

Bruxelles, le 24 février 2022
(OR. fr, en)

6451/22

Dossier interinstitutionnel:
2021/0293(COD)

LIMITE

TELECOM 66
DIGIT 40
CYBER 61
COMPET 111
RECH 94
PI 14
MI 134
EDUC 58
JAI 228
ENFOPOL 89
COSI 51
CODEC 195

NOTE

Origine:	la présidence
Destinataire:	délégations
N° doc. préc.:	5466/22
N° doc. Cion:	11900/21
Objet:	Proposition de DÉCISION DU PARLEMENT EUROPÉEN ET DU CONSEIL établissant le programme d'action à l'horizon 2030 "La voie à suivre pour la décennie numérique" - Deuxième text de compromis de la présidence

I. INTRODUCTION

1. En février 2022, sur la base de la deuxième série de contributions écrites reçues des délégations, la Présidence FR a rédigé la deuxième proposition de compromis, qui se trouve en annexe du présent document.
2. La Présidence FR invite les délégations à **discuter des modifications faites** à la proposition de décision relative au programme politique numérique 2030 lors de la réunion du groupe de travail TELECOM du **1er mars 2022**.

3. Les modifications du document par rapport à la première proposition de compromis sont soulignées: les ajouts sont marqués **en gras**, les suppressions ~~barrées~~; les éléments qui nécessitent une discussion plus approfondie sont signalés par **[un texte en gras entre crochets]**. Les changements antérieurs, par rapport à la proposition initiale de la Commission, sont toujours marqués comme décrit ci-dessus mais ne sont plus soulignés.

II. PRINCIPALES MODIFICATIONS

4. La fréquence des interactions a été modifiée afin d'avoir un rapport annuel sur « l'état de la décennie numérique » (**Article 6, paragraphe 1**) et un cycle biennal de coopération entre les États membres et la Commission (**Article 8**).
5. Conformément à l'article 288 du TFUE, les recommandations ne lient pas leurs destinataires. Le **Considérant (27)** a été clarifié à cet effet.
6. En ce qui concerne la gouvernance, **l'Article 25, paragraphe 1**, ne désigne plus «le comité des communications» comme étant celui chargé d'assister la Commission. Une discussion plus approfondie est nécessaire sur l'identification de ce comité.
7. Les références à «l'industrie» ont été supprimées des **Articles 1, paragraphe 1, point a), et 3, paragraphe 2**. Toutefois, un lien plus fort avec la base juridique a été créé à **l'Article 1, paragraphe 1**.
8. Plusieurs modifications et ajustements mineurs se trouvent également dans le texte ci-dessous.

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the 2030 Policy Programme “Path to the Digital Decade”

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In its Communication “2030 Digital Compass: the European way for the Digital Decade” of 9 March 2021³ (“Digital Compass Communication”) the Commission laid out its vision for 2030 to empower citizens and businesses through the digital ~~transition~~ **transformation**. The Union way for the digital transformation of economy and society should encompass digital sovereignty, inclusion, equality, sustainability, resilience, security, improving quality of life, respect of citizens’ rights and aspirations and should contribute to a dynamic, resource efficient, and fair economy and society in the Union.
- (2) In ~~its~~**their** statement of 25 March 2021, the **members of the** European Council considered the Digital Compass Communication as a step towards charting Europe’s digital development for the next decade and confirmed the vision there set, including the idea of a Policy Programme ~~with a robust governance structure~~ and a framework to facilitate the implementation of multi-country projects that are necessary for Europe’s digital ~~transition~~ **transformation** in critical areas. It also invited the Commission to widen the European Union’s policy toolbox for digital transformation, both at the European Union and national level, and to use all available instruments from industrial, trade and competition policy, skills and education, research and innovation policy and long-term funding instruments to facilitate the digital transformation.

1 OJ C , , p . .

2 OJ C , , p . .

3 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “2030 Digital Compass: the European way for the Digital Decade” COM/2021/118 final/2.

- (3) As outlined in the Commission’s Communication updating the 2020 new industrial strategy⁴, it is necessary for the European Union to identify systems of critical technologies and strategic sectors, to address strategic weaknesses and high-risk dependencies which could lead to supply shortages or cybersecurity risks, and to foster digital ~~transition~~ **transformation**. This underlines the importance for Member States to join forces and to support industry’s efforts to address these dependencies and to develop strategic capacity needs. This also responds to the analysis in the 2021 Strategic Foresight Report⁵. In the framework of the Recovery and Resilience Facility and the preparation of national recovery and resilience plans, the Commission encouraged Member States to coordinate their efforts in favour of Multi-Country Projects in the digital area. This experience highlighted the need for the Commission to support coordination efforts by Member States, and for the Union to dispose of implementation mechanisms that facilitate joint investments, in order for Multi-Country Projects to materialise. In conjunction with other Commission’s initiatives such as the Observatory for Critical Technologies⁶, a governance structure implementing the Digital Compass Communication should be established and should help to identify the Union’s current and possible future digital strategic dependencies and contribute to strengthening its digital sovereignty.
- (4) The Commission’s Communication on the European Green Deal⁷ emphasised that Europe should leverage the potential of the digital transformation, which is a key enabler for reaching the Green Deal objectives. The Union should promote and invest in the necessary digital transformation as digital technologies are a critical enabler for attaining the sustainability goals of the Green Deal in many different sectors. Digital technologies such as artificial intelligence, 5G, cloud and edge computing and the internet of things can accelerate and maximise the impact of policies to deal with climate change and protect the environment. Digitalisation also presents new opportunities for distance monitoring of air and water pollution, or for monitoring and optimising how energy and natural resources are used. Europe needs a digital sector that puts sustainability at its heart, ensuring that digital infrastructures and technologies become verifiably more sustainable and energy- and resource efficient, and contribute to a sustainable circular and climate-neutral economy and society in line with the European Green Deal.

4 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions updating the 2020 new industrial strategy: Building a stronger Single Market for Europe’s recovery”, 5.5.2021 COM(2021) 350 final.

5 COM(2021) 750 final of 8.9.2021 – “2021 Strategic Foresight Report - The EU’s capacity and freedom to act”.

6 Action Plan on synergies between civil, defence and space industries, 22.02.2021, COM(2021) 70 final, Action 4.

7 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions “The European Green deal”, 11.12.2019, COM/2019/640 final.

