

# Electronic Communications Networks and Physical Infrastructure Act

Promulgated, SG No. 21/9.03.2018, effective 9.03.2018

Text in Bulgarian: Закон за електронните съобщителни мрежи и физическа инфраструктура

## Chapter One GENERAL DISPOSITIONS

**Article 1.** (1) This Act shall regulate the social relations with regard to:

1. the deployment, use, maintenance and development of electronic communications networks;
2. providing access to, and use of, the existing physical infrastructure, including such infrastructure servicing other types of networks;
3. joint planning and sharing of the physical infrastructure;
4. the rights and obligations of network operators related to the activities referred to in Items 1 to 3;
5. the rights and obligations of entities contracting construction works, owners of corporeal immovables, holders of limited rights in rem, persons who manage or use corporeal immovables and tenants related to providing access to the corporeal immovables for the purpose of ensuring conditions for the provision of electronic communications services.

(2) This Act shall apply to electronic communications networks and physical infrastructure constituting public and private property.

(3) The application of this Act may not prejudice any obligations imposed by instruments adopted for the implementation of the Electronic Communications Act, in connection with access to, and sharing of, electronic communications networks, facilities and the infrastructure related thereto within the meaning given by the Electronic Communications Act.

(4) This Act shall not apply to the establishment, deployment, maintenance, use and development of electronic communications networks and physical infrastructure by the Ministry of the Interior, by the Ministry of Defence and by the entities directly subordinated to the Minister of Defence and by the Bulgarian Armed Forces.

## Chapter Two OBJECTIVES AND PRINCIPLES

**Article 2.** The objectives of this Act shall be:

1. to facilitate and incentivise the roll-out of high-speed electronic communications networks by promoting the joint use of existing physical infrastructure;
2. to enable a more efficient construction of new physical infrastructure at lower cost;
3. to establish specific requirements relating to the planning and coordination of the construction of physical infrastructure for the deployment, use, maintenance and upgrading of electronic communications networks according to the requirements for safe operation of physical infrastructure and ensuring continuity of the services provided through the said infrastructure;
4. to reduce administrative burdens and create conditions for the facilitation of procedures

through the establishment of a Single Information Point and to provide an opportunity for coordination, including by electronic means, of the planning, construction and maintenance of physical infrastructure and the deployment of electronic communications networks;

5. to improve cross-sector coordination relating to the joint planning, construction, use and maintenance of physical infrastructure for the deployment of electronic communications networks;

6. to provide access to minimum information concerning the existing physical infrastructure via the Single Information Point;

7. to promote investments in the roll-out of high-speed electronic communications networks and the construction of the associated physical infrastructure.

**Article 3.** (1) In order to achieve the objectives referred to in Article 2 herein upon the application of this Act, State bodies, bodies of local self-government and network operators shall respect the principles of publicity, transparency, equal treatment and proportionality.

(2) In the exercise of powers in connection with the design, construction, commissioning and maintenance of physical infrastructure for the deployment of electronic communications networks and, respectively, upon the deployment, maintenance, upgrading and development of electronic communications networks, State bodies and bodies of local self-government may not set any requirements in addition to those laid down in this Act, in special laws or in the instruments for the application thereof.

(3) The amount of local fees for administrative services related to the implementation of the activities under this Act may not exceed the amount of the respective stamp duty for the same service as fixed by a law or by an act of the Council of Ministers.

(4) The prices that network operators may determine for granting access to and for sharing, right of way, for coordination, clearance or for other activities under this Act, shall cover all the costs that are associated with the activity concerned.

(5) Network operators of physical infrastructure shall determine prices for granting access to and for sharing and right of way according to a methodology determined by an ordinance issued by the Minister of Transport, Information Technology and Communications.

(6) The methodology referred to in Paragraph (5) shall determine the manner of allocation of costs to the service concerned, and the said allocation must be presented in a manner that ensures respect for the principles of transparency, equal treatment and absence of anti-competitive cross-subsidisation.

(7) The person, which collects the fees referred to in Paragraph (3) or receives the prices referred to in Paragraph (4), shall publish on the Internet site thereof:

1. the amount of the fees referred to in Paragraph (3) or, respectively, the prices referred to in Paragraph (4);

2. the basis for the calculation of the said fees or prices;

3. the factors taken into account in the calculation of the prices referred to in Paragraph (4);

4. all additional terms conditions related to the fees referred to in Paragraph (3) or, respectively, the prices referred to in Paragraph (4).

(8) Upon request from an electronic communications network operator in connection with a particular service or from the Communications Regulation Commission, hereinafter referred to as "the Commission", the person shall also indicate the manner of calculation of the prices referred to in Paragraph (4).

## **Chapter Three**

# **ACCESS TO INFORMATION CONCERNING PHYSICAL**

# INFRASTRUCTURE

## Section I

### Single Information Point

**Article 4.** (1) The functions of a Single Information Point shall be performed by the Minister of Transport, Information Technology and Communications or by persons empowered thereby.

(2) The Single Information Point shall provide network operators with access to information on:

1. procedures and statutory instruments regulating the deployment and maintenance of electronic communications networks and the construction and use of physical infrastructure, including for the authorities competent to issue the relevant instruments, and the fees for the issuing of the said instruments;

2. existing physical infrastructure for the deployment of networks, including high-speed electronic communications networks;

3. planned or on-going construction, deployment and installation activities according to Article 39 (2) herein;

4. model documents required for obtaining permits or other instruments associated with the construction of physical infrastructure, model documents for notifying the deployment of networks and model applications for obtaining rights under Article 20 herein;

5. criteria and time frame wherewithin access to the information referred to in Items 2 and 3 can be provided, restricted or refused, including the reasons for the imposition of restrictions or refusal;

6. contact details of the competent authorities referred to in Item 1 and the network operators, which makes it possible to establish a direct link with them, including information about the specific powers of the authorities related to the planning, design, deployment and maintenance of electronic communications networks and the construction of physical infrastructure;

7. data, including graphics, on the existing electronic communications networks;

8. notices referred to in Article 20 (4) herein.

(3) (Effective 10.03.2020 - SG No. 21/2018) The Single Information Point shall enable the completion and submission by electronic means of applications and all other accompanying documents required for the issuing of the relevant permit for the construction of physical infrastructure and for the deployment, maintenance and upgrading of electronic communications networks, as well as for obtaining information on the progress of the procedure for examination of the said applications by the competent authorities.

(4) The information referred to in Paragraph (2) shall be made available to the Single Information Point and shall be kept up-to-date by the State bodies according to the competence thereof and by network operators as follows:

1. the competent State bodies referred to in Item 1 of Paragraph (2): the information referred to in Items 1, 4 and 6;

2. the Geodesy, Cartography and Cadastre Agency, the municipal and the regional administrations: the information referred to in Items 1 to 6 of Paragraph (2);

3. the network operators: the information concerning them referred to in:

- (a) Item 2 of Paragraph (2) according to Article 7 (2) and Article 11 herein;
- (b) Item 3 of Paragraph (2) according to Section I of Chapter Five herein;
- (c) Items 6 and 7 of Paragraph (2);

4. the authorities of the National Construction Control Directorate: the information referred to in Items 1, 2, 4 and 6 of Paragraph (2), according to the functions of the said authorities under the Spatial Development Act.

(5) The executive authorities, the State-owned enterprises and, in the cases referred to in Item 2 of Article 20 (3) herein, the network operators, shall publish via the Single Information Point notices for the granting of rights under Article 15 (1) and Article 17 (1) herein to the respective physical infrastructure according to the procedure established by Article 20 (4) herein.

**Article 5.** (1) The information referred to in Article 4 (2) herein shall be accessed by electronic means via an information portal of the Single Information Point under proportionate, non-discriminatory and transparent terms made known in advance.

(2) The information portal shall be built and maintained by the Minister of Transport, Information Technology and Communications or by persons designated thereby.

(3) The portal referred to in Paragraph (1) shall furthermore provide access to spatial data, metadata and spatial data services under Items 2 and 3 of Article 4 (2) herein within the meaning given by the Spatial Data Access Act.

(4) The terms and procedure for granting access to the information referred to in Article 4 (2) herein, as well as the data formats, shall be established by an ordinance of the Council of Ministers on a motion by the Minister of Transport, Information Technology and Communications.

**Article 6.** (1) The information referred to in Item 2 of Article 4 (2) herein shall be provided after the payment of a fee determined according to Article 7a of the Act Restricting Administrative Regulation and Administrative Control over Economic Activity by a rate schedule adopted by the Council of Ministers on a motion by the Minister of Transport, Information Technology and Communications.

(2) For the purpose of implementing the functions of control and settlement of disputes, the information referred to in Article 4 (2) herein shall be accessible free of charge by the Commission.

## **Section II**

### **Access to Minimum Information on Existing Physical Infrastructure**

**Article 7.** (1) For the purposes of requesting access to physical infrastructure under Articles 15 and 17 herein, network operators shall be entitled to minimum information concerning the existing physical infrastructure located in the area in which the said operators envisages deploying elements of electronic communications networks.

(2) The minimum information referred to in Paragraph (1) shall include:

1. location and/or route of the existing physical infrastructure;
2. type of the physical infrastructure and manner of use;
3. name, address, e-mail address and contact telephone number of the network operator that stewards (manages) the physical infrastructure.

(3) The minimum information referred to in Paragraph (2) shall be accessible via the Single Information Point by electronic means.

**Article 8.** When requesting access to the minimum information, electronic communications network operators shall specify the area in which the said operators envisage deploying elements of the high-speed electronic communications networks.

**Article 9.** Public sector bodies which, by reason of the tasks thereof, hold data on physical infrastructure planned for construction, as well as data in electronic format appertaining to the information referred to in Article 7 (2) herein, shall make the said data available via the Single Information Point by electronic means.

**Article 10.** Upon any change of the data referred to in Article 7 (2) herein, public sector bodies shall make an update to the information available to the Single Information Point within one month from:

1. the issuing of permits for the preparation of detailed plans, as well as the entry into effect of orders for the approval of detailed plans for physical infrastructure;
2. the commissioning of the physical infrastructure and, applicable to the elements referred to in Item 1 of Article 51 (1) herein which are not subject to commissioning, as well as to the deployed electronic communications networks, from the receipt of a notice of the construction or deployment from the network operators concerned;
3. the change of the information under Item 3 of Article 7 (2) herein.

**Article 11.** (1) Where the minimum information referred to in Article 7 (2) herein has not been made available to the Single Information Point according to the procedure established by Articles 9 and 10 herein, network operators shall make the said information available acting on a written application from another network operator via the point.

(2) In the application referred to in Paragraph (1), network operators shall specify the area in which the said operators envisage the deployment of elements of the network.

(3) The information referred to in Paragraph (1) shall be made available via the Single Information Point within one month from the date of receipt of the written request. The information shall be made available by the network operator for reward, under fair, non-discriminatory, proportionate and transparent terms made known in advance, and the price may not exceed the direct cost of providing the information. The price shall be paid by the network operator which has submitted the application referred to in Paragraph (1).

(4) The Single Information Point shall make information available to the electronic communications network operator according to a procedure established by the ordinance referred to in Article 5 (4) herein.

(5) Upon any change of the data referred to in Paragraph (1), the network operator shall be obliged to make an update to the information available according to the procedure and within the time frame referred to in Article 10 herein.

**Article 12.** Access to the minimum information referred to in Article 7 (2) herein may not be limited unless if necessary in view of the security of the networks and their integrity, national security, public health or safety. The network operator shall set out detailed reasons for any restriction according to Item 5 of Article 4 (2) herein, which shall be published by the Single Information Point.

**Article 13.** Network operators which have been granted access to the minimum information referred to in Article 7 (2) herein shall take appropriate measures to ensure respect for confidentiality and safeguarding operating and business secrets.

**Article 14.** (1) State bodies which establish, use, maintain and develop electronic communications networks for the needs of national security shall be exempted from the obligations referred to in Articles 9, 10 and 11 herein in respect of such networks.

(2) The State bodies referred to in Paragraph (1) shall perform the obligations under

Articles 9, 10 and 11 herein where an activity unrelated to national security is carried out by means of distinct electronic communications networks.

## **Chapter Four**

# **GRANTING ACCESS TO, AND SHARING OF, PHYSICAL INFRASTRUCTURE**

### **Section I**

## **General Rules on Deployment of Electronic Communications Networks and Construction of Related Physical Infrastructure**

**Article 15.** (1) Network operators grant electronic communications network operators access to and/or sharing of the physical infrastructure of the said operators, including the elements and/or facilities of the said infrastructure, in view of deploying and using electronic communications networks, provided a reasoned request has been submitted and under the terms established by this Section and the instruments on the application of this Act.

(2) Network operators shall grant access to and/or sharing of the physical infrastructure thereof by written contract under transparent, proportionate and fair general terms and conditions, including price, made known in advance on the Internet site of the said operators.

