AMENDMENTS 001-001
by the Committee on Industry, Research and Energy

Report
Alin Mituța **A9-0275/2023**
Measures to reduce the cost of deploying gigabit electronic communications networks (Gigabit Infrastructure Act)

Proposal for a regulation (COM(2023)0094 – C9-0028/2023 – 2023/0046(COD))

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

2023/0046 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on measures to reduce the cost of deploying gigabit electronic communications networks, *amending Regulation (EU) 2015/2120* and repealing Directive 2014/61/EU (Gigabit Infrastructure Act)

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.

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 114 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 Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The digital economy has been changing the internal market profoundly over the last decade. The Union's vision is a digital economy that delivers sustainable economic and social benefits based on excellent***, reliable*** and secure connectivity for everybody and everywhere in Europe ***including in rural, remote and scarcely populated regions as well as in transport corridors***. A high-quality digital infrastructure based on very high capacity networks underpins almost all sectors of a modern and innovative economy. ***It can provide for innovative services, more efficient business operations and smart, sustainable, digital societies, while contributing to achieving the Union climate targets set in the Commission communication of 11 December 2019 entitled 'the European Green Deal' and the twin digital and green transitions envisaged as the Union's main priorities.*** It is of strategic importance to social and territorial cohesion and overall for the Union's competitiveness***, resilience, strategic autonomy*** and digital leadership. ***Digitalisation has a profound impact on the every-day social, economic, political and cultural life of all people in the Union. In that regard, limited access and insufficient network expansion can deepen social inequalities, thus creating a new digital divide between people who are able to benefit fully from an efficient and secure digital connectivity, allowing them to access a wide range of services, and people who are unable to do so. In that regard, the roll-out of very high capacity networks in rural, remote and scarcely populated regions, as well as in***

1 OJ C,, p.
2 OJ C,, p.

social housing, should be a priority for public and private investment projects, as a key aspect of social inclusion. Therefore, people as well as the private and public sectors should have the opportunity to be part of the digital economy.

(2) The rapid evolution of technologies, the exponential growth in broadband traffic and the increasing demand for advanced very high-capacity connectivity have further accelerated during the COVID-19 pandemic. As a result, the targets laid down in the Digital Agenda in 2010[1] have mostly been met, but they have also become obsolete. The share of households having access to 30 Mbps internet speeds has increased from 58.1% in 2013 to 90% in 2022. Availability of only 30 Mbps is no longer future-proof and not aligned with the new objectives set in Directive (EU) 2018/1972 of the European Parliament and of the Council[2] for ensuring connectivity and widespread availability of very high capacity networks. Therefore, in the Decision (EU) 2022/2481 of the European Parliament and Council[3], the EU set updated targets for 2030 that better correspond to the expected connectivity needs of the future where all European households should be covered by a gigabit network, with all populated areas covered by ***next-generation wireless high-speed networks with a performance of at least equivalent to that of*** 5G.

(3) To achieve those targets, there is a need for policies to speed up***, simplify*** and lower the costs of the deployment ***and use*** of very high-capacity fixed and wireless networks across the Union, including proper planning, ***enhanced*** coordination and ***setting-up of nationwide simplified and streamlined permit procedures as a way of reducing*** of administrative burdens ***on both operators and national administrations***.

(3a) Blending space and terrestrial infrastructure is important for the connectivity roll-out to better prepare for the next wave of digital infrastructure enabling the Union to take the lead. Recent technical progress has allowed satellite based

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1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 19.05.2010, COM(2010)245.

2 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).

3 Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the Digital Decade Policy Programme 2030 (OJ L 323, 19.12.2022, p. 4).

communications constellations to emerge and gradually offer high-speed and low latency connectivity services, enable connectivity across the Union and around the globe, for citizens and business, including, but not limited to, providing access to affordable high-speed broadband that can help remove communication dead zones and increase cohesion across the Union, including its outermost regions, rural, remote and scarcely populated areas. In that regard, the resources provided by Regulation (EU) 2023/588 of the European Parliament and of the Council[1], and in particular the potential commercial internet access capabilities of the future satellite constellation should be included in the planning and deploying of very high capacity fixed and wireless networks across the Union and contribute, where possible, to the deployment of very high capacity networks.

(4) Directive 2014/61/EU, which was adopted in response to the need for policies to lower the costs of broadband deployment, included measures on infrastructure sharing, civil works coordination and the reduction of administrative burdens. To further facilitate the roll-out of very high capacity networks, including fibre and 5G, the European Council, called in its Conclusions on Shaping Europe's Digital Future of 9 June 2020, called for a package of additional measures to support current and emerging network deployment needs, including by reviewing Directive 2014/61/EU.

(5) The roll-out of very high capacity networks (as defined in Directive (EU) 2018/1972) across the Union requires substantial investment, a significant proportion of which is the cost of civil engineering works. Sharing physical infrastructure would limit the need for costly civil engineering works and make advanced broadband roll-out more effective.

(6) A major part of the costs of deploying very high capacity networks can be attributed to inefficiencies in the roll-out process related to: (i) the use of existing passive infrastructure (such as ducts, conduits, manholes, cabinets, poles, masts, antenna installations, towers and other supporting constructions); (ii) bottlenecks related to the

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[1] ***Regulation (EU) 2023/588 of the European Parliament and of the Council of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027 (OJ L 79, 17.3.2023, p. 1).***

coordination of civil works ***carried out by network operators or public authorities***; (iii) burdensome ***and lengthy*** administrative procedures to grant permits; and (iv) bottlenecks in in-building deployment of networks, which lead to high financial barriers, particularly in rural areas.

(7) Directive 2014/61/EU of the European Parliament and of the Council[1], which was adopted in response to the need to lower the costs of broadband deployment, included measures on infrastructure sharing, civil works coordination and the reduction of administrative burdens. To further facilitate the roll-out of very high capacity networks, including fibre and 5G, the European Council, in its Conclusions on Shaping Europe's Digital Future of 9 June 2020, called for a package of additional measures to support current and emerging network deployment needs, including by reviewing Directive 2014/61/EU.

(8) The measures set out in Directive 2014/61/EU contributed to less costly deployments of high-speed electronic communications networks. However, these measures should be strengthened ***and streamlined*** to further reduce costs and speed up network deployment.

(9) Measures aiming to make using public and private existing infrastructures more efficient and reduce costs and obstacles in carrying out new civil engineering works should contribute substantially to ensuring a fast and extensive deployment of very high capacity networks***, in particular in rural, remote or scarcely populated areas or in transport corridors***. These measures should maintain effective competition without harming the safety, security, and smooth operation of the existing infrastructure ***and public health and environment, and should be based on adequate methodologies and scientific data***.

(10) Some Member States have adopted measures to reduce the costs of broadband roll-out, including by going beyond the provisions of Directive 2014/61/EU. However, those measures are still very different across Member States and have led to different results across the Union. Scaling up some of those measures across the Union and taking new reinforced measures could significantly contribute to the better functioning

[1] Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ L 155, 23.5.2014, p. 1).

of the digital single market. Moreover, differences in regulatory requirements and inconsistent implementation of Union rules sometimes prevent cooperation across utility companies. The differences may also raise barriers to entry for new undertakings providing or authorised to provide public electronics communications networks or associated facilities, as defined in Directive (EU) 2018/1972 ('operators'). These differences may also close off new business opportunities, hindering the development of an internal market for the use and deployment of physical infrastructures for very high capacity networks. Moreover, the measures notified in the national roadmaps and implementation reports adopted by Member States under Commission Recommendation (EU) 2020/1307[1] neither cover all the areas of Directive 2014/61/EU nor address all issues in a consistent and complete manner. This is despite how essential it is to take action across the whole roll-out process and across sectors to achieve a coherent and significant impact. ***Member States should be encouraged to continue implementing the best practices set out in the Commission Recommendation (EU) 2020/1307 that can facilitate the implementation of this Regulation in line with the minimum harmonisation principle.***

(11) This Regulation aims to strengthen and harmonise rights and obligations applicable across the Union to accelerate the roll-out of very high capacity networks and cross-sector coordination. Due to the persistent fragmentation of electronic communications markets in individual national markets, undertakings providing or authorised to provide electronic communications networks are unable to achieve economies of scale. This can have a strong downstream effect on cross-border trade and services provision, since many services can only be provided where an adequately performant network is in place across the Union. While ensuring an improved level playing field, this Regulation does not prevent national measures in compliance with Union law that serve to promote the joint use of existing physical infrastructure or enable a more efficient ***and rapid*** deployment of new physical infrastructure by complementing ***or going beyond*** the rights and obligations laid down in this Regulation. For example, Member States could ***shorten the deadlines to grant or deny permits necessary for***

[1] Commission Recommendation (EU) 2020/1307 of 18 September 2020 on a common Union toolbox for reducing the cost of deploying very high capacity networks and ensuring timely and investment-friendly access to 5G radio spectrum, to foster connectivity in support of economic recovery from the COVID-19 crisis in the Union (OJ L 305, 21.9.2020, p. 33).

deployment, introduce supplementary permit exemptions, extend provisions on civil works coordination also to privately funded projects***,*** require that more information on physical infrastructure or planned civil works is provided to a single information point in electronic format, ***expand the provisions on access to existing physical infrastructure to privately owned buildings, as well as introduce further incentives for administrative bodies to speed up permitting procedures, give guidance on methodologies for access price setting, including through the use of cost-oriented principle where appropriate,*** provided that they do not violate Union law including the provisions of this Regulation.

(12) To ensure legal certainty, including regarding specific regulatory measures imposed under Directive (EU) 2018/1972, under Title II, Chapters II to IV ***, Commission*** Directive 2002/77/EC[1], ***and Directive (EU) 2022/2555 of the European Parliament and the Council[2]***, the provisions of ***those*** directives ***and national measures for their implementation*** should prevail over this Regulation.

(13) It can be significantly more efficient for operators, in particular new entrants, to reuse existing physical infrastructure, including that of other utilities, to roll out very high capacity networks or associated facilities. This is the case, in particular, in areas where no suitable electronic communications network is available or where it may not be economically feasible to build new physical infrastructure. Moreover, synergies across sectors may significantly reduce the need for civil works relating to the deployment of very high capacity networks. This reuse can also reduce the social and environmental costs linked to these works, such as pollution, noise and traffic congestion. Therefore, this Regulation should apply not only to operators but also to owners or holders of rights to use extensive and ubiquitous physical infrastructure suitable to host electronic communications network elements, such as physical networks for the provision of electricity, gas, water and sewage and drainage systems, and heating and transport

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1 Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ L 249, 17.9.2002, p. 21).

2 ***Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (OJ L 333, 27.12.2022, p. 80).***

services. In the case of holders of rights, this does not change any property rights of third parties ***or limit the exercise of such rights***.

(14) To improve the deployment of very high capacity networks in the internal market, this Regulation should lay down rights for undertakings providing public electronic communications networks or associated facilities (including undertakings of a public nature) to access physical infrastructure regardless of its location under fair and reasonable terms consistent with the normal exercise of property rights. ***At the same time, it is important to ensure that the access providers have a fair return on investment, which reflects the relevant market conditions and, in particular in the case of providers of associated facilities, their different business models. Where access is provided through a contract agreed before the date of entry into force of this Regulation, and the price has already been negotiated and agreed, or included in the contract, the price should not be required to comply with fair and reasonable terms.***The obligation to give access to the physical infrastructure should be without prejudice to the rights of the owner of the land or of the building in which the infrastructure is located.