- (5) The measures envisaged in the Digital Compass Communication should be implemented, to intensify actions defined in the strategy for Shaping Europe’s digital future, and building on existing Union instruments (such as Cohesion programmes, the Technical Support Instrument, Regulation (EU) 2021/694 of the European Parliament and of the Council⁸, Regulation (EU) 2021/695 of the European Parliament and of the Council⁹ and Regulation (EU) 2021/523 of the European Parliament and of the Council¹⁰) and on the funds allocated for digital transition transformation of Regulation (EU) 2021/241 of the European Parliament and of the Council¹¹. By this Decision, a Policy Programme “Path to the Digital Decade” should therefore be established in order to achieve, accelerate and shape a successful digital transformation of the Union’s economy and society.
- (6) In order to follow the trajectory of the Union regarding the pace of digital transformation, digital targets should be established **at the EU level**. These **political** targets should be linked to concrete areas, where progress should collectively be made within the Union. The targets follow the four cardinal points identified in the Digital Compass Communication, identified as the essential areas for the digital transformation of the Union: digital skills, digital infrastructures, digitalisation of businesses and of public services.
- (6a) This Decision is without prejudice to Articles 165 and 166 TFEU.**
- (7) Digital skills, basic and advanced, **as well as other skills in the domains of Science, Technology, Engineering and Mathematics (STEM)**, are essential to ~~reinforce the collective resilience of the Union’s society~~ **speeding up the adjustment of the Union industry to structural changes**. Digitally empowered and capable citizens will be able to take advantage of the opportunities of the Digital Decade. Moreover, digital training and education should support a workforce in which people can acquire specialised digital skills to get quality jobs and rewarding careers in much greater numbers than today, ~~with convergence~~ **striving towards equal participation** between women and men. In addition, an essential enabler for taking advantage of the benefits of digitisation, for further technological developments and for Europe’s digital leadership is a sustainable digital infrastructure for connectivity, microelectronics and the ability to process vast data. Excellent and secure connectivity for everybody and everywhere in Europe including in rural and remote areas¹² is needed. Societal needs for upload and download bandwidth are constantly growing. By 2030, networks with gigabit speeds should become available at ~~accessible~~ **affordable** conditions for all those who need or wish **to have** such capacity. **Convergent conditions for investments in digital infrastructures will be needed in order to create a framework where big platforms make a fair and proportionate contribution for the cost of digital infrastructures.** Moreover, microprocessors which are already today at the start of most of the key, strategic value chains are expected to be in even

8 Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

9 Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

10 Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

11 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

12 Long-term Vision for the EU’s Rural Areas. COM(2021) 345 final.

higher demand in the future, in particular the most innovative ones, **considering thereby the current and foreseeable needs of user industries**. Climate neutral highly secure edge node guaranteeing access to data services with low latency wherever businesses are located and quantum capacity are also expected to be critical enablers.

- (8) Beyond enablers, all the above mentioned technologies will be at the core of new products, new manufacturing processes and new business models based on fair sharing of data in the data economy. The transformation of businesses will depend on their ability to adopt new digital technologies rapidly and across the board, including in industrial and services ecosystems that are currently lagging behind.
- (9) Democratic life and **key** public services will also crucially depend on digital technologies and therefore they should be fully accessible for everyone, as a best-in-class digital environment providing for easy-to-use, efficient, **trustworthy** and personalised services and tools with high security and privacy standards. **Such key public services should cover also those that are relevant for major life events such as e.g. when losing and finding a job, studying, owning and driving a car, starting up a business.**
- (10) The Commission should review these digital targets by June 2026 to assess whether they still meet the high level of ambition of the digital transformation and ~~update them or introduce additional digital targets~~ **could propose to revise them, if it is necessary to address technical, economic and societal developments, for example in the areas of data economy, sustainability and cybersecurity.**
- (11) A harmonious, inclusive and steady progress towards the digital transformation and towards the achievement of the digital targets in the Union, requires a comprehensive, robust, reliable, flexible and transparent form of governance, based on close cooperation and coordination between ~~the Union institutions, bodies and agencies, and~~ the Member States **and the Commission**. An appropriate mechanism should ensure coordination of convergence and the consistency and effectiveness of policies and measures at Union and national level. Therefore, it is necessary to lay down provisions on a monitoring and cooperation mechanism implementing the Digital Compass Communication. **Such mechanism should take into account the diversity of situations across and within Member states, be proportionate, notably with regards to administrative burden, and leave the possibility for Member States to follow a greater level of ambition when defining their national objectives.**
- (12) This mechanism should include an enhanced monitoring system to identify gaps in the strategic digital capacities of the Union. It should also include a reporting mechanism, among others, on the progress towards the 2030 vision and corresponding digital targets as well as on the more general state of compliance with the objectives set in this Decision. It should establish a cooperative framework between the Commission and Member States to identify solutions addressing weaknesses and to propose targeted actions for effective remedies.
- (13) The Digital Economy and Society Index ('DESI')¹³ **is an annual set of analyses and measurement indicators, which since 2014 have been used to monitor Europe's overall**

¹³— DESI is an annual set of analyses and measurement indicators, which since 2014 have been used to monitor Europe's overall progress and to benchmark individual Member States' progress in digital, feeding into the European Semester process and the country-specific recommendations.

progress and to benchmark individual Member States' progress in digital, feeding into the European Semester process and the country specific recommendations. DESI should become a part of the report on the state of the Digital Decade and should be used to monitor the progress towards the digital targets. This monitoring should include an analysis of the indicators measuring progress at Member States' level, national policies and initiatives aimed at reaching the objectives of this Decision and the targets as well as horizontal and thematic analyses tracking the digital transformation of European economies and a ranking of Member States progress therein. In particular, DESI's dimensions and indicators should be aligned with digital targets set out in this Decision. For each digital target, **and after consultation of Member States**, key performance indicators ('KPIs') should be set out in implementing acts to be adopted by the Commission. The KPIs should be updated when necessary for continued effective monitoring and to take account of technological developments. The data collection mechanism within Member States should be reinforced, **where appropriate**, to present a thorough state of play on the progress towards the digital targets, as well as information on the relevant policies, programmes, and initiatives at national level. Based on the reviews and where needed, the Commission should prepare, in consultation with the Member States, a roadmap to set out future data collection needs. In defining the DESI, the Commission should rely largely on official statistics collected in different Union surveys on the information society¹⁴. The Commission should use specific studies to collect data for those relevant indicators that are not measured in the Union surveys.