(3) The general terms and conditions referred to in Paragraph (2) for physical infrastructure shall include as a minimum:

1. conditions for access to and/or sharing, such as:
    - (a) a description of the manner of deployment, technical requirements, quality and safety requirements;
    - (b) limitations for the facilities that may be deployed;
    - (c) security measures;
    - (d) conditions for admission of staff of the electronic communications networks operators;
    - (e) rules on the allocation of space, where co-location space is limited;
    - (f) terms and a procedure for giving instructions when the electronic communications networks deployed on the basis of a granted right to access and/or to sharing are found to be technically incompatible;
    - (g) procedures for removing an electronic communications network and for resuming access to and/or for sharing;
    - (h) other relevant information needed for access to and/or for sharing of the physical infrastructure;
  2. time limits for:
    - (a) a response to requests for granting access and/or sharing;
    - (b) granting access;
    - (c) troubleshooting;
  3. standard terms and conditions of the contract, including compensations for non-performance;
  4. prices and pricing mechanism.
- (4) General terms and conditions referred to in Paragraph (2) and the contracts may not

come into conflict with the Electronic Communications Act and may not prejudice any obligations imposed by instruments adopted for the application thereof in connection with regulated access to and sharing of physical infrastructure and of electronic communications networks within the meaning given by the Electronic Communications Act, by other special laws and rules applicable with regard to the physical infrastructure referred to in Paragraph (1). Individual contracts with electronic communications network operators may not come into conflict with the general terms and conditions referred to in Paragraph (2).

(5) The granting of access to physical infrastructure shall not give rise to joint ownership by the operators of the infrastructure, networks or of the immovables wherein the said infrastructure and networks are constructed, unless the parties agree otherwise.

(6) The owners of the immovables shall not acquire a right of ownership of the physical infrastructure and/or networks deployed in the immovable, unless the parties agree otherwise.

(7) The owners of physical infrastructure shall not acquire a right of ownership of the networks of another operator deployed in the said infrastructure, unless the parties agree otherwise.

**Article 16.** (1) If this is technically and physically possible and provided a reasoned request has been submitted, electronic communications network operators may grant network operators access to and/or sharing of the physical infrastructure thereof for the purpose of establishing networks other than electronic communications networks.

(2) Electronic communications network operators shall grant access to and/or sharing of the physical infrastructure thereof by written contract under transparent, proportionate and fair terms and conditions, including price.

**Article 17.** (1) Electronic communications network operators may request network operators to be granted a right of way and a right to special use under the Roads Act of elements and/or facilities of physical infrastructure of other network operators, including with regard to the servitude zones of these elements and/or facilities and of natural water bodies.

(2) The rights referred to in Paragraph (1) shall be granted for:

1. construction, maintenance and use of physical infrastructure for electronic communications networks in accordance with detailed plans;

2. deployment, maintenance and operation of electronic communications networks and installation of facilities in the physical infrastructure.

(3) Rights under Paragraph (1) shall be granted subject to:

1. the rules and standard specifications for layout and safe operation of the respective networks whose physical infrastructure is used;

2. the requirements for security and continuity of supply of other services;

3. the environmental protection requirements.

(4) The rights referred to in Paragraph (1) shall be granted on the basis of a written contract between the electronic communications network operator and the network operator which stewards the physical infrastructure concerned, or an authorisation for special use of roads.

(5) Upon the transfer of ownership of electronic communications networks and the related physical infrastructure which are constructed or, respectively, deployed, maintained, upgraded and operated on the basis of a right granted under Paragraph (1), the said right shall be transferred automatically to the benefit of the transferee who or which is the new owner.

(6) Electronic communications networks to the benefit of which any rights under Paragraph (1) are created shall have the right to grant other network operators access to and sharing of the physical infrastructure constructed on the basis of the said rights, under the terms established by Articles 15 and 16 herein.

**Article 18.** (1) The electronic communications network operator shall owe the network operator a lump-sum compensation for the rights granted under Article 17 (1) herein, except in the cases referred to in Paragraph (3).

(2) Upon transfer of the rights referred to in Article 17 (1) herein, the transferee shall not owe any compensation or fee for the said rights.

(3) The rights referred to in Article 17 (1) herein to bridges, roads, streets, pavements and other immovables constituting public State property or public municipal property shall be granted to the benefit of electronic communications network operators free of charge.

**Article 19.** (1) The rights referred to in Article 15 (1) and Article 17 (1) herein to elements of physical infrastructure constituting State property or municipal property shall be granted for a period of up to 10 years without conduct of an auction or competitive bidding procedure. In the cases referred to in Item 2 of Article 20 (3) herein, Article 20 (4) to (9) herein shall apply.

(2) Where the physical infrastructure referred to in Paragraph (2) has been allocated to a State-owned enterprise referred to in Article 62 (3) of the Commerce Act, the right referred to in Article 17 (1) herein shall be granted for reward by the head of the State-owned enterprise after a decision by the collective management body and authorisation by the relevant government minister or head of central-government department exercising the right of ownership of the State to the enterprise.

(3) In the cases referred to in Paragraph (2), the proceeds from the right granted under Article 15 (1) and Article 17 (1) herein together with the overhead expenses shall be credited to the current account of the State-owned enterprise.

**Article 20.** (1) The rights referred to in Article 15 (1) and Article 17 (1) herein shall be granted on the basis of a written application from an electronic communications network operator to the network operator concerned, wherein the area, the elements and/or facilities of the physical infrastructure subject to the rights requested and the period for use of the said elements and/or facilities shall be specified. The model of an application shall be determined by the ordinance referred to in Article 5 (4) herein.

(2) The network operator shall inform the applicant of the deficiencies ascertained in the application referred to in Paragraph (1) within 14 days from the receipt of the said application.

(3) The network operator shall conclude a contract under Article 15 (2) or under Article 17 (4) herein with the applicant within one month from the date of the receipt of the written application referred to in Paragraph (1) or from the remedying of irregularities referred to in Paragraph (2) unless:

1. there is a ground for refusal under Article 21 herein, or
2. the possibilities for using the physical infrastructure concerned which is subject to the request under Paragraph (1) are limited.

(4) In the cases referred to in Item 2 of Paragraph (3), within 14 days from the receipt of the request under Paragraph (1), the network operator shall make public the intention thereof to grant rights under Article 15 (1) or under Article 17 (1) herein to the physical infrastructure concerned on the Internet site thereof and in another appropriate manner, setting a 14-day time limit for the submission of applications by interested parties. The network operator shall transmit the information to the Single Information Point simultaneously with the publication of the said information on the Internet site of the said operator. The 14-day time limit for the submission of applications shall commence from the date on which the notice of the network operator is published in the Single Information Point.

(5) Where no applications from other electronic communications network operators have been received within the time limit referred to in Paragraph (4), the network operator and the



electronic communications network operator which has submitted the application under Paragraph (1) shall conclude a contract under Article 15 (2) or under Article 17 (4) herein not later than one month after the expiry of the said time limit.

(6) Where applications from other electronic communication network operators have been received within the time limit referred to in Paragraph (4) and it is impossible to satisfy all requests, the network operator shall refer the issue to the Commission.

(7) In the cases referred to in Paragraph (6), the Commission shall adopt a decision observing the following descending order of precedence:

1. a high-speed public electronic communications network;
2. a public electronic communications network for the provision of services within a national range or an operator of a network of an electronic communications network for the needs of State governance;
3. a public electronic communications network for the provision of services within a regional range;
4. a public electronic communications network for the provision of services within a range limited to a single nucleated settlement;
5. an electronic communications network for own use.

(8) In the case of applications of the same precedence which cannot be fully granted, the Commission shall assist the applicants to reach an agreement on co-location and shared use. Where an agreement is not reached, the applicants may refer the issue to the Commission which shall adopt a decision giving mandatory instructions for co-location and shared use.

(9) The contract referred to in under Article 15 (2) or under Article 17 (4) herein shall be concluded not later than one month after the entry into effect of the decision of the Commission under Paragraphs (7) and (8) or, respectively, after reaching an agreement under Paragraph (8).

**Article 21.** (1) A network operator which has received a request under Article 20 (1) herein shall have the right to refuse rights under Article 15 (1) or under Article 17 (1) herein, stating reasons, on the basis of objective, transparent and proportionate criteria where any of the following conditions applies:

1. the physical infrastructure is technically incapable of hosting elements of physical infrastructure and/or electronic communications networks;
2. the deployment of the elements of physical infrastructure and/or electronic communications networks, in connection with which rights under Article 15 (1) or under Article 17 (1) herein are requested to be granted, is physically impossible;
3. the network operator needs to reserve capacity for own use; the reservation criteria shall be indicated in the general terms and conditions referred to in Article 15 (2) herein;
4. safety and public health concerns;
5. a risk of a breach of the integrity and security of any network, including of critical infrastructure, defined according to the ordinance referred to in Article 8a of the Disaster Protection Act;
6. a risk of serious interferences of electronic communications services or of other services provided by the physical infrastructure operator as a result of the planned new services over the same physical infrastructure;
7. the availability of economically reasonable means of physical infrastructure access provided by the network operator and suitable for the deployment of electronic communications networks, provided that such access is offered under the terms and conditions referred to in Article 15 (2) herein.

(2) The network operator shall be obliged to justify the refusal referred to in Paragraph (1)

and to transmit the said refusal to the applicant within one month from the date of receipt of the request referred to in Article 20 (1) herein.

(3) The network operator may terminate access to, and sharing of, the physical infrastructure thereof on the basis of objective and transparent criteria determined by the ordinance referred to in Article 63 (5) herein.

**Article 22.** The applicant under Article 20 (1) herein or the network operator shall be entitled to refer the issue to the Commission, in case any of the following occurs within the time limits referred to in Articles 20 and 21 herein:

1. the network operator does not respond to an application submitted in accordance with Article 20 (1) herein, or

2. a contract under Article 15 (2) or under Article 17 (4) herein is not concluded, including by reason of disagreement with regard to the conditions of access to and/or sharing, including with regard to the price, or

3. a contract under Article 15 (2) or under Article 17 (4) herein is concluded in breach of the requirements of:

(a) Article 20 (1) to (6) herein, or

(b) an enforceable decision of the Commission under Article 20 (7) or (8) herein, or

4. a contract is not concluded within the time limit referred to in Article 20 (9) herein, or

5. the application has been refused according to the procedure established by Article 21 herein.

**Article 23.** (1) Electronic communications network operators or persons authorised thereby, which have been granted a right under Article 15 (1) or under Article 17 (1) herein, shall have the right to access and the right of way to immovables in order to carry out the electronic communications network deployment, maintenance and use activities.

(2) The electronic communications network operator or the persons carrying out the activities referred to in Paragraph (1) shall be obliged to notify the owners or users of the immovables or, respectively, of the physical infrastructure not later than 7 days before the commencement of the relevant activities, unless otherwise provided for in a special law.

(3) In case of interruption of the operation of the electronic communications networks or of the facilities to the said networks, caused by unforeseeable or insuperable events, where urgent steps need to be taken and the time limit referred to in Paragraph (2) cannot be observed, the notification shall be effected within the shortest possible period of time before or immediately after remedying the breakdown or the interruption.

(4) The electronic communications network operator referred to in Paragraph (1) shall compensate the owner or user of an immovable or, respectively, of the physical infrastructure, or shall restore the immovable or, respectively, the physical infrastructure to the original form thereof after carrying out the activities under Paragraph (1).

**Article 24.** (1) A network operator whose physical infrastructure hosts an electronic communications network of an electronic communications network operator shall not be liable for any damage caused to third persons in the course of, or in connection with, the deployment and/or the use of the electronic communications network, unless the network operator has contributed to the occurrence of the said damage by its own conduct.

(2) An electronic communications network operator, which owns an electronic communications network hosted by a physical infrastructure of another network operator, shall be responsible for the damage caused to the network operator as a result of the deployment and/or use of its the electronic communications network thereof in violation of:

1. this Act or the ordinance referred to in Article 63 (5) herein;

2. the special laws regulating the construction of the physical infrastructure and/or the operation thereof, except in cases in which the electronic communications network is hosted and operated subject to advance clearance under Article 52 (2) herein.

**Article 25.** (1) Subject to the applicable legislation in force, network operators of physical infrastructure or persons authorised thereby shall have the right to carry out physical infrastructure repair, maintenance, extension, replacement activities, after communicating this to the electronic communications network operators which have deployed elements of electronic communications networks in the said physical infrastructure.

(2) The communication referred to in Paragraph (1) may be effected by e-mail, telephone or in another appropriate manner. The communication must be effected within a reasonable time prior to the commencement of the relevant activities.

(3) The network operator shall be liable for any damage caused to the electronic communications network operator in case the said network operator has not fulfilled the obligation thereof under Paragraphs (1) and (2).

**Article 26.** (1) In an emergency whose addressing requires damaging an electronic communications network, the network operator whose physical infrastructure hosts an electronic communications network shall have the right to proceed with remedying the breakdown after giving the electronic communications network operator an advance notice within a time limit set in the general terms and conditions for access to the physical infrastructure, within which a representative of the operator is to be sent.

(2) The notice of the emergency referred to in Paragraph (1) may be transmitted by e-mail, telephone or in another appropriate manner indicated in the contract.

(3) Should a representative under Paragraph (1) fail to appear within the time limit or set, or should the representative refuse to provide the necessary assistance, the network operator shall have the right, while the breakdown is being remedied, to temporarily remove or disconnect the electronic communications network, provided that it is impossible to remedy the breakdown in another manner, exercising due care.

