

The Paris office of Hogan Lovells is pleased to provide this English language edition of our monthly e-newsletter, which offers a legal and regulatory update covering France and Europe for June 2013.

Please note that French legal concepts are translated into English for information only and not as legal advice. The concepts expressed in English may not exactly reflect or correspond to similar concepts existing under the laws of the jurisdictions of the readers.

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For additional information, please speak to your usual contact.

Contact

Bruno Knadjian

Avocat à la Cour

Hogan Lovells (Paris) LLP
17, Avenue Matignon
CS 60021
75008 Paris
Tél. : +33 1 53 67 47 47
Fax : +33 1 53 67 47 48

Hoganlovells.com

Summary of miscellaneous French draft legislation

- **Draft law granting amnesty for acts committed in the course of social movements and trade unions' protesting activities** – Filed on November 28, 2012 – Adopted on first reading by the Senate on February 27, 2013 – A vote for a referral to commission was adopted during the first session on May 16, 2013.
- **Draft law regarding the separation and regulation of banking activities** - Presented to the Council of Ministers on December 19, 2012 – Adopted on first reading by the National Assembly on February 19, 2013 – Adopted on first reading at the Senate on March 22, 2013 – Adopted on second reading before the National Assembly on June 5, 2013 – Adopted on second reading by the Senate on June 26, 2013 - CMP.
- **Draft law to amend law n°2011-814 of July 7, 2011 on Bioethics by permitting research on embryos and embryonic stem cells under certain conditions** – adopted on first reading by the Senate on December 4, 2012 – in debate on first reading before the National Assembly on March 28, 2013, July 11 and 16, 2013.
- **Draft law to prohibit layoffs in the view of maximising profits and abusive job cuts**, n°869, filed on March 28, 2013 – rejected by the National Assembly on May 16, 2013.
- **Draft law relating to consumption**, n°1015, filed on May 2, 2013 – Remitted to the Commission of Economic Affairs – in debate on first reading before the National Assembly from June 24 to 27 and July 3, 2013.
- **Draft organic laws relating to the transparency of public life**, n°1004 and 1005, filed on April 24, 2013 – Adopted on first reading before the National Assembly on June 25, 2013.

- **Constitutional draft law relating to the Supreme Magistrates' Council**, n°815, filed on March 2013 – in debate on first reading before the Senate on July 3, 2013.
 - **Draft law relating to the fight against tax fraud and serious economic and financial crime, n°1011**, filed on April 24, 2013 – Adopted on first reading by the National Assembly on June 25, 2013 – in debate on first reading before the Senate on July 17 and 18, 2013.
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Enacted laws

- **Law n° 2013-504 of June 14, 2013 on job securitisation** – OJ of June 16, 2013.
 - **Law n°2013-561 on the exceptional release of the optional profit-sharing schemes**, OJ of June 29, 2013.
 - **Law n°2013-569 of July 1, 2013 which empowers the Government to adopt legislative measures to speed up housing projects** – OJ of July 2, 2013.
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1. Banking

France - Creation of financing companies

Order No. 2013-544 dated 27 June 2013 on credit institutions and financing companies ([OJ n°0148 dated 28 June 2013](#)) implements the provisions of Basel III in French law and contributes to the harmonisation of the rules applicable to credit institutions within the European Union. The Order amends for example, Article L.511-1-I of the Monetary and Financial Code, which now distinguishes between two types of banking institutions: credit institutions and financing companies. The financing company status allows institutions whose business is to grant credits for their own account but do not collect repayable funds from the public to continue to do business in France benefitting from a less restrictive prudential regime.

The Order shall come into force on 1st January 2014.

2. Capital Markets

France - Public consultation on modifications to Book III of its General Regulation, on services providers

Continuing its transposition of the AIFM Directive, AMF has launched a public consultation on modifications to Book III of its General regulation, on services providers. Those modifications concern various subjects which are the creation of Title 1a on AIF management companies compliant with the AIFM Directive, the procedure for fund manager resignations, the inclusion of the specific requirements concerning non-EU Alternative Investments fund Managers, the delegation of AIFM functions, and remuneration policies.

