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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the Association Council established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part as regards the further market opening with respect to the sector of roaming on public mobile communications networks and on amending Annex XXVIII-B (Rules applicable to telecommunication services) to that Association Agreement

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EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the Council decision setting out the position to be taken on the EU's behalf in the Association Council as regards the envisaged adoption of a decision (the 'envisaged act') to: (i) grant further reciprocal market opening with respect to the sector of roaming on public mobile communications networks and determine the conditions applicable to this measure; and (ii) amending Annex XXVIII-B (Rules applicable to telecommunication services) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part¹ (the 'Agreement'). This envisaged act is pursuant to Article 436(1), Article 449 and Article 452(2) of the Agreement.

Based on the EU's monitoring, in accordance with Article 450 of the Agreement, and the assessment the EU completed for the purpose of Article 451 of the Agreement, as submitted by the Commission in the form of a Commission staff working document, the envisaged act aims to further integrate the Republic of Moldova ('Moldova') into the EU's internal market with respect to the sector of roaming on public mobile communications networks and to determine the conditions applicable to this measure.

Taking into account the EU's assessment of approximation and monitoring, in accordance with Articles 449 and 450 of the Agreement, the envisaged act also aims to amend Annex XXVIII-B to the Agreement, to clarify the scope of the EU roaming *acquis*.

The envisaged act will enable end users of mobile services to benefit, subject to certain exceptional limitations, from regulated roaming services at their domestic retail prices when travelling between the EU and Moldova.

2. CONTEXT OF THE PROPOSAL

2.1. Association Agreement

The Agreement aims to: (i) create the conditions for enhanced economic and trade relations leading towards Moldova's further integration into the internal market of the EU, including by setting up a Deep and Comprehensive Free Trade Area, as stipulated in Title V (Trade and Trade-related Matters) of the Agreement; and (ii) support Moldova's efforts to complete the transition to a functioning market economy by means of, among other things, the progressive approximation of its legislation to that of the EU. The Agreement entered into force on 1 July 2016. Since then, Moldova has requested further integration with regard to roaming on public mobile communications networks in the EU, in particular through further reciprocal market opening for the purpose of such roaming. Granting further reciprocal market opening requires approximation to the EU roaming *acquis* and the effective implementation and enforcement of this *acquis* in Moldovan law. Before reciprocal further market opening can be granted, the Parties to the Agreement (the 'Parties') need to agree, based on an assessment by the EU, that the relevant *acquis* has been implemented and is being enforced. What constitutes the relevant *acquis* for roaming also needs to be clearly defined in Annex XXVIII-B to the Agreement.

2.2. Association Council

Pursuant to Article 436(1) and (3) of the Agreement, the Association Council has the power to take decisions within the scope of the Agreement, including to update or amend the annexes to the Agreement, without prejudice to any specific provisions under Title V (Trade and Trade-related

¹ OJ L 260 30.8.2014, p. 4, ELI: http://data.europa.eu/eli/agree_internation/2014/492/2023-10-06

Matters) of the Agreement. According to Article 452(2) of the Agreement, the Association Council agrees to further market opening, as defined in Title V (Trade and Trade-related Matters) of the Agreement, if the Parties agree that the necessary measures covered by the same title have been implemented and are being enforced. Pursuant to Article 436(1) of the Agreement, these decisions are binding upon the Parties, which must take appropriate measures to implement them. The Association Council must adopt its decisions by agreement between the Parties.

2.3. Envisaged act of the Association Council

The purpose of the envisaged act is for the Parties to grant each other further market opening in the field of roaming, in accordance with the conditions set out in the same envisaged act. The envisaged act is also to amend Annex XXVIII-B to the Agreement, in order to clarify the scope of the EU roaming *acquis* and distinguish it from the EU telecommunications *acquis*, of which roaming forms a part.

This is in line with the objective of Moldova's gradual regulatory approximation to the EU *acquis* as laid down in the preamble to the Agreement and Article 448 of the Agreement.

The envisaged act will become binding on the Parties in accordance with Article 436(1) of the Agreement, which provides: 'For the purpose of attaining the objectives of this Agreement, the Association Council shall have the power to take decisions within the scope of this Agreement. Such decisions shall be binding upon the Parties, which shall take appropriate measures, including, if necessary, action of bodies established under this Agreement, to implement the decisions taken'.

