

Protocol of Cooperation

The network of regulators for electronic communications of the eastern European partners (the "EaPeReg Network") was established on 11 September 2012 in Moldova. EaPeReg Network acts as an independent platform to facilitate and strengthen the cooperation among National Regulatory Authorities for electronic communications networks and services of the eastern European partners, as well as the countries that are Members or Observers of the Body of the European Regulators of Electronic Communications ("BEREC") for promoting and facilitating the harmonisation of regulatory principles in electronic communications markets in the Eastern Partnership (EaP).

EaPeReg Network was established under the EaP Communication of 2008 and the Joint Communication on an EaP Roadmap. EaPeReg Network is currently functioning under the EaP Panel on the Harmonisation of Digital Markets (the "HDM Panel") and the new EU4Digital programme implementation initiative.

In line with the objectives of the HDM Panel, and the Commission Communication "A Digital Single Market Strategy for Europe" (COM (2015) 192), as well as the Declaration of the 1st EaP Ministerial Meeting on the Digital Economy (June 2015), the EaP countries and EU Member States have joined forces *for harmonising the telecoms rules among partner countries and with the EU, developing clear broadband policies and targets and implementing the regulatory frameworks that will guarantee competition, investment and growth in the electronic communications markets of the partner countries.*

At the 2nd HDM Panel held on 17-18 October 2016 and the Ministerial level meeting on the Digital Community with the eastern European partners held on 18 October 2016, the participants expressed support for the work of EaPeReg Network and agreed that this work should continue under the new EU4Digital programme implementation initiative.

EaPeReg Network is not an international intergovernmental organization and the status of this Protocol of Cooperation is not the one of an International Treaty.

This Protocol of Cooperation is a working document of EaPeReg Network that does not invalidate the MoU, signed by Members in the Plenary Meeting held in Chisinau, Moldova, on 11 September 2012, that remains the official document establishing EaPeReg Network.

This Protocol of Cooperation was discussed at the Plenary Meeting in Chisinau, Moldova on 7 April 2017, at the Plenary Meeting in Minsk, Belarus on 25 October 2017, at the Plenary Meeting in Kyiv, Ukraine on 26 April 2018 and at the Plenary Meeting in Vilnius, Lithuania on 21 November 2018.

Article 1. Composition

Members

Within the framework of EaPeReg Network, National Regulatory Authorities for electronic communications of EaP countries that joined Memorandum of Understanding of 11 September 2012 (hereinafter referred to as "MoU") and participate in EaPeReg Network activities - Plenary Assemblies, technical workshops, experts working groups and other activities of EaPeReg Network - shall be considered "Members", i.e. Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine.

Advisors

Regulators that are Members or Observers of BEREC who participate in EaPeReg Network activities - Plenary Assemblies, technical workshops, experts working groups and other activities of EaPeReg Network - shall be considered Advisors. The status of Advisor shall be granted at the Plenary Assembly, upon a formal request to join EaPeReg Network.

Regulators that joined EaPeReg Network until Plenary Assembly in Kyiv (Ukraine) on 26 April 2018 (i.e. Czech Republic, Croatia, Hungary, Germany, Latvia, Lithuania, Macedonia, Poland, Romania, Sweden, Spain, Portugal) shall be considered Advisors without any additional formal request from their part.

External experts

Upon suggestion of Members or Advisors, or on its own initiative, the Chair may invite, subject to prior communication to the Contact Network, regulators from other EU and EEA, or non-EU countries as well as experts of international organisations (e.g. World Bank, EBRD, etc.) or consultancy companies to participate in EaPeReg activities on an *ad hoc* basis. They shall participate in the events of EaPeReg Network as external experts.

Article 2. Objectives and their fulfilment

EaPeReg Network aims to facilitate a deepened cooperation among its Members and Advisors by:

1. Providing a forum for regular exchanges of information and expertise on issues relating to *electronic communications regulation*;
2. Promoting the approximation to the EU's *electronic communications and information society services regulatory framework*, where appropriate, and promoting *regulatory best practices* among its Members **and Advisors**;
3. Monitoring the development of the *electronic communications markets and regulatory frameworks* in the Eastern Partnership region;
4. Facilitating the exchange of information and expertise with international organisations, other regional networks of regulators and sector experts;
5. Contributing to the preparation of documents, reports, benchmarks, presentations, studies, analyses and common positions at international meetings and workshops.

Article 3. Membership

Participation in EaPeReg Network activities does not require any fee.

According to MoU, in addition to the National Regulatory Authorities of EaP countries who joined the Chisinau Declaration (MoU) of 2012, any National Regulatory Authority concerned with the electronic communications sector that is a Member of or an Observer in BEREC may join EaPeReg Network.

The new candidatures coming from the countries that are Members of or Observers in BEREC shall be presented in the written requests sent to the coordinator Chair of EaPeReg Network, who shall inform the Members and Advisors and submits the requests to the Plenary Assembly for approval.