- (14) In order to keep the co-legislators informed about the progress of digital transformation in the Union, the Commission should submit to the European Parliament and the Council an annual report on the "State of the Digital Decade", containing an overview and analysis of the digital transformation of the Union and an evaluation of the progress made with regard to the objectives of the Digital Decade and the digital targets for the period towards 2030. The report on the "State of the Digital Decade", and in particular the DESI, should feed into the European Semester, including aspects relating to the Recovery and Resilience Facility.
- (15) In particular, the Commission should report on the progress towards the digital targets, detailing the degree of Union progress in relation to the projected trajectories for each target, the assessment of the efforts necessary to reach each target, including investment gaps in digital capacities and raising awareness about the actions needed to increase digital sovereignty. The report should also include an assessment of the implementation of relevant regulatory proposals as well as of the actions undertaken at Union and Member States level.
- (16) On the basis of this analysis the report would include specific recommended policies, measures and actions. When recommending policies, measures or actions in the report, the Commission should take into account the most recent data available, the joint commitments undertaken, the policies and measures defined by Member States as well as progress regarding recommended actions identified in earlier reports and addressed in the course of the **annual biennial** cooperation. In addition, the Commission should take into account the differences in individual Member States' potential to contribute to the digital targets, as well as the policies, measures and actions already in place and considered appropriate to achieve the targets, even if their effects have not yet materialised.

¹⁴ Regulation (EC) No 1006/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 808/2004 concerning Community statistics on the information society (OJ L 286, 31.10.2009, p. 31–35).

- (17) The annual report on the “State of the Digital Decade” should ~~present the implementation~~ **contain information on the actions undertaken by the Member states to put into practice and promote** of the digital principles as endorsed in the [insert title of solemn Declaration].
- (18) With a view to ensuring that the Digital Decade objectives and digital targets, as laid down in this Decision, are achieved, and that all Member States effectively contribute to that end, the design and implementation of the monitoring and cooperation mechanism should ensure exchanges of information and best practices through a constructive and inclusive dialogue between Member States and the Commission.
- (19) The Commission should, together with Member States, develop projected trajectories for the Union to reach the digital targets as laid down in this Decision. These projected trajectories should then be translated by Member States into national trajectories, where possible. The different potential of Member States to contribute to the digital targets should be taken into account and reflected in national trajectories. These trajectories should help assess progress over time at Union and national level respectively.
- (20) In order to ensure that cooperation between the Commission and the Member States is efficient and effective, Member States should submit to the Commission national Digital Decade strategic roadmaps covering the period up to 2030 (‘national Digital Decade strategic roadmaps’) proposing, where possible and measurable at national level, national trajectories, describing all the instruments adopted, planned or implemented with a view to contributing to the achievement at Union level of the objectives of this Decision and the digital targets. These national Digital Decade strategic roadmaps should be a crucial tool for the coordination of the policies of the Member States and for ensuring predictability for the market. Member States should take into account relevant sectoral initiatives, both at Union and national level, and ensure consistency with them. **The commitment of a Member State to provide a national Digital Decade Strategic Roadmap to support achieving the digital targets at Union level does in no way prevents the Member State ~~to~~ designing and implementing strategies at national level nor from specialising in certain industrial domains.** During the ~~annual~~ **biennial** cycle of cooperation, Member States could propose adjustments to their national Digital Decade strategic roadmaps to take into account the evolution of the digital ~~transition~~ **transformation** at Union and national level and to respond, in particular, to the Commission recommended policies, measures and actions. **In order to ensure a consistent and comparable approach across Member States facilitating the preparation of their national strategic roadmaps, the Commission will provide for guidance which ~~would~~ will set out in more details the key elements of the structure of a national roadmap and, in particular, the common elements that all roadmaps should include. The guidance will also provide for a general approach to be followed by Member States when developing their national trajectories.**

- ~~(21) The timely availability of and access to radio spectrum are key for reaching the connectivity targets of the “Path to the Digital Decade”. In this context, the Member States and spectrum users require predictability and certainty and at the same time flexibility (based on the evolving needs) for the planning of milestones for spectrum availability. Particularly under the fast-evolving digital and green transformation process, early information about a future spectrum availability and input on setting any milestones from key stakeholders (such as public authorities, industry and users) would increase legal certainty and investment predictability.~~
- ~~(22) Since spectrum is essential to achieve the digital targets, and in particular a secure, performant and sustainable digital infrastructure, Member States should also report on their adopted and future policies and measures regarding the availability and possibility to use radio spectrum for existing users and prospective investors and operators. Without prejudice to the possibility for the Commission to propose new strategic spectrum policy orientations or mechanisms under Article 4 (4) of Directive (EU) 2018/1972 of the European Parliament and of the Council¹⁵, appropriate guidance could be provided by the Commission in that regard in order to meet the general objectives and digital targets laid down in this Decision.~~
- (23) The cooperative dialogue between the Commission and the Member States should commence with the assessment of their national Digital Decade strategic roadmaps and should be based on the data provided and assessment made in the report of the state of the Digital Decade, as well as on the feedback received by relevant stakeholders.
- (24) The cooperation should subsequently be structured within an **annual biennial** cycle. The timing of the **annual biennial** cooperation should take into account the need to reflect the results of the cooperation thus far, as well as measures, action and adjustments to the national Digital Decade strategic roadmaps proposed in the report of the following year.
- (25) In order to progress towards achieving the targets in alignment with the projected trajectories, Member States which are considered in the report as having made insufficient progress in a given area, should propose adjustment measures and actions they intend to undertake to foster progress in that critical area. Furthermore, the Commission and Member States should examine how recommended policies, measures and actions made in the previous year’s report have been addressed by Member States collectively and individually. A Member State may request a peer review process to be launched in order to give other Member States an opportunity to comment on proposals it intends to present in its national Digital Decade strategic roadmap, in particular as regards their suitability to achieve a specific target. ~~The Commission may also propose the launch of a peer review process in respect of a Member State’s Digital Decade strategic roadmap.~~