As of the date determined by the envisaged act, the EU roaming *acquis*, as specified in Annex XXVIII-B to the Agreement, must be read in accordance with Article 3(1) of the envisaged act, unless otherwise provided in the Agreement.

3. POSITION TO BE TAKEN ON THE EU'S BEHALF

The position to be adopted on the EU's behalf is to support the adoption of the envisaged act by the Association Council.

Annex XXVIII-B to the Agreement provides for regulatory approximation between the Parties in several sectors, including telecommunication services. Once the approximation has been gradually extended to cover all aspects of the EU *acquis* referred to in Annex XXVIII-B to the Agreement, agreement by the Parties in the Association Council that the approximation has been completed leads to the reciprocal granting of further market opening, in accordance with Article 452(2) of the Agreement. Moldova requested further integration limited to the sector of roaming on public mobile communications networks. Decision No 1/2023 of the EU-Moldova Association Committee in Trade Configuration² complemented Annex XXVIII-B to the Agreement with the relevant acts relating to roaming. On 9 May 2025, Moldova notified the EU that it considered that it had completed the regulatory approximation, with regard to the EU *acquis* for roaming and requested an assessment in this respect. On 3 June 2025 and on 20 June 2025, Moldova supplemented its initial notification after adopting its remaining transposition measures.

Pursuant to Articles 409 and 451 of the Agreement, the EU carried out an assessment and determined on its basis that Moldova has completed the regulatory approximation with the EU

² Decision No 1/2023 of the EU-Republic of Moldova Association Committee in Trade Configuration of 6 October 2023 amending Annex XXVIII-B (Rules applicable to telecommunication services) and Annex XXVIII-C (Rules applicable to postal and courier services) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part [2023/2434] (OJ L, 2023/2434, 31.10.2023, ELI: <http://data.europa.eu/eli/dec/2023/2434/oj>).

acquis in the sector of roaming on public mobile communications networks. Pursuant to Article 452(2) of the Agreement, the EU should propose that the Association Council agree that the result of the assessment is positive.

At the same time, taking into account the EU's assessment of approximation and monitoring, in accordance with Articles 449 and 450 of the Agreement, it is appropriate to amend Annex XXVIII-B to the Agreement, to clarify the scope of the EU roaming *acquis*. Certain provisions of the EU acts constituting the EU roaming *acquis*³ are not relevant to a decision on granting further market opening for roaming because, for instance, they are not related to roaming, or they set out obligations exclusively for the European Commission. Therefore, these provisions should be excluded from the scope of the regulatory approximation obligation in view of granting further market opening for roaming. It is important to specify that due to its general scope of applicability, which goes beyond roaming in view of a possible decision on further market opening for the telecommunications sector, the full text of Directive (EU) 2018/1972 remains relevant to transpose.

This decision implements the EU's common commercial policy towards an Eastern Partnership country and candidate country based on the provisions of the Agreement. It is consistent with the objective of Moldova's gradual regulatory approximation to the EU *acquis* as laid down in the preamble to the Agreement.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions 'establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement'.

The concept of 'acts having legal effects' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law but that are 'capable of decisively influencing the content of the legislation adopted by the EU legislature'⁴.

³ Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36–214, ELI: <http://data.europa.eu/eli/dir/2018/1972/oj>), Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile communications networks within the Union (OJ L 115, 13.4.2022, p. 1, ELI: <https://eur-lex.europa.eu/eli/reg/2022/612/oj>), Regulation (EU) 2018/1971 of the European Parliament and of the Council 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 1211/2009 (OJ L 321, 17.12.2018, p. 1, ELI: <https://eur-lex.europa.eu/eli/reg/2018/1971/oj>), Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment (OJ L 344, 17.12.2016, p. 46, ELI: https://eur-lex.europa.eu/eli/reg_impl/2016/2286/oj), and Commission Delegated Regulation (EU) 2021/654 of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate (OJ L 137, 22.4.2021, p. 1, ELI: https://eur-lex.europa.eu/eli/reg_del/2021/654/oj).