The European institutions have the right to send observers of an appropriate level to any meeting/activity of EaPeReg Network.

The Plenary Assembly is the only body of the EaPeReg Network that may grant the status of "Advisor" to applying regulators.

A Member or Advisor may withdraw from EaPeReg Network at any time, by written notice, to the Plenary Assembly.

The European Commission nominates its representative to the EaPeReg Network.

Article 4. the Plenary Assembly

The Plenary Assembly is composed of all the Members and Advisors and convenes twice a year.

Members and Advisors attending the Plenary Assembly are represented by the heads of National Regulatory Authorities or their authorised representatives or designated Board Members and their supporting delegates who accompany them or by any other person mandated by them.

Tasks of the Plenary Assembly shall include:

- Appointing the new Chair and the new Vice-Chair;
- Approving the annual Work Plan of the EaPeReg Network and amending it when necessary;
- Approving the Activity Report of the activities of the previous year;
- Approving the establishment of expert working groups of EaPeReg Network;
- Approving any documents, reports, analyses and common positions produced by EaPeReg Network;
- Granting Advisor status to candidates;
- Adopting and amending the present Protocol of Cooperation and making its further amendments if necessary in order to reflect any changes in the nature and procedures of EaPeReg Network's activities;
- Discussing regulatory issues and proposals emerging from the expert working group activities with a view to approximation;
- Adopting Action Plan and amending it when necessary.
- Adopting and/or publishing any document as it sees fit.

The decisions of the Plenary Assembly shall be taken jointly, in accordance with the General Guidelines and Rules of Procedure of the Eastern Partnership Multilateral Platforms.

Appointment of the National Regulatory Authority as the Chair-and the Vice-Chair of EaPeReg Network, as well as the procedures for their appointment, shall be set in Article 5 of this Protocol of Cooperation.

Voting procedure of the initiatives issued by EaPeReg Network or derived from HDM PANEL meetings:

National Regulatory Authorities for Electronic Communications from the partner countries (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine), i. e. Members of EaPeReg Network, have the exclusive right to vote the documents, strategies, proposals and initiatives issued by EaPeReg Network or derived from the decisions taken by the HDM PANEL.

National Regulatory Authorities from the countries that are Members or Observers of BEREC i. e. Advisors to EaPeReg Network shall participate in EaPeReg Network activities by pursuing their initial roles as defined in Memorandum of Understanding of 2012, i.e. share best practices in electronic communications sector regulation, including best practices applicable in BEREC activities, as well as offer advice and guidance to

EaPeReg Network Members towards the achievement of the targets set up by EaP partners and facilitate the cooperation between EaP region and the EU.

The Chair, Vice-Chair, and Members shall make their best effort to reach unanimity for the decisions of the Plenary Assembly. However, should it prove impossible to reach unanimity, the decisions may be adopted by a vote:

- of a qualified majority of two thirds of all the Members for the adoption or any changes to this Protocol of Cooperation or granting the status of Advisor or election of the Chair or Vice-Chair;
- of a simple majority of Members present in the meeting for all other decisions.

In case there is more than one participant from the same country, they will cast one joint vote, or be deemed to have abstained. The voting system used will be one country/one vote.

Regulators having Advisor status shall participate at the Plenary Assembly without the right to vote.

The Chair may invite external experts to take part in case a public workshop takes place alongside the Plenary Assemblies.

The decisions of the Plenary Assembly shall be made public on EaPeReg website by a Chair or Vice-Chair, and shall indicate the reservations of an NRA at its request.

Article 5. Chair and Vice-Chair

Taking into account that EaPeReg Network will not have a permanent Secretariat, the Network shall be coordinated by the Chair and Vice-Chair.

The Chair and Vice-Chair shall be proposed by the Members and Advisors and approved at the Plenary Assembly of EaPeReg Network; they shall be appointed for a fixed term of one year.

If the Chair is from a partner country, the Vice-Chair should preferably be from an EU Member State and vice versa.

During his/her mandate, the Chair shall: ensure the implementation of EaPeReg Network's multiannual Action Plan and annual Work Plan, as this is approved by the Members at a Plenary Assembly; make the necessary efforts to remove any obstacles which might jeopardize the activities planned; and ensure the external representation of EaPeReg Network, including with the EU institutions. In pursuing his/her responsibilities, the Chair shall be supported by the Vice-Chair as well as the outgoing and incoming Chairs and Vice-Chairs, i.e. in a form of the so called "Troika".

The Chair shall also be responsible for the promotion and development of active cooperation with other EU or international regulators' groups and networks (i.e. BEREC, EMERG, Regulatel, etc.), as well as international organisations and institutions dealing with electronic communications issues.

The annual Work Plan of EaPeReg Network is to be developed by the Chair in close cooperation with the Vice-Chair and to be discussed by the EaPeReg Contact Network, before tabling it at the Plenary Assembly for approval.