France - Publication by the AMF of its 2012 annual report and submission to public consultation of its 2013-2016 strategic plan

The Chairman of the AMF briefed the press on [the 2012 AMF Annual Report](#). In the meantime, he highlighted the key strategic directions of the AMF [for the 2013-2016 period](#). The main goal of the AMF is to reaffirm the principle that properly regulated finance is essential to economic growth. Actually, the three key action priorities for this period of time are the following: make every effort to achieve transparent, safe market in Europe (i), restore investor confidence (ii), bolster for the financing of the economy (iii).

France - Approbation by the AMF of the "provisions" of the ASPIM and AFG Code of Ethics on OPCI and extension of this latter to all asset management companies

The AMF board approved the 2nd of April the "Provisions" of the Code of professional Ethic applying to OPCI, prepared by ASPIM and AFG. In June, after seeking of the AFECEI, the AMF Board has decided to extend the "provisions" of this code of ethics to all asset management companies. Those provisions complete those set out in the code of Ethics for collective investment schemes and individual investment management mandates. The AMF advises service providers to consults recommendations adopted by the ASPIM and the AFG, which explain and provide further details on "provisions" of the Code of Ethics for OPCI even if those latter have not been submitted to the AMF approval.

3. Competition

European Law - Public Consultation on possible improvements to EU merger control in certain areas

On 20 June 2013, the European Commission has launched a Public Consultation in order to revise the Council Regulation (EC) No 139/2004 of the 20 January 2004 on the control of concentrations between undertakings. In its Working document the Commission essentially proposes two modifications: (i) the extension of the field of merger control to the acquisition of non-controlling minority stakes and (ii) the improvement of the transfer procedure of cases between the Commission and national competition authorities. The Commission invites interested third parties to submit their comments on 12 September 2013 at the latest.

European Law - Guidelines concerning regional state aid for 2014-2020

On 19 June 2013, the European Commission has adopted its new Guidelines on regional State aid for 2014-2020. They aim at setting out the rules under which Member States can grant state aid to companies to support investments in new production facilities in the less advantaged regions of Europe or to extend or modernise existing facilities.

The Guidelines will enter into force on 1 July 2014.

European Law - Collective action mechanisms and redress of damages resulting from anticompetitive practices

On 11 June 2013, the European Commission has published five texts aiming at facilitating the introduction of damage claims by victims of anticompetitive practices: a Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of regions called "Towards a European Horizontal Framework for Collective Redress", a Recommendation from the Commission on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law, a Proposal for a directive of the European Parliament and the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union, a Communication from the Commission on quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the FTEU, accompanied by a Practical guide on how to quantify harm in actions for damages based on breaches of Article 101 or 102 in order to help the jurisdictions to adequately assess antitrust damages.

4. Consumer law

France - Decree on the sale of medical products on the internet

The Decree of 20 June 2013 on the good practice of dispensing drugs on the internet was published in the Official Journal of the 23 June 2013 and will enter into force on 12 July 2013. The Decree essentially provides that (i) the e-commerce of drugs must be done from a dedicated website which has been authorized by the competent chief executive officer of the regional health agency, (ii) the website, as a virtual prolongation of a real and

admitted pharmacy, will need to be identifiable as an authorized platform and that (iii) only over-the counter medication will be eligible for the e-commerce. Prescription drugs will be excluded from the e-commerce in order to avoid counterfeiting and sale of illegal generics.

5. Corporate

France - Establishment of a mandatory participation of the employees to the board of directors or supervisory boards of big companies

The Law n°2013-504 of 14 June 2013, published in the Official Journal of 16 June 2013, establishes a duty for SA and SCA to organize the election or the appointment of employees' representatives in their boards of directors or supervisory boards. The companies and their direct or indirect subsidiaries of more than 5,000 permanent employees in France or 10,000 permanent employees worldwide are concerned.

The number of directors (or members of the supervisory board) representing the employees is at least equal to two in the companies in which the number of directors exceeds to twelve and at least one in the companies in which it is equal or below twelve. Those representatives shall take up their duties six months after the general shareholders' meeting implementing those modifications in the articles of association at the latest. Such shareholders' meeting shall itself occur in 2014 at the latest.

France - Conditions under which the independent third party body shall check of the social and environmental information appearing in the management report

An Order of 13 May 2013 determines the modalities under which the third party body shall check the social and environmental information appearing in the management report of the board of directors or of the executive board in listed companies and in SA and SCA exceeding certain thresholds.

