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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Telecommunications and Information Society
Subject:	Gigabit Infrastructure Act - SI comments (doc. 10960/23)

Delegations will find in the annex the SI comments on the Gigabit Infrastructure Act (doc. 10960/23).

Gigabit infrastructure act – SI comments

1. Type of legal instrument.

Since the Regulation as a legal instrument is directly applicable, its provisions should not be copied directly transposed into national law. As Slovenian legislation already exceeds the minimum level of measures set out in the proposed Regulation in some cases, part of the provisions relating to the construction of communication networks will be regulated by an EU Regulation and the other part by a national regulation. This is not appropriate in terms of ensuring legal certainty and clarity of regulation. In the light of the above, we propose to replace the Regulation by a Directive.

2. Tacit approval

We are **strongly opposed** to Article 7(7) of the proposed compromise text of the regulation, which implies the tacit approval of the authority when granting building and other permits. Despite certain improvements and additional safeguards introduced by the compromise proposal, we still find this provision **unacceptable**. In the event of a positive presumption of authorization, irreversible damage (e.g. encroachment on a protected area) could occur which could not be remedied afterwards. In the alternative, we propose that the presumption of a permit or public utility easement be amended so that if the competent authority fails to take a decision within the prescribed time limit, a negative decision is deemed to have been taken.

3. Date of enter into force

We propose to extend the deadline for the Regulation to enter into force from 18 months to 24 months.