

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 II

ACCESS

CHAPTER I

General provisions, access principles

Article 59

General framework for access and interconnection

1 Member States shall ensure that there are no restrictions which prevent undertakings in the same Member State or in different Member States from negotiating between themselves agreements on technical and commercial arrangements for access or interconnection, in accordance with Union law. The undertaking requesting access or interconnection does not need to be authorised to operate in the Member State where access or interconnection is requested, if it is not providing services and does not operate a network in that Member State.

2 Without prejudice to Article 114, Member States shall not maintain legal or administrative measures which require undertakings, when granting access or interconnection, to offer different terms and conditions to different undertakings for equivalent services or measures imposing obligations that are not related to the actual access and interconnection services provided without prejudice to the conditions set out in Annex I.

Article 60

Rights and obligations of undertakings

1 Operators of public electronic communications networks shall have a right and, when requested by other undertakings so authorised in accordance with Article 15, an obligation to negotiate with each other interconnection for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services throughout the Union. Operators shall offer access and interconnection to other undertakings on terms and conditions consistent with obligations imposed by the national regulatory authority pursuant to Articles 61, 62 and 68.

2 Without prejudice to Article 21, Member States shall require that undertakings which acquire information from another undertaking before, during or after the process of negotiating access or interconnection arrangements use that information solely for the purpose for which

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it was supplied and respect at all times the confidentiality of information transmitted or stored. Such undertakings shall not pass on the received information to any other party, in particular other departments, subsidiaries or partners, for whom such information could provide a competitive advantage.

3 Member States may provide for negotiations to be conducted through neutral intermediaries when conditions of competition so require.