(4) A memorandum on the removal under Paragraph (3) shall be drawn up and shall be served on the electronic communications network operator within three days from the remedying of the breakdown.

(5) In urgent cases under Paragraph (1), where it is necessary to take immediate steps with a view to ensuring safety and public health or for the protection of human life, the communication shall be effected as soon as possible after the remedying of the breakdown.

(6) The network operators of physical infrastructure shall not owe compensation to the electronic communications network operators for any damage inflicted in the course of, or in connection with, the activities referred to in Paragraph (1) or (5), unless:

1. when remedying the breakdown, it was possible to avoid the damage by exercising due care, or

2. the network operator did not give the electronic communications network operator an advance notice or proceeded with remedying the breakdown before the expiry of the time limit for appearance of a representative of the electronic communications network operator, in the cases referred to in Paragraph (1).

(7) In the cases of removal or disconnection of an electronic communications network under Paragraph (1) or (5), the said network shall be restored to the original functional status thereof by the electronic communications network operator under the conditions referred to in Paragraph (6).

**Article 27.** (1) Acting upon the reasoned written application of an electronic

communications network operator, network operators shall arrange on-site surveys of a specified part of the physical infrastructure of the said operators.

(2) On-site surveys of the part of the physical infrastructure specified in the application shall be granted under proportionate, non-discriminatory and transparent conditions within 14 days from the date of receipt of the written request.

(3) An on-site survey may not be limited or refused except for concerns related to a breach of network security and integrity, national security, public health or safety. The network operator shall be obliged to justify the refusal in writing within the time limit referred to in Paragraph (2).

(4) The operator shall be obliged to take measures under Article 13 herein with regard to the information obtained in the course of, and in connection with, the survey referred to in Paragraph (1).

**Article 28.** (1) Without prejudice to the rights under Article 15 herein, the Commission may impose on the electronic communications network operators co-location and/or shared use of elements of physical infrastructure, including buildings, common premises in buildings or access entry points to buildings, and up to the first concentration or distribution point where this is located outside the building, masts, antenna installations, towers and other elements or supporting constructions, ducts, cabinets, cable distribution boxes on, over or under the immovables referred to in Article 30 (1) herein.

(2) The obligation referred to in Paragraph (1) may be imposed on concerns related to environmental protection, protection of public health and public security, or for meeting spatial development objectives.

(3) Prior to adopting a decision on imposition of an obligation for co-location and/or shared use of physical infrastructure, the Commission shall notify the interested parties, allowing them an appropriate period of time which, however, may not be longer than one month to express a view.

(4) When imposing the obligations referred to in Paragraph (1), the Commission may issue instructions on apportioning the costs of sharing.

(5) When imposing an obligation referred to in Paragraph (1), the Commission shall be guided by the principles of objectivity, proportionality, equal treatment and transparency.

**Article 29.** The Commission may require from electronic communications network operators to provide the necessary information for the establishment of a detailed inventory of the nature, availability and geographical location of the electronic communications infrastructure of the said operators, where the Commission is unable to gather such information *ex officio*.

**Article 30.** (1) Except in the cases referred to in Articles 15 and 17 herein, electronic communications network operators shall have a right to deploy electronic communications networks and to construct the related physical infrastructure on the basis of a written contract, including a lease, contract or administrative act, on, over or under immovables:

1. constituting public or private State or municipal property;
2. constituting private property of natural or legal persons.

(2) The conclusion of a written lease or another type of contract, granting the operator a temporary right of use for a specified period of time, shall be required for physical infrastructure of transceivers of wireless electronic communications networks.

(3) In the case of condominium ownership, the contracts referred to in Paragraphs (1) and (2) shall be concluded on the basis of a resolution of the owners' general meeting according to the procedure established by Article 17 (3) of the Condominium Ownership Management Act.

(4) In the cases of joint ownership, the contracts referred to in Paragraphs (1) and (2) shall be concluded with the persons owning more than half of the property.

(5) Where the immovable constitutes State or municipal property, the rights under Paragraphs (1) and (2) shall be granted for a period of up to 10 years according to the procedure established by Article 19 herein.

## **Section II**

### **Servitudes**

**Article 31.** (1) Servitudes shall arise upon the construction of new and/or extension of an existing line physical infrastructure for the deployment of electronic communications networks for the benefit of electronic communications network operators. The servitudes under this Act shall be plotted on the cadastre and shall be entered under the terms and according to the procedure established by the Cadastre and Property Register Act.

(2) The servitudes referred to in Paragraph (1) shall arise on the basis of a contract and/or an administrative act in respect of all immovables constituting public and private property where:

1. there is an effective detailed plan, whereby the location of the respective immovables is determined, and

2. the servitude holder has paid the owner of the immovable a lump-sum compensation: solely applicable to immovables constituting private property.

(3) The amount of compensations under Item 2 of Paragraph (2) shall be determined by mutual consent of the parties or on the basis of a valuation by a licensed appraiser, and in respect of corporeal immovables constituting public property, compensations shall not be due.

(4) The amount of the compensation referred to in Item 2 of Paragraph (2) shall be determined applying the following criteria:

1. space of the servient lot, enclosed within the boundaries of the servitude;

2. types of restrictions on the use of the servient estate;

3. the period of the limitation;

4. market value of the lot or of the part thereof which falls within the boundaries of the servitude.

(5) The mode of payment of the compensation referred to in Item 2 of Paragraph (2) shall be agreed between the parties.

(6) Upon the granting of rights under Article 15 (1) or under Article 17 (1) herein for the benefit of electronic communications network operators, servitudes shall not arise under this Section.

(7) The Forestry Act shall be complied with as well when creating a servitude under this Act on lots in forest areas.

(8) In the cases referred to in Item 3 of Article 50 (3) herein, the servitudes referred to in Paragraph (1) shall arise ex lege.

**Article 32.** There shall be the following servitudes under this Act:

1. right of way and right to lay elements of physical infrastructure for the deployment of electronic communications networks for the benefit of electronic communications network operators, including of branches of such networks to buildings and to other lots;

2. limitation in the use of the servient lots, determined by an ordinance issued by the Minister of Transport, Information Technology and Communications, the Minister of Regional development and Public Works and the Minister of Agriculture and Food.

**Article 33.** (1) The servitudes under this Act shall be undivided rights. The said servitudes shall be exercisable entirely for the benefit of each and any part of the physical infrastructure which is the dominant estate and shall burden entirely each and any part of the servient estate,

even in cases where the said estate is subject to disposition in any lawful manner after the servitude has arisen.

(2) The change of ownership of the physical infrastructure and/or of the elements of electronic communications networks located on, along or in the said infrastructure shall not terminate and/or shall not modify the effect of servitudes vis-a-vis the servient estate.

(3) The servitude shall be used only for the needs of the physical infrastructure, as well as of the elements of electronic communications networks located on, along or in the said infrastructure.

(4) The owner of the servient estate shall not have the right to relocate the physical infrastructure which is the subject of the servitude unless the persons have agreed otherwise or a special law provides otherwise.

**Article 34.** (1) Upon the exercise of the servitudes:

1. the electronic communications network operator shall acquire a right for representatives of the said operator to enter and to pass through the servient estates and to perform therein activities related to the maintenance and operation of physical infrastructure, for the deployment of the electronic communications network, related to deployment, maintenance, upgrading and operation of an electronic communications network, including a right of way for equipment through the servient lots in connection with the establishment and servicing of the network in the existing physical infrastructure;

2. the following shall be inadmissible in the servient lots:

(a) performance of building development or planting of perennial crops in the servitude strip, unless the owner and the servitude holder agree otherwise;

(b) laying of lines of other technical-infrastructure networks, except in cases where this is admitted by a statutory instrument, subject to the relevant technical requirements and after clearance in writing with the servitude holder.

(2) The rights referred to in Item 1 of Paragraph (1) shall be exercised according to the procedure established by Article 23 herein observing the rules of public order.

(3) The servitude holder shall be obliged to ensure shared use of the servitude strip upon a reasoned request by an electronic communications network operator, where this is technically and physically possible and in consideration of a reward without an increase of the size of the servitude.

(4) The reward referred to in Paragraph (3) may not exceed the total amount of the compensation referred to in Item 2 of Article 31 (2) herein.

(5) The technical requirements upon the exercise of the servitude and the servitude strip referred to in Item 2 (a) of Paragraph (1) shall be determined by the ordinance referred to in Item 2 of Article 32 herein.

**Article 35.** (1) The servitude shall be exercised by the servitude holder in accordance with this Act and the technical requirements as determined by the ordinance referred to in Item 2 of Article 32 herein.

(2) In case the servitude strip falls into an immovable in respect of which a building right is created, the servitude to the said immovable shall be indicated in the instrument creating a building right.

**Article 36.** The size, the location and the special regime for the exercise of servitudes shall be specific to the various types of line physical infrastructure for the deployment of electronic communications networks and shall be determined by the ordinance referred to in Item 2 of Article 32 herein.

**Article 37.** Notwithstanding the compensation referred to in Item 2 of Article 31 (2) herein,

the servitude holder shall owe the owner of the lot by agreement recovery of all damage inflicted on the lot or commensurate cash compensation.

**Article 38.** Where the owner, user or lessee of the servient estate performs unauthorised building development, enclosure, planting or any other violation of the servitude exercise regime, the servitude holder shall have the right to approach the competent authorities with a request for the removal of the illegal construction works at the costs of the said owner, user or lessee, unless the said owner, user or lessee removes the said works within a time limit set thereto by the servitude holder.

## **Chapter Five**

### **COORDINATION OF ACTIVITIES**

#### **Section I**

#### **Access to Information Concerning Planned Activities**

**Article 39.** (1) Upon the submission of a written application by an electronic communications network operator, or on the initiative of a network operator in order to negotiate agreements on coordination of activities of deploying, maintaining or upgrading of elements of electronic communications networks or the construction of physical infrastructure, every network operator shall make the following minimum information available to the Single Information Point, concerning on-going or planned construction, deployment or installation activities related to the physical infrastructure of the said network operator:

1. the location and the type of activities;
2. physical infrastructure within the scope of, or involved in, on-going or planned construction, deployment or installation activities;
3. the estimated date for starting the activities and the duration thereof, and
4. contact point of the network operator.

(2) Information under Paragraph (1) shall be made available for construction, deployment or installation activities:

1. for which a request for authorisation for preparation of a detailed plan or a diagrammatic layout under Article 124a of the Spatial Development Act;
2. which are provided for in a parcelling plan or in a diagrammatic layout under the Spatial Development Act, authorised for preparation under Article 124a of the Spatial Development Act and/or approved according to Article 129 of the Spatial Development Act, provided that an approval of a parcelling plan or diagrammatic layout is required for carrying out these activities;
3. which the network operator plans to be commenced within six months or which have been commenced but are not completed, provided that an approval of a parcelling plan or diagrammatic layout is not required for carrying out these activities and they are not subject to authorisation in accordance with this Act.

(3) The network operator shall make the information referred to in Paragraph (2) available to the Single Information Point and shall set a time-limit within which the electronic communications network operators can negotiate an agreement under Paragraph (1).

(4) The time limit for the submission of applications for negotiating an agreement under Paragraph (1) may not be shorter than 30 days from the publication of the information referred to in Paragraph (2) by the Single Information Point.

**Article 40.** The application referred to in Article 39 (1) herein shall specify the area in

which deploying elements of electronic communications networks and the related physical infrastructure is envisaged, accompanied by a description of the development proposal of the electronic communications network operator.

**Article 41.** Within 14 days from the date of the receipt of the application referred to in Article 39 (1) herein, network operators shall provide the requested information under proportionate, non-discriminatory and transparent terms.

**Article 42.** The network operator may limit access to the minimum information referred to in Article 39 (1) herein, stating reasons, only on concerns related to the security of the networks and the integrity thereof, national security, public health or safety, confidentiality or safeguarding operating and business secrets.

**Article 43.** Network operators may refuse the request under Article 39 herein in case:

1. the requested information has been made publicly available in electronic format, or
2. access to such information is already ensured via the Single Information Point.

## **Section II**

### **Agreement on Coordination of Activities**

**Article 44.** (1) Network operators may negotiate agreements with electronic communications network operators on the coordination of activities with a view to deploying elements of electronic communications networks or joint construction or maintenance of physical infrastructure.

(2) Electronic communications network operators may negotiate agreements with network operators of other networks on the coordination of activities for joint construction or maintenance of physical infrastructure.

(3) Upon conclusion of an agreement referred to in Paragraph (1) or under Paragraph (2), the time limits for the issuing of administrative acts established by law shall be reduced by one-third but may not be shorter than seven days.

**Article 45.** (1) Network operators which are entities contracting construction works and deployment activities, either fully or partially financed by public means, shall meet any reasoned request for the coordination of the activities, made by the electronic communications network operators for:

1. the construction or maintenance of physical infrastructure, or
2. the deployment of elements of electronic communications networks.

(2) The activities referred to in Paragraph (1), which are related to high-speed electronic communications networks, shall have precedence.

