, operators are required to restrict providers from accessing sites that distribute messages that are contrary to ethics grounds. Telecom operators and providers store and provide information about the connection of their subscribers in the manner prescribed by law. It should be noted that the legislation does not have specific provisions in this regard, according to which internet access service providers must store such information. Therefore, questions arise: What should be the order, size and deadlines for storing information?

In our opinion, this norm is harmonized with the national legislation in accordance with the amendments to the Directive 2006/24/EC and Directive 2002/58/EC of the European Parliament and the Council of Europe of March 15, 2006 “on the storage of information created or processed in the provision of open electronic communication services or social networks for all”³. In particular, according to EU regulations, telecommunication providers store information about all connections of their subscribers to the Internet in sufficient quantities to determine the connection period, subscriber or end point of the telecommunications network of the respective operator, provider.

In our opinion, the legislation in the field of telecommunications should be coordinated in accordance with the legislation of the European Union. Since the procedure for storing and presenting information about the subscriber's connection must be established by law, and not by legislation, this requires amendments to the relevant laws.

The next participant in the relationship for the provision of mobile services is a telecommunications provider. Providers provide mobile communications services to consumers in accordance with the Telecommunications Act, the Consumer Protection of Rights Act, Telecommunications Regulations and other regulatory legal acts regulating relations in this area. In legislation, mobile service providers are usually referred to as a telecommunications provider, in other words, a provider is a service executive.

The telecommunications provider provides telecommunication services in the telecommunications networks of the telecommunications operator. Telecommunication providers carry out activities in

³ <http://ain.ua/2009/10/27/16527>

the field of mobile communications on the basis of a contract with a telecommunications operator residing in Uzbekistan and a copy of the license of this operator for the corresponding type of activity in cases provided for by law.

A copy of the license of a telecommunications operator approved by an authorized body is a document in which the provider can carry out activities for the provision of mobile services. Despite the legal status of the provider enshrined in the law, some researchers point to a different order of its activities. For Example, N.Alyabeva believes that the provider may be a legal entity or an individual who has obtained a license to provide mobile communications services using his own telecommunications network or a telecommunications network owned by another person⁴.

According to Article 2 of the law, a provider is an enterprise that has the right to carry out activities in the field of telecommunications without the right to provide telecommunication channels for the maintenance and use of telecommunication networks.

Based on the above definition, the difference between the operator and the provider is that the provider has the right to provide telecommunication services, but does not have the right to provide telecommunication channels for use and does not have the right to maintain and use telecommunication networks.

The provider uses the same rights as the operator, with the exception of rights under its legal status that may only apply to the telecommunications operator (obtaining licenses in accordance with the law; obtaining a numbered resource; issuing telephone numbers to consumers within the framework of the digital resource allocated to the operator and using personal numbers in accordance with the procedure established by the authorized The provider also has the right to connect technical means to the telecommunications network of the operator in accordance with the legislation (Article 21 of the law).

Two terms: the presence of a provider and an operator, in our opinion, can be explained by several reasons. First of all, the term provider arose on the territory of Uzbekistan relatively recently with the emergence and development of the Internet. Perhaps that is why the provider is primarily associated with the global internet network. As for the term Operator, it existed even before, although in turn the operator is closely related to mobile (cellular) and telephone communication for an ordinary citizen.

It is known that the regulation of relations in the field of telecommunications, including mobile communications, of the law "on telecommunications" arose after the emergence of social relations for the provision of these services, the terms "operator" and "provider" have already been used to identify the executor of telecommunication services. Therefore, the Legislature defined these concepts in law. The category of providers and operators included not only entities operating in the field of Internet and teleofn communication, but also representatives of other types of telecommunication services. If the provider has the right to carry out activities in the field of mobile communications, but does not have the right to maintain and operate telecommunication networks, as well as provide telecommunication channels for use, the legislator, in our opinion, must clearly determine what the activities of the provider consist of as a subject of the telecommunications market.

⁴ Аляб'єва Н. Договір про надання послуг електронної пошти: поняття, зміст, цивільно-правове регулювання / Н.Аляб'єва // Юридична Україна. – 2009. – № 9. – С. 52.

An operator with a significant market advantage in the telecommunications market, a telecommunications provider is an operator, a telecommunications provider whose share of income in the market of certain Telecommunication Services determined by an authorized body in the field of communication and informatization during the year preceding market analysis exceeds 40% of the total income of all operators, telecommunications providers.

"On Competition".⁵ as defined in the third paragraph of the second part of Article 13 of the law, "if the market share of an economic entity or a group of individuals is 40 percent or more in the commodity or financial market, it is recognized as a dominant position."