(15) In particular, taking into account the fast development of providers of wireless physical infrastructure such as 'tower companies', and their increasingly significant role as providers of access to physical infrastructure suitable to install elements of wireless electronic communications networks, such as 5G, the definition of 'network operator' should be extended beyond undertakings providing or authorised to provide electronic communications networks and operators of other types of networks, such as transport, gas or electricity, to include undertakings providing associated facilities, which ***should also fall under the scope of this*** Regulation, except the provisions regarding in-building physical infrastructure and access. ***The provisions regarding the fair and reasonable terms and conditions for granting access should not apply to associated facilitates when they operate as a wholesale only model, which offers physical access to more than one host undertaking providing or authorised to provide public electronic communication networks, unless national regulatory authorities substantiate the need to impose market remedies as a result of a market analysis. In order to ensure continuity of service and predictability for the planned deployments of associated facilities, owners of land where associated facilities have been***

installed, should be required to negotiate access to land with undertakings providing or authorised to provide those associated facilities under fair and reasonable terms and conditions, including price, in accordance with national contract law.

(16) In view of their low degree of differentiation, the physical facilities of a network can often host a wide range of electronic communications network elements at the same time without affecting the main service provided and with minimum adaptation costs. These elements include those capable of delivering broadband access services at speeds of at least 100 Mbps in line with the technological neutrality principle. Therefore, physical infrastructure, that is intended to only host other elements of a network without becoming an active network element itself, such as dark fibre, can in principle be used to accommodate electronic communications cables, equipment or any other element of electronic communications networks, regardless of its current use or its ownership, security concerns or future business interests of the infrastructure's owner. The physical infrastructure of public electronic communications networks can in principle also be used to accommodate elements of other networks. Therefore, in appropriate cases, public electronic communications network operators may give access to their networks so that other networks can be deployed. Without prejudice to the pursuit of the specific general interest linked to the provision of the main service, synergies between network operators should at the same time be encouraged to contribute to achieving the digital targets set out in Decision (EU) 2022/2481.

(17) In the absence of a justified exception, physical infrastructure elements owned or controlled by public sector bodies ***or any entity exclusively entrusted with performing tasks on behalf of those public sector bodies***, even when they are not part of a network, can also host electronic communications network elements and should be made accessible to facilitate installing network elements of very high capacity networks, in particular wireless networks. Examples of physical infrastructure elements are buildings, entries to buildings, ***rooftops and facades of buildings,*** and any other asset, including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations. It is for Member States ***, in cooperation with regional and local authorities*** to identify specific buildings owned or controlled by public sector bodies in their territories where access obligations cannot apply, for example, for reasons of architectural, historical, religious or natural value***, national***

***security or road safety**. **In order to ensure public acceptance and sustainable deployment, network elements of very high capacity networks should have minimal visual impact**.*

(17a) ***On the one hand, entire areas, especially in rural regions, could be left without connectivity due to the fact that the public sector infrastructure does not allow or is not suitable for the installation of elements of very high capacity networks. On the other hand, there are commercial buildings that are the only alternative to hosting such elements. Aiming to ensure connectivity in remote and scarcely populated areas and to bridge the digital coverage gap between rural and urban areas, while keeping the interference with private property to a minimum, the requirements to provide access to existing physical infrastructure should, in very limited situations, be extended to commercial buildings. The obligation to provide access in those cases would be justified provided that there is no alternative to developing very high capacity networks in the area concerned and subject to fair conditions, including concerning the remuneration for providing such access. That obligation would be applied only where one of the following conditions is met: there is no very high capacity network deployed in the area concerned and there is no proven plan to do so within a year from the request for access by the network operator; there is no available existing physical infrastructure owned or controlled by network operators or public sector bodies which is technically suitable to host elements of very high capacity networks in the area concerned; or the requesting operator proves that it has failed to obtain State aid to deploy a very high capacity network in the area concerned or to find a suitable co-investor to deploy such physical infrastructure.***

(18) This Regulation should be without prejudice to any specific safeguard needed to ensure safety and public health, the security and integrity of the networks, in particular critical infrastructure, as defined by national law, and to ensure that the main service provided by the network operator ***or a public sector body*** is not affected, in particular in networks used for the provision of water intended for human consumption. However, general rules in national legislation prohibiting network operators from negotiating access to physical infrastructures by undertakings providing or authorised to provide electronic communications networks or associated facilities could prevent creating a market for access to physical infrastructure. Such general rules should therefore be

abolished. At the same time, the measures set out in this Regulation should not prevent Member States from incentivising utility operators to give access to infrastructure by excluding revenue generated from the access to their physical infrastructure when calculating end-user tariffs for their main activity or activities, in accordance with applicable Union law.

(19) In order to ensure legal certainty and avoid disproportionate burdens on network operators resulting from the simultaneous application of two distinct access regimes to the same physical infrastructure, physical infrastructure subject to access obligations imposed by national regulatory authorities pursuant to Directive (EU) 2018/1972 or access obligations resulting from the application of Union State aid rules should not be subject to access obligations set out in this Regulation for as long as such access obligations remain in place. However, this Regulation should be applicable where a national regulatory authority has imposed an access obligation under Directive (EU) 2018/1972 that limits the use that can be made of the physical infrastructure concerned. For instance, this could occur when an operator planning to connect base stations requests access to existing physical infrastructure to which access obligations are imposed in the market for access to wholesale dedicated capacity[1].

(20) To ensure proportionality and preserve investment incentives, ***especially for very high capacity networks pioneers, and thus create an incentive for the rapid rollout of very high capacity networks to rural and remote areas*** a network operator or public sector body should have the right to refuse access to specific physical infrastructure for objective and justified reasons. In particular, a physical infrastructure for which access has been requested could be technically unsuitable due to specific circumstances, or because of lack of currently available space or future needs for space that are sufficiently demonstrated, for instance, in publicly available investment plans. To ensure proportionality and preserve investment incentives, a network operator or public sector body may refuse access to specific physical infrastructure. To avoid any potential distortion of competition or any possible abuse of the conditions to refuse

[1] Commission Recommendation (EU) 2020/2245 of 18 December 2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code, 18.12.2020, C(2020) 8750, OJ L 439, 29.12.2020, p. 23.

access, any such refusal should be duly justified and based on objective and detailed reasons. For example such reasons would not be considered objective where an undertaking providing or authorised to provide electronic communications networks has deployed physical infrastructure thanks to civil works coordination with a network operator other than an electronic communications network operator and refuses to grant access based on an alleged lack of availability of space to host the elements of very high capacity networks which results from decisions made by the undertaking under its control. In such case, a competition distortion could arise if there is no other VHCN in the area concerned by the access request. Similarly, in specific circumstances, sharing the infrastructure could jeopardise safety or public health, network integrity and security, including that of critical infrastructure, or could endanger the provision of services that are primarily provided over the same infrastructure. Moreover, where the network operator already provides a viable alternative means of wholesale physical access to electronic communications networks that would meet the needs of the access seeker, such as dark fibre or fibre unbundling, access to the underlying physical infrastructure could have an adverse economic impact on its business model, in particular that of wholesale-only operators, and incentives to invest. It may also risk an inefficient duplication of network elements***, which should, in particular, be avoided until sufficient coverage of rural areas with very high capacity networks is achieved***. The assessment of the fair and reasonable character of the terms and conditions for such alternative means of wholesale physical access should take into account, *inter alia*, the underlying business model of the undertaking providing or authorised to provide public electronic communications networks granting access**,** ▌ the need to avoid any reinforcement of the significant market power, if any, of either party***, and the need to ensure a fair return on investment reflecting the relevant market conditions and business model in the case of the providers of associated facilities***.

(21) To facilitate the reuse of existing physical infrastructure, where operators request access in a specified area, network operators and public sector bodies that own or control physical infrastructure should make an offer for the shared use of their facilities under fair and reasonable terms and conditions, including price, unless access is refused for objective and justified reasons. Public sector bodies should also be required to offer access under non-discriminatory terms and conditions. Depending on the

circumstances, several factors could influence the conditions under which such access is granted. These include: (i) any additional maintenance and adaptation costs; (ii) any preventive safeguards to be adopted to ***avoid*** adverse effects on network safety, security and integrity; (iii) any specific liability arrangements in the event of damages; (iv) the use of any public subsidy granted for the construction of the infrastructure, including specific terms and conditions attached to the subsidy or provided under national law in compliance with Union law; (v) the ability to deliver or provide infrastructure capacity to meet public service obligations; and (vi) any constraints stemming from national provisions aiming to protect the environment, public health, public security or to meet town and country planning objectives.

(22) Investments in physical infrastructure of public electronic communications networks or associated facilities should directly contribute to the objectives set out in Decision (EU) 2022/2481 and avoid opportunistic behaviour. Therefore, any obligation of access to existing physical infrastructure or coordination of civil works should fully take into account a number of factors such as (i) the economic viability of those investments based on their risk profile; (ii) any time schedule for the return on investment; (iii) any impact that the access has on downstream competition and consequently on prices and return on investment; (iv) any depreciation of the network assets at the time of the access request; (v) any business case underpinning the investment, in particular in the physical infrastructure used for providing very high capacity network services; and (vi) any possibility previously offered to the access seeker to co-deploy.

(23) Public sector bodies that own or control physical infrastructure may lack sufficient resources, experience or the necessary technical knowledge to engage in negotiations with operators on access. ***In such a case, in order t***o facilitate access to these public sector bodies' physical infrastructure, a body ***should*** be appointed to coordinate the access requests, provide legal and technical advice for negotiating access terms and conditions, and make relevant information on such physical infrastructure available via a single information point. The coordinating body ***should*** also support public sector bodies in preparing model contracts and monitor the outcome and the length of time of the access requests process. The body could also help if disputes arise on access to physical infrastructure that public sector bodies own or control.

(24) To ensure consistency of approaches among Member States, ***while taking into account the distinct situations across Member States*** the Commission, in close cooperation with the Body of European Regulators for Electronic Communications (BEREC), ***should*** provide guidance on applying the provisions on access to physical infrastructure, including but not only on the application of fair and reasonable conditions***, by at least the date of entry into force of this Regulation***. The views of stakeholders***, national authorities*** and national dispute settlement bodies should be duly taken into account in the preparation of the guidance ***to ensure, to the extent possible, that such guidance are not disruptive to well-established principles, are in line with national dispute settlement bodies procedural rules, and are not harmful for further deployment of very high capacity networks. In order to avoid market disruptions and reverse effects in investments, when establishing the guidelines on a fair and reasonable price, the Commission should take into account the features of the network operators and their business model, in particular when it is based on renting infrastructure to third parties, such as tower companies or wholesale only operators as well as determine criteria for the establishment of prices for different categories of infrastructure. Considering the level of flexibility that the Member States are granted in the application of the provisions on access to physical infrastructure, and in order to be efficient, the Commission guidance should provide an appropriate level of granularity***.

