

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 IV

Deployment and use of wireless network equipment

Article 56

Access to radio local area networks

1 Competent authorities shall allow the provision of access through RLANs to a public electronic communications network, as well as the use of the harmonised radio spectrum for that provision, subject only to applicable general authorisation conditions relating to radio spectrum use as referred to in Article 46(1).

Where that provision is not part of an economic activity or is ancillary to an economic activity or a public service which is not dependent on the conveyance of signals on those networks, any undertaking, public authority or end-user providing such access shall not be subject to any general authorisation for the provision of electronic communications networks or services pursuant to Article 12, to obligations regarding end-users rights pursuant to Title II of Part III, or to obligations to interconnect their networks pursuant to Article 61(1).

2 Article 12 of Directive 2000/31/EC shall apply.

3 Competent authorities shall not prevent providers of public electronic communications networks or publicly available electronic communications services from allowing access to their networks to the public, through RLANs, which may be located at an end-user's premises, subject to compliance with the applicable general authorisation conditions and the prior informed agreement of the end-user.

4 In accordance in particular with Article 3(1) of Regulation (EU) 2015/2120, competent authorities shall ensure that providers of public electronic communications networks or publicly available electronic communications services do not unilaterally restrict or prevent end-users from:

- a accessing RLANs of their choice provided by third parties; or
- b allowing reciprocally or, more generally, accessing the networks of such providers by other end-users through RLANs, including on the basis of third-party initiatives which aggregate and make publicly accessible the RLANs of different end-users.

5 Competent authorities shall not limit or prevent end-users from allowing access, reciprocally or otherwise, to their RLANs by other end-users, including on the basis of third-party initiatives which aggregate and make the RLANs of different end-users publicly accessible.

6 Competent authorities shall not unduly restrict the provision of access to RLANs to the public:

- a by public sector bodies or in public spaces close to premises occupied by such public sector bodies, when that provision is ancillary to the public services provided on those premises;
- b by initiatives of non-governmental organisations or public sector bodies to aggregate and make reciprocally or more generally accessible the RLANs of different end-users, including, where applicable, the RLANs to which public access is provided in accordance with point (a).

Article 57

Deployment and operation of small-area wireless access points

1 Competent authorities shall not unduly restrict the deployment of small-area wireless access points. Member States shall seek to ensure that any rules governing the deployment of small-area wireless access points are nationally consistent. Such rules shall be published in advance of their application.

In particular, competent authorities shall not subject the deployment of small-area wireless access points complying with the characteristics laid down pursuant to paragraph 2 to any individual town planning permit or other individual prior permits.

By way of derogation from the second subparagraph of this paragraph, competent authorities may require permits for the deployment of small-area wireless access points on buildings or sites of architectural, historical or natural value protected in accordance with national law or where necessary for public safety reasons. Article 7 of Directive 2014/61/EU shall apply to the granting of those permits.

2 The Commission shall, by means of implementing acts, specify the physical and technical characteristics, such as maximum size, weight, and where appropriate emission power of small-area wireless access points.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 118(4).

The first such implementing act shall be adopted by 30 June 2020.

3 This Article is without prejudice to the essential requirements laid down in Directive 2014/53/EU and to the authorisation regime applicable for the use of the relevant radio spectrum.

4 Member States shall, by applying, where relevant, the procedures adopted in accordance with Directive 2014/61/EU, ensure that operators have the right to access any physical infrastructure controlled by national, regional or local public authorities, which is technically suitable to host small-area wireless access points or which is necessary to connect such access points to a backbone network, including street furniture, such as light poles, street signs, traffic lights, billboards, bus and tramway stops and metro stations. Public authorities shall meet all reasonable requests for access on fair, reasonable, transparent and non-discriminatory terms and conditions, which shall be made public at a single information point.

5 Without prejudice to any commercial agreements, the deployment of small-area wireless access points shall not be subject to any fees or charges going beyond the administrative charges in accordance with Article 16.

Article 58

Technical regulations on electromagnetic fields

The procedures laid down in Directive (EU) 2015/1535 shall apply with respect to any draft measure by a Member State that would impose on the deployment of small-area wireless access points different requirements with respect to electromagnetic fields than those provided for in Recommendation 1999/519/EC.