Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee, concerning the amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement

COUNCIL DECISION (EU) 2021/…

of …

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee, concerning the amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 TFEU, in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area[1], and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 305, 30.11.1994, p. 6.

Whereas:

(1) The Agreement on the European Economic Area[1] ('the EEA Agreement') entered into force on 1 January 1994.

(2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 ('Protocol 37') to the EEA Agreement.

(3) Regulation (EU) 2018/1971 of the European Parliament and of the Council[2] is to be incorporated into the EEA Agreement.

(4) For the EEA Agreement to function well, Protocol 37 to the EEA Agreement is to be extended to include the Body of European Regulators for Electronic Communications (BEREC), established by Regulation (EU) 2018/1971.

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1 OJ L 1, 3.1.1994, p. 3.

2 Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ L 321, 17.12.2018, p. 1).

(5) To ensure consistent implementation of the regulatory framework for electronic communications within the scope of the EEA Agreement, the national regulatory authorities of the EFTA States will participate fully in the work of the Board of Regulators of BEREC, the working groups of BEREC and the Management Board of the BEREC Office, but will not have the right to vote. The positions of the national regulatory authorities of the EFTA States will be recorded separately when BEREC issues an opinion. The EFTA Surveillance Authority will take the utmost account of opinions adopted by BEREC.

(6) Directive (EU) 2018/1972 of the European Parliament and of the Council[1], is to be incorporated into the EEA Agreement.

[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).

(7) Directive (EU) 2018/1972 repeals, with effect from 21 December 2020, Directives 2002/19/EC[1], 2002/20/EC[2], 2002/21/EC[3] and 2002/22/EC[4] of the European Parliament and of the Council, which have been incorporated into the EEA Agreement and which are consequently to be repealed under the EEA Agreement with effect from 21 December 2020.

(8) Annex XI and Protocol 37 to the EEA Agreement should therefore be amended accordingly.

(9) The position of the Union in the EEA Joint Committee should therefore be based on the draft decisions of the EEA Joint Committee,

HAS ADOPTED THIS DECISION:

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1 Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ L 108, 24.4.2002, p. 7).

2 Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ L 108, 24.4.2002, p. 21).

3 Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

4 Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51).

Article 1

The position to be adopted on behalf of the Union within the EEA Joint Committee on the proposed amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement shall be based on the draft decisions of the EEA Joint Committee[1].

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

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[1] See document ST 9721/21 at http://register.consilium.europa.eu.