

Decision No BoR/2024/01 of the Board of Regulators to establish a Procedure to address requests of NRAs of third countries to participate in the work of the Body of European Regulators for Electronic Communications (BEREC)

The Board of Regulators,

Having regard to Regulation (EU) 2018/1971 of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/20091 ("the BEREC Regulation") and in particular Articles 9¹ and 35 thereof;

Having regard to Decision BoR (19) 58 by the BEREC Board of Regulators on the Rules of Procedure of the Board of Regulators;

Whereas

1. Article 35(2) provides that the Board of Regulators, the Working Groups and the Management Board shall be open to the participation of regulatory authorities of third countries with primary responsibility in the field of electronic

¹ "The Board of Regulators shall have the following functions: (...) (i) to authorise, together with the Director, the conclusion of working arrangements with competent Union bodies, offices, agencies and advisory groups and with competent authorities of third countries and with international organisations in accordance with Article 35; (...)".

communications, where those third countries have entered into agreements with the Union to that effect;

2. Article 35(1) provides that BEREC and the BEREC Office may, subject to prior approval by the Commission, establish working arrangements with the NRAs of third countries.
3. On 17 January 2023, the Court of Justice stated in the Case C-632/20 P that “subject to the Commission’s prior approval, such arrangements should be agreed between BEREC and the BEREC Office, on the one hand, and the competent authorities of those third countries, on the other, and authorised jointly, as is apparent from Article 9(i) and Article 20(6)(m) of Regulation 2018/1971, by the Board of Regulators and the Director of the BEREC Office”.
4. BEREC and the BEREC Office renewed the working arrangements with AEC², AKEP³, ARKEP⁴, CRA⁵, EKIP⁶, RATEL⁷ at Plenary 2 in 2023.
5. ANRCETI⁸ and ComCom⁹ have approached BEREC with the intention to join BEREC and BEREC Office without voting rights.

Has adopted the following Decision:

Article 1

1. To establish a procedure and objective criteria to address requests to join the work of BEREC and BEREC Office from third countries NRAs, as attached in Annex 1.

Article 2

² AEC: Agency for Electronic Communications of North Macedonia

³ AKEP: Electronic and Postal Communications Authority of Albania

⁴ ARKEP: Regulatory Authority of Electronic and Postal Communications of Kosovo*.

⁵ CRA: Communications Regulatory Agency of Bosnia and Herzegovina

⁶ EKIP: Agency for Electronic Communications and Postal Services of Montenegro

⁷ RATEL: Regulatory Authority for Electronic Communications and Postal Services of the Republic of Serbia

**This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.*

⁸ ANRCETI: National Regulatory Agency for Electronic Communications and Information Technology of the Republic of Moldova

⁹ ComCom: Georgian National Communications Commission

2. This decision shall enter into force on the day of its adoption by the Board of Regulators.

Done in Zagreb, 31 January 2024

For the Board of Regulators

Tonko Obuljen

BEREC Chair 2024