This order determines the conditions under which the independent third party body can obtain an accreditation, the documents it has to observe and the information it has to compare, the procedure it has to respect in order to deliver a grounded advice on the sincerity of the social and environment information appearing in the management report, and the diligences it has to perform in order to realize its verifications.

For the current financial year, on 14 June 2013, this third party is appointed among the accredited bodies or, otherwise among the bodies which have filed an application for accreditation the admissibility of which has been agreed by the accreditation body.

6. Employment

France - Law: employment securing

The Law n°2013-504 dated June 14, 2013 regarding employment securing was published in the Official Journal on June 16.

Some of its provisions, notably employment maintaining agreements or internal mobility plans, came into force on June 17, 2013. Some other provisions will be applicable later on.

The text does not include the provisions on designation clauses as regards to the generalization of compulsory complementary health insurance as from January 1st, 2016 since they have been invalidated by the Constitutional Council.

France - Decree: precision on the DIRECCTE role

The Decree n°2013-554 dated June 27, 2013 regarding the collective redundancy procedure specifies that the administrative authority competent to approve a statutory employment protection plan is the DIRECCTE as well as the terms and conditions of the control that it will perform.

France - Law: optional and statutory profit-sharing schemes exceptional release

The Law n°2013-561 dated June 28, 2013 regarding the exceptional release of optional and statutory profit sharing schemes has been finally adopted.

It allows employees to release, between July 1st and December 31, 2013, up to 20,000 euros, while maintaining social and tax benefits on employees' savings.

France - Decree: unique regime of partial activity

The Decree n°2013-551 dated June 26, 2013 regarding partial activity provides that the financial aid to the company will vary between 7.23 euros and 7.74 euros per nonworking hour depending on the headcount and that the employee will benefit from an indemnity equivalent to 70% of his gross remuneration.

The maximum quota of hours per year and per employee remains equal to 1,000.

France - Ministerial decision: unions' representativity

The Ministerial decision dated May 30, 2013 establishing the list of unions which are regarded as representative at a national and interprofessional level indicates the unions that can be legally considered as representative at the said levels.

This list is valid until the next audience measurement of representativity in 2017.

7. Environment

France - Lighting of non-residential buildings

A Circular dated 5 June 2013 (BO 2013-11 dated 25 June 2013) defines the implementation conditions of the Order dated 25 January 2013 (coming into force on 1st July 2013) relating to night lighting of non-residential buildings which aims at limiting obtrusive light and energy consumption. This Circular specifies in particular that except in cases in which a special exemption has been granted:

- internal lighting of premises for professional use will have to be switched off an hour after the end of the occupation of the said premises;
- buildings' façade lighting shall be switched off at 1am at the latest;
- shop or exhibition windows' lighting will be switched off at 1am at the latest, or an hour after the end of the occupation of the said premises if it occurs later;
- shop or exhibition windows' lighting could be switched on as from 7am or an hour before the beginning of the activity if it occurs sooner.

8. Insurance

France - Anti-money Laundering

Decree n°2013-480 of 6 June 2013 specifies the conditions for the admissibility of the declaration of suspicion made by those professionals subject to the obligations relating to the fight against money laundering and terrorist financing (including professionals in the insurance sector) and the provisions that the declaration must contain under penalty of inadmissibility. It modifies Article R. 561-31 of the French Monetary and Financial Code. The Decree enters into effect on 1st July 2013. The Order dated 6 June 2013 determines the modalities of transmission of the declaration of suspicion. Insurance companies make from 1st July 2013 their declaration through a secure platform, except in case of unavailability of the platform

or particular urgency, while insurance intermediaries (for which the Order comes into effect on 1st September 2013) may make the declaration by mail or fax.

France - Law on the generalisation of additional healthcare

Within the context of the review of the law on protection of jobs which was adopted on 14 May 2013 by the Senate, the Constitutional council of the French Republic censured in its decision dated 13 June 2013 the provisions of the law establishing designation clauses "*which disproportionately infringe entrepreneurial freedom and contractual freedom in the light of the objective pursued of mutualisation of risks*". This decision takes effect immediately. It does not apply though to "*contracts concluded on this basis, on-going during this publication, and linking the companies to those governed by the Insurance Code, the institutions covered by Title III of the Code of Social Security and mutual covered by the Code of mutuality*" (please refer to the Legal and regulatory update – May 2013).