It should be added that in accordance with the legislation, the operator with a monopoly (dominant) position in the market of certain telecommunication services in the territory of the state or region has a special legal status. Accordingly, settlement fees for access to telecommunications networks of telecommunications operators with a monopoly (dominant) position in the telecommunications market and interconnection with telecommunications operators with a monopoly (dominant) position in the telecommunications market technical, organizational and commercial conditions should be determined and regulated.

There is such a category of telecommunication operators (providers) as a universal service operator (although there is no legal definition) that provides services in the public telecommunication network, that is, access to it is open to all consumers and "Telecommunications The state imposes the obligation to provide universal) telecommunication services in accordance with the procedure established by the Law on ".

The selection of universal service operators in the Russian Federation, Belarus, Azerbaijan and other countries is based on the results of the competition⁶. On this issue, our legislation states that in the event that consumer demand for publicly available telecommunications services is not sufficiently met only in certain regions, the competent authority has the right to make a decision on the appointment of telecommunications operators who occupy a monopoly (dominant) position in the telecommunications market. recorded.

Responsibility for the development and provision of state telecommunications services to consumers using the compensation mechanism established by the Cabinet of Ministers is established for the entire territory of the country, as well as for fixed-line operators, carrying out or intending to carry out activities in these areas. That is, our legislation does not have a general procedure and conditions for the appointment of universal service operators, but only special cases of such appointment are indicated.

It should be noted that operators and providers have the right to join relevant associations in order to protect the rights and legal interests of telecommunication operators, support their development

⁵ <https://lex.uz/docs/6518381>

⁶ О связи: Закон Рос. Федерации от 07.07.2003 г. № 126-ФЗ, в ред. Закона от 29.04.2008 г. // Собр. законодательства Рос. Федерации. – 2003. – № 28. – Ст.2895; О применении Закона Азербайджанской Республики "О телекоммуникации": Указ Президента Азерб. Респ. от 09.08.2005 г. № 277 // Собр. законодательства Азерб. Респ. – 2005. – № 8. – Ст.709; Об электросвязи [Электронный ресурс]: Закон Респ. Беларусь от 19.07.2005 г. № 45-3 // Национальный правовой интернет-портал Республики Беларусь. – Режим доступа: <http://pravo.by/webnpa/text.asp?RN=H10500045>.

conditions, reform the communications industry and promote the development of the telecommunications market.

According to paragraph 4 of the first paragraph of the decision of the President of the Republic of Uzbekistan dated August 22, 2022, "On measures to bring the field of information and communication technologies to a new stage in 2022-2023" No. PQ-357, "2022 Starting from October 1, operators and providers will be allowed to carry out construction and installation works from the date of submission of the project-estimate documents for the installation of technical equipment in telecommunications facilities for expertise, in which the project-estimate documents will be examined within 15 days⁷.

Service prices are freely determined by mobile operators and providers. However, these operators purchase the relevant traffic from Uzbektelecom JSC in order to organize their mobile networks and provide relevant services.

Consumers also include persons whose legal status is determined by the norms of international law. Consumers of mobile communication services may be diplomatic missions or consular missions operating in the territory of the country and in accordance with the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963, as well as persons organized in accordance with international law. , that or consular institutions.

There is a need to clearly define the content of the terms used to identify the participants in the relationship of providing mobile communication services. The person concluding the contract with the mobile communication operator or provider should be called the "customer", and the person to whom the notice was sent under the contract should be called the "client".

The term "consumer of mobile communication services" can be used to provide the same rights and obligations to these persons and to combine them. Therefore, in this case, it can be concluded that the term "consumer" includes both the client - the party to the contract, and the applicant who has not concluded a contract for the provision of mobile communication services with this operator.

If a contract for the provision of mobile communication services is concluded with the consumer of mobile communication services, which provides for the connection of the end equipment he owns or uses to the mobile communication network, according to the definition established by the law, the consumer is called a subscriber.

If we analyze the concepts of "subscriber" and "consumer", then we can show the following legally established differences between these concepts: the subscriber is the corresponding equipment for receiving mobile communication services - the mobile communication network for providing the connection must have or be able to use equipment designed to connect to the end point of; the subscriber receives mobile communication services for his needs based on the terms of the contract, which provides for the connection of the end equipment he owns or uses.

As can be seen from the text of the law, the term "consumer of mobile communication services" has a wider meaning. The concepts of "consumer" and "subscriber" are related to each other as general and special. In particular, a subscriber number is allocated to a person who has concluded

⁷ <https://old.lex.uz/docs/6166539>

a contract with a mobile operator on the provision of mobile phone services, which allows to classify the user of mobile communication services as a subscriber.

On the other hand, the provision of long-distance and international telephone services for the use of collective access points, for example, does not involve the connection of the terminal equipment owned or used by the consumer to the telecommunications network when he visits the conversation point, and this " does not allow to use the term "subscriber". Consumers of non-subscriber mobile communication services do not have terminal equipment that needs to be connected to the telecommunications network of the operator or provider. Agreements with such consumers shall not be concluded in writing.