(3) The request referred to in Paragraph (1) shall be met by the network operator provided that:

1. this will not entail any additional costs, as well as delays, for the initially envisaged activities under Paragraph (1);

2. this will not impede control over the coordination of the activities under Paragraph (1), and

3. the request is filed within one month from the publication of the development proposal in the Single Information Point but not less than one month before:

(a) the submission of an application for an authorisation for the elaboration of a detailed plan, including a parcelling plan, or a diagrammatic layout: in cases of joint construction of physical infrastructure;

(b) the submission of an application for approval of the conclusively elaborated project by



the competent authority: in cases of activities for the physical infrastructure which do not require the elaboration of a detailed plan or a diagrammatic layout;

(c) the submission of an application for the issuance of a building permit by the competent authority: in cases where an approval of a development proposal is not required;

(d) the commencement of the activities made public by the network operator: in cases where the issuance of a building permit is not required.

(4) Network operators referred to in Paragraph (1) shall make public the development proposals thereof in the Single Information Point.

(5) The costs associated with the coordination and implementation of the activities referred to in Paragraph (1) may be apportioned between the parties by agreement between them.

**Article 46.** Where an agreement on the coordination of the activities is not achieved within one month from the date of receipt of a request under Article 45 herein, each of the parties shall be entitled to refer the issue to the Commission.

## **Chapter Six**

# **DEPLOYMENT OF ELECTRONIC COMMUNICATIONS NETWORKS AND CONSTRUCTION OF ASSOCIATED PHYSICAL INFRASTRUCTURE**

## **Section I**

### **Activities of Physical Infrastructure Construction for Electronic Communications Networks Deployment**

**Article 47.** (1) The activities of development-project designing, clearance and approval of development-project designs, or the issuance of building permits and commissioning of physical infrastructure for the deployment of electronic communications networks and transceivers shall be carried out under the terms and according to the procedure established by the Spatial Development Act.

(2) Upon the design, construction or extension and operation of underwater physical-infrastructure line projects necessary for the implementation of electronic communications, positioned on the seabed or the subsoil thereof within the boundaries of the internal marine waters, the territorial sea, the Bulgarian section and in the flood plain of the River Danube, the provisions of the Maritime Space, Inland Waterways and Ports of the Republic of Bulgaria Act shall apply as well.

(3) The construction works referred to in Paragraph (1) shall be categorised according to the Spatial Development Act.

(4) The design and placing of cables, including dark fibres, shall not constitute activities referred to in Paragraph (1) and shall be deployed subject to the requirements of this Act.

**Article 48.** (1) The municipality mayor shall be obliged to submit the report and the draft detailed plan under Article 129 of the Spatial Development Act for the construction of physical infrastructure for the deployment of electronic communications under Article 47 (1) to (3) within 14 days from the adoption of the draft detailed plan by the expert board of the municipality.

(2) The time limits for the approval of the development-project design and for the issuance of a building permit for physical infrastructure for the deployment of electronic communications

networks shall be determined according to the Spatial Development Act.

(3) The development-project design for the construction of line physical infrastructure for the deployment of electronic communications networks shall be cleared by the contracting entity with the network operators stewarding physical infrastructure in the immovables included in the scope of the development-project design within 30 days from the receipt of the request for clearance. Any refusal must be reasoned, stating specific grounds for rendering the refusal on the basis of objective, transparent, non-discriminatory and proportionate criteria.

(4) The approved development-project designs and/or permits issued under Paragraph (2) shall be transmitted to the applicant within seven days from their entry into effect, and the reasoned rejections shall be transmitted within seven days from rendition.

(5) In cases where a special law does not provided for a time limit for the issuance of the instrument and/or clearance of a step or document related to the implementation of activities under this Act, the competent authority or the network operator shall be obliged to issue the instrument or to clear the step or document, or to render a reasoned refusal within 14 days from the receipt of the request.

## **Section II**

### **General Rules for Activities of Electronic Communications Network Deployment and Associated Physical Infrastructure Construction**

**Article 49.** The deployment and installation of an electronic communications network which does not constitute physical infrastructure shall be carried out according to the procedure established by this Act.

**Article 50.** (1) The route of the line physical infrastructure for the deployment of electronic communications networks shall be determined by the detailed plan approved under the terms and according to the procedure established by the Spatial Development Act. The data from the cadastral map and the cadastral registers and maps and specialised registers and information systems, as well as from the available plans referred to in § 6 (7) of the Transitional Provisions of the Spatial Development Act, shall be used upon the selection of a route.

(2) Where the route of the physical infrastructure for electronic communications networks is outside the scope of the road, a detailed plan - parcelling plan shall be prepared.

(3) Preparation of a detailed plan shall not be required:

1. where the route of the physical infrastructure for a cable electronic communications network is within the scope of an existing road, as well as of the servitudes allotted for power lines, gas lines, water-supply and sewerage networks, railway and other technical-infrastructure line projects within the meaning given by the Spatial Development Act;

2. where an electronic communications network operator which is a servitude holder deploys a new electronic communications network and/or constructs physical infrastructure whose servitude falls entirely within the servitude of the existing network;

3. upon the construction of elements of the infrastructure for the deployment of an electronic communications network from the record line of the immovable wherein the said elements are constructed up to the access entry point to a building.

(4) Approval of a diagrammatic layout to a detailed plan shall not be required for:

1. existing physical infrastructure, recorded on the cadastral map or in a cadastral plan;

2. transceivers of wireless electronic communications networks installed in, on or along

buildings, structures or existing physical infrastructure.

(5) Paragraphs (3) and (4) shall furthermore apply to the central-government departments referred to in Article 1 (4) herein.

**Article 51.** (1) The activities related to the deployment of an electronic communications network, which are carried out according to the procedure established by this Act, shall be:

1. pulling and/or hanging communications cables, and/or installation of other elements of electronic communications networks in a pre-existent or tolerable physical infrastructure within the meaning given by § 21 of the Final Provisions of the Spatial Development Act and, respectively, § 127 of the Transitional and Final Provisions of the Act to Amend and Supplement the Spatial Development Act (promulgated in the State Gazette No. 82 of 2012; amended in No. 66 of 2013, No. 98 of 2014 and No. 101 of 2015);

2. maintenance of elements and equipment of electronic communications networks.

(2) When carrying out the activities referred to in Paragraph (1), the requirements of fire safety, protection of human health and life and safe operation shall be complied with in case of a change of the technical characteristics of the elements of the electronic communications network.

**Article 52.** (1) The electronic communications network deployment activities under Article 51 (1), item 1 herein shall be carried out on the basis of:

1. a design prepared by a person possessing the requisite licensed designer competence, and  
2. an opinion of a structural engineer and an engineer professionally qualified in the field of communications with instructions for the performance of the installation work.

(2) Electronic communications network operators shall clear in advance the designs prepared in accordance with Item 1 of Paragraph (1) with the network operators stewarding the physical infrastructure concerned, with a view to complying with the requirements of the special laws regulating the construction and/or operation of the said infrastructure.

**Article 53.** (1) After the completion of the electronic communications network deployment activities under Item 1 of Article 51 (1) herein in, on or along physical infrastructure whereby services are provided under the Energy Act, a memorandum shall be drawn up, describing the installation work performed and certifying compliance with:

1. the provisions of the contract granting access to, and sharing of, physical infrastructure in connection with the installation work;

2. the projections of the design referred to in Item 1 of Article 52 (1) herein whereunder the network operator has obtained clearance under Article 52 (2) herein;

3. the instructions for the performance of the installation work, provided for in the opinion referred to in Item 2 of Article 52 (1) herein.

(2) The memorandum referred to in Paragraph (1) shall be signed by:

1. the electronic communications network operator;

2. the network operator;

3. the person who prepared the design referred to in Item 1 of Article 52 (1) herein;

4. the person who prepared the opinion referred to in Item 2 of Article 52 (1) herein;

5. the persons who performed the installation work, unless the installation was carried out by the electronic communications network operator.

(3) By signing the memorandum referred to in Paragraph (1) without observations:

1. the network operator shall certify that the electronic communications network deployment activities under Item 1 of Article 51 (1) herein have been carried out in accordance with the conditions for the said activities in the contract and with the conditions whereunder clearance was obtained under Article 52 (2) herein;

2. the person who prepared the design referred to in Item 1 of Article 52 (1) herein shall

certify that the electronic communications network deployment under Item 1 of Article 51 (1) herein were carried out in accordance with the projections of the design;

3. the person who prepared the opinion referred to in Item 2 of Article 52 (1) herein shall certify that the electronic communications network deployment activities under Item 1 of Article 52 (1) herein were carried out in accordance with the conditions of the opinion;

4. the person referred to in Items 1 and 5 of Paragraph (2) shall certify that the electronic communications network deployment activities under Item 1 of Article 51 (1) herein were carried out in accordance with the requirements of this Act and of the ordinance referred to in Article 63 (5) herein.

**Article 54.** (1) The electronic communications network operator shall transmit to the Single Information Point an application for registration of the network, accompanied by information on the implementation of the electronic communications networks deployment activities under Item 1 of Article 51 (1) herein within one month from the implementation of the said activities. The information shall furthermore be transmitted to the mayor of the municipality within whose territory the network is deployed.

(2) A copy of the memorandum, signed by the persons referred to in Article 53 (2) herein, shall be attached to the application referred to in Paragraph (1).

(3) The procedure of carrying out the electronic communications network deployment activities shall be completed by registration of the memorandum referred to in Article 53 (1) herein in the Single Information Point.

(4) The Single Information Point shall register electronic communications networks within seven days from the receipt of the application referred to in Paragraph (1).

(5) Where the Single Information Point does not register or does not issue an express refusal within the time limit referred to in Paragraph (4), the electronic communications network shall be considered registered.

**Article 55.** (1) The Single Information Point shall not effect the registration under Article 54 (4) herein and shall notify the mayor of the municipality concerned where:

1. a memorandum referred to in Article 53 (1) herein is not attached to the application referred to in Article 54 (1) herein;

2. the memorandum referred to in Article 53 (1) herein, attached to the application referred to in Article 54 (1) herein, is not signed by all persons referred to in Article 53 (2) herein;

3. the memorandum referred to in Article 53 (1) herein, attached to the application referred to in Article 54 (1) herein, is signed with observations by some of the persons referred to in Article 53 (2) herein.

(2) In the cases referred to in Paragraph (1), the mayor or an official empowered thereby shall order the conduct of a check of the electronic communications network.

(3) In case the municipality mayor ascertains upon the conduct of the check under Paragraph (2) that there is a ground for removal under Article 64 (1) or under Article 66 (1) herein, the said mayor shall issue an order for the removal of the elements of the electronic communications network where to a ground for removal applies.

**Article 56.** (1) In case of breakdowns of an underground physical infrastructure for electronic communications networks which require immediate response, the electronic communications network operator stewarding the physical infrastructure concerned may forthwith commence the requisite repair and shall so notify the municipal administration concerned and the owners of the lots involved.

(2) In the cases referred to Paragraph (1), the electronic communications network operator stewarding the infrastructure shall notify the network operators where the physical infrastructure

is shared.

**Article 57.** (1) Electronic communications network operators shall create and maintain selective maps, registers and information systems within the meaning given by the Cadastre and Property Register Act, including in electronic form, in respect of the electronic communications networks and facilities deployed thereby and the related physical infrastructure.

(2) The content of the selective maps and registers referred to in Paragraph (1), as well as the terms and procedure for the creation and maintenance thereof and the formats in which the said maps and registers are maintained electronically, shall be established by an ordinance issued by the Minister of Transport, Information Technology and Communications and the Minister of Regional Development and Public Works.

(3) The following shall be made available to the electronic communications network operator for the preparation of the selective maps and registers of electronic communications networks and the physical infrastructure:

1. cadastral data: by the Geodesy, Cartography and Cadastre Agency;
2. specialised data: by the electronic communications network operators, by the network operators or by the Geodesy, Cartography and Cadastre Agency: in case the said data have been provided to the Agency by a network operator;
3. copies of the cadastral plans of underground lines and facilities: by the municipal administration and/or by central-government departments and legal persons which keep such plans;
4. copies of the approved development-project designs and executive documents on the existing physical-infrastructure projects of electronic communications network operators: by the technical archives of the municipality concerned.

(4) The State bodies and the bodies of the municipal administration under Paragraph (3) shall make the information referred to in Paragraph (3) available free of charge.

**Article 58.** (1) Electronic communications network operators shall be owners of the electronic communications networks, facilities and the related physical infrastructure which are deployed or, respectively, constructed thereby and are included as assets in the balance sheet thereof and/or are acquired by law or a legal transaction.

(2) Any transactions whereby electronic communications networks, facilities and the related infrastructure with the exception of buildings are disposed of shall be effected in writing with notarised signatures and shall not be subject to recording. Electronic communications networks and the related infrastructure, with the exception of buildings, may be subject of a registered pledge within the meaning given by the Registered Pledges Act.

(3) Where electronic communications networks and/or with physical infrastructure for electronic communications networks, which are hosted by or, respectively, constructed in physical infrastructure of another network operator, are disposed of, the transferee shall be obliged to notify the network operator within three days from the conclusion of the contract under Paragraph (2).