15 Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

- (26) The Commission and one or more Member States may undertake joint commitments regarding coordinated actions they would like to undertake in order to achieve the targets, establish Multi-Country Projects, and agree on any other measures and actions at Union and national level with the objective to progress towards achieving the targets in alignment with the projected trajectories. **A joint commitment consists of an initiative that involves at least two Member States wishing to cooperate, notably with the aim ~~to~~ of contributing ~~notably~~ to the achievement of the objectives and targets set out in this Decision.**
- (27) The effective implementation of the recommended policies, measures and actions and of the national Digital Decade strategic roadmaps and their adjustments, is crucial for the achievement of objectives and digital targets. If a Member State ~~fails~~ **does not** ~~to~~ effectively implement these measures, and the reasons provided for ~~failing to~~ **doing** so are considered to be insufficient, the Commission may adopt a distinct recommendation, ~~without prejudice of Commission's powers under the Treaty~~. Such recommendations should take into account and be complementary to the latest country-specific recommendations issued in the context of the European Semester.
- (28) The Member State concerned should take the recommendation into utmost account and where appropriate adjust its national Digital Decade strategic roadmap. In case a Member State does not intend to implement the recommendation, it should provide reasons as to why it decides not to do so ~~and make those reasons public~~.
- (29) In order to ensure transparency and public participation, the Commission should engage with all interested stakeholders. To that end, the Commission should closely cooperate with stakeholders including **civil society**, private and public actors, such as bodies governed by public laws of the educational or health sector, and consult them on measures to accelerate the digital transformation at Union level. The involvement of stakeholders would be important at the level of Member States as well, in particular when adopting their national Digital Decade strategic roadmaps and their **possible** adjustments.
- (30) Multi-Country Projects involving several Member States should allow for large-scale intervention in key areas necessary for the achievement of the digital targets, notably by pooling resources from the Union, Member States, and where appropriate private sources. They should be implemented in a coordinated manner, in close cooperation between the Commission and Member States. For that reason, the Commission should play a central role in accelerating the deployment of Multi-Country Projects through the identification of Multi-Country projects ready for implementation among the projects categories indicatively included in Annex, in advising Member States on the choice of implementation mechanism, on the choice of the sources of funding and their combination, on other strategic matters related to the implementation of those projects, and on the selection of a European Digital Infrastructure Consortium (EDIC) as an implementation mechanism, where appropriate.
- (31) Public support to the Multi-Country Projects should be used notably to address market failures or sub-optimal investment situations, in a proportionate manner, without duplicating or crowding out private financing and having a clear European added value, in compliance with applicable Union law and national law consistent with Union law.

- (32) Multi-Country Projects should be able to attract and combine, in an efficient manner, various sources of Union and Member States' funding. Notably, the combination of the funds from centrally managed Union programme with resources committed by Member States should be possible, including, under certain conditions, contributions from the Recovery and Resilience Facility, as explained in Part 3 of the Commission guidance to Member States on Recovery and Resilience Plans¹⁶, as well as contributions from European Regional Development and Cohesion funds. Whenever justified by the nature of a given Multi-Country Project, it should also be open to contributions from entities other than the Union and Member States, including private contributions.
- (33) The Commission, in cooperation with the Member States and acting as the coordinator of Multi-Country Projects, should assist Member States in the identification of their interests in Multi-Country Projects, give guidance regarding the selection of optimal implementation mechanisms and provide assistance in the implementation, contributing to the widest possible participation.
- (34) The Commission should be able to establish, upon Member States' application, and where it considers it appropriate, in particular in the situations where there is no alternative suitable implementation mechanism, a European Digital Infrastructure Consortium ('EDIC') to implement that Multi-Country Project.

(34a) The bodies of an EDIC should aim at a gender-balanced representation.

- (35) In order to ensure uniform conditions for the implementation of this Decision implementing powers should be conferred on the Commission as regards the key performance indicators and for setting up the EDIC. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁷.

(35a) This Decision does not apply is without prejudice to measures taken at by Member States concerning national level, in accordance with Union law, that pursue general interest objectives relating to public security and defence. Moreover, in accordance with Article 4 of the Treaty on European Union ('TEU'), national security is the sole responsibility of each Member State,

HAVE ADOPTED THIS DECISION:

¹⁶ Brussels, 22.1.2021 SWD(2021) 12 final.

¹⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

CHAPTER 1

SUBJECT MATTER, OBJECTIVES AND DEFINITIONS

Article 1

Subject matter

- (1) This Decision **aims at creating an environment favourable to initiative and to the development of undertakings throughout the Union by** establishing ~~inges~~ a Policy Programme “Path to the Digital Decade” and **settings** out a monitoring and cooperation mechanism for that programme consisting of measures to:
 - (a) set a clear direction for the digital transformation of the Union ~~industry~~ and for delivery of the digital targets **at the EU level**;
 - (b) structure and stimulate cooperation between the ~~Union institutions and~~ **Commission and Member States, and between the Members States themselves**;
 - (c) ensure the consistency, comparability and completeness of the monitoring and reporting by the Union.
- (2) This Decision also establishes a framework for Multi-Country Projects.

Article 2

General objectives

The ~~Union institutions and the~~ Member States **and the Commission** shall cooperate to support and achieve the following general objectives **of the Union**:

- (a) promote a human-centered, inclusive, secure and open digital environment where digital technologies and services respect and enhance Union principles and values;
- (b) reinforce Member States' collective resilience and bridge the digital divide notably by promoting basic and specialised digital skills for all and fostering the development of high-performing digital **capacities within the** education and training systems;
- (c) ensure digital sovereignty notably by a secure and accessible digital infrastructure capable to **transmit and** process vast volumes of data that enables other technological developments, supporting the competitiveness of the Union's industry;
- (d) promote the deployment and the use of digital capabilities ~~giving~~ **granting equal** access to digital technologies and data on easy and fair terms in order to achieve a high level of digital intensity and innovation in Union's enterprises, in particular **start-ups and** small and medium ~~ones~~ **enterprises**;
- (e) ensure that **online participation in** democratic life **is possible for everyone, and that** public services, ~~and~~ health and care services are **also** accessible online **in a trusted and secure environment** for everyone, in particular **for** disadvantaged groups including persons with disabilities **and in rural and remote areas**, offering inclusive, efficient and personalised services and tools with high security and privacy standards;
- (f) ensure that digital infrastructures and technologies become more sustainable and energy- and resource efficient, and contribute to a sustainable circular and climate-neutral economy and society in line with the European Green Deal;
- (g) facilitate **fair and** convergent conditions for investments in digital transformation throughout the Union, including by strengthening the synergies between the use of Union and national funds, and developing predictable regulatory approaches;
- (h) ensure that all policies and programmes which are relevant to the achievement of the digital targets, are taken into account in a coordinated and coherent way to fully contribute to the digital ~~transition~~ **transformation**.