(25) Operators should have access to minimum information on physical infrastructure and ▌civil works ***planned by a network operator or, in specific cases, such as road construction relevant for the deployment of very high capacity network, by a public sector body*** in the area of deployment. ***The Commission should issue guidelines on the type of public civil works and information that is to be made available to facilitate deployment of very high capacity networks.*** This will enable them to effectively plan deploying very high capacity networks and ensure the most effective use of existing physical infrastructure, suitable for rolling out such networks, and planned civil works. Such minimum information is a pre-requisite to assess the potential for using existing physical infrastructure or coordinating the planned civil works in a specific area, as well as to reduce damage to any existing physical infrastructures. In view of the number of stakeholders involved (covering publicly and privately financed civil works as well as existing or planned physical infrastructure) and to facilitate access to that

information (across sectors and borders), the network operators and public sector bodies subject to transparency obligations should***, where feasible*** proactively (rather than upon request) provide and maintain such minimum information via a single information point. This will simplify managing requests to access such information and enable operators to express their interest in accessing physical infrastructure or coordinating civil works, for which timing is critical. The minimum information on planned civil works should be provided via a single information point as soon as the information is available to the network operator concerned and, in any event and where permits are required, no later than 3 months before the permit application is first submitted to the competent authorities. ***Network operators and public sector bodies subject to transparency obligations could proactively and on a voluntary basis expand the minimum information provided, to additional characteristics, such as information regarding the occupation level of the physical infrastructure, where available, or indicative information regarding the availability of dark fibre.***

(26) The minimum information should be made available promptly via the single information point under proportionate, non-discriminatory and transparent terms so that operators can submit their requests for information. The single information point should consist of a repository of information in electronic format, where information can be accessed and requests can be made online using digital tools, such as webpages, digital applications, and digital platforms. The information made available may be limited to ensure network security and integrity, in particular that of critical infrastructure, national security, or to safeguard legitimate operating and business secrets. The single information point does not have to host the information as long as it ensures that links are available to other digital tools, such as web portals, digital platforms or digital applications, where the information is stored. The single information point may provide additional functionalities, such as access to additional information or support to the process of requests for access to existing physical infrastructure or to coordinate civil works.

(27) In addition, if the request is reasonable, in particular if needed to share existing physical infrastructures or coordinate civil works, operators should be granted the possibility to make on-site surveys and request information on planned civil works under transparent, proportionate and non-discriminatory conditions and without

prejudice to the safeguards adopted to ensure network security and integrity, protection of confidentiality, as well as operating and business secrets.

(28) Advanced transparency of planned civil works via single information points should be incentivised. This can be done by easily redirecting operators to such information whenever available. Transparency should also be enforced by making permit-granting applications subject to prior publication of information on ▌ civil works ***planned by network operators*** via a single information point.

(29) The discretion that Member States retain to allocate the functions of the single information points to more than one competent body should not affect their ability to effectively fulfil those functions. Where more than one single information point is set up in a Member State, a single national digital entry point consisting of a common user interface should ensure seamless access to all single information points by electronic means. The single information point should be fully digitised and provide easy access to the relevant digital tools. This will enable network operators and public sector bodies exercise their rights and comply with the obligations set out in this Regulation. This includes fast access to the minimum information on existing physical infrastructure and planned civil works, electronic administrative procedures for granting permits and rights of way, and the applicable conditions and procedures. As part of this minimum information, the single information point should give access to georeferenced information on the location of existing physical infrastructure and planned civil works. To facilitate this, Member States should provide automated digital tools for the submission of the georeferenced information and conversion tools to the supported data formats. These could be made available to network operators and public sector bodies responsible for providing this information via the single information point. Furthermore, where georeferenced location data are available via other digital tools, such as the INSPIRE Geoportal under Directive 2007/2/EC of the European Parliament and of the Council[1], the single information point could provide user-friendly access to this information.

[1] Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

(30) To ensure proportionality and security, the requirement to provide information on existing physical infrastructure via the single information point need not apply for the same reasons as those justifying a refusal of an access request. In addition, providing information on existing physical infrastructure via the single information point could, in very specific cases, be burdensome or disproportionate for network operators and public sector bodies. This could arise, for example, where the mapping of relevant assets is not yet available and it would be very costly to map or where access requests are expected to be very low in certain areas of a Member State or in respect to certain specific physical infrastructure. Where it appears that providing information is disproportionate based on a detailed cost-benefit analysis, network operators and public sector bodies should not be obliged to provide such information. Member States should conduct such detailed cost-benefit analysis based on a consultation with stakeholders on demand for access to existing physical infrastructure, and the analysis should be updated regularly. The consultation process and its outcome should be made public, and the specific physical infrastructure to be exempted from this obligation should be notified to the Commission.

(31) To ensure consistency, the competent bodies performing the functions of the single information point, the national regulatory authorities fulfilling their tasks under Directive (EU) 2018/1972 or other competent authorities, such as national, regional or local authorities in charge of cadastre or the implementation of Directive 2007/2/EC (INSPIRE), as appropriate, should consult and cooperate with each other. The purpose of such cooperation should be to minimise the efforts in complying with transparency obligations on network operators and public sector bodies, including the undertakings designated with significant market power ('SMP' operators), to make information available about their physical infrastructure; Where a different data set on physical infrastructure of the SMP operator is required such cooperation should result in establishing useful interlinks and synergies between the SMP-related database and the single information point and proportionate common practices of data collection and data provision to deliver results that are easily comparable. Cooperation should also aim at facilitating access to information on physical infrastructure, in light of national circumstances. If regulatory obligations are modified or withdrawn, the parties affected should be able to agree on the best solutions to adapt the collection and

provision of physical infrastructure data to the newly applicable regulatory requirements.

(32) The transparency obligation for the coordination of civil works need not apply to civil works for reasons of national security or in an emergency. This could be the case, for civil works performed if there is a risk of public danger as a result of degradation processes to civil engineering works and their associated installations, which are caused by destructive natural or human factors and are needed to ensure their safety or their demolition. For reasons of transparency, Member States should notify the types of civil works falling under those circumstances to the Commission and publish them via a single information point.

(33) To ensure significant savings and minimise inconveniences to the area affected by the deployment of new electronic communications networks, regulatory constraints preventing as a general rule the negotiation among network operators of agreements to coordinate civil works to deploy very high capacity networks should be prohibited. If civil works are not financed by public means, this Regulation should be without prejudice to the possibility for network operators to conclude civil works coordination agreements according to their own investment and business plans and their preferred timing.

(34) Member States should maximise the results of civil works fully or partially financed by public means, by exploiting the positive externalities of those works across sectors and ensuring equal opportunities to share the available and planned physical infrastructure to deploy very high capacity networks. The main purpose of civil works financed by public means should not be adversely affected. However, timely and reasonable requests to coordinate the deployment of elements of very high capacity networks should be met by the network operator carrying out the civil works concerned directly or indirectly (for example, through a sub-contractor) under proportionate, non-discriminatory and transparent terms. For example, the requesting operator should cover any additional costs, including those caused by delays and keep changes to the original plans to a minimum Such provisions should not affect the right of Member States to reserve capacity for electronic communications networks even in the absence of specific requests. This will enable Member States to meet future demand for physical infrastructures to maximise the value of civil works or to adopt measures

giving similar rights to operators of other types of networks, such as transport, gas or electricity, to coordinate civil works.

(35) In some cases, in particular for deployments in rural, remote or scarcely populated areas, the obligation ***on network operators*** to coordinate civil works might put at risk the financial viability of such deployments and eventually disincentivize investments carried out under market terms. Therefore, a request to an undertaking providing or authorised to provide public electronic communications networks to coordinate civil works might be considered unreasonable under specific circumstances. This should be the case, in particular, if the requesting undertaking providing or authorised to provide electronic communications networks did not state its intention to deploy very high capacity networks in that area (either as a new deployment, an upgrade or an extension of a network) and there had been a forecast or invitation to declare an intention to deploy very high capacity networks in designated areas (pursuant to Article 22 of Directive (EU) 2018/1972) or a public consultation under Union State aid rules. If more than one of those forecasts, invitations and/or public consultations have occurred, only the lack of an expression of interest at the most recent occasion covering the period during which the request for coordination of civil works is made should be considered. To ensure the possibility to access the deployed infrastructure in the future, the undertaking providing or authorised to provide public electronic communications networks performing the civil works should guarantee that it will deploy physical infrastructure with sufficient capacity, taking into account the guidance provided by the Commission. This is without prejudice to the rules and conditions attached to the assignment of public funds and the application of State aid rules.

(36) To ensure consistency of approaches, ***while taking into account the diverse situations across Member States,*** the Commission, in close cooperation with the Body of European Regulators (BEREC), ***should*** provide guidance***, by at least the date of entry into force of this Regulation,*** on applying the provisions on civil work coordination, including but not only on apportioning of costs. The views of stakeholders and ***particulary of*** national dispute settlement bodies should be duly taken into account in the preparation of the guidance. ***Considering the level of flexibility that Member States are granted in the application of the provisions on civil work coordination,***

and in order to enhance efficiencies, the Commission guidance should provide an appropriate level of granularity.

(37) Effective coordination can help reduce costs and delays as well as deployment disruption, which can be caused by problems on site. One example where coordination of civil works can provide clear benefits are cross-sector projects to deploy 5G corridors along transport paths, such as road, rail and in-land waterways. These projects can often also require design coordination or co-design based on early cooperation between the project participants. As part of the co-design, the parties concerned may agree in advance on physical infrastructure deployment paths and the technology and equipment to be used, before the coordination of civil works. Therefore, the request for coordination of civil works should be filed as soon as possible.

(38) A number of different permits for deploying elements of electronic communications networks or associated facilities may be necessary in order to protect national and Union general interests. These can include digging, building, town planning, environmental and other permits as well as rights of way. The number of permits and rights of way required for deploying different types of electronic communications networks or associated facilities and the local character of the deployment could involve applying different procedures and conditions, which can cause difficulties in the network deployment. Therefore, to facilitate deployment, all rules on the conditions and procedures applicable to granting permits and rights of way should be streamlined and consistent ***and, to the extent possible, harmonised*** at national level ***, while respecting the legal order of each Member State. In order to reduce the administrative burden and ensure shorter timeframes for the permit-granting procedure, where multiple competent authorities are involved in the granting of a number of different permits and rights of way associated to one request, Member States should assign a single coordination body. That body should be tasked to facilitate the coordination between the various competent authorities involved, through different mechanisms, including through joint coordination procedures such as on-site visits, w***hile preserving the right of each competent authority to be involved and maintain its decision-making prerogatives in accordance with the subsidiarity principle. ***The*** information on the procedures and general conditions

applicable to granting permits for civil works and rights of way should be ***made*** available via single information points ***by each competent authority involved***. This could reduce complexity and increase efficiency and transparency for all operators and particularly new entrants and smaller operators not active in that area. Moreover, operators should have the right to submit their requests for permits and rights of way in electronic format via a single information point. Those undertakings should also be able to retrieve information in electronic format about the status of their requests and whether they have been granted or refused.

(39) Permit-granting procedures should not ***amount to unjustified*** barriers to investment or harm the internal market. Member States should therefore ensure that a decision on whether or not to grant permits on the deployment of elements of very high capacity networks or associated facilities is made available within ***two*** months ***after the expiry of the 15 days*** from the receipt of a ▌permit request ***or the deadline set by national law, whichever is shorter***. ***Member States should introduce incentives in their national legislation for competent authorities to grant or refuse permits faster than required by law. In exceptional, duly substantiated cases, the competent authority should be able to extend the two month deadline for a further period of up to three months***. ***For that purpose, Member States should set out in advance in a harmonised manner, the criteria and reasons for extensions.*** This is without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure, which are applicable to the permit-granting procedure in accordance with national or Union law. Competent authorities should not restrict, hinder or make the deployment of very high capacity networks or associated facilities economically less attractive. Specifically, they should not prevent procedures for granting permits and rights of way from proceeding in parallel, where possible, or require operators to obtain one type of authorisation before they can apply for other types of authorisations. Competent authorities should justify any refusal to grant permits or rights of way under their competence, based on objective, transparent, non-discriminatory and proportionate conditions. ***In exceptional, duly substantiated cases, where, for reasons beyond their control, the network operators are not able to perform works within the validity period of the granted permit and in order to avoid a repeated application process for the same work, competent authorities should allow the extension of the validity of those permits upon request. When determining the period of extension, competent***

authorities should take into account the circumstances of each individual case, the type of works and the time needed for completion of works. The period for extension should not exceed the maximum of the period granted for the initial permit.

