



Council of the
European Union

Brussels, 20 March 2023
(OR. en)

7626/23

TELECOM 77
MI 221
COMPET 245
CONSOM 95
JUSTCIV 46

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	20 March 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 145 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the exercise of the power to adopt delegated acts conferred on the Commission by Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code

Delegations will find attached document COM(2023) 145 final.

Encl.: COM(2023) 145 final



Brussels, 20.3.2023
COM(2023) 145 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred on the Commission by
Directive (EU) 2018/1972 of the European Parliament and of the Council establishing
the European Electronic Communications Code**

1. INTRODUCTION

On 11 December 2018, the European Parliament and the Council adopted Directive (EU) 2018/1972 establishing the European Electronic Communications Code (EECC).¹ The Directive entered into force on 20 December 2018 and the Member States had to transpose it into their national legal system by 21 December 2020.

The Directive empowers the Commission to adopt delegated acts:

- a) to set a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate (the Union-wide voice termination rates), which are imposed on any provider of mobile voice termination or fixed voice termination services, respectively, in any Member State – Article 75(1) of the EECC;
- b) to supplement paragraphs 2, 5 and 6 of Article 109 on the measures necessary to ensure the compatibility, interoperability, quality, reliability and continuity of emergency communications in the Union with regard to caller location information solutions, access for end-users with disabilities and routing to the most appropriate public service answering point (PSAP) – Article 109(8) of the EECC;
- c) to amend Annexes V,² VI,³ IX,⁴ X⁵ and XI⁶ to the Directive in order to take account of technological and social developments or changes in market demand – Article 116 of the EECC.

2. LEGAL BASIS

This report is required under Article 117(2) of the EECC. Pursuant to this provision, the power to adopt delegated acts was conferred to the Commission for a period of five years beginning on 20 December 2018 (i.e. until 20 December 2023).

The delegation of power is tacitly extended for periods of an identical duration unless the European Parliament or the Council opposes such an extension no later than three months before the end of each period.

The Commission must draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period (i.e. until 20 March 2023).

3. EXERCISE OF THE DELEGATION IN THE CURRENT PERIOD

¹ 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. 36–214.

² Minimum set of services which the adequate broadband internet access service in accordance with article 84 (3) shall be capable of providing

³ Description of facilities and services referred to in Article 88 (control of expenditure), Article 115 (additional facilities) and Article 106 (provider switching and number portability)

⁴ information to be published in accordance with Article 103 (transparency and publication of information)

⁵ Quality of service parameters

⁶ Interoperability of car radio receivers and consumer digital television equipment referred to in Article 113

In the reporting period (20 December 2018 – 20 March 2023), the Commission exercised its power to adopt delegated acts with respect to the following provisions of the Directive:

- Article 75(1) – Commission Delegated Regulation (EU) 2021/654 of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate.

Article 75(1) of the EECC requires the Commission to adopt a delegated act setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate by 31 December 2020. In doing so, the Commission must comply with the principles, criteria and parameters provided in Annex III of the EECC. The Commission Delegated Regulation was adopted following the requirements and within the deadline set by the EECC.

The delegated regulation sets the maximum termination rates that providers of mobile voice termination or fixed voice termination services are allowed to charge each other for mobile and fixed termination services respectively in the EU. A single maximum Union-wide rate reduces fragmentation and ensure a more competitive, cross-border environment, which ultimately benefits European consumers through lower prices and more varied offers for fixed and mobile calls. Moreover, given that the national regulatory authorities (NRAs) are not required anymore to build cost models to calculate efficient rates this Delegated Regulation has significantly reduced the administrative burden for national regulators across the EU.

From 26 July to 8 November 2019, stakeholders were invited to participate in the public consultation on the implementation aspects of the single maximum Union-wide voice termination rates on the *Have your say* portal.⁷ The draft delegated regulation was discussed with the Member States in the Expert Group on Voice Call Termination Rates in the EU between 10 February 2020 and 17 February 2021. In accordance with Article 75(1) the opinion of the Body of European Regulators for Electronic Communications (BEREC) was delivered on 10 October 2020.⁸ Neither the Council nor the European Parliament objected to the draft delegated regulation during the scrutiny period that expired on 2 April 2021.

- Article 109(8) – Commission Delegated Regulation (EU) 2023/444 of 16 December 2022 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112'

Article 109(8) of the EECC requires the Commission to adopt the first delegated act supplementing paragraphs 2, 5 and 6 of that Article by 21 December 2022.

⁷ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1958-Voice-call-termination-rates-in-the-EU-Eurorates-_en

⁸ <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-opinion-on-the-draft-delegated-act-setting-single-maximum-union-wide-voice-fixed-and-mobile-termination-rates>

The objective of this delegated regulation is to ensure effective access to emergency services through emergency communications to the single European emergency number ‘112’ in the Member States. The delegated regulation is supplementing the provisions of the EECC to the extent necessary to meet this objective. The delegated regulation is providing for caller location criteria parameters, functional equivalence requirements for access to emergency services for end-users with disabilities and obligations with regard to the effectiveness of the routing to the most appropriate public safety answering point (PSAP). Member States are to report on the implementation of these requirements as well as on the upgrade of the national PSAP system in order to be able to receive, answer and process emergency communications through packet-switched technology.

From 8 August until 12 September 2022, stakeholders were invited to provide feedback on the draft delegated regulation published on the *Have your say* portal.⁹ The draft delegated regulation was discussed with the Member States in the Expert Group on Emergency Communications between 6 May and 8 September 2022. In accordance with Article 109(8) the opinion of BEREC was delivered on 14 October 2022.¹⁰ Neither the Council nor the European Parliament objected to the draft delegated regulation during the scrutiny period that expired on 17 February 2023.

- Article 116 – The Commission has not yet exercised the power to adopt delegated acts conferred by this Article. To date, technological and social developments or changes in market demand have not yet given rise to the need for any amendments to Annexes V, VI, IX and XI of the EECC.

4. CONCLUSIONS

The Commission has exercised its delegated powers correctly and invites the European Parliament and the Council to take note of this report.

The Commission considers that it should continue to have the delegated powers pursuant to Directive (EU) 2018/1972, as it is obliged to review every five years the delegated act pursuant to Article 75(2) of the EECC. The deadline for the review of the Commission Delegated Regulation 2021/654 is 18 December 2025.

Likewise, the Commission considers that it should continue to have the delegated powers pursuant to Article 109(8) to be able to adopt measures that contribute to the effectiveness of emergency communications pursuant to the technological development in this field.

Moreover, the Commission may need to adopt delegated acts in the future to amend the annexes to the Directive to take account of technological and social developments or changes in market demand.

⁹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13183-Emergency-communications-improving-access-through-the-single-European-emergency-number-112_en

¹⁰ <https://www.berec.europa.eu/en/document-categories/berec/opinions/berec-opinion-on-the-draft-commission-delegated-regulation-supplementing-directive-eu-20181972-of-the-european-parliament-and-of-the-council-with-measures-to-ensure-effective-access-to-emergency-services-through>