**Article 59.** Electronic communications network operators shall be entities contracting construction of physical infrastructure for the deployment of electronic communications networks, including transceivers, within the meaning given by Article 161 of the Spatial Development Act, as well as interested parties within the meaning given by Article 124a (5) of the Spatial Development Act.

**Article 60.** (1) The entity contracting building and erection works shall relocate electronic communications networks and physical infrastructure which hosts the said networks at its own costs according to the procedure established by Article 64 (5) of the Spatial Development Act,

unless the parties have agreed otherwise or a special law provides otherwise.

(2) If electronic communications networks need additional protection, the costs shall be borne by the owner of the said networks, unless the parties have agreed otherwise or a special law provides otherwise.

**Article 61.** (1) Sharing under this Act does shall not limit the right of network operators of physical infrastructure to implement freely any development initiatives and proposals related to the infrastructure owned thereby according to the procedure provided for by the law and entailing the removal or relocation of the said infrastructure.

(2) The network operator shall notify the electronic communications network operator wherewith the said network operator has concluded a contract for access to, and sharing of, physical infrastructure, of the development proposals thereof related to the said infrastructure, within an appropriate time in advance of the commencement of the building and erection works.

(3) The period referred to in Paragraph (2) may not be shorter than six months, save in exceptional cases expressly specified in the general terms and conditions for access to, and sharing of, the physical infrastructure of the network operator concerned.

(4) By the notification referred to in Paragraph (2), the network operator shall offer the electronic communications network operators the deployment of the electronic communications networks in another available or future physical infrastructure in the area, if any such infrastructure exists or is to be constructed.

(5) in case the electronic communications network operator agrees with the offer for relocation, the costs of relocation of the electronic communications network or of the deployment thereof in another physical infrastructure of the network operator shall be borne by the electronic communications network operator with the exception of the costs of clearance of a design under Article 52 herein.

(6) Where the electronic communications network operator does not agree with the offer referred to in Paragraph (4) and it is not agreed otherwise, the operator may continue to use the physical infrastructure until the said infrastructure is actually removed or relocated.

(7) The contract for deployment shall be terminated ex lege in the part thereof regarding the removed or relocated infrastructure as from the removal thereof, without compensation for the termination being due.

**Article 62.** The central executive authorities and the bodies of local self-government, exercising the rights of the State or of the municipality in an electronic communications network operator shall separate the powers thereof for management and control of the said electronic communications network operators from the powers related to approval of development-project designs and issuance of building permits and rights granting activities under this Act, in separate structural units.

**Article 63.** (1) Cable electronic communications networks shall be deployed underground. The deployment may be implemented in a physical infrastructure under conditions of sharing according to the procedure established by this Act.

(2) Cable electronic communications networks may be deployed overhead only:

1. outside urbanised-area boundaries;
2. within urbanised areas with a population not exceeding 10,000 residents;
3. in quarters, parts of quarters falling within spatial-development residential areas with predominantly low-rise building development of urbanised areas with a population exceeding 10,000 residents in which underground physical infrastructure of a network operator is unavailable or inaccessible and pole physical infrastructure of a network operator is available.

(3) Overhead deployment of cable electronic communications networks shall be

inadmissible in dispersed settlements of national importance, as well as in nucleated settlements or parts thereof which have been designated reserves of historic, archaeological, ethnographic or architectural importance.

(4) The presence of the conditions referred to in Paragraph (2) and the absence of the impediments referred to in Paragraph (3) shall be certified to the network operator by a declaration by the electronic communications network operator in the application for access to, and sharing of, physical infrastructure with a view to the overhead deployment of an electronic communications network, and the network operator shall not be obliged to conduct a check of its own.

(5) Acting on a motion by the Minister of Transport, Information Technology and Communications and the Minister of Energy, the Council of Ministers shall adopt an ordinance thereby establishing:

1. the rules and standards for the deployment, design and dismantling of electronic communications networks;

2. the rules for the maintenance, operation and removal of electronic communications networks on or in physical infrastructure of energy companies, which is used for the provision of services of general interest under the Energy Act.

**Article 64.** (1) The following shall be subject to removal:

1. any electronic communications networks deployed in violation of the provisions of this Act or of the ordinance referred to in Article 63 (5) herein;

2. any elements of electronic communications networks deployed when carrying out electronic communications network deployment activities, for which:

(a) a design referred to in Item 1 of Article 52 (1) herein has not been prepared or the said elements do not conform to the said design;

(b) an opinion referred to in Item 2 of Article 52 (1) herein has not been prepared or the said elements do not conform to the said opinion;

(c) advance clearance referred to in Article 52 (2) herein has not been obtained or the said elements do not conform to the clearance as obtained;

3. any electronic communications networks deployed in, on or along physical infrastructure of another network operator without a concluded contract or on the basis of a terminated or rescinded contract:

(a) where the said networks have not been removed according to the procedure established by Articles 66 and 67 herein within six months from the occurrence of any of the conditions referred to in Article 67 (1) herein, or

(b) of which the network operator is aware, unless the said operator has sent or published an invitation under Article 66 (2) or (3) herein within six months from the date on which the network operator became aware of the network.

(2) The circumstances referred to in Items 1 and 2 of Paragraph (1) shall be established by an instrument of ascertainment drawn up by an official designated by the municipality mayor within seven days from the ascertainment of the violation.

(3) In the cases referred to in Items 1 and 2 of Paragraph (1), the instrument of ascertainment shall be served on the owner of the electronic communications network according to the procedure established by the Administrative Procedure Code.

(4) Where the owner is unknown, the instrument of ascertainment shall be prominently displayed at the places appointed to this end in the building of the municipality, borough or mayoralty, in the presence of two witnesses, and shall simultaneously be posted on the Internet site of the relevant municipality and shall be sent for publication in the Single Information Point

by an official designated by the municipality mayor.

(5) The circumstances referred to in Item 3 of Paragraph (1) shall be established by agreement between the operators or a decision of the Commission, if no agreement can be reached between the said operators.

(6) The owner of the electronic communications network or, respectively, the network operator stewarding physical infrastructure, can lodge an objection within seven days from the date on which the instrument of ascertainment was served or published in the Single Information Point.

**Article 65.** (1) The municipality mayor shall issue an order on the removal of the electronic communications network within 14 days from the service of the instrument of ascertainment according to the procedure established by Article 64 (3) herein or from the prominent display of the said instrument according to Article 64 (4) herein.

(2) Where the instrument of ascertainment has been communicated under the terms established by Article 64 (4) herein and an objection has not been received within the time limit referred to in Article 64 (6) herein, the owner of the immovable or the physical infrastructure which hosts the electronic communications network shall be a person liable under the order on removal.

(3) Orders on the removal of electronic communications networks shall be issued, communicated, appealed and enforced under the terms according to the procedure established by the Administrative Procedure Code.

**Article 66.** (1) Any electronic communications networks which are deployed in, on or along physical infrastructure of other network operators without a concluded contract or on the basis of a terminated or rescinded contract shall be removed.

(2) In case a network operator finds any elements of an electronic communications network which are deployed in the physical infrastructure stewarded by the said operator by a third-party electronic communications network operator without a concluded contract, as well as in the cases of a terminated or rescinded contract, the network operator shall transmit an invitation in writing to the electronic communications network operator, requesting the said operator to remove the electronic communications network at its own costs within a reasonable period specified in the invitation which may not be shorter than two months reckoned from the receipt of the said invitation.

(3) Where the electronic communications network operator is unknown, the network operator shall publish the invitation on the Internet site thereof and in the Single Information Point.

(4) The electronic communications network operator may contest the circumstances referred to in Paragraph (1) before the Commission within 14 days from the receipt of the invitation referred to in Paragraph (2) or from the publication of the said invitation in the Single Information Point.

**Article 67.** (1) The network operator may remove the electronic communications network at the costs of the owner of the said network under Article 66 herein if the following conditions are fulfilled:

1. the electronic communications network operator has not submitted a request to the Commission within the time limit referred to in Article 66 (4) herein and has not removed the network voluntarily within the period specified in the invitation under Article 66 (2) herein, or

2. there is an enforceable decision whereby the Commission has given a mandatory instruction for the removal of the electronic communications network.

(2) The process and procedure for removal under Paragraph (1) shall be established by the



ordinance referred to in Article 63 (5) herein.

(3) Any electronic communications networks deployed in another's physical infrastructure without a concluded contract or on the basis of a terminated or rescinded contract shall not be subject to removal if the following conditions apply:

1. there is no ground for removal under Item 1 of Article 64 (1) herein;
2. the electronic communications networks comply with the requirements of the special laws regulating the construction and operation of the physical infrastructure which hosts the said networks;
3. a contract for deployment between the network operator stewarding the physical infrastructure and the owner of the electronic communications network has been concluded before the expiry of the period referred to in Article 66 (2) herein;
4. the owner of the electronic communications network has compensated the network operator stewarding the physical infrastructure for the period during which the said owner used the said physical infrastructure without a legal basis, but for not more than six months.

**Article 68.** The network operator shall not be obliged and shall not be liable for the storage or preservation of the dismantled elements of electronic communications networks, where the said operator removes the said elements on the basis of an order under Article 65 (1) herein, an agreement or a decision under Article 64 (5) herein, or under the terms and according to procedure established by Articles 66 and 67 herein.

## **Chapter Seven**

# **IN-BUILDING ELECTRONIC COMMUNICATIONS NETWORKS AND INFRASTRUCTURE**

## **Section I**

### **In-Building Physical Infrastructure for Electronic Communications Network Deployment**

**Article 69.** (1) Physical infrastructure for the deployment of elements of electronic communications networks shall be constructed in a jointly owned building or in common parts of a condominium-ownership building on the basis of a written contract with the consent of the owners holding at least one half of the ownership in the building and, in the case of condominium ownership, on the basis of a resolution of the owners' general meeting according to the procedure established by Article 17 (3) of the Condominium Ownership Management Act.

(2) Elements of electronic communications networks for the provision of electronic messages in order to connect a user in a condominium-ownership building to an existing in-building cable electronic communications network shall be deployed acting on an application from the user to the electronic communications network operator, without the need of concluding a contract under Paragraph (1).

(3) When the user submits a withdrawal statement, elements of electronic communications networks shall be removed by and at the costs of the electronic communications network operator within one month from the termination of the contract under Paragraph (2).

**Article 70.** (1) New buildings under joint ownership, as well as existing buildings in which major renovation is envisaged to be carried out, shall be equipped with a high-speed-ready in-building physical infrastructure, up to the network termination points.

(2) One or more access points shall be envisaged in the designs of new condominium-ownership buildings, as well as in the event of major renovation of existing buildings.

**Article 71.** (1) Buildings equipped with a high-speed-ready physical infrastructure, up to the network termination points, as well as with an access point, shall be eligible to receive the voluntary 'high-speed-ready' label.

(2) The dimensions, shape and affixation of the label referred to in Paragraph (1) shall be determined by an order of the Minister of Transport, Information Technology and Communications.

**Article 72.** The construction of a high-speed-ready physical infrastructure in new buildings shall not be mandatory for:

1. single dwellings and holiday homes;
2. military buildings or other buildings used for national security purposes.

**Article 73.** The conditions for the deployment of high-speed electronic networks and construction of an access point in buildings shall be laid down by the ordinance referred to in Article 63 (5) herein.

## **Section II**

### **Granting Access to, and Sharing of, Existing In-Building Physical Infrastructure**

**Article 74.** An electronic communications network operator shall have the right:

1. to roll out its own electronic communications network up to the access point;
2. to roll out, under the conditions established by Article 69 (1) herein, its own electronic communications network in an existing in-building physical infrastructure;
3. to construct a new in-building physical infrastructure for the deployment of elements of electronic communications networks if using the existing infrastructure is technically impossible.

**Article 75.** (1) The network operator of an existing in-building physical infrastructure and/or another person owning the in-building high-speed-ready access point shall meet reasoned requests for access from public communications network providers under fair and non-discriminatory terms and conditions, including price.

(2) The request referred to in Paragraph (1) shall be met within seven days from the date of receipt of the said request.

(3) In case agreement on granting access to an existing in-building physical infrastructure and to the access point is not achieved within the time limit referred to in Paragraph (2), each party shall have the right to refer the issue to the Commission.

**Article 76.** Each electronic communications network operator shall have the right to access an existing in-building physical infrastructure suitable for rolling out high-speed networks, in cases where the construction of a separate physical infrastructure is technically impossible or economically inefficient.

**Article 77.** Where the building is equipped with an electronic communications network that terminates at the premises of the end user and that is suitable for the provision of high-speed electronic communications services, the electronic communications network operators shall have the right to access the network, provided that a user has applied for the provision of electronic communications services over the said network. The terms and conditions for access must be objective, officially laid down and reasoned, proportionate and non-discriminatory, including if

determined by a network operator.

**Article 78.** In the absence of available high-speed-ready in-building infrastructure, electronic communications network operators shall have the right to terminate the network thereof at the premises of the subscriber with minimised impact on immovables owned by third parties, including by reusing the existing in-building physical infrastructure or by ensuring full restoration of the immovable to the condition prior to the deployment of the network.