An example is the use of telephone communication by people in public telephone booths installed on the street. Contractual relations are established between such persons and operators, and the form of contract between them is oral.

After the conclusion of the contract, the offer (oferta) of the person providing the services is to install the final equipment in public places and the consent (acceptance) of the person according to the offer is to perform actions to pay for these services, for example, the person by card or token makes a payment. In such cases, the contract means that it is concluded by the parties performing certain actions.

Based on the above, a one-sided contract for the provision of mobile communication services should be qualified as a contract in favor of a third party, and a contract for the provision of mobile communication services of a bilateral nature should be qualified as a contract performed by a third party.

It is worth noting that in providing services to the subscriber, the interaction of different mobile communication operators and the use of networks between them for the benefit of subscribers is of great importance. Today, subscribers are allowed to transfer mobile numbers between networks. This requires the necessity of mutual cooperation between the telecommunication operators operating in our country and the regulation of inter-network connections. However, the current legislation does not provide specific provisions on the contract of inter-network connections.

In our opinion, the article entitled "inter-network connection agreement" should be included as Article 171 of the Law "On Telecommunications" and should be defined as follows:

"Interconnection contract

Telecommunication network operators can interconnect telecommunication networks by concluding an agreement on interconnection of their networks (hereinafter referred to as "interconnection agreement").

An interconnection agreement is a written agreement concluded by operators of telecommunication networks that agree to connect telecommunication networks and regulate the technical, commercial and other aspects of interconnection of their telecommunication networks.

The interconnection agreement must contain the following:

- 1) the validity period of the inter-network connection agreement, which should not exceed the validity period of the licenses of the parties;
- 2) description of inter-network connection service and additional services;

- 3) use of telecommunication services at the request of one of the parties;
- 4) order of inter-network connection lines and their transferability;
- 5) traffic forecasting and traffic management principles;
- 6) ensuring the security of network operations;
- 7) technical requirements and standards of inter-network connection;
- 8) the location and serial numbers of the inter-network connection point and the terms of use of the inter-network connection point;
- 9) if one of the parties wants to change the configuration of the telecommunications network, this may affect the connection, interaction of the telecommunications networks or the provided connection service;
- 10) joint use of telecommunication network equipment and linear equipment;
- 11) quality requirements for telecommunication networks and services and their provision;
- 12) settlement payment procedure and payment conditions;
- 13) testing of communication and interaction of telecommunication networks;
- 14) description and procedure for changing the payment for the inter-network connection service;
- 15) terms and fees for using inter-network connection lines;
- 16) the procedure for changing the terms of the inter-network connection agreement;
- 17) the procedure for obtaining information about malfunctions and troubleshooting;
- 18) repair and maintenance;
- 19) obligations of the parties, their limitation and compensation of damages;
- 20) dispute resolution procedure;
- 21) violation, suspension and cancellation of the inter-network connection agreement".

REFERENCES:

1. Мишушин О.М. Правовое регулирование деятельности в области оказания телематических услуг связи: автореф. дис. ... канд. юрид. наук: 12.00.03 / О.М. Мишушин. – М., 2007. – 74 с.
2. Санникова Л.В. Обязательства об оказании услуг в российском гражданском праве / Л.В.Санникова. – М.: Волтерс Клувер, 2007. – 17-18 с.
3. <http://ain.ua/2009/10/27/16527>
4. Аляб'єва Н. Договір про надання послуг електронної пошти: поняття, зміст, цивільно-правове регулювання / Н.Аляб'єва // Юридична Україна. – 2009. – № 9. – С. 52.
5. <https://lex.uz/docs/6518381>
6. О связи: Закон Рос. Федерации от 07.07.2003 г. № 126-ФЗ, в ред. Закона от 29.04.2008 г. // Соб. законодательства Рос. Федерации. – 2003. – № 28. – Ст.2895; О применении Закона Азербайджанской Республики "О телекоммуникации": Указ

INTERNATIONAL MULTIDISCIPLINARY JOURNAL FOR RESEARCH & DEVELOPMENT

SJIF 2019: 5.222 2020: 5.552 2021: 5.637 2022:5.479 2023:6.563 2024: 7,805

eISSN :2394-6334 <https://www.ijmrd.in/index.php/imjrd> Volume 11, issue 08 (2024)

Президента Азерб. Респ. от 09.08.2005 г. № 277 // Собр. законодательства Азерб. Респ. – 2005. – № 8. – Ст.709; Об электросвязи [Электронный ресурс]: Закон Респ. Беларусь от 19.07.2005 г. № 45-3 // Национальный правовой интернет-портал Республики Беларусь. – Режим доступа: <http://pravo.by/webnra/text.asp?RN=H10500045>.

7. <https://old.lex.uz/docs/6166539>