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New Law “On Amendments to the Law of Ukraine “On the State Registration of Legal Entities and Individuals – Entrepreneurs” Concerning Electronic Registration”

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On 19 October 2010, the Verkhovna Rada of Ukraine adopted the Law "On Amendments to the Law of Ukraine "On the State Registration of Legal Entities and Individuals - Entrepreneurs" Concerning Electronic Registration" No. 2609-VI (hereinafter - Law).

It suggests an electronic conveyor for the State registration of legal entities and individuals - entrepreneurs, as well as the requests for EDRPOU data, changes to the State Register concerning subjects of business activity, reservation of names of legal entities and termination thereof. It stipulates, however, that the registration of individuals - entrepreneurs and legal entities will be done by the State Registrar against presentation of electronic documents certifying involvement of a person in an entrepreneurial activity and the creation of a legal entity, so that the document execution procedure will be simplified considerably. The registration of the changes to the data of individuals - entrepreneurs and the registration of the changes to legal entities' founding documents will be done exclusively on paper without presentation of electronic documents. Also, instead of submitting a receipt certifying the payment of the registration fee, a copy of an electronic payment document attested with a digital signature will be submitted in this case.

The principal feature of the electronic document circulation is that the holders of electronic digital signatures will insert them in paper documents instead of their own handwritten signatures and from the legal point of view the electronic documents will thus be deemed signed by these persons. The persons who will receive such documents will only be able to review them using a special key without being authorized to make any changes therein. All these operations will require not only relevant software but also the material means for making the electronic digital signatures, which means can be received in accredited key certification centers.

According to the Law, the state registration of subjects of business activity is done as follows:

- ✓ According to the State Committee of Ukraine for Regulatory Policy and Entrepreneurship (hereinafter - State Entrepreneurship Committee), the State Registrar will register an electronic document received from the applicant and send a "document received" confirmation to the applicant. The State Registrar will then have to carry out the required registration acts in the cases stipulated by this Law and send the relevant electronic notice to the applicant.
- ✓ The electronic documents submitted for the State registration must be executed in accordance with the provisions of the law concerning electronic documents, electronic document circulation and electronic digital signatures. Applicant identification will be done through the use of a unique electronic digital signature (EDS) system protected by special software.
- ✓ If there are grounds for refusing the State registration, applicants will receive the relevant electronic notices.
- ✓ A copy of an electronic EDS-certified payment document will confirm the payment for the registration of a legal entity done in the form of an electronic document.
- ✓ The State Entrepreneurship Committee develops and posts on its website the information about the electronic form of outgoing documents, as well as the document development and submission programs business entities/entrepreneurs will need for the electronic registration.

The Law also preserves the possibility of filing requests as hard copies personally by applicants or by mail. The Parliament adopted the law on 19 October 2010. It will take effect 9 months after the publication day, namely as of 14 August 2011.

Electronic documents in the State registration of legal entities and individuals - entrepreneurs are a positive development that will accelerate the registration; however, electronic reports will not replace completely the hard copy co-operation with the State Registrar nor prevent potential practical violations.

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