**Article 79.** The granting of access to existing physical infrastructure shall not entail joint ownership of the access point of the originally constructed physical infrastructure or of the immovable wherein they are constructed.

**Article 80.** Compensations for the damage suffered as a result of granting and enjoying access to and exercising the rights under this Section shall be determined according to the legislation in force.

## **Chapter Eight**

### **DISPUTE RESOLUTION**

**Article 81.** (1) The Commission shall resolve disputes under this Act in connection with the granting of access to, and/or sharing of, physical infrastructure, including:

1. applying conditions and prices for access in accordance with this Act and the instruments of secondary legislation for the application thereof;
2. deploying electronic communications networks;
3. coordinating activities under Section II of Chapter Five herein;
4. providing information concerning existing physical infrastructure and planned construction works;
5. on-site surveys of a specified part of physical infrastructure and granting access to in-building physical infrastructure.

(2) When resolving a dispute related to applying conditions and prices for access to physical infrastructure which are not determined in advance by an instrument of a competent authority, the Commission shall verify whether the conditions and/or prices for access determined by the network operator comply with the requirements of this Act or of the instruments of secondary legislation for the application thereof.

(3) When resolving a dispute related to physical infrastructure that is deployed or constructed for the needs of electronic communications, the Commission shall adopt its own decision in accordance with the purposes referred to in Article 4 of the Electronic Communications Act.

(4) When resolving a dispute related to physical infrastructure constructed for the needs of networks other than electronic communications networks, the Commission shall adopt a decision in accordance with a binding opinion of the competent authorities which are vested with powers to regulate and control the core activity of the network operators related to public use and/or delivery of services, according to Item 3 (a) and (b) of § 1 of the Supplementary Provisions herein.

(5) When determining whether the prices for access conform to the methodology referred to in Article 3 (5) herein, regard shall be had to the opportunity of the network operator to recover the costs thereof and the impact of the requested access on the business plan of the said operator, including the investments made thereby, shall be taken into account.

(6) When resolving a dispute relating to access to physical infrastructure of electronic communications networks, in investigating the investments, full account shall be taken of the

economic viability of those investments based on the risk profile thereof, any time schedule for the return on investment, any impact of access on downstream competition and, consequently, on prices and return on investment, any depreciation of the network assets on the day of the access request, any business case underpinning the investment, in particular in the physical infrastructures used for the provision of high-speed electronic communications services, and any possibility offered to the access seeker to co-deploy.

(7) When resolving disputes in connection with the coordination of activities under Chapter Five herein, the Commission shall determine fair and non-discriminatory terms respecting the principle of proportionality.

(8) The Commission shall collect fees for the examination of disputes under this Act. The amount of the fees, the time limits and the mode of payment thereof shall be established by a rate schedule adopted by the Council of Ministers on a motion by the Commission.

(9) The fee for the examination of the dispute shall be paid by the party which has submitted a request for the resolution of the said dispute.

(10) The fee and the costs paid shall be borne by the respondent party to the dispute in accordance with the granted portion of the request.

**Article 82.** (1) The Commission shall resolve disputes under this Act at the request of a network operator, giving mandatory instructions at the request of any of the parties involved.

(2) The request referred to in Paragraph (1) shall be submitted in writing and shall state the circumstances on which the said request is based. Evidence of the circumstances as stated and documentary proof of a fee paid shall be attached to the request.

(3) Within seven days from the receipt of the request, the Commission shall designate a specialised committee which shall include at least one qualified lawyer. Independent consultants and outside experts may be recruited to take part in the work of the specialised committee as members thereof.

(4) The specialised committee shall consider the request and the documents attached thereto within five days from the designation of the said committee.

(5) Should any deficiencies or non-conformities be ascertained in the documents referred to in Paragraph (2), the chairperson of the specialised committee shall notify in writing the person who submitted the request, allowing the said person seven days reckoned from the receipt of the notification to remedy the deficiencies or non-conformities.

(6) In case the deficiencies or non-conformities are not remedied within the time limit referred to in Paragraph (5), the Commission shall leave the request without consideration.

**Article 83.** (1) Within the time limit referred to in Article 82 (4) herein or within three days from the remedying of the deficiencies or non-conformities, the specialised committee shall transmit a copy of the request to the parties concerned, allowing the said parties seven days from the receipt to submit an opinion and evidence.

(2) The specialised committee shall have the right to require from an electronic communications network the information necessary for the settlement of the dispute within a reasonable period determined by the said committee.

(3) In the cases referred to in Article 81 (4) herein, the specialised committee shall transmit a copy of the request and all evidence taken to the relevant competent authority for an opinion shall be binding on the Commission.

(4) The competent authority referred to in Paragraph (3) shall be obliged to submit a binding opinion on the implementation of Article 81 (5) herein:

1. within 14 days reckoned from the receipt of the request referred to in Paragraph (2), in the cases referred to in Item 1 of Article 85 (2) herein;

2. within two months reckoned from the receipt of the request referred to in Paragraph (2), in the cases referred to in Item 2 of Article 85 (2) herein.

(5) In case an opinion from the relevant competent authority is not received within the period referred to in Paragraph (4), the Commission shall resolve the dispute on its own on the basis of an expert examination assigned thereby according to the procedure established by Article 49 of the Administrative Procedure Code.

(6) The costs of the expert examination referred to in Paragraph (5) shall be borne by the authority concerned under Paragraph (3).

**Article 84.** (1) The specialised committee shall examine the request as submitted and the opinions of the parties concerned, all evidence attached to the said request and opinions and, if necessary, shall require additional evidence, including the conduct of checks by empowered employees of the Commission.

(2) After all evidence is taken, the specialised committee shall deliberate the request and the evidence taken in the case at a session with the parties or with authorised representatives thereof.

(3) The parties concerned shall be notified in writing of the date, time and place of the session not later than five days in advance of the holding of the said session, and the notification shall specify that in case of non-appearance of representatives of the said parties, the request will be examined in their absence. The notification shall indicate the procedure according to which the parties can familiarise themselves with the evidence referred to in Paragraph (2).

(4) The specialised committee shall take minutes of the session which shall state:

1. the complement of the specialised committee and a list of the persons who attended the session;
2. presentation of the opinions of the parties;
3. findings of the specialised committee;
4. date on which the minutes were taken.

(5) Within 45 days from the receipt of the request referred to in Article 82 (1) herein or, respectively, from the remedying of the deficiencies or irregularities, the specialised committee shall prepare a report and shall lay the said report before the Commission, attaching thereto the documentation collected in the course of the procedure, the opinion of the authorities under Article 83 (3) herein and a draft decision of the Commission regarding the request.

**Article 85.** (1) The Commission shall consider the report referred to in Article 84 (5) herein at its first meeting after the submission of the said report, and in so doing the Commission may:

1. accept the results of the work of the specialised committee and adopt a reasoned decision on the request submitted under Article 82 (1) herein;
2. order additional steps to be taken for checking the factual situation, the analysing of the said situation by the specialised committee and preparing a new draft decision, setting a time limit.

(2) The Commission shall adopt a reasoned decision whereby the Commission shall give binding instructions on the request submitted or shall reject the said request within:

1. two months from the receipt of the request under Article 82 (1) herein or, respectively, from the remedying of deficiencies or irregularities: applicable to cases concerning:
  - (a) coordinating activities under Chapter Five herein;
  - (b) providing information concerning existing physical infrastructure and planned construction works;
  - (c) on-site surveys of a specified part of physical infrastructure;

(d) access to in-building physical infrastructure;

2. four months from the receipt of the request under Article 82 (1) herein or, respectively, from the remedying of deficiencies or irregularities: applicable to cases other than those referred to in Item 1.

(3) Upon adoption of a decision in the cases referred to in Article 81 (4) herein, the Commission shall take into account the binding opinion referred to in Article 83 (3) herein.

(4) The time limits referred to in Paragraph (2) may be extended by a maximum of two months only in exceptional circumstances.

(5) Within three days from the adoption of the decision referred to in Item 1 of Paragraph (1), the said decision shall be transmitted to the parties concerned and shall be posted on the Internet site of the Commission, with the exception of the information designated by the parties as constituting business secret.

(6) The decision referred to in Item 1 of Paragraph (1) shall be appealable according to the procedure established by the Administrative Procedure Code.

(7) The provisions of the Administrative Procedure Code shall apply to any matters unregulated in this Chapter.

**Article 86.** (1) The Commission may assist in amicable resolution of disputes under this Act at the written request of one of the parties to the dispute.

(2) Where the party involved has requested assistance in amicable resolution of a dispute, the Commission shall designate a specialised committee by a decision within seven days from the receipt of the said request.

(3) The specialised committee shall hear the opinions of the parties, shall clarify the reasons for which the request has been made, shall explain the adverse impact of a failure to achieve agreement, and shall render assistance in resolution of the dispute.

(4) If the parties fail to reach an agreement within 30 days from the receipt of the request, each of the parties involved under Paragraph (1) may approach the Commission within 14 days with a request to give binding instructions.

(5) The procedure for rendering assistance in achieving agreement shall be free of charge.

**Article 87.** (1) Independent consultants and outside experts under Article 82 (3) shall be designated at random from among the persons included in a public list endorsed by a decision of the Commission.

(2) Ministries, central-government departments, institutions, municipalities, professional and other organisations and scientific institutes shall propose the inclusion of experts in the list referred to in Paragraph (1).

(3) The proposals referred to in Paragraph (2) shall state the forename, patronymic and surname of the independent consultant and outside expert, an address for correspondence and a contact telephone number and details of the educational attainment, specialist qualifications, place of work, position held, length of employment service thereof, experience of preparing expert opinions.

(4) The circumstances referred to in Paragraph (3) shall be certified by the relevant documents, which shall be attached to the proposal.

(5) Proposals to amend and supplement the list endorsed under Paragraph (1) may be made until the end of September of the relevant calendar year, and the Commission will update the list until the end of October.

(6) The list referred to in Paragraph (1) shall be promulgated in the State Gazette and shall be posted on the Internet site of the Commission.

# **Chapter Nine**

## **CONTROL AND ADMINISTRATIVE PENALTY PROVISIONS**

### **Section I**

#### **Control**

**Article 88.** (1) Control over the implementation of the activities under this Act shall be exercised with regard to the following activities:

1. providing information under Chapter Three, Section I of Chapter Five and Chapter Six herein: by the Minister of Transport, Information Technology and Communications;
2. providing access under Chapter Four and Section II of Chapter Seven herein: by the Commission;
3. Chapter Six, in cases other than those referred to in Paragraph (1): by municipality mayors.

(2) In exercising control under Item 2 of Paragraph (1), the Commission shall interact with the Energy and Water Regulatory Commission and with the Minister of Transport, Information Technology and Communications. The terms and procedure for the said interaction shall be regulated by a joint instruction on a proposal from the Commission.

**Article 89.** (1) The Minister of Transport, Information Technology and Communications, the Chairperson of the Commission or, respectively, the municipality mayors shall issue an order empowering administration officials to exercise control under Article 88 (1) herein.

(2) In executing the functions thereof, the employees empowered under Paragraph (1) shall have the right:

1. to conduct checks and, when ascertaining violations, to draw up written statements according to the procedure established by the Administrative Violations and Sanctions Act;
2. to unobstructed access to the sites subject to control wherein the electronic communication networks and physical infrastructure are located;
3. to gain access to original documents, data, information, enquiries and other data media related to the exercise of control, from the persons under examination, as well as to seize certified copies of documents in connection with the implementation of the activity controlled and/or with the ascertainment of administrative violations under this Act;
4. to verify technical documents and data media, as well as other documents related to the implementation of the activity controlled and/or with the ascertainment of administrative violations under this Act;
5. to require from third parties information, abstracts and other documents necessary for carrying out cross-checks in connection with the exercise of control under this Act and/or with the ascertainment of administrative violations under this Act;
6. to give prescriptions to network operators to rectify non-conformities under this Act within a time limit set by the said employees.

(3) When discharging the official duties thereof, the employees empowered under Paragraph (1) shall be obliged:

1. to identify themselves by means of an identity card;
2. not to disclose any circumstances and facts of which they have become aware in the

course of, or in connection with, the discharge of the official duties thereof.

**Article 90.** (1) The authorities referred to in Article 89 (1) herein shall draw up an annual plan for control of the relevant activity controlled under this Act.

(2) The authorities referred to in Article 89 (1) herein shall conduct checks acting on written alerts about violations of the law and the statutory instruments of secondary legislation.

## **Section II**

### **Administrative Penalty Provisions**

**Article 91.** (1) Any public sector body or network operator, who or which:

1. in violation of Articles 9, 10 and 11 herein fails to make the information referred to in Article 4 (2) herein available to the Single Information Point, or

2. fails to make known transparent, proportionate and fair terms and conditions under Article 15 (2) herein, or

3. where an electronic communications network operator has submitted an application, fails to make available the information referred to in Article 39 herein concerning on-going or planned construction or deployment activities, or installation related to the physical infrastructure of the said operator, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 2,500.