⁴ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

4.1.2. Application to the present case

The Association Council is a body set up by the Agreement. The decision the Association Council is to adopt constitutes an act having legal effects. It will be binding under international law in accordance with Article 436(1) of the Agreement. As of the date determined by the Parties in the envisaged act, the EU roaming *acquis* specified in Annex XXVIII-B to the Agreement, will need to be applied in the EU in accordance with Article 3(1) of the envisaged act, unless otherwise provided in the Agreement. Therefore, the procedural legal basis for the proposed Council decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the EU's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

Article 207 TFEU is the legal basis for the Union's common commercial policy. In particular, the first subparagraph of Article 207(4) TFEU provides the legal basis for trade in services, with the exception of transport services, with regard to non-EU countries, including stipulations on the regulatory framework conditions for the supply of such services.

The main objectives and content of the envisaged act relates to the EU's common commercial policy because the act concerns trade in telecommunication services with Moldova. Therefore, the substantive legal basis of the proposed Council decision is Article 207 TFEU.

4.3. Conclusion

The legal basis of the proposed Council decision should be Article 207 TFEU in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

The decision of the Association Council on the reciprocal granting of further market opening with respect to the sector of roaming on public mobile communications networks and for amending Annex XXVIII-B to the Agreement will produce rights and obligations in the EU and Moldova. It is, therefore, appropriate to publish it in the *Official Journal of the European Union* after its adoption.

Proposal for a

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on the position to be taken on behalf of the European Union in the Association Council established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part as regards the further market opening with respect to the sector of roaming on public mobile communications networks and on amending Annex XXVIII-B (Rules applicable to telecommunication services) to that Association Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Association Agreement between the European Union and the European Atomic Energy Community, and their Member States of the one part, and the Republic of Moldova, of the other part¹ (the ‘Agreement’) entered into force on 1 July 2016.
- (2) Pursuant to Article 452(2) of the Agreement, if the Parties agree that the necessary measures are being implemented and enforced, the EU-Republic of Moldova Association Council (the ‘Association Council’) is to agree on further market opening with respect to the sector concerned by regulatory approximation.
- (3) Article 436(3) of the Agreement provides that the Association Council is to have the power to update or amend the Annexes to the Agreement.
- (4) The Association Council is to adopt a Decision on the Union and Moldova granting each other further market opening with respect to the sector of roaming on public mobile communications networks and for amending Annex XXVIII-B to the Agreement in the course of 2025.
- (5) Article 1(2), point (g), of the Agreement provides that the aim of the Agreement is, inter alia, to establish conditions for enhanced economic and trade relations leading towards gradual integration of the Republic of Moldova (‘Moldova’) in the Union internal market, including by setting up a Deep and Comprehensive Free Trade Area, which will provide for far-reaching regulatory approximation and market access liberalisation, in compliance with the rights and obligations arising out of World Trade Organization membership and the transparent application of those rights and obligations.
- (6) As stated in the preamble to the Agreement and in accordance with Article 448 of the Agreement, the Parties to the Agreement recognise the importance of the

¹ OJ 260 30.8.2014, p. 4, ELI: http://data.europa.eu/eli/agree_international/2014/492/2023-10-06

approximation of Moldova's existing legislation to that of the EU, meaning that Moldova is to ensure that existing legislation and future legislation should be made compatible with the Union *acquis*.