(40) To avoid undue delays, competent authorities ***should*** determine the completeness of the permit request within 15 days from its receipt. ▌***U***nless the competent authority invites the applicant to provide any missing information within that period***, the deadline of two months should start***. ▌ **C**ompetent authorities should ***be able to request any missing information after the expiry of the 15 days, via the single information point provided that the deadline of two months to decide whether to grant permits on the deployment of elements of very high capacity networks or associated facilities is respected***. Where, in addition to permits, rights of way are required for deploying elements of very high capacity networks, competent authorities should, by way of derogation from Article 43 of Directive (EU) 2018/1972, grant such rights of way within ***two*** months from the receipt of the request. Other rights of way not needed in conjunction with permits for civil works should continue to be granted within 6 months in accordance with Article 43 of Directive (EU) 2018/1972. Operators that suffer damage due to the delay of a competent authority to grant permits or rights of way within the applicable deadlines should have the right to compensation.

(41) ***In order to exempt certain elements of very high capacity networks from the requirement for permits set out at Union level and without prejudice to additional exemptions that might be introduced by Member States, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Regulation by adopting a list setting out the minimum categories of deployment of elements of very high capacity networks or associated facilities that are not subject to any permit-granting procedure. The exemptions from permit-granting procedure could also cover technical upgrades of existing maintenance works or installations, small scale civil works, such as trenching, and renewal of permits. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the***

preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(42) In order to ensure that the procedures for granting such permits and rights of way are completed within reasonable deadlines, as appears from certain modernising and good administrative practices at national level, it is necessary to draw up principles for administrative simplification. This should include *inter alia* limiting the obligation of prior authorisation to cases in which it is essential and introducing tacit approval by the competent authorities after a certain period of time has elapsed. ***Member States in which the principle of administrative tacit approval does not exist in the national legal system should be able to apply the tacit approval or introduce any alternative means to ensure that the competent authorities comply with the deadline for granting or refusing permits. Additionally, Member States should be able to maintain or introduce simplified authorization procedure to prior communication procedures that may exist under national law, applicable to the deployment of any element of very high capacity networks or associated facilitates.*** Moreover, the categories of deployments exempted from permits under Union law should no longer be subject to permits under national law.

(43) To facilitate the deployment of elements of very high capacity networks, any fee related to a permit, other than rights of way, should be limited to ***and take into account*** the administrative costs related to processing the permit request according to the principles established in Article 16 of Directive (EU) 2018/1972. In the case of rights of way, ***competent authorities should establish the fees taking into account*** the provisions established in Articles 42 and 43 of Directive (EU) 2018/1972 ▌. ***Member States should promote the harmonisation of regional and local policy regarding the criteria for the setting of fees for rights of way on public land and exchange best practices among competent authorities.***

(44) Achieving the targets set out in Decision (EU) 2022/2481 requires that, by 2030, all end users at fixed locations are covered by a gigabit network up to a network termination point and all populated areas are covered by next-generation wireless high-speed networks with at least 5G-equivalent performance, in accordance with the

principle of technological neutrality. Providing gigabit networks up to the end user should be facilitated, in particular through fibre-ready in-building physical infrastructure. Providing for mini-ducts during the construction of a building has only a limited incremental cost, while equipping buildings with gigabit infrastructure may represent a significant part of the cost of deploying a gigabit network. Therefore, all new buildings or buildings subject to a major renovation should be equipped with physical infrastructure and in-building fibre wiring, enabling the connection of end users to gigabit speeds. New multi-dwelling buildings and multi-dwelling buildings subject to major renovation should also be equipped with an access point, accessible to one or more undertakings providing or authorised to provide public electronic communications networks. Moreover, building developers should provide for empty ducts from every dwelling to the access point, located in or outside the multi-dwelling building. Major renovations of existing buildings at the end user's location to enhance energy performance (pursuant to Directive 2010/31/EU of the European Parliament and of the Council[1]) provide an opportunity to also equip those buildings with fibre-ready in-building physical infrastructure, in-building fibre wiring and, for multi-dwelling buildings, an access point.

(45) The prospect of equipping a building with fibre-ready in-building physical infrastructure, an access point or in-building fibre wiring may be considered disproportionate in terms of costs, namely for new single dwellings or buildings undergoing major renovation works. This may be based on objective grounds, such as tailor-made cost estimates, economic reasons linked to the location, or urban heritage conservation or environmental reasons (for example, for specific categories of monuments).

(46) Prospective buyers and tenants should be able to identify buildings that are equipped with fibre-ready in-building physical infrastructure, an access point and in-building fibre wiring and that therefore have considerable cost-saving potential. The fibre readiness of buildings should also be promoted. Member States should therefore develop a compulsory 'fibre-ready' label for buildings equipped with such

[1] Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).

infrastructure, an access point and in-building fibre wiring in accordance with this Regulation.

(47) Undertakings providing or authorised to provide public electronic communications networks deploying gigabit networks in a specific area could achieve significant economies of scale if they could terminate their network to the building's access point by using existing physical infrastructure and restoring the affected area. This should be possible irrespective of whether a subscriber has expressed explicit interest for the service at that moment in time and provided that the impact on private property is minimised, ***and the right to property is fully respected***. Once the network is terminated at the access point, the connection of an additional customer is possible at a significantly lower cost, in particular by means of access to a fibre-ready vertical segment inside the building, where it already exists. That objective is also fulfilled when the building itself is already equipped with a gigabit network to which access is provided to any public communications network provider, which has an active subscriber in the building, under transparent, proportionate and non-discriminatory terms and conditions. That could in particular be the case in Member States that have taken measures under Article 44 of Directive (EU) 2018/1972.

(48) In order to contribute to ensuring availability of gigabit networks to end users, new buildings and majorly renovated buildings should be equipped with fibre-ready in-building physical infrastructure, in-building fibre wiring and, in the case of multi-dwelling buildings, an access point. Member States should have a degree of flexibility to achieve this. This Regulation, therefore, does not seek to harmonise rules on related costs, including the recovery of costs of equipping buildings with fibre-ready in-building physical infrastructure, in-building fibre wiring and an access point.

(49) In line with the subsidiarity principle and to take national circumstances into account, Member States should adopt the standards or technical specifications necessary for the purpose of equipping newly constructed or majorly renovated buildings with fibre-ready in-building physical infrastructure and in-building fibre wiring; and new or majorly renovated multi-dwelling buildings with an access point. Those standards or technical specifications should set out at least: the building access point specifications; fibre interface specifications; cable specifications; socket specifications; specifications for pipes or micro-ducts; technical specifications needed to prevent interference with

electrical ***and fibre*** cabling, and the minimum bend radius. Member States should make the issuance of building permits conditional on compliance of the relevant new building or major renovation works project requiring a building permit with the standards or technical specifications based on a certified test report. Member States should also set up certification schemes for the purpose of demonstrating compliance with the standards or technical specifications as well as for qualifying for the 'fibre-ready' label. Moreover, to avoid an increase in red tape related to the certification scheme set up under this Regulation, Member States should take into account the procedural requirements applied to certification schemes pursuant to Directive 2010/31/EU and also consider the possibility to enable the combined launch of both request procedures.

(50) In view of the social benefits stemming from digital inclusion and taking into account the economics of deploying very high capacity networks, where there is neither existing passive or active fibre-ready infrastructure serving end users' premises nor alternatives to providing very high capacity networks to a subscriber, any public communications network provider should have the right to terminate its network to a private premise at its own cost, provided that the impact on private property is minimised ***and the right to property is fully respected***,, for example, if possible, by reusing the existing physical infrastructure available in the building or ensuring full restoration of the affected areas.

(51) Requests for access to the in-building physical infrastructure should fall under the scope of this Regulation, whereas a request for access to fibre wiring is to fall under the scope of Directive (EU) 2018/1972. Moreover, access to in-building physical infrastructure could be refused if access to in-building fibre wiring is made available under fair, reasonable and non-discriminatory terms and conditions, including price.

(52) To ensure consistency of approaches, ***while taking into account the distinct situation across Member States,*** the Commission, in close cooperation with BEREC, ***should*** provide guidance***, by the date of application of this Regulation,*** on the applications of provisions on access to in-building physical infrastructure, including but not only on the terms and conditions thereof. The views of stakeholders and ***particulary of*** national dispute settlement bodies should be duly taken into account in the preparation of the guidance ***to ensure that such guidance would not be disruptive to well established***

principles, would be in line with national dispute settlement bodies procedural rules and not be harmful for further very high capacity networks roll-out. Considering the level of flexibility that the Member States are granted in the application of these provisions, and in order to be efficient, the Commission guidance should provide an appropriate level of granularity.

(53) To foster the modernisation and agility of administrative procedures and reduce the cost of and time spent on the procedures for deploying very high capacity networks, the services of single information points should be performed fully online. To that end, single information points should provide easy access to the necessary digital tools, such as web portals, digital platforms, and digital applications. The tools should give access in an efficient manner to the minimum information on existing physical infrastructure and planned civil works and the possibility to request information. Such digital tools should also give access to the electronic administrative procedures for granting permits and rights of way and related information on the applicable conditions and procedures. Where more than one single information point is set up in a Member State, all single information points should be easily and seamlessly accessible, by electronic means, via a single national digital entry point. This entry point should have a common user interface ensuring access to the online single information points. The single national digital entry point should facilitate interaction between operators and competent authorities performing the functions of the single information points.

(54) Member States should be allowed to rely on, and where necessary improve, digital tools, such as web portals, digital platforms, and digital applications that might already be available at local, regional or national level to provide the functions of the single information point provided they comply with the obligations set out in this Regulation. This includes access through a single national digital entry point and the availability of all the functionalities set out in this Regulation. To comply with the 'once-only' data minimisation and accuracy principles, Member States should be allowed to integrate more digital platforms or applications supporting the single information points, as appropriate. For example, the digital platforms or applications supporting the single information points on existing physical infrastructure could be interconnected or fully or partially integrated with the ones for planned civil works and granting permits. ***In order to avoid duplication and ensure seamless integration,***

Member States should carry out a comprehensive assessment of already existing digital tools at national, regional and local levels and build on best practices when designing the single information point.

(55) To ensure the effectiveness of the single information points provided for under this Regulation, Member States should ensure adequate resources as well as readily available relevant information on a specific geographical area. The information should be presented with the right level of detail to maximise efficiency in view of the tasks assigned, including at the local cadastre. In that regard, Member States could consider the possible synergies and economies of scale with the points of single contact within the meaning of Article 6 of Directive 2006/123/EC of the European Parliament and of the Council[1] and other planned or existing e-government solutions with a view to building on existing structures and maximising the benefits for users. Similarly, the Single Digital Gateway provided for in Regulation (EU) 2018/1724 of the European Parliament and of the Council[2] should link to the single information points.