(2) The sanction referred to in Paragraph (1) shall furthermore be imposed on any network operator who or which fails to arrange an on-site survey of the physical infrastructure to an electronic communications network operator and the grounds referred to in Article 27 (3) herein do not apply.

(3) Any repeated violations under Paragraphs (1) and (2) shall be punishable by a fine or by a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

**Article 92.** (1) Any network operator, who or which fails to provide access to, and/or sharing of, the physical infrastructure thereof or a right under Article 17 (1) herein when an electronic communications network operator makes a reasoned request for deployment and operation of elements of electronic communications networks, where this is technically and physically possible and the grounds under Article 21 herein do not apply, shall be liable to a fine or a penalty payment of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

(2) The sanction referred to in Paragraph (1) shall furthermore be imposed on any network operator or another person owning the high-speed-ready access point who or which unreasonably fails to meet a request under Article 75 (1) herein.

(3) The sanction referred to in Paragraph (1) shall furthermore be imposed on any network operator who or which concludes an agreement in breach of the requirements of Article 20 (4) to (9) herein.

(4) Any repeated violation under Paragraphs (1) to (3) shall be punishable by a fine or by a pecuniary penalty of BGN 1,500 or exceeding this amount but not exceeding BGN 5,000.

**Article 93.** Any electronic communications network operator, who or which fails to fulfil obligations imposed by the Commission for co-location and/or shared use of elements of physical infrastructure under Article 28 herein, shall be liable to a fine or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

**Article 94.** Any network operator, who or which unreasonably refuses to negotiate an agreement on the coordination of activities under Article 44 (1) or under Article 45 herein with an electronic communications network operator, shall be liable to a fine or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.



**Article 95.** Any electronic communications network operator, who or which violates Article 57 (1) herein, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

**Article 96.** Any person, who or which fails to comply with an enforceable decision of the Commission under Article 85 (2) herein, shall be liable to a fine or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000.

**Article 97.** Any electronic communications network operator, who or which fails to comply with an obligation under Article 23 (2) or (3) herein, shall be liable to a fine or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 3,000.

**Article 98.** Any owner of a servient estate, who or which relocates physical infrastructure which is the subject of a servitude hosting an electronic communications network without notifying the electronic communications network operator, in breach of the obligation under Article 33 (4) herein, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 2,500.

**Article 99.** (1) Any entity contracting a construction work, who or which fails to comply with an obligation under Article 60 (1) herein, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 2,500.

(2) The sanction referred to in Paragraph (1) shall furthermore be imposed on any network operator who or which fails to comply with an obligation under Article 61 (3), (4) and (5) herein.

**Article 100.** Any electronic communications network operator, who or which deploys cable electronic communications networks in breach of the requirements of Articles 63 (1) and (2) herein, shall be liable to a fine or to a pecuniary penalty of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000.

**Article 101.** (1) Any electronic communications network operator, who or which fails to comply with an order under Article 65 (1) herein, shall be liable to a fine or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000.

(2) The sanction referred to in Paragraph (1) shall furthermore be imposed on any network operator who or which removes elements of an electronic communications network in breach of the procedure and terms under Article 64, 65, 66 or 67 herein.

**Article 102.** Any electronic communications network operator, who or which deploys elements of the electronic communications networks or constructs an in-building physical infrastructure in violation of Article 69 herein, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

**Article 103.** Any entity contracting a construction work, who or which fails to comply with a requirement under Article 70 herein, shall be liable to a fine or to a pecuniary penalty of BGN 500 or exceeding this amount but not exceeding BGN 5,000.

**Article 104.** (1) Any person, who or which obstructs the exercise of control under Article 88 herein or who or which fails to comply with a mandatory prescription under Item 6 of Article 89 (2) herein, shall be liable to a fine or to a pecuniary penalty of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

(2) Any repeated violations under Paragraph (1) shall be punishable by a fine or by a pecuniary penalty of BGN 3,000 or exceeding this amount but not exceeding BGN 8,000.

**Article 105.** (1) Upon ascertainment of the violations covered under Articles 91 to 104 herein, the employees empowered under Article 89 (1) herein shall draw up written statements according to the procedure established by the Administrative Violations and Sanctions Act.

(2) On the basis of the written statements referred to in Paragraph (1), penalty decrees or reasoned endorsements on termination of the administrative penalty proceeding shall be issued

by:

1. the Minister of Transport, Information Technology and Communications or an official expressly empowered thereby: with regard to the violations under Article 91 herein;

2. the Chairperson of the Commission or an official expressly empowered thereby: with regard to the violations under Articles 92 to 96 herein;

3. the municipality mayor or an official expressly empowered thereby: with regard to the violations under Articles 97 to 103 herein.

(3) The competent authority referred to in Paragraph (2) or the official expressly empowered thereby shall issue penalty decrees or reasoned endorsements on termination of the administrative penalty proceeding for violations under Article 104 herein with regard to the control exercised thereby.

(4) The ascertainment of violations, the issuing, appeal and enforcement of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

## **SUPPLEMENTARY PROVISIONS**

**§ 1.** Within the meaning given by this Act:

1. "High-speed electronic communications network" shall be an electronic communications network which is capable of transmitting data at speeds of at least 30 Mbps, regardless of the technology according to which it is established (fixed or wireless).

2. "Electronic communications network" shall be a totality of conveyance facilities and, where applicable, switching and/or routing facilities and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity distribution networks, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable electronic communications networks used for broadcasting of radio and television programme services, irrespective of the type of information conveyed.

For the purposes of this Act, "electronic communications networks" shall be both public networks and networks for own use (including networks for the needs of State governance, technological electronic communications networks, such as those of the gas transmission lines and railway control, command and signalling systems).

3. "Network operator" shall be a person providing or authorised to provide public electronic communications networks and/or services, as well as a person having at its disposal or providing a technical infrastructure, including a physical infrastructure, intended to provide:

(a) a service of production, transport or distribution of:

(aa) natural gas;

(bb) electricity, including outdoor public lighting;

(cc) heat;

(dd) water, including disposal or treatment of waste water and sewage, and drainage systems;

(b) transport services, including railways, underground railway, roads, ports and airports.

For the purposes of this Act, "network operator" shall be the administration managing the road, as well as the entity contracting a new construction work or major renovation of existing roads in the urbanised areas or street technical-infrastructure networks and facilities and interior courtyard spaces, including municipalities.

4. "Electronic communications network operator" shall be:

(a) an undertaking providing or authorised to provide public communications networks and/or services, and

(b) an operator of an electronic communications network for the needs of State governance.

Electronic communications network operators shall be network operators within the meaning given by Item 3.

5. "Public sector body" shall be a body of State power, including the territorial units thereof, a body of local self-government, a body governed by public law, as well as any associations thereof.

6. "Repeated violation" shall be any violation committed within one year after the entry into effect of the penalty decree whereby the offender was penalised for a violation of the same type.

7. "Bodies governed by public law" shall be bodies that have all of the following characteristics:

(a) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

(b) they have legal personality;

(c) they are financed, in full or for the most part, by the State, or regional or local authorities, or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law.

8. "Permit" shall be a decision of a competent authority following any procedure under which an undertaking is required to take steps in order to legally carry out building or civil engineering works.

9. "Access point" shall be a physical point, located inside or outside the building, accessible to undertakings providing or authorised to provide public communications networks, where connection to the in-building physical infrastructure ready for the deployment of electronic communications networks is made available.

10. "Physical infrastructure" shall be any element of the network of a network operator referred to in Item 3 which is intended to host other elements of a network without becoming itself an active element of the network, such as pipes, masts, ducts, shafts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations, towers and poles.

Cables, including dark fibre, as well as elements of networks used for the provision of drinking water, shall not be physical infrastructure within the meaning given by this Act.

11. "In-building physical infrastructure" shall be physical infrastructure in the user's building, including under joint ownership and condominium ownership, intended to host electronic communications networks, that connects the building access point with the network termination point at the premises of the user.

12. "High-speed-ready in-building physical infrastructure" shall be physical infrastructure intended to host high-speed electronic networks or elements thereof (installations and facilities) and constructed simultaneously with the building and the other in-building systems.

13. "Electronic communications infrastructure" shall be electronic communications infrastructure referred to in Item 13 of § 1 of the Supplementary Provisions of the Electronic Communications Act.

14. "New building" shall be a building for which the proceeding for the approval of a development-project design and issuance of a building permit has commenced after the entry into

force of this Act. A proceeding shall be considered commenced as from the submission of the development-project design for approval by the competent authority.

§ 2. This Act transposes the requirements of Directive 2014/61/EC of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ L 155/1 of 23 May 2014).

## **TRANSITIONAL AND FINAL PROVISIONS**

§ 3. (1) Within seven months from the entry into force of this Act, network operators shall make public the terms and conditions for access to, and sharing of, the physical infrastructure thereof in accordance with this Act.

(2) Within seven months after the terms and conditions are made public under Paragraph (1), network operators and electronic communications network operators shall bring the effective contracts for access and/or sharing of physical infrastructure into conformity with this Act, the instruments on the application thereof and the terms and conditions for access of the operator concerned.

(3) Electronic communications network operators shall declare to network operators the will thereof to bring the effective contracts into conformity with the applicable terms and conditions for access to [and] sharing of the physical infrastructure of the operator concerned under Paragraph (2).

(4) In case of a dispute between an electronic communications network operator and a network operator with regard to the implementation of Paragraph (2), each of them may refer the issue to the Commission for resolution.

(5) The submission of an application under Paragraph (3) shall be considered provision of information under § 4 (1) herein in case the information referred to in § 4 (2) herein is provided attached to the said application.

§ 4. (1) Within six months after the terms and conditions of the network operator concerned for access to, and sharing of, the physical infrastructure in accordance with the requirements of this Act are made public, electronic communications network operators shall provide the network operator with information on the electronic communications networks deployed until the entry into force of this Act on, along or in the physical infrastructure thereof, in case:

1. there is no contract, or
2. the said networks are unmarked and unlabeled.

(2) The information referred to in Paragraph (1) shall cover:

1. type of the electronic communications network;
2. location and parameters of the electronic communications network;
3. other relevant data available to the electronic communications network operator.

(3) Within seven months after the terms and conditions of the network operator concerned for access to, and sharing of, the physical infrastructure thereof in accordance with the requirements of this Act are made public, the network operator and/or the electronic communications network operator may submit a request for the resolution of a dispute to the Commission, in case:

1. the total capacity of the physical infrastructure of the said operator for hosting electronic communications networks, determined according to the terms and conditions of the network operator for access to, and sharing of, the physical infrastructure thereof, is less than the capacity occupied by electronic communications networks in respect of which there is a contract by the date of entry into force of this Act and:

(a) information under Paragraph (2) has been provided but the said networks are unmarked and unlabeled, or

(b) the said networks are marked and labelled;

2. the unoccupied capacity left after subtracting the capacity occupied by electronic communications networks referred to in Item 1 (a) and (b) from the total capacity for hosting electronic communications networks, determined according to the terms and conditions of the network operator for access to, and sharing of, the physical infrastructure, is less than the capacity occupied by electronic communications networks in respect of which information has been provided under Paragraphs (1) and (2) and for which there is no contract by the date of entry into force of this Act.

(4) In responding under Paragraph (3), the Commission shall apply Article 20 (7) and (8) herein.

(5) Within 18 months from the provision of the information referred to in Paragraph (1) and (2) or from the entry into effect of a decision adopted on a dispute under Paragraph (3), the network operator and the electronic communications network operator that has provided information according to the procedure established by Paragraphs (1) and (2) shall conduct a joint check whereby it shall be ascertained whether the network:

1. complies with the requirements provided for in the applicable statutory instruments;

2. is deployed in accordance with the contract as concluded.

(6) The conduct of the check referred to in Paragraph (5) shall be certified by a memorandum signed by both parties.

(7) In the cases referred to in Paragraph (1), item 1 the network operator and the electronic communications network operator shall take action for the conclusion of a contract for deployment of an electronic communications network and, to this end:

1. if any non-conformities with the requirements referred to in Item 1 of Paragraph (5) were ascertained upon the check under Paragraph (5), the network operator and the electronic communications network operator must envisage terms and conditions in the contract for deployment, in addition to the terms and conditions referred to in Article 15 (2) herein, including a period of time, whereunder the electronic communications network operator is to bring the electronic communications network into conformity with the requirements referred to in Item 1 of Paragraph (5) and to label the electronic communications network according to the ordinance referred to in Article 63 (5) herein: in the cases referred to in Item 2 of Paragraph (1);

2. before the conclusion of the contract for deployment, the electronic communications network operator shall pay the network operator compensation for the period during which the said electronic communications network operator used the physical infrastructure without a valid contract, but for not more than six months; the compensation shall amount of the rental charge applicable for the relevant period.

(8) Paragraph (7) shall not apply if the electronic communications network operator has notified the network operator that the said electronic communications network operator will remove the electronic communications network voluntarily and at its own costs. In such case, the network operator shall determine an appropriate period of time for the removal, which may not be shorter than two months.