- (7) Moldova has requested further integration with regard to the roaming sector in the Union, in particular through further market opening for the purpose of roaming services.
- (8) Decision No 1/2023 of the EU-Moldova Association Committee in Trade configuration² complemented Annex XXVIII-B (Rules applicable to telecommunication services) to the Agreement with the relevant Union acts relating to roaming on public mobile communications networks.
- (9) Pursuant to Article 407(3) of the Agreement, on 9 May 2025, Moldova notified the Union that it considered it had completed the regulatory approximation with respect to the Union *acquis* in the sector of roaming on public mobile communications networks.
- (10) On 3 and 20 June 2025, Moldova supplemented its initial notification after adopting its remaining transposition measures.
- (11) Pursuant to Articles 409 and 451 of the Agreement, the Union carried out an assessment and determined on its basis that Moldova had completed the regulatory approximation with the Union roaming *acquis*.
- (12) On this basis, it is appropriate for the Association Council to decide pursuant to Article 452(2) of the Agreement on the reciprocal market opening with respect to the sector of roaming on public mobile communications networks between the Union and Moldova.
- (13) To ensure legal certainty as regards the scope of the Union roaming *acquis*, it should be specified in Annex XXVIII-B to the Agreement which provisions are relevant for that purpose.
- (14) The Decision on the Parties' reciprocal granting of further market opening with respect to the sector of roaming on public mobile communications networks and for amending Annex XXVIII-B will be binding upon the Union.
- (15) It is therefore appropriate to establish the position to be taken on the Union's behalf in the Association Council,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the course of 2025 in the Association Council established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, as regards the European Union and Moldova granting each other further market opening with respect to the sector of roaming on public mobile

² Decision No 1/2023 of the EU-Republic of Moldova Association Committee in Trade Configuration of 6 October 2023 amending Annex XXVIII-B (Rules applicable to telecommunication services) and Annex XXVIII-C (Rules applicable to postal and courier services) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part [2023/2434] (OJ L, 2023/2434, 31.10.2023, ELI: <http://data.europa.eu/eli/dec/2023/2434/oj>).

communications networks and for amending Annex XXVIII-B to that Association Agreement shall be based on the draft Decision of that Association Council attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*



EUROPEAN
COMMISSION

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ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union in the Association Council established by the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part as regards the further market opening with respect to the sector of roaming on public mobile communications networks and on amending Annex XXVIII-B (Rules applicable to telecommunication services) to that Association Agreement

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ATTACHMENT

DRAFT

DECISION No [x/2025] OF THE EU-REPUBLIC OF MOLDOVA

ASSOCIATION COUNCIL

of ...

as regards the further market opening with respect to the sector of roaming on public mobile communications networks and amending Annex XXVIII-B (Rules applicable to telecommunication services) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part

THE EU-REPUBLIC OF MOLDOVA ASSOCIATION COUNCIL (hereinafter referred to as the 'Association Council'),

Having regard to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, and in particular Article 436(1), Article 449 and Article 452(2) thereof,

Whereas:

- (1) The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (the 'Agreement') entered into force on 1 July 2016.
- (2) Article 1(2), point (g), of the Agreement provides that the aim of the Agreement is, inter alia, to establish conditions for enhanced economic and trade relations leading towards gradual integration of the Republic of Moldova ('Moldova') in the internal market of the European Union (the 'Union'), including by setting up a Deep and Comprehensive Free Trade Area, which will provide for far-reaching regulatory approximation and market access liberalisation, in compliance with the rights and obligations arising out of World Trade Organization membership and the transparent application of those rights and obligations.
- (3) Articles 102 and 240 of the Agreement provides that Moldova is to carry out approximation of its legislation to the Union acquis set out in Annex XXVIII-B to the Agreement, according to the provisions of that Annex.
- (4) Moldova has requested further integration in the Union internal market with regard to roaming on public mobile communications networks in the Union. As a first step toward further integration in this sector, Annex XXVIII-B to the Agreement was amended by Decision No 1/2023 of the EU-Republic of Moldova Association Committee in Trade Configuration to include the relevant Union roaming acquis.
- (5) In accordance with Article 407(3) of the Agreement, Moldova notified the Union on 9 May 2025 that it considered it had completed the regulatory approximation with respect to the Union roaming acquis. On 3 and 20 June 2025, Moldova supplemented its initial notification after adopting its remaining transposition measures.