(56) The costs for setting-up the single national digital entry point, the single information points and the digital tools needed to comply with the provisions of this Regulation could be fully or partly eligible for financial support under Union funds, such as the European Regional Development Fund - specific objective: a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT[3]; the Digital Europe Programme[4] - specific objective: deployment and best use of digital capacities and interoperability and the Recovery and Resilience Facility[5] - pillars on digital transformation and on smart, sustainable and inclusive

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1 Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

2 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

3 Article 3(1)(a) of Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60)

4 Article 8 of 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)

5 Article 3 of 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)

growth, including economic cohesion, jobs, productivity, competitiveness, research, development and innovation, and a well-functioning internal market with strong SMEs, provided they comply with the objectives and eligibility criteria therein.

(57) In the event of a disagreement on technical and commercial terms and conditions during commercial negotiations on access to physical infrastructure or coordination of civil works, each party should be able to call on a national dispute settlement body to impose a solution on the parties to avoid unjustified refusals to meet the request or the imposition of unreasonable conditions. When determining prices for granting access to or cost-sharing for coordinated civil works, the dispute settlement body should ensure that the access provider and network operators planning civil works have a fair opportunity to recover their costs incurred in providing access to their physical infrastructure or coordinating their planned civil works. This should take into account the appropriate Commission guidance, any specific national conditions, any tariff structures put in place and any previous imposition of remedies by a national regulatory authority. The dispute settlement body should also take into account the impact of the requested access or coordination of planned civil works on the business plan of the access provider or network operators planning civil works, including their investments made or planned, in particular investments in the physical infrastructure to which the request refers.

(58) To avoid delays in network deployments, the national dispute settlement body should settle the dispute in a timely manner and, in any event, at the latest within ***3*** months from receipt of the request to settle the dispute in the case of disputes on access to existing physical infrastructure and 1 month when it concerns transparency on physical infrastructure, coordination of planned civil works and transparency on planned civil works. Exceptional circumstances justifying a delay in the settlement of a dispute could be beyond the control of the dispute settlement bodies, such as insufficient information or documentation that is necessary to take a decision, including the views of other competent authorities that need to be consulted or the high complexity of the file. ***In exceptional, duly substantiated cases, it should be possible to extend those deadlines by a maximum period of one month.***

(59) Where disputes arise on access to the physical infrastructure, planned civil works or information thereof to deploy very high capacity networks, the dispute settlement body

should have the power to resolve such disputes by means of a binding decision. In any case, decisions of such a body should be without prejudice to the possibility of any party to refer the case to a court or to conduct a prior or parallel conciliation mechanism to the formal dispute settlement, which could take the form of mediation or an additional round of exchanges. ***In order to ensure transparency and predictability and to enhance enforcement and trust in dispute resolution mechanisms, national dispute settlements bodies should publish their decisions in a transparent and clear manner via the single information point, while respecting the principles of confidentiality and business secrets.***

(60) In accordance with the principle of subsidiarity, this Regulation should be without prejudice to the possibility of Member States to allocate regulatory tasks to the authorities best suited to fulfil them in accordance with the national constitutional system of attribution of competences and powers and the requirements set out in this Regulation. To reduce the administrative burden, Member States should be allowed to appoint an existing body or maintain the competent bodies already appointed pursuant to Directive (EU) 2014/61/EU. Information on the tasks allocated to the competent body or bodies should be published via a single information point and notified to the Commission, unless already done pursuant to Directive (EU) 2014/61/EU. The discretion that Member States retain to allocate the functions of the single information point to more than one competent body should not affect their ability to effectively fulfil those functions.

(61) The designated national dispute settlement body and the competent body performing the functions of the single information point should ensure impartiality, ***political*** independence ***pursuant to Directive (EU) 2018/1972*** and structural separation towards the parties involved, exercise their powers impartially, transparently and in a timely manner; and have the appropriate competencies and resources.

(62) Member States should provide for appropriate, effective, proportionate and dissuasive penalties in the event of non-compliance with this Regulation or with a binding decision adopted by the competent bodies, including cases where a network operator or public sector body knowingly or grossly and negligently provides misleading, erroneous or incomplete information via a single information point.

(63) Since the objectives of this Regulation aiming at facilitating the deployment of physical infrastructures suitable for very high capacity networks across the Union cannot be sufficiently achieved by the Member States because of persistent divergent approaches as well as the slow and ineffective transposition of Directive 2014/61/EU but can rather, by reason of the scale of the network deployments and investment required, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(64) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, in particular this Regulation seeks to ensure full respect for the right to private life and the protection of business secrets, the freedom to conduct business, the right to property and the right to an effective remedy. This Regulation has to be applied in accordance with those rights and principles.

(65) This Regulation includes provisions covering all the substance areas covered by Directive 2014/61/EU, which should therefore be repealed.

(66) A period of six months between the ***dates of*** entry into force and the application ***of this Regulation*** aims to give sufficient time to Member States to ensure their national legislation does not contain any obstacles to the uniform and effective application of this Regulation. The period of 6 months is without prejudice to the specific rules in this Regulation on the delayed application of specific provisions as specified therein. Member States are to withdraw national provisions overlapping with this Regulation or contradicting it by the time it starts to apply. As regards adopting new legislation during this period, it follows from Article 4(3) TEU that Member States have a duty of sincere cooperation not to take action that would conflict with prospective Union legal rules,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation aims to facilitate and stimulate the roll-out of very high capacity

networks by promoting the joint use of existing physical infrastructure and by enabling a more efficient deployment of new physical infrastructure so that such networks can be rolled out faster and at a lower cost.

2. If any provision of this Regulation conflicts with a provision of Directive (EU) 2018/1972***,*** ▌Directive 2002/77/EC ***or Directive (EU) 2022/2555,*** the relevant provision of those Directives shall prevail.

3. Member States may maintain or introduce measures in conformity with Union law which contain more detailed provisions***, which complement or go beyond the rights and obligations*** than those set out in this Regulation where they serve to promote the joint use of existing physical infrastructure or enable a more efficient deployment of new physical infrastructure.

4. By way of ***derogation from*** paragraph 3 ***of this Article***, Member States shall not maintain or introduce in their national law provisions diverging from those laid down in Article 3(3) and (6), Article 4(4), Article 5(2)***, second sub-paragraph*** and (4), Article 6(2)***, Article 7(1),*** and Article 8(7) and (8).

Article 2

Definitions

For the purposes of this Regulation, the definitions in Directive (EU) 2018/1972 apply.

The following definitions also apply:

(1) ‘network operator’ means:

(a) an operator as defined in Article 2, point (29), of Directive (EU) 2018/1972;

(b) an undertaking providing a physical infrastructure intended to provide:

(i) a service of production, transport or distribution of:

- gas;
- electricity, including public lighting;
- heating;
- water, including disposal or treatment of wastewater and sewage, and drainage systems;

(ii) transport services, including railways, roads, ***tunnels,*** ports and airports;

(1a) 'very high capacity network' means a very high capacity network as defined in Article 2, point (2), of Directive (EU) 2018/1972;

(2) 'physical infrastructure' means:

(a) any element of a network that is intended to host other elements of a network without becoming an active element of the network itself, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, antenna installations, towers and poles, as well as buildings or entries to buildings, ***including rooftops, parts of the facade*** and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations;

(b) where they are not part of a network and are owned or controlled by public sector bodies: buildings or entries to buildings, ***including rooftops, parts of the facade*** and any other asset including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations.

Cables, including dark fibre, as well as elements of networks used for the provision of water intended for human consumption as defined in Article 2, point 1, of Council (EU) 2020/2184 of the European Parliament and of the Council[1] are not physical infrastructure within the meaning of this Regulation;

(3) 'civil works' means every outcome of building or civil engineering works taken as a whole that is sufficient in itself to fulfil an economic or technical function and entails one or more elements of a physical infrastructure;

(4) 'public sector body' means a State, regional or local authority, a body governed by public law or an association formed by one or several such authorities**,** ▌ one or several such bodies governed by public law;

(5) 'bodies governed by public law' means bodies that have all of the following characteristics:

(a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

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[1] Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1).

(b) they have legal personality;

(c) they are financed, in full or for the most part, by state, regional or local authorities or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by state, regional or local authorities or by other bodies governed by public law;

(6) 'in-building physical infrastructure' means physical infrastructure or installations at the end user's location, including elements under joint ownership, intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point;

(7) 'in-building fibre wiring' means optical fibre cables at the end user's location, including elements under joint ownership, intended to deliver electronic communications services and connecting the building access point with the network termination point;

(8) 'fibre-ready in-building physical infrastructure' means in-building physical infrastructure intended to host optical fibre elements;

(9) 'major renovation works' means building or civil engineering works at the end user's location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof and that require a building permit;

(10) 'permit' means an explicit or implicit decision or set of decisions taken simultaneously or successively by one or several competent authorities that are needed for an undertaking to carry out building or civil engineering works necessary for the deployment of elements of very high capacity networks;

(11) 'access point' means a physical point, located inside or outside the building, accessible to one or more undertakings ***that provide*** or ***that are*** authorised to provide public electronic communications networks, where connection to the fibre-ready in-building physical infrastructure is made available.

(11a) 'rights of way' means rights referred to in Article 43(1) of the Directive (EU) 2018/1972.

Article 3

Access to existing physical infrastructure

1. ***Network operators or*** public sector bodies owning or controlling physical infrastructure ▌ shall meet all reasonable ***written*** requests ***of operators*** for access to that physical infrastructure under fair and reasonable terms and conditions, including price, with a view to deploying elements of very high capacity networks or associated facilities. Public sector bodies owning or controlling physical infrastructure shall meet all reasonable requests for access also under non-discriminatory terms and conditions. Such written requests shall specify the elements of the physical infrastructure for which the access is requested, including a specific time frame.

1a. Where necessary to ensure the continuity of the electronic communication service, owners of land on which associated facilities have been installed with a view to deploying elements of very high capacity networks, shall negotiate with undertakings that provide or are authorised to provide those associated facilities under fair and reasonable terms and conditions, and in accordance with national contract law, on the access to such land, including the price for such access.

1b. Owners of private buildings used exclusively for commercial purposes, which are not part of a network, shall also meet reasonable requests for access to those buildings, including the rooftops of those buildings, with a view to installing elements of very high capacity networks or associated facilities under fair and reasonable terms and conditions, including with regard to the price for such access, where:

(a) no very high capacity network is deployed in the area for which the request for access is made and there is no proven plan to deploy such a nrtwork within a year from the moment when the network operator requests access;

(b) there is no existing physical infrastructure in the area for which the request for access is made, that is owned or controlled by network operators or public sector bodies and is technically suitable to host elements of very high capacity networks; or

(c) the requesting operator proves that it has failed to obtain State aid to deploy

physical infrastructure in that area, or to find a suitable co-investor to deploy physical infrastructure in the area with regard to which the access request is made.

This paragraph shall be without prejudice to the right of Member States to expand the obligation to meet reasonable requests for access to physical infrastructure to buildings which are not part of the network.

2. When determining prices as part of fair and reasonable terms and conditions for granting access, ***and in order to avoid excessive prices,*** network operators and public sector bodies owning or controlling physical infrastructure shall take into account the following:

(a) the need to ensure that the access provider has a fair opportunity to recover the costs it incurs in order to provide access to its physical infrastructure, taking into account specific national conditions***, different business models,*** and any tariff structures put in place to provide a fair opportunity for cost recovery; in the case of electronic communications networks, any remedies imposed by a national regulatory authority shall also be taken into account.