France - Credit insurance – signature of an agreement

The French Ministry of the Economy and Finances, the major credit insurers, the French Insurance Companies Federation and the Mediation of the credit have signed an agreement on 17 June 2013. It provides in particular that credit insurers undertake to comply with a one month period between the information of the insured company regarding the implementation of a valuation haircut and the entry into effect of the decision. The underwriting company (buyer) will also be informed *a minima* three weeks in advance of the entry into effect of the valuation haircut. A website providing for immediate alert to the companies (buyer) in the event of termination or reduction of guarantee lines is also implemented on 1st July 2013.

France - Reform of the solidarity tax on wealth ("ISF")

[Please refer to the Tax section.](#)

European Law - EIOPA – Long term guarantee assessment

On 14 June 2013, the European Insurance and Occupational Pensions Authority ("**EIOPA**") published a report containing its technical findings on the long-term guarantee assessment ("**LTGA**") conducted as input to the political discussions on finalisation of the Omnibus II Directive. The LTGA tested the so-called long-term guarantee package, a set of potential measures aimed at ensuring an appropriate supervisory treatment of long-term guarantee products, under volatile and exceptional market conditions. EIOPA concluded that the final long-term guarantee package to be included in the Solvency II framework should fulfil a number of principles in order to ensure a high degree of policyholder protection, as well as effective supervisory process such as alignment with the Solvency II framework and the economic balance sheet concept; full consistency and comparability in order to enhance the single market; efficient linking of all three pillars (quantitative basis, qualitative requirements and enhanced reporting and disclosure). On the basis of its assessment and these principles it support the inclusion of some of the measures tested including extrapolation, classical matching adjustment, transitional measures, and extension of recovery period. In light of European Parliament elections next May, an agreement on Omnibus II is sought this autumn.

European Law - EIOPA – Opinion on payment protection insurance

On 28 June 2013, EIOPA issued an opinion on consumer protection in payment protection insurance ("**PPI**"). In this opinion EIOPA identifies eligibility/ suitability and the provision of misleading information as the most frequently mis-selling issues for PPI products and highlights the issues associated with cross-selling resulting in distorted consumer choice. On the basis of this opinion EIOPA recommends national competent authorities to analyse their national PPI market in order to determine whether further investigation and any possible supervisory/ regulatory actions are required at national level. National competent authorities have six months to provide feedback on their past and future actions in this area, then EIOPA will decide what kind of action is needed at an EU level.

European Law - EIOPA – Consultation in the area of consumer protection

On 27 June 2013, the EIOPA announced that it had published consultation papers on two good practice reports which are complementary to the planned recast of the existing Insurance Mediation Directive. The papers are (i) a consultation paper on a draft report on good practices on comparison websites which aims at promoting transparency, simplicity and fairness for Internet users in the market for online comparisons of insurance products; (ii) a consultation paper on a draft report on good supervisory practices regarding knowledge and ability requirements for distributors of insurance products, aiming at promoting common supervisory approaches. This sets out good supervisory practices in the form of high-level principles that competent authorities would apply to all distributors of insurance products. Comments on both consultation papers are requested by 23 September 2013.

9. Intellectual Property

European Law - Negotiating Mandate for the Transatlantic Trade and Investment Partnership (TTIP) between the United-States of America and the European Union

On 14 June 2013, the Trade ministers from the European Union gave the European Commission a mandate to negotiate the free-trade agreement between the European Union and the United-States, which aims at increasing trade and investment with a view to create a transatlantic market place.

In order to preserve the European Union's strategic interests, the mandate has not been made publically available. However, the European Commission has disclosed some of the objectives to be achieved during the negotiation. Among them, the harmonisation of some specific issues related to Intellectual Property Law should be discussed, in particular in the fields of patents and geographical indications. In consideration, in particular, of the French State's wish to preserve its so-called cultural exception, issues related to audiovisual services have not been included, for now, in the Commission's mandate.

On 15 June 2013, the French National Assembly adopted a European resolution on the negotiating mandate for the Transatlantic Trade and Investment Partnership between the United-States of America and the European Union in order to affirm its expectations towards the Commission in this context.

European Law - Regulation (EU) n°608/2013 of 12 June 2013 concerning customs enforcement of intellectual property rights

The European Parliament adopted Regulation (EU) n°608/2013 of 12 June 2013 concerning customs enforcement of intellectual property rights, which repeals and replaces Regulation (EC) No 1383/2003 of 22 July 2003.