Article 3

Definitions

For the purposes of this Decision, the following definitions apply:

- (1) ‘Digital Economy and Society Index (‘DESI’)’ means an annual set of ~~analysis~~ **analyses** and measurement indicators on the basis of which the Commission monitors the Union’s and Member States’ overall digital performance across several policy dimensions, including their progress towards the digital targets set out in Article 4;
- (2) ‘Multi-Country Projects’ means large scale **industry** projects facilitating the achievement of the digital targets set out in Article 4, including the Union’s and Member States’ financing, and meeting the requirements set out in Article 12;
- (3) ‘statistics’ means statistics as defined in Article 3(1) of Regulation (EC) No 223/2009 of the European Parliament and of the Council¹⁸;
- (4) ‘peer review’ means a review mechanism whereby Member States may ~~comment~~ **exchange best practices** on specific aspects of the policies, measures and actions proposed by a given Member States, and in particular on their suitability to contribute to achieving a specific target of the digital targets set out in Article 4, in the context of the **annual biennial** cooperation established in Article 8 ~~and which can serve to exchange best practices~~;
- (5) ‘projected trajectory’ means the assumed path per digital target until 2030, to achieve the digital targets set out in Article 4 and based on historical data where available;
- (5a) ‘Edge nodes’ means **computers connected to the network and located close to (or in) the physical endpoint where the data is generated. Edge nodes offer distributed data processing and storage capabilities.**
- (5b) ‘Key public services’ means **essential services provided to natural persons in their major life events and to legal persons in their business life cycle (e.g. when losing and finding a job, studying, owning and driving a car) and/or legal persons (e.g. when starting up a business or regular business operations), non-economic in nature and provided by public entities.**

¹⁸ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

CHAPTER 2
DIGITAL TARGETS

Article 4

Digital targets

- (1) ~~The Union institutions and~~ Member States **and the Commission** shall cooperate to achieve the following digital targets in the Union by 2030:
- (1) a digitally skilled population and highly skilled digital professionals:
 - (a) at least 80% of those aged 16-74 have at least basic digital skills;
 - (b) at least 20 million information and communications technology (ICT) specialists are employed, ~~with convergence~~ **striving towards equal participation** between women and men;
 - (2) secure, **resilient**, performant and sustainable digital infrastructures:
 - (a) all European households are covered by a Gigabit network, with all populated areas covered by 5G;
 - (b) the production of cutting-edge and sustainable semiconductors in the Union is at least 20% of world production in value;
 - (c) at least 10 000 climate neutral highly secure “edge nodes” are deployed in the Union, distributed in a way that guarantees access to data services with low latency (few milliseconds) wherever businesses are located;
 - (d) by 2025, the Union has its first computer with quantum acceleration, paving the way for the Union to be at the cutting edge of quantum capabilities by 2030.
 - (3) digital transformation of businesses:
 - (a) at least 75% of Union enterprises have taken up:
 - (1) cloud computing services;
 - (2) big data;
 - (3) artificial intelligence;
 - (b) more than 90% of Union Small and Medium Enterprises (‘SME’) reach at least a basic level of digital intensity;
 - (c) the Union grows the pipeline of its innovative scale ups and improves their access to finance, leading to at least doubling the number of unicorns;

- (4) digitalisation of public services:
- (a) 100% online accessible provision of key public services for Union citizens and businesses;
 - (b) 100% of Union citizens **shall have the possibility to** access ~~to~~ their medical records (electronic health records (EHR));
 - (c) at least 80% of Union citizens **have the possibility to** use an **electronic digital identification (eID) solution means, including European Digital Identity Wallets, in accordance with Regulation EU XXX/20XX.**
- (2) The Commission, **in close cooperation with the Member States**, shall review the digital targets set out in paragraph 1 by **June 2026**. The Commission shall submit a report to the European Parliament and to the Council regarding the outcome of the review and shall submit a legislative proposal to revise the digital targets in paragraph 1 where it considers this to be necessary to address technical, economic and societal developments for a successful digital transformation of the Union.

CHAPTER 3

GOVERNANCE: MONITORING AND COOPERATION MECHANISM

Article 5

Monitoring of progress

- (1) The Commission shall monitor the progress of the Union against the objectives and digital targets set out in Articles 2 and 4. To this end, the Commission shall rely upon **the Digital Economy and Society Index (DESI)₂** and, **after consultation with the Member States**, ~~for the purpose of this decision, in accordance with Article 25 (2)~~, shall set out in an implementing act the key performance indicators ('KPIs') for each digital target **described in Article 4**. **That implementing act shall be adopted in accordance with the examination procedure referred to in Article 25(2).**
- (2) Member States shall provide to the Commission in a timely manner the necessary statistics and data required for the effective monitoring of the digital ~~transition~~ **transformation** and of the degree of achievement of the digital targets set out in Article 4. ~~This shall include relevant information on the availability and accessibility of spectrum.~~ Where the relevant statistics from Member States are not yet available, the Commission may use an alternative data collection methodology, such as studies or direct collection of data from the Member States, in consultation with the Member States. The use of that alternative data collection methodology shall not affect the tasks of Eurostat as laid down in Commission Decision 2012/504/EU¹⁹.

¹⁹ Commission Decision 2012/504/EU of 17 September 2012 on Eurostat (OJ L 251, 18.9.2012, p. 49).

- (3) The Commission, in close cooperation with Member States, shall define Union-level projected trajectories for the attainment of each of the digital targets, which would serve as basis for the monitoring and the national Digital Decade strategic roadmaps. Where necessary, in light of technical, economic or societal developments, the Commission, **in close cooperation with Member States**, shall update one or more of these projected trajectories.
- (4) Member States shall provide to the Commission ~~in a timely manner the necessary information required for the effective monitoring of the progress in the implementation of~~ **on the actions undertaken to put into practice and promote** the principles enshrined in the [insert title of solemn Declaration] **and, where appropriate, any feedback from the citizens.**

Article 6

Report on the “State of the Digital Decade”

- (1) The Commission shall submit ~~annually/biennially~~ to the European Parliament and the Council a report on the “State of the Digital Decade”. This report shall be the comprehensive report of the Commission on the progress on digital transformation of the Union and it shall include the Digital Economy and Society Index (DESI).
- (2) In the report on the “State of the Digital Decade”, the Commission shall provide an assessment of the progress of the Union’s digital ~~transition~~ **transformation** against the digital targets set out in Article 4 as well as the state of compliance with the general objectives referred to in Article 2 and the principles enshrined in the [insert title of solemn Declaration]. The assessment of the progress made shall be based, in particular, on the analysis and key performance indicators in the DESI as compared to Union-level and, where applicable, national projected trajectories, and, where applicable, on the establishment of and progress regarding Multi-Country Projects. **In the report, the Commission shall take into account the differences in individual Member States’ capacities to contribute to the digital targets.**
- (3) In the report on the “State of the Digital Decade”, the Commission may recommend policies, measures or actions to be taken by Member States in areas where progress was insufficient to achieve the digital targets set out in Article 4 or where significant gaps and shortages have been identified based on the results of the report on the “State of the Digital Decade”. Those recommended policies, measures or actions may, in particular, address:
 - (a) the level of ambition of contributions and initiatives proposed by Member States, with a view to collectively achieving objectives and targets set out in Articles 2 and 4;
 - (b) policies, measures and actions at Member State-level and other policies and measures of potential cross-border relevance;
 - (c) any additional policies, measures or action that might be required in the adjustments of national Digital Decade strategic roadmaps;

- (d) interactions between and consistency of existing and planned policies, measures and actions.
- (4) The report shall take into account joint commitments as referred to in Article 8(4) as well as their implementation.
- (5) The report shall also include information on progress regarding recommended policies, measures or actions referred to in paragraph 3 of this Article and recommendations adopted pursuant to Article 9 and their implementation.
- (6) The report may also assess the need for any additional policies, measures or actions that might be required at the Union level.

