

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 III

SERVICES

TITLE III

END-USER RIGHTS

*Article 106*

**Provider switching and number portability**

1 In the case of switching between providers of internet access services, the providers concerned shall provide the end-user with adequate information before and during the switching process and ensure continuity of the internet access service, unless technically not feasible. The receiving provider shall ensure that the activation of the internet access service occurs within the shortest possible time on the date and within the timeframe expressly agreed with the end-user. The transferring provider shall continue to provide its internet access service on the same terms until the receiving provider activates its internet access service. Loss of service during the switching process shall not exceed one working day.

National regulatory authorities shall ensure the efficiency and simplicity of the switching process for the end-user.

2 Member States shall ensure that all end-users with numbers from the national numbering plan have the right to retain their numbers, upon request, independently of the undertaking providing the service, in accordance with Part C of Annex VI.

3 Where an end-user terminates a contract, Member States shall ensure that the end-user can retain the right to port a number from the national numbering plan to another provider for a minimum of one month after the date of termination, unless that right is renounced by the end-user.

4 National regulatory authorities shall ensure that pricing among providers related to the provision of number portability is cost-oriented, and that no direct charges are applied to end-users.

5 The porting of numbers and their subsequent activation shall be carried out within the shortest possible time on the date explicitly agreed with the end-user. In any case, end-users who have concluded an agreement to port a number to a new provider shall have that number activated within one working day from the date agreed with the end-user. In the case of failure of the porting process, the transferring provider shall reactivate the number and related services of the end-user until the porting is successful. The transferring provider shall continue to provide its services on the same terms and conditions until the services of the receiving provider are activated. In any event, the loss of service during the process of provider switching and the porting of numbers shall not exceed one working day. Operators whose access networks or

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facilities are used by either the transferring or the receiving provider, or both, shall ensure that there is no loss of service that would delay the switching and porting process.

6 The receiving provider shall lead the switching and porting processes set out in paragraphs 1 and 5 and both the receiving and transferring providers shall cooperate in good faith. They shall not delay or abuse the switching and porting processes, nor shall they port numbers or switch end-users without the end-users' explicit consent. The end-users' contracts with the transferring provider shall be terminated automatically upon conclusion of the switching process.

National regulatory authorities may establish the details of the switching and porting processes, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the end-users. This shall include, where technically feasible, a requirement for the porting to be completed through over-the-air provisioning, unless an end-user requests otherwise. National regulatory authorities shall also take appropriate measures ensuring that end-users are adequately informed and protected throughout the switching and porting processes and are not switched to another provider without their consent.

Transferring providers shall refund, upon request, any remaining credit to the consumers using pre-paid services. Refund may be subject to a fee only if provided for in the contract. Any such fee shall be proportionate and commensurate with the actual costs incurred by the transferring provider in offering the refund.

7 Member States shall lay down rules on penalties in the case of the failure of a provider to comply with the obligations laid down in this Article, including delays in, or abuses of, porting by, or on behalf of, a provider.

8 Member States shall lay down rules on the compensation of end-users by their providers in an easy and timely manner in the case of the failure of a provider to comply with the obligations laid down in this Article, as well as in the case of delays in, or abuses of, porting and switching processes, and missed service and installation appointments.

9 In addition to the information required under Annex VIII, Member States shall ensure that end-users are adequately informed about the existence of the rights to compensation referred to in paragraphs 7 and 8.