

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 II

**NETWORKS**

TITLE I

**MARKET ENTRY AND DEPLOYMENT**

*CHAPTER II*

*Access to land*

*Article 43*

**Rights of way**

1 Member States shall ensure that, when a competent authority considers an application for the granting of rights:

- to install facilities on, over or under public or private property to an undertaking authorised to provide public electronic communications networks, or
- to install facilities on, over or under public property to an undertaking authorised to provide electronic communications networks other than to the public,

that competent authority:

- (a) acts on the basis of simple, efficient, transparent and publicly available procedures, applied without discrimination and without delay, and in any event makes its decision within six months of the application, except in the case of expropriation; and
- (b) follows the principles of transparency and non-discrimination in attaching conditions to any such rights.

The procedures referred to in points (a) and (b) may differ depending on whether the applicant is providing public electronic communications networks or not.

2 Member States shall ensure that, where public or local authorities retain ownership or control of undertakings providing public electronic communications networks or publicly available electronic communications services, there is an effective structural separation of the function responsible for granting the rights referred to in paragraph 1 from the activities associated with ownership or control.

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

#### Article 44

### **Co-location and sharing of network elements and associated facilities for providers of electronic communications networks**

1 Where an operator has exercised the right under national law to install facilities on, over or under public or private property, or has taken advantage of a procedure for the expropriation or use of property, competent authorities may impose co-location and sharing of the network elements and associated facilities installed on that basis, in order to protect the environment, public health, public security or to meet town- and country-planning objectives.

Co-location or sharing of network elements and facilities installed and sharing of property may be imposed only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their views and only in the specific areas where such sharing is considered to be necessary with a view to pursuing the objectives provided in the first subparagraph. Competent authorities may impose the sharing of such facilities or property, including land, buildings, entries to buildings, building wiring, masts, antennae, towers and other supporting constructions, ducts, conduits, manholes, cabinets or measures facilitating the coordination of public works. Where necessary, a Member State may designate a national regulatory or other competent authority for one or more of the following tasks:

- a coordinating the process provided for in this Article;
- b acting as a single information point;
- c setting down rules for apportioning the costs of facility or property sharing and of civil works coordination.

2 Measures taken by a competent authority in accordance with this Article shall be objective, transparent, non-discriminatory, and proportionate. Where relevant, these measures shall be carried out in coordination with the national regulatory authorities.