

Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast) (Text with EEA relevance)

PART I

FRAMEWORK (GENERAL RULES FOR THE ORGANISATION OF THE SECTOR)

TITLE IV

INTERNAL MARKET PROCEDURES

CHAPTER I

Article 33

Procedure for the consistent application of remedies

1 Where an intended measure covered by Article 32(3) aims to impose, amend or withdraw an obligation on an undertaking in application of Article 61 or 67 in conjunction with Articles 69 to 76 and Article 83, the Commission may, within the one-month period referred to in Article 32(3), notify the national regulatory authority concerned and BEREC of its reasons for considering that the draft measure would create a barrier to the internal market or of its serious doubts as to its compatibility with Union law. In such a case, the draft measure shall not be adopted for a further three months following the Commission's notification.

In the absence of such notification, the national regulatory authority concerned may adopt the draft measure, taking utmost account of any comments made by the Commission, BEREC or any other national regulatory authority.

2 Within the three-month period referred to in paragraph 1 of this Article, the Commission, BEREC and the national regulatory authority concerned shall cooperate closely to identify the most appropriate and effective measure in light of the objectives laid down in Article 3, whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.

3 Within six weeks from the beginning of the three-month period referred to in paragraph 1, BEREC shall issue an opinion on the Commission's notification referred to in paragraph 1, indicating whether it considers that the draft measure should be amended or withdrawn and, where appropriate, provide specific proposals to that end. That opinion shall provide reasons and be made public.

4 If in its opinion, BEREC shares the serious doubts of the Commission, it shall cooperate closely with the national regulatory authority concerned to identify the most appropriate and effective measure. Before the end of the three-month period referred to in paragraph 1, the national regulatory authority may either:

- a amend or withdraw its draft measure taking utmost account of the Commission's notification referred to in paragraph 1 and of BEREC's opinion; or

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b maintain its draft measure.

5 The Commission may, within one month following the end of the three-month period referred to in paragraph 1 and taking utmost account of the opinion of BEREC, if any:

- a issue a recommendation requiring the national regulatory authority concerned to amend or withdraw the draft measure, including specific proposals to that end and providing reasons for its recommendation, in particular where BEREC does not share the Commission's serious doubts;
- b take a decision to lift its reservations indicated in accordance with paragraph 1; or
- c for draft measures falling under the second subparagraph of Article 61(3) or under Article 76(2), take a decision requiring the national regulatory authority concerned to withdraw the draft measure, where BEREC shares the serious doubts of the Commission, accompanied by a detailed and objective analysis of why the Commission considers that the draft measure should not be adopted, together with specific proposals for amending the draft measure, subject to the procedure referred to in Article 32(7), which shall apply *mutatis mutandis*.

6 Within one month of the Commission issuing the recommendation in accordance with point (a) of paragraph 5 or lifting its reservations in accordance with point (b) of paragraph 5, the national regulatory authority concerned shall communicate to the Commission and to BEREC the adopted final measure.

That period may be extended to allow the national regulatory authority to undertake a public consultation in accordance with Article 23.

7 Where the national regulatory authority decides not to amend or withdraw the draft measure on the basis of the recommendation issued under point (a) of paragraph 5, it shall provide reasons.

8 The national regulatory authority may withdraw the proposed draft measure at any stage of the procedure.