In the event of absence or incapacity of the Chair, the Vice-Chair shall be empowered to exercise the responsibilities of the Chair.

Article 6. The Contact Network

Each Member and Advisor shall appoint a representative to EaPeReg Network, mandated to represent and take decisions on its behalf, and where appropriate, taking into account the views of the business communities and non-profit organisations, as well as of public authorities in his/her country.

Contact Network is a consultative body of EaPeReg Network. All the documents and proposals that are elaborated in the Network shall be consulted within the Contact Network before they are presented at the EaPeReg Plenary Meetings for voting.

The Contact Network shall cooperate with the Chair and Vice-Chair, in accordance with the agreed annual Work Plan, in order to:

- Work on and finalise the draft Work Plan for the following year prepared by the Chair and Vice-Chair;
- Modify the current annual Work Plan and Action Plan;
- Assess progress with the implementation of the annual Work Plan of the Network;
- Discuss the way the Network operates, its rules and procedures, and propose modifications as appropriate;
- Propose the setting up of working groups, as appropriate;
- Prepare proposals related to EaPeReg Network;
- Elect the Chair and Vice-Chair according to the procedure provided for in Article 4 of this Protocol of Cooperation.

All the documents that are circulated online for the approval and submission to the Plenary Assembly shall be consulted with the Contact Network. The period for the consultation of online documents shall be 5 working days. However, each participant of the consultation shall have the right to prolong the consultation period to the extent necessary to conduct internal discussions on the matter. The prolongation of the consultation period for a reasonable period of time, but no longer than 15 (fifteen) working days shall be done by an email request of the participant addressed to the moderator of the consultation. Where no response is provided by the Contact Network within 5 working days, the document shall be considered approved for the submission to the Plenary Assembly for voting.

The Contact Network shall also operate as an informal network whose members are the key contacts between Members and Advisors for exchange of information between partner countries and EU Member States on *electronic communications regulation*.

Article 7. Activities

EaPeReg Network is expected to organise two Plenary Assembly meetings and at least 2 thematic workshops each year, in accordance to the agreed annual Work plan. Extraordinary meetings shall also be convened at the initiative of the Chair or at the request of at least one third of the Members and Advisors of EaPeReg Network.

These will offer the EaPeReg Members and Advisors the opportunity to exchange experiences and best practices in *electronic communications regulation*.

Workshop topics shall be specified in the annual Work Plan that is devised on the basis of and refers to multiannual Action Plan (Mid-Term Strategy) of EaPeReg Network. Each workshop shall be organised, hosted

and chaired by one of the EaPeReg Network's Members or Advisors following the corresponding expression of interest.

In case specific experience and expertise are deemed useful in the workshops and other EaPeReg Network events, external experts may be invited to these events in order to conduct research, draft reports, give presentations and provide recommendations.

The web-site/on-line platform shall be maintained and supervised by EaPeReg Network, providing up to date information on developments in the area of *electronic communications regulation*, in the partner countries and the EU, and acting as a permanent platform for interaction among EaPeReg Members and Advisors. The roles and responsibilities of the maintenance and supervision of the website/on-line platform shall be set out in Annex 1 to this Protocol of Cooperation.

The EaPeReg Network may also undertake any other activities useful to pursue its objectives. These activities should be normally planned and elaborated in the annual Work Plans of EaPeReg Network. They shall be regularly updated in order to reflect closely regional needs and priorities in the Eastern Partnership.

Article 8. Funding of Activities

Network activities are expected to be supported financially by EU level programmes (e.g. the European Neighbourhood Instrument East – ENI East), EU Member State Programmes, partner country programmes, International Financial Institutions and other Donors.

Participation of the regulatory authorities from EaP countries in EaPeReg Network events will be financed by the European Union. All other regulatory authorities taking part in the meetings of the EaP Network will bear their own costs of participation. Organisations that are co-organising and hosting meetings are expected to provide at least the conference venue and, to some extent, catering.

The financing of activities may be reviewed if and when new resources become available; however any financing from market players, companies or entities providing electronic communication services, subsidiaries and/or associates thereto is not permitted.

Article 9. Official working language

The default working language is English both for meetings and documents. Interpretation and document translation into Russian can be provided, subject to the needs and available financing on a voluntarily basis by the Members or Advisors.

Article 10. Confidentiality of exchanged information

The Members and Advisors shall use information solely for the purposes specified in the request to the stakeholders providing this information. Furthermore, they will handle information defined as confidential by the Member or Advisor providing this information, with the same degree of protection as if it was confidential according to EU rules and standards.

Article 11. Review

The Members and Advisors will review this Protocol of Cooperation on a regular basis, and in particular, in case of important developments in the EU's policy for the Eastern Partnership or major changes in the EU's *electronic communications regulatory framework*, by mutual written consent.

Approved by the Members of EaPeReg Network at the Plenary Meeting in Vlnius, Lithuania on 21 November 2018.