- (6) The Union carried out an assessment, in accordance with Article 409 of the Agreement. In accordance with Article 452(1) of the Agreement, the assessment of approximation was discussed in the Association Committee in Trade Configuration (the 'Trade Committee').
- (7) On this basis, the Parties agree that necessary measures have been implemented and are being enforced and it is, therefore, appropriate for the Association Council to decide pursuant to Article 452(2) of the Agreement on the reciprocal market opening with respect to the sector of roaming on public mobile communications networks between the Union and Moldova, as well as the conditions that will govern it.
- (8) Certain provisions of Directive (EU) 2018/1972 of the European Parliament and of the Council, Regulation (EU) 2022/612 of the European Parliament and of the Council, Regulation (EU) 2018/1971 of the European Parliament and of the Council, Commission Implementing Regulation (EU) 2016/2286 and Commission Delegated Regulation (EU) 2021/654 are not relevant for the purpose of Moldova's obligations on regulatory approximation with the roaming acquis. To ensure legal certainty, it is appropriate to specify in Annex XXVIII-B to the Agreement which provisions are relevant in this regard. This is done without prejudice to Moldova's obligation to implement Directive (EU) 2018/1972 fully and completely in accordance with its obligation under Articles 102 and 240 of the Agreement and in view of pursuing the objective of further integration in the Union internal market.
- (9) Once the Union and Moldova grant each other market opening with respect to the sector of roaming on public mobile communications networks, the regulated charges set out in the Union roaming acquis, especially the average wholesale roaming charges laid down in Regulation (EU) 2022/612 and termination rates laid down in Delegated Regulation (EU) 2021/654, may be subject to amendments. To ensure reciprocity with respect to the level of the regulated charges applicable between undertakings during the period necessary for Moldova to transpose and implement any amendments into its legal order, it is necessary to provide specific rules for the date of applicability of the rules for the amended regulated charges.
- (10) To allow undertakings providing roaming on public communications networks in the Union and in Moldova the necessary time to implement all technical and legal requirements resulting from the Association Council's decision, an application date is set.

HAS ADOPTED THIS DECISION:

Article 1

Reciprocal market opening with respect to the sector of roaming on public mobile communications networks between the Union and Moldova is hereby granted, in accordance with the conditions set out in the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova ('the Agreement'), of the other part and in this Decision.

Article 2

1. Moldova reaffirms its obligations under Articles 102 and 240 of the Agreement to approximate its legislation with the Union *acquis* as set out in Annex XXVIII-B of the Agreement.
2. The applicable provisions of the acts constituting the Union roaming *acquis* shall be binding upon the Union and the Republic of Moldova ('the Parties'), in accordance with the horizontal adaptations laid out in Article 3(1) and with the specific arrangements provided in Annex XXVIII-B to the Agreement. The Parties shall ensure full and complete implementation of those provisions¹.
3. Acts constituting the Union roaming *acquis*, as specified in Annex XXVIII-B to the Agreement (the 'Union roaming *acquis*'), shall be binding upon the Parties and be, or be made, part of their internal legal order and in particular:
 - (a) an act corresponding to a Union Regulation or Decision shall as such be made part of the internal legal order of the Republic of Moldova;
 - (b) an act corresponding to a Union Directive shall leave to the authorities of the Republic of Moldova the choice of form and method of implementation.
4. In the event of discrepancies between the text of Union *acquis* and any act incorporating it into the internal legal order of the Republic of Moldova, the text of the Union act shall prevail.
5. Pursuant to the principle of sincere cooperation, the Parties shall, in full mutual respect, assist each other in carrying out the tasks set out in this Decision. The Parties shall take any appropriate measure to ensure fulfilment of the obligations arising out of this Decision or resulting from the acts of the institutions of the Union.

Article 3

1. For the purpose of giving effect to this Decision, unless otherwise provided in the Agreement, the provisions of the Union roaming *acquis*, shall be applicable in accordance the following horizontal adaptations:
 - (a) The preambles of the acts constituting the Union roaming *acquis* are not adapted for the purposes of the Agreement and this decision. They are relevant to the extent necessary for the proper interpretation and application, within the framework of the Agreement and this Decision, of the provisions contained in such legal acts.
 - (b) The following terms used by the acts constituting the Union roaming *acquis* shall read as follows:
 - (i) the term "Community" or "European Union" shall read "EU-Moldova";
 - (ii) the terms "Community or European Union law", "Community or European Union legislation", "Community or European Union instruments" and "EC Treaty" or "Treaty on the Functioning of the EU" shall read "EU-Moldova Free Trade Agreement";

¹ The *acquis* applies in its entirety, including with the exceptions granted to the Union Member States during their accession process.