(b) the impact of the requested access on the access provider's business plan, including investments in the physical infrastructure to which the access has been requested***, as well as the need to ensure that the access provider receives a fair return on its investment, which reflects the relevant market conditions and, in particular in the case of the providers of associated facilities, their different business models***.

(c) in the specific case of access to physical infrastructure of operators, the economic viability of those investments based on their risk profile, any time schedule for the return on investment, any impact of access on downstream competition and consequently on prices and return on investment, any depreciation of the network assets at the time of the access request, any business case underpinning the investment at the time it was made, in particular in the physical infrastructures used for the provision of connectivity, and any possibility previously offered to the access seeker to co-invest in the deployment of the physical infrastructure, notably pursuant to Article 76 of Directive (EU) 2018/1972, or to co-deploy alongside it.

(ca) any additional maintenance and adaptation costs resulting from providing access to the relevant infrastructure.

2a. Paragraph 2 shall not apply to associated facilities when they operate as a wholesale only model which offers physical access to more than one host undertaking that provide or that are authorised to provide public electronic networks, unless national regulatory authorities justify, on the basis of a market analysis, the need for market remedies to be imposed.

3. Network operators and public sector bodies owning or controlling physical infrastructure may refuse access to specific physical infrastructure ***on the basis of*** one or more of the following ***grounds***:

(a) there is a lack of technical suitability of the physical infrastructure to which access has been requested to host any of the elements of very high capacity networks referred to in paragraph 2;

(b) there is a lack of availability of space to host the elements of very high capacity networks or associated facilities referred to in paragraph 2, including after having taken into account the future need for space of the access provider that is sufficiently demonstrated;

(c) the existence of safety and public health concerns;

(d) concerns for the integrity and security of any network, in particular critical national infrastructure;

(e) the risk of serious interferences of the planned electronic communications services with the provision of other services over the same physical infrastructure; or

(f) the availability of viable alternative means of wholesale physical access to electronic communications networks provided by the same network operator and suitable for the provision of very high capacity networks, provided that such access is offered under fair and reasonable terms and conditions.

(fa) the availability of viable alternative means of physical access to open, non-discriminatory electronic communications networks, which are:

(i) located in rural or remote areas,

(ii) operated on a wholesale only basis,

(iii) owned or controlled by public sector bodies, and

(iv) suitable for the provision of very high capacity networks, provided that such access is offered under fair and reasonable terms and conditions.

In the event of a refusal to provide access, the network operator or the public sector body owning or controlling physical infrastructure shall communicate to the access seeker, in writing, the specific and detailed reasons for such refusal within 1 month from the date of the receipt of the complete request for access.

4. Member States ***shall*** establish a body to coordinate access requests to physical infrastructure owned or controlled by public sector bodies, provide legal and technical advice through the negotiation of access terms and conditions, ***including with respect to access to land,*** and facilitate the provision of information via a single information point referred to in Article 10.

5. Physical infrastructure which is already subject to access obligations imposed by national regulatory authorities pursuant to Directive (EU) 2018/1972 or resulting from the application of Union State aid rules shall not be subject to the obligations set out in paragraphs 2, 3 and 4, for as long as such access obligations are in place.

6. Public sector bodies owning or controlling buildings or certain categories of buildings may not apply paragraphs 1, 2 and 3 to those buildings or categories of buildings for reasons of architectural, historical, religious, or natural value, or for reasons of public security, safety and health. Member States ***and regional and local authorities*** shall identify such buildings or categories of buildings in their territories ***on the basis of*** duly ***substantiated,*** proportionate reasons. Information on such buildings or categories of buildings shall be published via a single information point and notified to the Commission.

7. Operators shall have the right to offer access to their physical infrastructure for the purpose of deploying networks other than electronic communications networks or associated facilities.

8. ***Notwithstanding paragraph 1b, t***his Article shall be without prejudice to the right to property of the owner of the physical infrastructure where the network operator or the

public sector body is not the owner and to the right to property of any other third party, such as landowners and private property owners.

9. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, ***and having taken into account well-established principles and the distinct situation across Member States,*** the Commission ***shall***, in close cooperation with BEREC, provide guidance on the application of this Article ***by ... [the date of application of this Regulation]***.

Article 4

Transparency on physical infrastructure

1. In order to request access to physical infrastructure in accordance with Article 3, any operator shall have the right to access, upon request, the following minimum information on existing physical infrastructure in electronic format via a single information point:

(a) georeferenced location and route;

(b) type and current use of the infrastructure;

(c) a contact point.

Such minimum information shall be accessible promptly, under proportionate, non-discriminatory and transparent terms and, in any event no later than 15 days after the request for information is submitted.

Any operator requesting access to information pursuant to this Article shall specify the area in which it envisages deploying elements of very high capacity networks or associated facilities.

Access to the minimum information may be limited only where necessary to ensure the security of certain buildings owned or controlled by public sector bodies, the security of the networks and their integrity, national security, public health or safety, or for reasons of confidentiality or operating and business secrets.

1a. In addition to the minimum information referred to in paragraph 1, first subparagraph, Member States may require information on existing physical

infrastructure such as information on the occupation level of the physical infrastructure.

2. Network operators***, including operators of electronic communication networks*** and public sector bodies shall make available ***at least*** the minimum information referred to in paragraph 1, ***and, where applicable, as additional information referred to in paragraph 1a*** via the single information point and in electronic format, by [DATE OF ENTRY INTO FORCE + 12 MONTHS]. Under the same conditions, network operators and public sector bodies shall make available promptly any update to that information and any new minimum information referred to in paragraph 1.

2a. By way of derogation from paragraph 2, a Member State may, in duly substantiated cases, extend the deadline referred to in that paragraph for specified public sector bodies. Any such extension shall be granted only once and for the shortest possible time and shall not exceed three months. When extending the deadline, the Member State shall set out a roadmap with strict deadlines for making minimum information referred to in paragraph 1 available via the single information point and in electronic format. Those exceptions and the roadmaps shall be published in advance via the single information point.

3. Network operators and public sector bodies shall meet reasonable requests for on-site surveys of specific elements of their physical infrastructure upon specific ***written*** request of an operator. Such requests shall specify the elements of the physical infrastructure concerned with a view to deploying elements of very high capacity networks or associated facilities. On-site surveys of the specified elements of the physical infrastructure shall be granted under proportionate, non-discriminatory and transparent terms within 1 month from the date of receipt of the request, subject to the limitations set out in paragraph 1, fourth subparagraph.

4. Paragraphs 1, 2 and 3 need not apply to critical national infrastructure as defined under national law.

Paragraphs 1, 2 and 3 shall not apply:

(a) in the case of physical infrastructure that is not technically suitable for the deployment of very high capacity networks or associated facilities'; or

(b) in specific cases where the obligation to provide information about certain existing physical infrastructure pursuant to paragraph 1, first subparagraph, would be disproportionate, on the basis of a detailed cost-benefit analysis conducted by Member States and ▌ a consultation with stakeholders.

Any such ***exceptional categories*** shall be published via a single information point and notified to the Commission.

5. Operators that obtain access to information pursuant to this Article shall take appropriate measures to ensure respect for confidentiality and operating and business secrets. ***To that end, they shall undertake in writing to keep the information confidential and to use it only for the purpose of deploying their networks.***

Article 5

Coordination of civil works

1. Any network operator shall have the right to negotiate agreements on the coordination of civil works, including on the apportioning of costs, with operators with a view to deploying elements of very high capacity networks or associated facilities.

2. Any network operator ***or public sector body shall*** when performing or planning to perform directly or indirectly civil works, which are fully or partially financed by public means, ▌ meet any reasonable written request to coordinate those civil works under transparent and non-discriminatory terms made by operators with a view to deploying elements of very high capacity networks or associated facilities.

Such requests shall be met provided that the following cumulative conditions are met:

(a) this will not entail any unrecoverable additional costs, including those caused by additional delays, for the network operator that initially envisaged the civil works in question, without prejudice to the possibility of agreeing on apportioning the costs between the parties concerned;

(b) the network operator initially envisaging the civil works remains in control over the coordination of the works;

(c) the request to coordinate is filed as soon as possible and, when a permit is necessary, at least 2 months before the submission of the final project to the competent authorities for granting permits.

3. A request to coordinate civil works made by an undertaking ***that provides*** or ***that is*** authorised to provide public electronic communications networks to an undertaking ***that provides*** or ***is*** authorised to provide public electronic communications networks may be deemed ***to be*** unreasonable where both ***of*** following conditions are met:

(a) the request concerns an area which has been subject to either of the following:

(i) a forecast of the reach of broadband networks, including very high capacity networks pursuant to Article 22(1) of Directive (EU) 2018/1972;

(ii) an invitation to declare the intention to deploy very high capacity networks pursuant to Article 22(3) of Directive (EU) 2018/1972;

(iii) a public consultation in applying Union State aid rules;

(b) the requesting undertaking failed to express its intention to deploy very high capacity networks in the area referred to in point (a) in any of the most recent procedures among those listed in that point covering the period during which the request for coordination is made.

A request to coordinate civil works made by an undertaking that provides or is authorised to provide public electronic communications networks to an undertaking owned or controlled by public sector bodies and providing or authorised to provide public electronic communications networks may be deemed to be unreasonable where the civil works contribute to the deployment of an open access, non-discriminatory, very high capacity access network that meets the criteria set out in Article 3(3), point (fa).

If a request to coordinate is considered unreasonable on the basis of the first ***subparagraph***, ***operators totally or partially publicly financed that provide*** or ***are*** authorised to provide public electronic communications networks ***that refuse*** the coordination of civil works shall deploy physical infrastructure with sufficient capacity to accommodate possible future reasonable needs for third-party access.

4. Paragraphs 2 and 3 need not apply to civil works that are limited in scope, such as in terms of value, size or duration, or for critical national infrastructure. Member States shall identify the type of civil works considered to be limited in scope or related to critical national infrastructure ***on the basis of*** duly ***substantiated*** and proportionate

reasons. Information on such types of civil works shall be published via a single information point and notified to the Commission.

5. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, ***and after having taken into account well-established principles and the specific situations of each Member State,*** the Commission may, in close cooperation with BEREC, provide guidance on the application of this Article.

Article 6

Transparency on planned civil works

1. In order to negotiate agreements on coordination of civil works referred to in Article 5, any network operator shall make available in electronic format via a single information point the following minimum information:

   (a) the georeferenced location and the type of works;

   (b) the network elements involved;

   (c) the estimated date for starting the works and their duration;

   (d) the estimated date for submitting the final project to the competent authorities for granting permits, where applicable;

   (e) a contact point.

   The network operator shall make available ***in advance*** the information referred to in the first subparagraph for planned civil works related to its physical infrastructure. This must be done as soon as the information is available to the network operator and, in any event and where a permit is envisaged, not later than 3 months prior to the first submission of the request for a permit to the competent authorities.

   Operators shall have the right to access the minimum information referred to in the first subparagraph in electronic format, upon ***reasoned*** request, via the single information point. The request for access to information shall specify the area in which the requesting operator envisages deploying elements of very high capacity networks or associated facilities. Within 1 week ***of*** the date of the receipt of the request for information, the requested information shall be made available under proportionate, non-discriminatory and transparent terms. Access to the minimum information may be

limited only to the extent necessary to ensure the security of the networks and their integrity, national security, ***the security of critical infrastructure,*** public health or safety, confidentiality or operating and business secrets.