Article 7

National Digital Decade strategic roadmaps

- (1) By [~~six~~*twelve months after the entry into force of this Decision- specific date to be inserted by OP*], Member States shall submit to the Commission their national Digital Decade strategic roadmaps which shall be consistent with, and contribute to achieving at Union level, the objectives and digital targets set out in this Decision. Member States and the Commission shall take into account relevant sectoral initiatives and ensure consistency with them.
- (2) Member States shall set out in their national Digital Decade strategic roadmaps:
 - (a) the main implemented, adopted and planned policies, measures and actions contributing to the objectives and digital targets set out in Article 2 and 4;
 - (b) national projected trajectories contributing to relevant digital targets measurable at national level;
 - (c) the impact expected to be made on each digital target as a result of the implemented, adopted and planned policies, measures and actions;
 - (d) the timing for implementation of the adopted and planned policies, measures and actions as well as an estimate of the timing when those policies, measures and actions are expected to produce an impact on the achievement of the digital targets.
- (3) The policies, measures and actions referred to in point **2**(a) shall relate to the achievement of the objectives and the digital targets of this Decision for which at the date of submission of the national Digital Decade strategic roadmaps or of the adjustment of those roadmaps one or more of the following applies:
 - (a) directly applicable Union or national laws are in force;

- (b) one or more commitments to adopt policies, measures or actions have been undertaken;
 - (c) **public** financial resources have been allocated;
 - (d) human resources have been mobilised;
 - ~~(e) radio spectrum resources have been or are committed to be allocated or assigned by the relevant national authorities;~~
 - (f) they constitute other important enablers related to objectives and digital targets.
- (4) Member States shall provide an estimate ~~general overview~~ of the investment and resources needed to contribute to the objectives and digital targets as set out in their national Digital Decade strategic roadmaps, as well as a general description on the sources of that investment, **either private or public**, including, where applicable, planned use of Union programmes and instruments. The national Digital Decade strategic roadmaps may include proposals for Multi-Country Projects.
- (5) Member States shall ensure that their national Digital Decade strategic roadmaps take into consideration the latest country-specific recommendations issued in the context of the European Semester. Adjustments to national Digital Decade strategic roadmaps shall take into account consideration the recommended policies, measures and actions under Article 6(3) and the recommendations adopted under Article 9.
- (6) The Commission shall provide guidance and support to Member States in the preparation of their national Digital Decade strategic roadmaps, including on how to establish at national level, where possible, appropriate projected trajectories which can effectively contribute to the achievement of Union-level projected trajectories.

Article 8

~~Annual/Biennial~~ cooperation between the Commission and the Member States

- (1) Member States and the Commission shall closely cooperate to identify ways to address deficiencies in areas where progress was is regarded as insufficient by the Commission and the Member State concerned to achieve one or more of the digital targets set out in Article 4 or where significant gaps and shortages have been identified based on the results of the report on the "State of the Digital Decade". This analysis shall take into account, in particular, the different capacities of Member States to contribute to some of the digital targets and the risk that delays on certain of these targets may have a detrimental effect on the achievement of other digital targets.

- (2) Within ~~{two}~~ months from the publication of the report on the “State of the Digital Decade”, the Commission and the Member States shall endeavor to discuss the Member State’s preliminary observations, notably as regards policies, measures and actions recommended by the Commission in the report on the “State of the Digital Decade”.
- (3) Within ~~{five/eight}~~ **six** months from the publication of the report on the “State of the Digital Decade”, the Member States concerned shall submit to the Commission adjustments to their national Digital Decade strategic roadmaps consisting of policies, measures and actions they intend to undertake, including, where relevant, proposals for Multi-Country Projects, to foster progress in the areas concerned by the digital targets set out in Article 4 and to fulfill objectives set out in Article 2. If a Member State considers that no action is required and that its national Digital Decade strategic roadmap does not require updating, it shall provide its reasons ~~in writing to the Commission~~.
- (4) At any point of the ~~{annual/biennial}~~ cooperation, the Commission and one or more Member States may undertake joint commitments, consult with other Member States on policy, measures or actions or establish Multi-Country Projects as provided for in Article 12. ~~The Commission or a Member States which has proposed a policy, a measure or an action~~ may also request a peer review process to be launched regarding specific aspects of ~~that~~ **their** policy, measure or action, and in particular on its suitability to contribute to achieving a specific digital target. The outcome of the peer review process may be included in the following Report on the “State of the Digital Decade”, **if the Member State agrees**.
- (5) The Commission shall ~~endeavor to~~ inform Member States about the recommended policies, measures and actions it intends to include in the report on the “State of the Digital Decade” before the publication of the report.

Article 9

Recommendations

- (1) If a Member State ~~fails to~~ **does not** implement the appropriate adjustments to its national Digital Decade strategic roadmap following policies, measures or actions recommended by the Commission under Article 6 (3) without providing sufficient reasons, the Commission may adopt a recommendation, including a specific analysis of how this **failure situation** could impact the **collective** achievement of the objectives and digital targets of this Decision.
- (2) The Member State concerned shall take the Commission’s recommendation into utmost account and, where appropriate, adjust accordingly its national Digital Decade strategic roadmap within ~~{three/five}~~ months. If the Member State concerned considers that it should not adjust the national Digital Decade strategic roadmap in accordance with the recommendation or a substantial part thereof, it shall provide its reasons to the Commission ~~in writing and make it public~~ within ~~{three/five}~~ months.

- (3) The recommendations shall be complementary to the latest country-specific recommendations issued in the context of the European Semester.
- ~~(4) In addition, where the Commission concludes that national measures are insufficient and put at risk the timely achievement of the objectives and digital targets set out in this Decision, it may propose measures as appropriate and exercise its powers under the Treaties in order to ensure the collective achievement of those objectives and targets.~~
- (5) In case a Member State continuously deviates from the national projected trajectory for several years, ~~or alternatively does not intend to adopt corrective action based on a previous Commission recommendation,~~ the Commission may initiate a targeted dialogue with the Member State in question and inform the European Parliament and Council thereof.
- (6) The Commission shall inform the European Parliament and the Council of any recommendation adopted pursuant to this Article.