- (iii) the term "Official Journal of the European Communities" or "Official Journal of the European Union" shall read "Official Journals of the Parties".
 - (c) Without prejudice to point (e), whenever provisions of the Union roaming *acquis* contain references to "Member State(s)", the references shall be understood to include, apart from the Member States of the Union, also the Republic of Moldova.
 - (d) Whenever the provisions of the Union roaming *acquis* contain references to the territory of the "Community", "European Union" or of the "common market" the references shall for the purposes of the Agreement and this Decision be understood to be references to the territories of the Parties as defined in paragraphs 1 and 2 of Article 462 of the Agreement.
 - (e) Whenever the provisions of the Union roaming *acquis* contain references to Union institutions, committees or other bodies, it is understood that the Republic of Moldova will not become a member of such institutions, committees or bodies.
 - (f) Rights conferred and obligations imposed upon the Union Member States or their public entities, undertakings or individuals in relation to each other, shall be understood to be conferred or imposed upon Contracting Parties, the latter also being understood, as the case may be, as their competent authorities, public entities, undertakings or individuals.
 - (g) Provisions on the entry into force or implementation of the applicable provisions referred to in the acts which constitute the roaming *acquis* are not relevant for the purposes of this Decision. The time limits and dates for the Republic of Moldova enacting the applicable provisions and ensuring their complete and full implementation are set out in the arrangements specified in Annex XXVIII-B to the Agreement and this Decision.
2. The Parties shall be entitled to use, in the procedures established in the ambit of this Decision, any official language of the institutions of the Union or of the Republic of Moldova. If a language which is not an official language of the institutions of the Union is used in an official document, a translation into an official language of the institutions of the Union shall be simultaneously submitted.
3. To facilitate the exercise of the relevant powers of the competent authorities of the Parties, such authorities shall upon request mutually exchange all information necessary for the proper functioning of this Decision.

Article 4

1. The Union maintains its right to adopt new legal acts or amend existing acts in the sector of roaming on public mobile communications networks. The Union shall notify the Republic of Moldova and the Trade Committee in writing, in a timely manner, of any new legally binding act in the sector of roaming on public mobile communications networks once it has been adopted by the Union.
2. The Trade Committee shall decide within three months to add a particular new or amended Union act to Annex XXVIII-B of the Agreement.
3. Once a new or amended Union act has been added to Annex XXVIII-B to the Agreement, the Republic of Moldova shall transpose and implement the act into its

domestic legal system. The applicable provisions of the acts referred to in Annex XXVIII-B to the Agreement shall be made part of the Republic of Moldova's internal legal order in accordance with Article 2(3) and in line within the following deadlines:

- (a) a Union Regulation or Decision shall be implemented and enforced as soon as practicable and at the latest 3 months after the entry into force date provided for in that Regulation or Decision, unless otherwise decided by the Trade Committee;
- (b) a Union Directive shall be implemented and enforced as soon as practicable and at the latest 3 months after the transposition period provided for in the Directive has expired, unless otherwise decided by the Trade Committee.

The Republic of Moldova shall ensure that at the end of the relevant time period, its legal order is fully compliant with the Union legal act to be implemented.

- 4. An assessment of the implementation will be carried out by the Union in cooperation with the Republic of Moldova according to the principles set out in Article 409 of the Agreement.
- 5. In case the Republic of Moldova expects to face particular difficulties in transposing a new or amended Union act into its domestic legislation, it shall inform the Union and the Trade Committee immediately thereof. The Trade Committee may decide whether the Republic of Moldova can under exceptional circumstances temporarily and partly be exempted from its transposition obligations under paragraph 3 as far as new or amended Union legal acts are concerned. Should the Trade Committee grant such derogation, the Republic of Moldova shall report regularly on the progress reached to transpose the relevant Union legislation.
- 6. If notwithstanding the application of paragraph 5, the Republic of Moldova does not approximate its domestic law to take account of changes to Annex XXVIII-B to the Agreement, or if an assessment pursuant to Article 410(6) of the Agreement shows that the legislation of the Republic of Moldova is no longer approximated to the Union law, or if the Association Council established by Article 434 of the Agreement fails to take a decision to update Annex XXVIII-B to the Agreement in accordance with developments in Union law, the Union may suspend benefits granted under this Decision in accordance with Article 410(7) and (8) of the Agreement. The suspension shall be promptly lifted, if the Trade Committee subsequently resolves the matter.
- 7. When the Republic of Moldova wishes to adopt new legislation or amend its existing legislation in the sector of roaming on public mobile communications networks, the reporting and assessment requirements set out in Article 407(3) and Article 409 of the Agreement shall apply.