2. Paragraph 1 need not apply to information on civil works limited in scope, such as in terms of value, size or duration, in the case of critical national infrastructure, or for reasons of national security or emergency. Member States shall identify, ***on the basis of*** duly ***substantiated*** and proportionate reasons, the civil works that would be considered limited in scope or concern critical national infrastructure, as well as the emergencies or the reasons of national security that would justify not being subject to the obligation to provide information. Information on such civil works excluded from transparency obligations shall be published via a single information point and notified to the Commission.

Article 7

Procedure for granting permits, including rights of way

1. Competent authorities shall not unduly restrict, hinder or make economically less attractive the deployment of any element of very high capacity networks or associated facilities. Member States shall ensure that any rules governing the conditions and procedures applicable for granting permits, including rights of way, required for the deployment of elements of very high capacity networks or associated facilities are consistent ***and, where applicable, harmonised*** across the national territory.

2. Competent authorities shall make available all information on the conditions and procedures applicable for granting permits, including rights of way, including any information on exemptions on some or all permits or rights of way required under national or Union law ***and ways to submit applications in electronic format and retrieve information on the status of the application***, via a single information point in electronic format.

3. Any operator shall have the right to submit, via a single information point in electronic format, applications for ***all necessary*** permits or rights of way and to retrieve information about the status of its application.

4. The competent authorities shall, within 15 working days ***of the date of*** receipt, reject applications for permits, including for rights of way, for which the minimum

information has not been made available via a single information point, pursuant to Article 6(1) first subparagraph, by the same operator which applies for that permit.

5. The competent authorities shall grant or refuse permits, other than rights of way, within ***two*** months ***of expiry of the deadline set out in the second subparagraph or within the deadline set by national law, whichever is shorter.***

The competent authorities shall determine the completeness of the application for permits or rights of way within 15 days of receipt of application. If the competent authorities do not invite the applicant to provide any missing information within that period, the two-month deadline set out in the first subparagraph shall start on the fifteenth day after receipt of the application.

The first and second ***subparagraphs*** shall be without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure that are applicable to the permit-granting procedure, including appeal proceedings, in accordance with Union law or national law in compliance with Union law ***and without prejudice to rules that grant the applicant additional rights or aim to ensure the fastest possible granting of permits***.

In exceptional and duly substantiated cases and for reasons falling within one of those set out in advance by the Member State, the ***two*** month deadline referred to in the first subparagraph and in paragraph 6 may be extended by the competent authority ***by a period no longer than three months***. Member States shall set out the reasons justifying such an extension, publish them in advance via single information points and notify them to the Commission.

Any refusal of a permit or right of way shall be duly ***substantiated*** on the basis of objective, transparent, non-discriminatory and proportionate criteria.

6. By way of derogation from Article 43(1), point (a) of Directive (EU) 2018/1972, where rights of way over or under public or private property are required for the deployment of elements of very high capacity networks or associated facilities in addition to permits, competent authorities shall grant ***or refuse*** such rights of way within the ***two*** month period ***or deadline set by national law, whichever is shorter,*** from the date of receipt of the application.

7. In the absence of a response from the competent authority within the ***two*** month deadline referred to in paragraphs 5 first subparagraph, and unless such deadline is extended pursuant to paragraph 5 fourth subparagraph, the permit shall be deemed to have been granted, ***except where the principle of administrative tacit approval does not exist in the national legal system***. This shall also apply in the case of rights of way referred to in paragraph 6. ***Upon request, the operator or any legal person with status of a party to the administrative procedure, shall be entitled to receive written confirmation that the permit has been granted.***

This Article shall be without prejudice to the possibility of Member States to introduce further incentives for competent authorities to speed up the permit granting procedure.

7a. Competent authorities shall renew the permit granted to an operator for civil works necessary for the deployment of elements of very high capacity networks or associated facilities only in cases where for objectively justified reasons, the civil works could not start or be concluded before the expiration of the validity of the permit. The permit shall be renewed upon request from the operator made via the single information point without requirement for additional procedures. Competent authorities shall renew the permit for a period which shall not exceed the period of validity of the original permit.

7b. Civil works which consist in mere repair and maintenance works or upgrades of existing installations, shall not be subject to any permit granting procedure provided that they require only a minor intervention compared to the initial civil works for which the permit was granted. The delegated acts referred to in paragraph 8 shall specify the categories of deployment that are not subject to a permit granting procedure for the purpose of this paragraph.

8. ***By... [6 months after the date of entry into force of this Regulation], t***he Commission shall ***after consulting relevant stakeholders, adopt delegated acts in accrodance with Article 13***, ***supplementing this Regulation by*** specify***ing a minimum list of*** categories of deployment of elements of very high capacity networks or associated facilities that shall not be subject to any permit-granting procedure within the meaning of this Article***, including of paragraph 7b, without prejudice to the right of Member States***

to exempt other categories of deployment of elements of very high capacity networks or associated facilities from permit-granting.

9. Competent authorities shall not subject the deployment of elements referred to in paragraph 8 to any individual town planning permit or other individual prior permits. By way of derogation, competent authorities may ***also*** require permits for the deployment of elements of very high capacity networks or associated facilities on buildings or sites of architectural, historical, religious or natural value, ***of a special status*** protected in accordance with national law, ***regional or local regulations*** or where necessary for public ***health and*** safety reasons ***or for reasons of national security***.

10. Permits, other than rights of way, required for the deployment of elements of very high capacity networks or associated facilities shall not be subject to any fees or charges going beyond administrative costs as provided for, *mutatis mutandis*, in Article 16 of Directive (EU) 2018/1972.

11. Any operator that has suffered damage as a result of non-compliance with the deadlines applicable under paragraphs 5 and 6 shall receive compensation for the damage suffered, in accordance with national law.

11a. The Commission shall monitor the implementation of this Article in the Member States. To that end Member States shall report annually to the Commission the status of their implementation and on whether the conditions listed therein have been met.

11b. The procedure established in this Article shall apply without prejudice to Article 57 of the Directive (EU) 2018/1972.

11c. Member States shall designate a single body responsible to coordinate the procedures related to granting permits.

Article 8

In-building physical infrastructure and fibre wiring

1. All buildings at the end user's location, including elements under joint ownership, newly constructed or undergoing major renovation works, for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS],

shall be equipped with a fibre-ready in-building physical infrastructure up to the network termination points as well as with in-building fibre wiring.

2. All multi-dwelling buildings newly constructed or undergoing major renovation works, for which applications for building permits have been submitted after [ENTRY INTO FORCE + 12 MONTHS], shall be equipped with an access point.

3. By [ENTRY INTO FORCE + 12 MONTHS], all buildings at the end-users' location, including elements thereof under joint ownership, undergoing major renovations as defined in point 10 of Article 2 of Directive 2010/31/EU shall be equipped with a fibre-ready in-building physical infrastructure, up to the network termination points, as well as with in-building fibre wiring. All multi-dwelling buildings undergoing major renovations as defined in point 10 of Article 2 of Directive 2010/31/EU shall also be equipped with an access point.

4. Member States shall***, in cooperation with operators and on the basis of industry best practices*** adopt the relevant standards or technical specifications that are necessary for the implementation of paragraphs 1, 2 and 3 before [ENTRY INTO FORCE + 9 ***MONTHS***]. Those standards or technical specifications shall ***easily allow ordinary maintenance activities for the individual fibre wirings used by each operator to provide very high capacity network services and shall*** set at least:

   (a) the building access point specifications and fibre interface specifications;

   (b) cable specifications;

   (c) socket specifications;

   (d) specifications of pipes or micro-ducts;

   (e) technical specifications needed to prevent interference with electrical cabling;

   (f) the minimum bend radius.

5. Buildings equipped in accordance with this Article shall be eligible to receive a 'fibre-ready' label.

6. Member States shall set up certification schemes for the purpose of demonstrating compliance with the standards or technical specifications referred to in paragraph 4 as well as for qualifying for the 'fibre-ready' label provided for in paragraph 5 before [ENTRY INTO FORCE + 12 months]. Member States shall make the issuance of the

building permits referred to in paragraphs 1 and 2 conditional upon compliance with the standards or technical specifications referred to in this paragraph on the basis of a certified test report.

7. Paragraphs 1, 2 and 3 shall not apply to certain categories of buildings, in particular single-dwelling buildings, where compliance with those paragraphs is disproportionate, in particular in terms of costs for individual or joint owners ***on the basis of*** objective elements. ***Member States shall identify such categories of buildings on the basis of duly substantiated, proportionate reasons.***

8. Paragraphs 1, 2 and 3 need not apply to certain types of buildings, such as specific categories of monuments, historic buildings, military buildings and buildings used for national security purposes, as defined by national law. Member States shall identify such categories of buildings ***on the basis of*** duly ***substantiated,*** proportionate reasons. Information on such categories of buildings shall be published via a single information point and notified to the Commission.

Article 9

Access to in-building physical infrastructure

1. Subject to paragraph 3, first subparagraph, ***and without prejudice to property rights,*** any public electronic communications network provider shall have the right to roll out its network at its own costs up to the access point.

2. Subject to paragraph 3, any public electronic communications network provider shall have the right to access any existing in-building physical infrastructure with a view to deploying elements of very high capacity networks if duplication is technically impossible or economically inefficient.

3. Any holder of a right to use the access point and the in-building physical infrastructure shall meet all reasonable ***writen*** requests for access to the access point and the in-building physical infrastructure from public electronic communications network providers under fair and non-discriminatory terms and conditions, including price, where appropriate.

Any holder of a right to use the access point or the in-building physical infrastructure may refuse access where access to in-building fibre wiring is provided pursuant to obligations imposed under Directive (EU) 2018/1972, under Title II, Chapters II to IV,

or made available under fair, reasonable and non-discriminatory terms and conditions, including price.

4. In the absence of available fibre-ready in-building physical infrastructure, every public electronic communications network provider shall have the right to terminate its network at the premises of the subscriber, subject to the agreement of the subscriber, provided that it ***respects*** the private property ***rights*** of third parties.

5. This Article shall be without prejudice to the right to property of the owner of the access point or the in-building physical infrastructure where the holder of a right to use that infrastructure or access point is not the owner thereof, and to the right to property of other third parties, such as landowners and building owners.

5a. This Article shall be without prejudice to the right of Member States to maintain or introduce measures falling outside the scope of this Regulation, such as access obligations for in-building cables, provided that those measures are in line with the objective of this Regulation.

6. After having consulted stakeholders, the national dispute settlement bodies and other competent Union bodies or agencies in the relevant sectors as appropriate, ***and having taken into account well-established principles and the distinct situation across Member States,*** the Commission may, in close cooperation with BEREC, provide guidance on the application of this Article.

Article 10

Digitalisation of single information points

1. Single information points shall make appropriate digital tools available, such as in the form of web portals, digital platforms or digital applications, to enable the online exercise of all the rights and the compliance with all the obligations set out in this Regulation.

2. Member States may interconnect or fully or partially integrate several ***existent or newly developed*** digital tools supporting the single information points referred to paragraph 1, as appropriate. ***To that end, Member States shall carry out an assessment to identify the existing relevant digital tools in order to avoid duplication.***

3. Member States shall set out a single national digital entry point, consisting of a common user interface ensuring seamless access to the digitalised single information points.