As a reply to the case law from the European Court of justice (see in particular ECJ, 1 December 2011, Nokia v. Philips, C-446/09 and C-495/09) which is not favourable to IP right holders, the Regulation will now apply to the goods placed under a suspensive procedure (external transit). Besides, the list of the intellectual property rights falling into the scope of the Regulation has been widened to now includes utility models, trade names and topographies of semiconductor products. This Regulation is intended to be combined in particular with the draft Directive amending European trademark law, under discussion.

The new Regulation also aims at strengthening custom authorities' powers. Among the new measures, the new Regulation extends and generalizes the simplified procedure for seizure and early destruction of counterfeit goods.

The new Regulation will apply from 1 January 2014.

10. New technologies

European Law - Formal notice to Google by the G29

On 20 June 2013, the G29 (the working group based on Article 29 on data protection composed of the 27 authorities in charge of personal data

protection within the Member States of the European Union) issued a warning to Google, Inc. that it must comply with national laws on the protection of personal data. The G29 requires Google, among other measures, to allow users to define the term of retention of their data and obtain users' agreement before installing cookies into their terminals. Google now has four months to comply with the warning and risks being sanctioned otherwise.

11. Public Law

France - Abolishment of the public procurement consultative commission

Decree n°2013-420 dated 23 May 2013 abolishing administrative consultative commissions, published in the O.J. dated 24 May 2013, abolishes the public procurement consultative commission governed by former article 129 of the public procurement contracts code.

European Law - Proposal for a directive on electronic invoicing in public procurement

The European Commission proposed, on 26 June 2013, a draft directive related to e-invoicing in public procurement, which aims to establish a European e-invoicing standard and improve interoperability between different e-invoicing systems.

12. Tax

France - Wealth tax reform ("*Impôt de solidarité sur la fortune*")

The French tax authorities have commented the new rules introduced by the Finance Act for 2013 (*article 13 of Law n° 2012-1509 dated 29 December 2012*), in particular:

- Change of the applicable wealth tax rates (return to the old progressive scale);
- Wealth tax capping mechanism to 75% of the taxpayer's income;
- Limitation of the deductible liability to the sole debts related to the taxable assets on behalf of the debtor.

It is important to note that despite the censorship of the French Constitutional Council, the French tax authorities have indicated that the taxpayer has to include changes in the value of life insurance contracts in the income, when calculating the wealth tax cap (notably [BOI-PAT-ISF-40-60-20130614](#) dated 14 June 2013).

France - Change of the last corporate income tax instalment regime applicable to large companies

The French tax authorities have commented the change of the last corporate income tax instalment regime applicable to large companies and members of a tax group, and the thresholds triggering penalties, as introduced by the Finance Act 2013 (*article 26 of Law n° 2012-1509 dated 29 December 2012*) ([BOI-IS-GPE-30-30-10-20130611](#) dated 11 June 2013).

Companies concerned by the requirement to calculate the last corporate income tax instalment by reference to the estimated profits (instead of the taxable income of last financial year for the other companies) are companies with a turnover of € 250 million (against € 500 million previously). Moreover, the percentage of the amount of the estimated corporate income tax for the calculation of the final instalment is paid to:

- 75% (instead of 66.2/3%) for companies whose turnover is between € 250 million and € 1 billion;

- 85% (instead of 80%) for companies whose turnover is between € 1 billion and € 5 billion;
- 95% (instead of 90%) for companies whose turnover exceeds € 5 billion.

These amendments apply to fiscal years beginning on or after 1 January 2013.

France - Annual tax on offices premises, commercial premises, storage facilities and parking located in the Ile-de-France area (the "Tax")

The French tax authorities have updated their comments ([BOI-IF-AUT-50-20130614](#) and [BOI-IF-AUT-50-20-20130614](#) dated 14 June 2013) regarding the provisions of the [Ministerial Decree dated 31 December 2012](#) which updates:

- The scope of the Paris urban area, which is the basis for the second district of the Tax rate;
- The rates of Tax for the year 2013.

France - Tax status of late registered French *Société Civile Immobilière* ("SCI")

The French tax authorities have incorporated in their guidelines the Ministerial answer *Lagarde* dated 5 February 2013 ([RM Lagarde n°4295 JO AN dated 5 February 2013, p. 1307](#)) specifying the tax consequences of a late registration of a SCI. Thus, the tax consequences of the cessation of business do not have to apply under certain conditions ([BOI-IS-CESS-20-20-20130613 n°285 dated 13 June 2013](#)).