Article 10

Cooperation

- (1) The Commission and the Member States shall closely cooperate for the purposes of the implementation of the obligations and tasks established in this Decision. To that end Member States may initiate a dialogue either with the Commission or with the Commission and the Member States on any subject relevant to achieving the digital targets and objectives. The Commission shall provide all appropriate technical assistance services, expertise and shall organize a structured exchange of information and best practices and coordination.

Article 11

Stakeholder consultations

- (1) The Commission shall closely cooperate with private and public stakeholders, including **civil society and** social partners, to collect information and develop recommended policies, measures and actions for the purposes of the implementation of this Decision.
- (2) The Member States ~~shall~~ **are encouraged to** cooperate with private and public stakeholders, including **civil society and** social partners, in line with the national legislation, when adopting their national Digital Decade strategic roadmaps and their adjustments.

CHAPTER 4

FRAMEWORK FOR MULTI-COUNTRY PROJECTS

Article 12

Multi-Country Projects

- (1) The general objective of the Multi-Country Projects shall be to facilitate the achievement of the digital targets.
- (2) Multi-Country Projects shall aim at one or more of the following specific objectives:
 - (a) improving the cooperation of the Union and of Member States in the achievement of the objectives of the Digital Decade;
 - (b) reinforcing the Union's technology, ~~excellence~~ **leadership, innovation** and industrial competitiveness in critical technologies, digital products, services and infrastructures that are essential for economic recovery and prosperity, for citizens' security and safety;
 - (c) addressing strategic vulnerabilities and dependencies of the Union along the digital supply chains;
 - (d) widening the diffusion and best use of digital solutions in areas of public interest and the private sector;
 - (e) contributing to a sustainable digital transformation of society and the economy that benefits all businesses and citizens across the Union;

The Annex sets out an indicative list of possible areas of activity in which Multi-Country Projects addressing these specific objectives could be established.

- (3) A Multi-Country Project shall involve the participation of at least three Member States.
- ~~(4) Applicable Union law and national law consistent with Union law shall continue to apply to Multi-Country projects.~~
- (5) The Commission, **pursuant to Article 6(3) and Article 8(4)**, may ~~adopt a recommendation to set up~~ **recommend that Member States to establish propose** a Multi-Country Project or ~~to invite a Member State to~~ participate in a Multi-Country Project meeting the requirements of paragraphs (1) to (3), taking into account the progress implementing the national Digital Decade strategic roadmaps ~~and the adherence to the Commission's recommended actions~~. The Commission and Member States may also undertake to set up, or join, a Multi-Country Project as a joint commitment.

Selection and implementation of Multi-Country Projects

- (1) Taking into account proposals for Multi-Country Projects in the national Digital Decade strategic roadmaps and joint commitments, the Commission shall, in close cooperation with Member States, prepare and publish, as an annex to the report on the “State of the Digital Decade”, the strategic principles and priorities in the implementation of Multi-Country Projects and a progress report on the Multi-Country Projects selected for implementation at the time of the publication of the report.
- (2) All Union programmes and investment schemes, if allowed by ~~rules specified in the programme’s legal basis~~ **the acts establishing them**, may contribute to a Multi-Country Project, ~~depending on the types of actions needed to achieve the required goal~~.
- (3) Other entities, whether public or private, may contribute to Multi-Country Projects where appropriate.
- (4) Multi-Country Projects may be implemented by the following implementation mechanisms:
 - (a) Joint Undertakings;
 - (b) European Research Infrastructure Consortia;
 - (c) the Union’s agencies;
 - (d) independently by Member States concerned;
 - (e) to promote the execution of Important Projects of Common European Interest under Article 107(3), point (b) of the ~~Treaty~~ **TFEU**;
 - (f) European Digital Infrastructure Consortia in accordance with Chapter 5 of this Decision;
 - (g) any other appropriate implementation mechanism.

Article 14

Multi-Country Projects Accelerator

- (1) ~~Following a Commission's recommendation referred to in Article 12(5), joint commitments or at~~ **At** the request of the participating Member States, **or on its own initiative**, the Commission shall, **in agreement with the participating Member States**, coordinate the implementation of a Multi-Country Project, **in accordance with paragraphs (2) and (5)**, acting as a Multi-Country Project Accelerator.
- (2) In a first step of coordination, the Commission publishes a call for expression of interest addressed to all Member States. The call for expression of interest shall aim to establish whether a Member State intends to participate in the Multi-Country Project and what financial or non-financial contribution it proposes to provide.
- (3) In a second step of coordination, if at least three Member States express interest in a Multi-Country Project and at the same time propose financial or non-financial commitments to that project, the Commission, having consulted all Member States, shall give guidance on the choice of the appropriate implementation mechanism, on the sources of funding and on their combination within the project, as well as other strategic aspects related to the implementation of that project. The Commission may also propose on its own initiative to coordinate a Multi-Country Project in accordance with the steps described in paragraphs 2 and 3 to the participating Member States.
- (4) The Commission may give guidance regarding the setting-up of a new European Digital Infrastructure Consortium, in accordance with Article 15.
- (5) The Commission shall support the implementation of Multi-Country Projects by providing, as appropriate, services and resources referred to in Article 10.

CHAPTER 5
EUROPEAN DIGITAL INFRASTRUCTURE CONSORTIUM

Article 15

Objective and status of the European Digital Infrastructure Consortium (EDIC)

- (1) Member States may implement a Multi-Country Project by means of an European Digital Infrastructure Consortium ('EDIC').
- (1a) Any Member State may be represented by one or more public entities, including regions or private entities with a public service mission, as regards the exercise of specified rights and the discharge of specified obligations as a member of the EDIC.**
- (2) An EDIC shall have legal personality from the date of entry into force of the Commission decision referred to in Article 16 (3), point (a).
- (3) An EDIC shall have in each Member State the most extensive legal capacity accorded to legal entities under the law of that Member State. It may, in particular, acquire, own and dispose of movable, immovable and intellectual property, conclude contracts and be a party to legal proceedings.
- (4) An EDIC shall have a statutory seat, which shall be located on the territory of a Member State **that is a member providing a financial or non-financial contribution.**

Article 16

Setting up the EDIC

- (1) Member States applying for the setting-up of an EDIC ("applicants") shall submit an application to the Commission. The application shall be submitted in writing and shall contain the following:
 - (a) a request to the Commission to set up the EDIC;
 - (b) the proposed Statutes of the EDIC;
 - (c) a technical description of the Multi-Country project to be implemented by the EDIC;