(9) In the cases referred to in Item 2 of Paragraph (1), the network operator shall determine an appropriate period of time in the memorandum referred to in Paragraph (6) wherewithin the electronic communications network operator must:

1. bring the electronic communications network into conformity with the requirements under Item 1 or 2 of Paragraph (5), whereupon the period of time determined by the network

operator may not be shorter than six months, or

2. remove the electronic communications network voluntarily and at its own costs, whereupon the period of time determined by the network operator may not be shorter than two months.

(10) The network operator and the electronic communications network operator may approach the Commission if a contract for deployment of an electronic communications network under Paragraph (7) is not concluded within two months from the signing of the memorandum referred to in Paragraph (6).

(11) Any electronic communications networks deployed until the entry into force of this Act shall be removed according to the procedure established by Articles 66, 67 and 68 herein where the said networks:

1. comply with any of the conditions referred to in Paragraph (1), in case the electronic communications network operators have not provided the network operators with the information referred to in Paragraph (2) in due time;

2. are designated as subject to removal according to an effective decision of the Commission under Paragraph (3);

3. are not brought into conformity by the electronic communications network operator within the period of time:

(a) agreed with the network operator according to Item 1 of Paragraph (7), or

(b) determined by the network operator under Item 1 of Paragraph (9);

4. are not removed voluntarily by the electronic communications network operator within the period of time determined by the network operator under Paragraph (8) or Item 2 of Paragraph (9).

(12) Any electronic communications networks deployed until the entry into force of the Act by electronic communications network operators along, on or in physical infrastructure of other network operators shall likewise be removed according to the procedure established by Articles 66, 67 and 68 herein, in case the contracts for the deployment of the said networks were terminated or rescinded after the entry into force of this Act, even if none of the conditions referred to in Items 1 and 2 of Paragraph (1) applies.

(13) Paragraph (12) shall not apply where a dispute under Paragraph (3) is pending before the Commission until the entry into effect of the decision.

(14) The provisions of Paragraphs (1) to (13) shall not apply to access to, and sharing of, network infrastructure which is subject to obligations imposed according to the procedure established by the Electronic Communications Act.

**§ 5.** (1) Any underwater physical-infrastructure line projects necessary for the implementation of electronic communications, positioned on the seabed or the subsoil thereof within the boundaries of the internal marine waters, the territorial sea, the Bulgarian section and in the flood plain of the River Danube, for which there are no constriction files or which do not comply with the requirements for the implementation of construction, may be used legally in case they comply with the following requirements:

1. they were constructed until the 19th day of March 2013, and

2. they are included as assets in the balance sheets or are acquired by law or legal transaction by electronic communications network operators.

(2) The presence of the conditions and the absence of the impediments referred to in Paragraph (1) shall be certified by all means of proof admissible under the Administrative Procedure Code.

(3) The physical-infrastructure projects referred to in Paragraph (1) shall not be subject to

removal and prohibition of use and may be transacted. Any networks, facilities and infrastructure referred to in Paragraph (1) may be expanded and extended and may be subject to repairs, redevelopment and remodelling, including an alteration of the assigned use, as well as to all permissible building and erection works. The activities referred to in the foregoing sentence may be carried out according to the standard procedure established by the law.

(4) The owners of physical-infrastructure projects referred to in Paragraph (1) shall be obliged to plot the said objects on selective maps, registers and information systems according to the procedure established by Article 57 herein not later than the 31st day of December 2018.

(5) The owners of physical-infrastructure projects referred to in Paragraph (1) and electronic communications network operators shall provide the Maritime Administration Executive Agency with the coordinates of the routes and safety zones thereof within six months from the entry into force of this Act.

**§ 6.** In the Service Activities Act (promulgated in the State Gazette No. 15 of 2010; amended in No. 83 of 2013, No. 14 of 2015 and No. 97 of 2016), in Item 3 of Article 2 (2) at the end, there shall be placed a comma and there shall be added "and under the Electronic Communications Networks and Physical Infrastructure Act".

**§ 7.** In the State Property Act (promulgated in the State Gazette No. 44 of 1996; amended in No. 104 of 1996, Nos. 55, 61 and 117 of 1997, Nos. 93 and 124 of 1998, No. 67 of 1999, Nos. 9, 12, 26 and 57 of 2000, No. 1 of 2001; [modified by] Constitutional Court Decision No. 7 of 2001, [promulgated in] No. 38 of 2001; amended in No. 45 of 2002, No. 63 of 2003, Nos. 24 and 93 of 2004, No. 32 of 2005, Nos. 17, 30, 36, 64 and 105 of 2006, Nos. 41, 59, 92 and 113 of 2007, Nos. 52 and 54 of 2008, Nos. 10, 17, 19, 33 and 41 of 2009, Nos. 18 and 87 of 2010, Nos. 19 and 47 of 2011, Nos. 45, 82 and 99 of 2012, No. 27 of 2013; [modified by] Constitutional Court Decision No. 6 of 2013, [promulgated in] No. 65 of 2013; amended in Nos. 66 and 109 of 2013, Nos. 40, 98 and 105 of 2014, Nos. 52, 60 and 61 of 2015, No. 81 of 2016 and Nos. 13, 58 and 96 of 2017), in § 1 of the Additional Provisions, after the words "electronic communications networks" there shall be inserted "and the physical infrastructure for the deployment thereof".

**§ 8.** The Electronic Communications Act (promulgated in the State Gazette No. 41 of 2007; amended in No. 109 of 2007, Nos. 36, 43 and 69 of 2008, Nos. 17, 35, 37, 42 of 2009; [modified by] Constitutional Court Decision No. 3 of 2009, [promulgated in] No. 45 of 2009; amended in Nos. 82, 89 and 93 of 2009, Nos. 12, 17, 27 and 97 of 2010, No. 105 of 2011, Nos. 38, 44 and 82 of 2012, Nos. 15, 27, 28, 52, 66 and 70 of 2013, Nos. 11, 53, 61 and 98 of 2014, No. 14 of 2015; [modified by] Constitutional Court Decision No. 2 of 2015, [promulgated in] No. 23 of 2015; amended in Nos. 24, 29, 61 and 79 of 2015, Nos. 50, 95, 97 and 103 of 2016 and Nos. 58, 85 and 101 of 2017 and No. 7 of 2018) shall be amended and supplemented as follows:

1. In Item 1 of Article 17 (1), after the words "an electronic communications network", there shall be inserted "and physical infrastructure for the deployment thereof."

2. In Item 9 of Article 20 (1), after the words "electronic communications networks", there shall be inserted "and physical infrastructure for the deployment thereof."

3. In Item 25 of Article 30 at the end, there shall be placed a comma and there shall be added "as well as disputes under the Electronic Communications Networks and Physical Infrastructure Act".

4. In Item 2 of Article 73 (3), after the words "electronic communications networks", there shall be added "and physical infrastructure for the deployment thereof."

5. In Article 74 (1):

(a) Item 2 shall be amended to read as follows:

"2. to establish, deploy, use and dispose of electronic communications networks and

physical infrastructure for the deployment thereof, as well as of facilities;"

(b) in Item 3, after the words "building permits for", there shall be inserted "physical infrastructure for the deployment of", and the words "according to the procedure and within the time limits under Article 281 (4) herein" shall be deleted.

6. In Item 2 of Article 109 (1), the word "newly established" shall be replaced by "new".

7. Chapter Seventeen with Articles 281, 281a to 281d, 282 to 299 shall be repealed.

8. Article 323b shall be repealed.

9. Article 332 shall be repealed.

10. In Article 336, the words "Articles 332, 334a" shall be replaced by "Article 334a".

11. Article 341 shall be repealed.

§ 9. The Spatial Development Act (promulgated in the State Gazette No. 1 of 2001; amended in Nos. 41 and 111 of 2001, No. 43 of 2002, Nos. 20, 65 and 107 and 2003, Nos. 36 and 65 of 2004, Nos. 28, 76, 77, 88, 94, 95, 103 and 105 of 2005, Nos. 29, 30, 34, 37, 65, 76, 79, 80, 82, 106 and 108 of 2006, Nos. 41, 53 and 61 of 2007, Nos. 33, 43, 54, 69, 98 and 102 of 2008, Nos. 6, 17, 19, 80, 92 and 93 of 2009, Nos. 15, 41, 50, 54 and 87 of 2010, Nos. 19, 35, 54 and 80 of 2011, Nos. 29, 32, 38, 45, 47, 53, 77, 82 and 99 of 2012, Nos. 15, 24, 27, 28, 66 and 109 of 2013, Nos. 49, 53, 98 and 105 of 2014, Nos. 35, 61, 62, 79 and 101 of 2015, Nos. 15 and 51 of 2016 and Nos. 13, 63, 92, 96 and 103 of 2017) shall be amended and supplemented as follows:

1. Item 6 of Article 64 (1) shall be amended to read as follows:

"6. transceivers and the rest of the physical infrastructure intended to host electronic communications networks;"

2. In Chapter Four of Part One, the title of Section VI shall be amended to read as follows: "Physical Infrastructure Intended to Host Electronic Communications Networks".

3. In Article 93:

(a) in Paragraph (1), the words "Underground electronic communications networks and facilities shall be constructed and placed" shall be replaced by "Underground physical infrastructure intended to host electronic communications networks shall be constructed";

(b) Paragraph (2) shall be amended to read as follows:

"(2) Physical infrastructure intended to host electronic communications networks shall be constructed in unregulated spatial-development areas on the basis of a plan referred to in Item 5 of Article 110 (1) herein.";

(c) Paragraph (3) shall be amended to read as follows:

"(3) If there is a detailed plan for a spatial-development area wherein no street network is laid, the physical infrastructure intended to host an electronic communications network shall be constructed in accordance with the street regulation projections and with the provisions of Article 210 herein for the account of the owner of the said network."

4. In Article 94, the words "shall project electronic communications systems and facilities which shall be constructed" shall be replaced by "shall project physical infrastructure intended to host electronic communications networks which shall be constructed".

5. In Article 137 (1):

(a) in Item 3, Littera (h) shall be amended to read as follows:

"(h) transceivers and the rest of the physical infrastructure for the deployment of electronic communications network of a trunk type at a national level or outside urbanised areas;"

(b) In Item 4, Littera (g) shall be amended to read as follows:

"(g) physical infrastructure for the deployment of electronic communications networks and facilities, constructed in urbanised areas with high-rise and medium-rise development;"

(c) In Item 5, Littera (e) shall be amended to read as follows:



"(e) physical infrastructure for the deployment of electronic communications networks and facilities, constructed in urbanised areas with low-rise development;"

6. In Article 147:

(a) in Paragraph (1), there shall be added Items 15 and 16:

"15. construction of physical infrastructure for the deployment of in-building cable electronic communications networks, including under joint ownership or condominium ownership;

16. construction of physical infrastructure for the deployment of cable electronic communications networks from the record line of the immovable wherein the said infrastructure is constructed up to the network entry point to the building.";

(b) There shall be added a new Paragraph (4):

"(4) A contract with the owner and opinions of a structural engineer and an engineer professionally qualified in the field of communications, with drawings, layouts, a note of the technical characteristics of the physical infrastructure and of electronic communications network which is envisaged to be hosted by the said infrastructure, and directions for execution shall be presented in respect of any construction works referred to in Items 15 and 16 of Paragraph (1)."

7. In Item 2 of Article 205, after the words "gas supply system installation", there shall be inserted "physical infrastructure for the deployment of".

**§ 10.** In the Condominium Ownership Management Act (promulgated in the State Gazette No. 6 of 2009; amended in No. 15 of 2010, Nos. 8 and 57 of 2011, No. 82 of 2012, No. 66 of 2013, No. 98 of 2014, Nos. 26 and 43 of 2016 and No. 88 of 2017), in Article 8 (2), there shall be added a sentence two: "The said ownership shall furthermore extend to the common parts of the building associated with the self-contained works of the entrance concerned."

**§ 11.** (1) The instruments on the application of this Act and the list referred to in Article 87 herein shall be adopted within six months after the entry into force of this Act.

(2) The statutory instruments of secondary legislation which have been issued on the basis of Chapter Seventeen of the Electronic Communications Act as hereby repealed shall apply to the extent that the said instruments do not contravene this Act. Until the entry into force of the methodology referred to in Article 3 (5) herein, network operators shall form prices respecting the principles referred to in Article 3 (6) herein.

(3) Within one month from the entry of this Act into force, the Minister of Transport, Information Technology and Communications shall take the necessary steps for the establishment of the Single Information Point.

(4) Public sector bodies which, by reason of the tasks thereof, hold information in electronic format under Article 4 (2) and Article 39 herein on physical infrastructure of the network operators, shall make the said information available to the Single Information Point within three months from the entry into force of this Act.

(5) Network operators shall make the minimum information referred to in Article 7 (2) herein, which they hold in electronic format, available to the Single Information Point within three months from the entry into force of this Act.

(6) The information referred to in Article 4 (4) herein shall be made available to the Single Information Point within six months from the entry into force of this Act.

**§ 12.** The Act shall enter into force as from the day of promulgation thereof in the State Gazette with the exception of Article 4 (3) herein, which shall enter into force two years after the promulgation of the Act in the State Gazette.

This Act was passed by the 44th National Assembly on the 22nd day of February 2018, and the Official Seal of the National Assembly has been affixed thereto.