As a reminder, the SCI established before 1 July 1978 were required to register before 1 November 2002. Otherwise, they lost their legal status after this date and were reclassified as "*société en participation*".

13. Telecoms

France - The ARCEP rules on a dispute opposing the fiber-to-the-home service operator to France Télécom company

By a [Decision n°2013-0720](#) dated 28 May 2013, the ARCEP ruled on a dispute opposing the Saint-Quentin-en-Yvelines fiber-to-the-home (FttH) service operator to France Télécom company.

European Law - The Commission suspends the Estonian telecoms regulator's project of regulation of the prices for the use of its broadband infrastructure

The EU Commission, by a [Decision of 13 June 2013](#), asked the Estonian telecoms regulation authority (ECA) to review its calculation method of the regulated rates that the dominant operator, Elion Ettevoted AS, can charge the other operators for the use of its broadband infrastructure. According to the Commission, this method would not comply with the European telecoms regulatory framework and may impede the broadband investments and create artificial barriers on the market.

The Estonian regulator proposes to set those rates by using a calculation method which assesses the assets according to their historical cost and not according to their current cost. The Commission, having been notified of this draft decision under article 7 bis of the Telecoms Directive, admitted that the ECA can have a margin of appreciation regarding the choice of the cost calculation method in order to regulate the access rates. However, it considered that the pieces of evidence provided by the ECA were not sufficient to justify this choice. ECA has three months to find a solution with the Commission and the BEREC. During this time, the implementation of this proposal is suspended.

European Law - The Commission lowers the mobile roaming price caps from 1 July

From 1 July 2013, the [European Union's Roaming Regulation](#) will lower the price caps for data downloads by 36%. It will be much cheaper to use maps, watch videos, check email and update social networks while travelling across the EU. Data roaming will now be up to 91% cheaper in 2013 compared to 2007.

The prices caps, which enter into force on 1 July 2013, are:

- Downloading data or browsing the Internet - 45 cents / Megabyte (MB) (charged per Kilobyte used) + VAT. (36% reduction compared to 2012)
- Making calls - 24 cents / minute + VAT (17% reduction compared to 2012)
- Receiving a call - 7 cents / minute + VAT (12.5% reduction compared to 2012)
- Sending a text message - 8 cents + VAT (11% reduction compared to 2012).

European Law - The Commission suspends the German regulator's project of regulation of the call termination rates

The EU Commission, by a [Decision of 21 June 2013](#), requested from the German regulator that it modifies its project of regulation of the call termination rates, in order to protect consumers. Call termination rates are those that the telecommunication networks charge each other to deliver calls from a network to another. These costs are reflected on the prices paid by the final consumer.

The German regulator, BNetzA, had set termination rates which were comprised between €0.0036 and €0.0025 per minute, 300% higher than the average of the European countries, which rates are around €0.001 per minute in accordance with the Commission recommendations. It is the second time this year that the Commission disagrees with the German regulator regarding the implementation of fixed call termination rates.

The Commission, having been notified of this decision under Article 7a of the Telecoms Directive, has considered that these rates were too high and asks the German regulator to offer new rates that would deliver lower consumer prices and help building a telecoms single market. BNetzA has three months to find a solution with the Commission and the BEREC. During this time, the implementation of those rates is suspended.

European Law - The Commission refers Estonia to the EUCJ over independence of its national telecoms regulator

The EU Commission, by a [Decision of 30 May 2013](#), decided to refer Estonia to the EUCJ over independence of its national telecoms regulator. Under the European telecoms regulation, national authorities exercising a regulatory power cannot control or own telecoms companies.

The Economic Affairs and Communications Ministry of Estonia has a regulatory power, in particular regarding the radio frequencies allocation and in the meantime controls the state-owned company Levira Ltd, the most important radio and TV networks operator in Estonia.

The Commission sent Estonia a formal request to comply with EU rules in June 2012, in particular article 3(2) of the Telecoms Framework which provides that Member States controlling or owning telecoms services providers have to establish an effective structural separation between regulatory powers and company control or ownership activities. However, Estonia did not adapt its national law to guarantee the impartiality of its telecoms regulator, which can have negative consequences on competition in this sector.

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