- (d) a declaration by the host Member State recognising the EDIC as an international body within the meaning of Articles 143, point (g) and 151(1), point (b) of Council Directive 2006/112/EC²⁰ and as international organisation within the meaning of Article 12(1), point (b), of Council Directive 2008/118/EC²¹, as of its setting up. The limits and conditions of the exemptions provided for in those provisions shall be laid down in an agreement between the members of the EDIC.
- (2) The Commission shall assess the application **based on the conditions set out in paragraph (1). It shall take into account the objectives of this Decision, pursuant to Article 2 and Article 12(1) and (2),** and practical considerations related to the implementation of the Multi-Country project to be implemented by EDIC.
- (3) The Commission shall, taking into account the results of the assessment referred to in paragraph 2, and in accordance with the examination procedure referred to in Article 25(2) adopt one of the following decisions by means of implementing acts:
- (a) setting up the EDIC after it has concluded that the requirements laid down in this Chapter are met;
- (b) rejecting the application if it concludes that the requirements laid down in this Chapter are not met, including in the absence of the declaration referred to in Article 16(1), point (d). In this case, Member States may still form a consortium by way of an agreement but it shall not carry the name EDIC, nor benefit from the implementation structure laid down in this Chapter.
- (4) The decision referred to in paragraph 2 shall be notified to the applicants. Where the application is rejected, the decision shall be explained in clear and precise terms to the applicants.
- (5) The decision setting up the EDIC shall be published in the *Official Journal of the European Union*.
- (6) The essential elements of the Statutes of the EDIC, as set out in Article 19(1), points ~~(a)~~ and (c), **(ca) and (cb)** and, if applicable, contained in the application shall be annexed to the decision setting up the EDIC.

20 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

21 Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

Article 17

Membership

- (1) The membership of EDIC shall include at least three Member States. Only Member States that provide a financial or non-financial contribution shall be members of EDIC with voting rights.
- (2) Following the adoption of a decision setting up an EDIC, other Member States may join as members at any time on fair and reasonable terms specified in the Statutes.
- (3) Member States that do not provide a financial or non-financial contribution may join EDIC as observers without voting rights.
- (4) An EDIC may be open ~~to the participation~~ **for membership** of entities other than Member States, which may include inter alia international organizations, **public** and private entities, as specified in the Statutes. If this is the case, Member States shall hold jointly the majority of the voting rights in the assembly of members regardless of the amount of contributions from entities other than Member States.

Article 18

Governance

- (1) An EDIC shall have at least the following two bodies:
 - (a) an assembly of members made up of the Member States, other entities referred to in Article 17(4) and of the Commission as the body having full decision-making powers, including the adoption of the budget;
 - (b) a director, appointed by the assembly of members, as the executive body and legal representative of the EDIC.
- (2) The Commission shall participate in the deliberations of the assembly of members without voting rights. However, where a centrally-managed Union programme financially contributes to a Multi-Country Project, the Commission shall have a veto right on the decisions of the assembly ~~related only to actions financed under centrally-managed Union programmes~~.
- (3) The Statutes of an EDIC shall establish specific provisions concerning the governance, within the requirements of paragraphs 1 and 2.

Article 19

Statutes of the EDIC

- (1) The Statutes of an EDIC shall contain at least the following:
 - (a) a list of members, observers and the procedure for changes in membership and representation, which shall respect the right of non-participating Member States to join an EDIC;
 - (b) the detailed description of the Multi-Country Project, the tasks of Members, if applicable, and indicative timeline;
 - (c) the statutory seat and name;
 - (ca) the duration and the procedure for the winding-up in compliance with Article 22;**
 - (cb) the liability regime, in compliance with Article 20;**
 - (d) the rights and obligations of the members, including the obligation to make contributions to the budget;
 - (e) voting rights;
 - (f) rules on the ownership of infrastructure, intellectual property and other assets, as applicable.
- (2) The amendments of the **essential elements of the Statutes annexed to the decision setting up an EDIC pursuant to Article 16(6)** shall be subject to the procedure referred to in Article 16.
 - (2a) The amendments of other elements of the Statutes shall be submitted to the Commission by the EDIC within ten [10] days after its adoption.**
 - (2b) The Commission may raise an objection to such amendment within sixty [60] days from the submission giving reasons why the amendment does not meet the requirements of this Regulation.**
 - (2c) The amendment shall not take effect before the period for objecting has expired or has been waived by the Commission or before an objection raised has been lifted.**
 - (2d) The application for the amendment shall contain the following: (a) the text of the amendment proposed or, where appropriate, as adopted, including the date on which it enters into force; (b) the amended consolidated version of the Statutes.**

Article 20

Liability

- (1) An EDIC shall be liable for its debts.
- (2) The financial liability of the members for the debts of the EDIC shall be limited to their respective contributions provided to the EDIC. The members may specify in the Statutes that they will assume a fixed liability above their respective contributions or unlimited liability.
- (3) The Union shall not be liable for an EDIC's debts.

Article 21

Applicable law and jurisdiction

- (1) The setting-up and internal functioning of an EDIC shall be governed:
 - (a) by Union law, in particular this Decision;
 - (b) by the law of the State where the EDIC has its statutory seat in the case of matters not, or only partly, regulated by acts referred to in point (a);
 - (c) by the Statutes and their implementing rules.
- (2) Without prejudice to the cases in which the Court of Justice of the European Union has jurisdiction under the Treaties, the law of the State where the EDIC has its statutory seat shall determine the competent jurisdiction for the resolution of disputes among the Members in relation to the EDIC, between the members and the EDIC, and between an EDIC and third parties.

Article 22

Winding up

- (1) The Statutes shall determine the procedure to be followed for the winding-up of an EDIC following a decision of the assembly of members. Winding-up may include the transfer of activities to another legal entity.
- (2) The insolvency rules of the State where the EDIC has its statutory seat shall apply in the event that the EDIC is unable to pay its debts.

Article 23

Reporting and control

- (1) An EDIC shall produce an annual activity report, containing a technical description of its activities and a financial report. It shall be approved by the assembly of members and transmitted to the Commission. This report shall be made publicly available.
- (2) The Commission may provide recommendations regarding the matters covered in the annual activity report.

CHAPTER 6

FINAL PROVISIONS

Article 24

Provision of information

- (1) Upon request from the Commission, Member States shall provide the Commission with the information necessary to carry out its tasks under this Decision, in particular regarding information necessary for the implementation of Articles 7, 8 and 9. The information requested by the Commission shall be proportionate to the performance of those tasks. Where the information provided refers to information previously provided by undertakings at the request of a Member State, such undertakings shall be informed thereof.

Article 25

Committee

- (1) The Commission shall be assisted by a committee (~~‘the Communications Committee’~~). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
- (2) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, ~~having regard to Article 8 thereof.~~

Article 26

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 26a
Addressees

This Decision is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