3a. ***Member States shall ensure adequate technical, financial and human resources to support the roll-out and the digitalisation of single information points. The cost of setting-up the single national digital entry point, single information points and related digital tools needed to comply with Articles 4, 6 and 7, may be fully or partly eligible for financial support under Union funds.***

Article 11

Dispute settlement

1. Without prejudice to the possibility to refer the case to a court, any party shall be entitled to refer to the competent national dispute settlement body established pursuant to Article 12 a dispute that may arise:

(a) where access to existing infrastructure is refused or agreement on specific terms and conditions, including price, has not been reached within 1 month from the date of receipt of the request for access under Article 3;

(b) in connection to the rights and obligations set out in Articles 4 and 6, including where the information requested is not provided within 15 days after the request under Article 4 is submitted, and within 1 week after the request under Article 6 is submitted;

(ba) where an agreement on specific terms and conditions, including price, is not reached within one month from the date of the receipt of the request for access to land, made by an undertaking that provides or is authorised to provide associated facilities under Article 3(1a);

(c) where an agreement on the coordination of civil works pursuant to Article 5(2) has not been reached within 1 month from the date of receipt of the formal request to coordinate civil works; or

(d) where an agreement on access to in-building physical infrastructure referred to in Article 9(2) or (3) has not been reached within 1 month from the date of receipt of the formal request for access;

2. Taking full account of the principle of proportionality and the principles established in Commission guidance, the national dispute settlement body referred to in paragraph 1 shall issue a binding decision to resolve the dispute at the latest:

(a) within ***two*** months from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, point (a);

(b) within one month from the date of the receipt of the dispute settlement request, with respect to disputes referred to in paragraph 1, points (b), ***(ba),*** (c) and (d).

The national dispute settlement body referred to in paragraph 1 may extend the deadlines ***reffered to in the first subparagraph only*** in exceptional ***duly substantiated circumstances, by a maximum period of one month***.

3. As regards disputes referred to in paragraph 1, points (a), (c) and (d) the decision of national dispute settlement body may consist in setting fair and reasonable terms and conditions, including price, where appropriate.

3a. The single information point shall make available the decisions issued by the national dispute settlement bodies, provided that all necessary measures to ensure confidentiality and protection of business secrets of the parties involved in the dispute are taken.

Where the dispute relates to access to the infrastructure of an operator and the national dispute settlement body is the national regulatory authority, the objectives set out in Article 3 of Directive (EU) 2018/1972 shall be taken into account, where appropriate.

4. The rules laid down in the present Article are in addition to and without prejudice to the judicial remedies and procedures in compliance with Article 47 of the Charter of Fundamental Rights of the European Union[1].

Article 12

Competent bodies

1. Each of the tasks assigned to the national dispute settlement body shall be undertaken by one or more competent bodies, which can be an existing body.

[1] Charter of Fundamental Rights of the European Union (OJ C 326, 26.10.2012, p. 391–407)

2. The national dispute settlement body shall be ***politically independent,*** legally distinct and functionally independent of any network operator and any public sector body owning or controlling physical infrastructure involved in the dispute. Member States that retain ownership or control of network operators shall ensure effective structural separation of the functions related to the national dispute settlement procedures and those of the single information point from activities associated with ownership or control.

2a. Article 8 first paragraph of Directive (EU) 2018/1972 shall be applied mutatis mutandis to national dispute settlement bodies.

3. The national dispute settlement body may charge fees to cover the costs of carrying out the tasks assigned to it.

4. All parties concerned by a dispute shall cooperate fully with the national dispute settlement body.

5. The functions of a single information point referred to in Articles 3 to 8 and 10 shall be performed by one or ***where applicable,*** more competent bodies appointed by the Member States at national, regional or local level, as appropriate. In order to cover the costs of carrying out those functions, fees may be charged for the use of the single information points.

6. ***Paragraphs*** 2 ***and 2a*** shall apply *mutatis mutandis* to the competent bodies performing the functions of a single information point.

7. The competent bodies shall exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they shall have adequate technical, financial and human resources to carry out the tasks assigned to them.

8. Member States shall publish the respective tasks to be undertaken by each competent body via a single information point, in particular where those tasks are assigned to more than one competent body or where the assigned tasks have changed. Where appropriate, the competent bodies shall consult and cooperate with each other on matters of common interest.

9. Member States shall notify to the Commission the identity of each competent body in accordance with this Article for carrying out a function under this Regulation, and their

respective responsibilities, by [DATE OF ENTRY INTO FORCE] and any modification thereof, before such designation or modification enters into force.

10. Any decision taken by a competent body shall be subject to an appeal, in accordance with national law, before a fully independent appeal body, including a body of judicial character. Article 31 of Directive (EU) 2018/1972 shall apply *mutatis mutandis* to any appeal pursuant to this paragraph.

The right to appeal in accordance with the first subparagraph shall be without prejudice to the right of the parties to bring the dispute before the national competent court.

Article 13

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 7(8) shall be conferred on the Commission for a period of five years from the [DATE THE REGUALTION COMES IN EFFECT]. The Commission shall draw up a report in respect of the delegation of power not later than nice months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 7(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein it shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 7(8) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of two months of notification of that act to the European Parliament or the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 14

Penalties and compensation

Member States shall lay down rules on penalties, including, where necessary, fines and non-criminal predetermined or periodic penalties, applicable to infringements of this Regulation and of any binding decision adopted pursuant to this Regulation by the competent bodies referred to in Article 12 and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be appropriate, effective, proportionate and dissuasive.

Member States shall lay down rules on adequate financial compensation for persons suffering damage as a result of the exercise of the rights provided for in this Regulation.

Article 15

Report and monitoring

1. By [DATE OF ENTRY INTO FORCE + ***3*** YEARS], the Commission shall present a report to the European Parliament and the Council on the implementation of this Regulation. The report shall include a summary of the impact of the measures set out in this Regulation and an assessment of the progress towards achieving its objectives, including ***its impact on the objective of a fast and extensive deployment of very high capacity networks, in rural, insular and remote areas, such as islands and mountainous and scarcely-populated regions, the evolution of the associated facilities' market, and*** whether and how the Regulation could further contribute to achieving the connectivity targets set out in the Decision establishing the Digital Decade Policy Programme 2030. ***The report shall take into consideration the use of satellite backhauling in digital highspeed connectivity and the use of the European Infrastructure for Resilience, Interconnectivity and Security by Satellite.***

2. To that end, the Commission may request information from Member States that shall be submitted without undue delay. In particular, by [DATE OF ENTRY INTO FORCE + 12 MONTHS], Member States shall, in close cooperation with the Commission, through the Communications Committee set up under Article 118 of Directive (EU) 2018/1972, set out indicators to adequately monitor the application of this Regulation and the mechanism to ensure a periodic data gathering and reporting to the Commission thereof.

Article 16

Transitional measures

National measures that specify the categories of deployment of elements of very high capacity networks or associated facilities not being subject to any permit-granting procedure within the meaning of Article 7 ***of this Regulation***, and that were adopted by the Member States pursuant to Directive 2014/61/EU or before its entry into force but in line with it shall continue to apply until the ***delegated acts*** provided for in Article 7(8) of this Regulation enters into ***force***.

Measures regarding dispute settlements provided for in Articles 11 and 12 shall apply to dispute settlement proceedings initiated after the date of entry into force of this Regulation.

Article 16a

Amendments to Regulation (EU) 2015/2120

Regulation (EU) 2015/2120 is amended as follows:

(1) the title is replaced by the following:

'Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access, abolishing retail surcharges for regulated intra-Union communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012';

(2) in Article 1, paragraph 3 is replaced by the following:

'This Regulation also abolishes retail surcharges for regulated intra-Union communications to ensure that consumers are not charged excessive prices for making number-based interpersonal communications originating in the Member State of the consumer's domestic provider and terminating at any fixed or mobile number in another Member State.';

(3) Article 5a is replaced by the following:

'Article 5a

Abolition of retail surcharges for regulated intra-EU communications

1. Providers of electronic communications to the public shall not apply tariffs to regulated intra-EU communications terminating in another Member State that are higher than the tariffs applicable to services terminating in the same Member State, unless they demonstrate the existence of direct costs that are objectively justified.

2. By... [DATE OF ENTRY INTO FORCE + 6 MONTHS], BEREC shall provide guidelines setting out the criteria for determining the objectively justified direct costs referred to in paragraph 1.

3. By... [DATE OF ENTRY INTO FORCE + 12 MONTHS], and every two years thereafter, the Commission shall, after consulting BEREC, publish a report on the application of the requirement laid down in paragraph 1, including an assessment of the evolution of intra-Union communication tariffs.';

(4) in Article 10, paragraph 5 is deleted.

Article 17

Repeal

1. Directive 2014/61/EU is repealed.

2. References to the repealed Directive shall be construed as references to this Regulation and read in accordance with the correlation table in the Annex.

Article 18

Entry into force and application

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

2. It shall apply from [6 months after its entry into force].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *The President*	*For the Council* *The President*

ANNEX

Correlation table

Directive 2014/61/EU	**This Regulation**
Article 1(1)	Article 1(1)
Article 1(2)	—
Article 1(3)	Article 1(3)
Article 1(4)	Article 1(2)
Article 2	Article 2
Article 3(1)	Article 3(7)
Article 3(2)	Article 3(1)
—	Article 3(2)
Article 3(3)	Article 3(3)
—	Article 3(4)
—	Article 3(5)
—	Article 3(6)
Article 3(4)	Article 11(1)(a)
Article 3(5)	Article 11(2) Article 11(3)
Article 3(6)	Article 3(8)
—	Article 3(9)
—	Article 11(4)
Article 4(1)	Article 4(1)
Article 4(2)	—
Article 4(3)	Article 4(1) Article 4(2)
Article 4(4)	—
Article 4(5)	Article 4(3)
Article 4(6)	Article 11(1)(b) Article 11(2)(b)
Article 4(7)	Article 4(4)
Article 4(8)	Article 4(5)
Article 5(1)	Article 5(1)
Article 5(2)	Article 5(2)
—	Article 5(3)

Article 5(3)	Article 11(1)(c)
Article 5(4)	Article 11(2)(b) Article 11(3)
Article 5(5)	Article 5(4)
—	Article 5(5)
Article 6(1)	Article 6(1)
Article 6(2)	—
Article 6(3)	Article 6(1)
Article 6(4)	Article 11(1)(b), Article 11(2)(b)
Article 6(5)	Article 6(2)
—	Article 7(1)
Article 7(1)	Article 7(2)
Article 7(2)	Article 7(3)
—	Article 7(4)
Article 7(3)	Article 7(5)
-	Article 7(6) Article 7(7) Article 7(8) Article 7(9)
Article 7(4)	Article 7(11)
Article 8(1)	Article 8(1)
Article 8(2)	Article 8(2)
Article 8(3)	Article 8(5)
Article 8(4)	Article 8(7) Article 8(8)
Article 9(1)	Article 9(1)
Article 9(2)	Article 9(2)
Article 9(3)	Article 9(3) Article 11(1)(d) Article 11(2)
Article 9(4)	Article 9(3)
Article 9(5)	Article 9(4)
Article 9(6)	Article 9(5)
—	Article 9(6)
Article 10(1)	Article 12(1)

Article 10(2)	Article 12(2) and Article 12(3)
Article 10(3)	Article 12(4)
Article 10(4)	Article 12(5)
—	Article 12(6)
—	Article 12(7)
Article 10(5)	Article 12(8)
Article 10(6)	Article 12(9)
—	Article 13
Article 11	Article 14
Article 12	Article 15
-	Article 16
-	Article 17
Article 13	—
Article 14	Article 18
Article 15	Article 18