Article 5

Insofar as the provisions of the Agreement, this Decision, or the applicable provisions specified in Annex XXVIII-B to the Agreement are identical in substance to corresponding rules of the Treaty on the Functioning of the European Union and to acts adopted pursuant thereto, those provisions shall, in their implementation and application, be interpreted in accordance with the case law of the Court of Justice of the European Union given before or after the adoption of this Decision.

Article 6

1. If serious economic, societal or environmental difficulties of a sectoral or regional nature liable to persist have arisen or threaten to arise in either Party in relation to the treatment granted pursuant to Article 1, the Party concerned may take appropriate safeguard measures with respect to the treatment granted pursuant to Article 1 under the conditions and procedures laid down in Article 7(1) to (6).
2. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation in the sector or region concerned. Priority shall be given to such measures as will least disturb the functioning of the Agreement.

Article 7

1. If a Party is considering taking safeguard measures, it shall notify the other Party of its intention through the Trade Committee and shall provide all relevant information.
2. The Parties shall immediately enter into consultations in the Trade Committee with a view to finding a mutually acceptable solution. A Party shall abstain from taking safeguard measures until attempts have been made to find a mutually acceptable solution.
3. The Party concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 1, unless the consultation procedure under paragraph 2 has been concluded before the expiration of the said time limit. By derogation from this requirement, when exceptional circumstances requiring urgent action exclude prior examination, a Party may immediately apply the protective measures strictly necessary to remedy the situation.
4. The Party concerned shall without delay notify the Trade Committee of the safeguard measures taken and shall provide all relevant information.
5. Any safeguard measure shall be discontinued once the factors leading to the adoption of that measure cease to exist.
6. The safeguard measures taken shall be the subject of continuous consultations in the Trade Committee with a view to their abolition or to the limitation of their scope of application.
7. If, notwithstanding the application of paragraph 6, no mutually acceptable solution can be found within 6 months and the safeguard measure creates an imbalance between the rights and obligations of the Parties in the sector concerned, the Party concerned may take such proportionate rebalancing measures as strictly necessary to remedy the imbalance. Priority shall be given to such measures as will least disturb the functioning of Chapter 6 (Establishment, Trade in Services and Electronic Commerce) of Title V (Trade and Trade-related Matters) of the Agreement and this Decision.
8. The Party concerned shall without delay notify the Trade Committee of the rebalancing measures taken and shall provide all relevant information. Any such rebalancing measure shall be discontinued immediately once the factors leading to the adoption of that measure cease to exist.

9. Any rebalancing measure taken shall be the subject of continuous consultations in the Trade Committee with a view of their abolition or to the limitation of their scope of application.

Article 8

In case the regulated charges set out in the Union roaming *acquis* are amended after the entry into force of this Decision, their compulsory application for the purposes of this Decision starts on the same date for both Parties. This is either the date of entry into force of the relevant amendments to the Union roaming *acquis* or the date of entry into force of Moldova's fully compliant legislation implementing the relevant amendments to the Union roaming *acquis*, following its confirmation by the assessment pursuant to Article 409 of the Agreement, whichever date is last, or other date of entry into force agreed by both Parties to avoid the retroactive application effect. Until that date, the previously regulated charges remain applicable for the purposes of this Decision.

Article 9

Annex XXVIII-B (Rules applicable to telecommunication services) to the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Moldova, of the other part is hereby modified as set out in the Annex to this Decision.

Article 10

This Decision has been drawn up in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, and Swedish languages, each text being equally authentic.

Article 11

This Decision shall enter into force on [the date of its adoption].

It shall apply as of [...].

Done at Brussels,

For the Association Council

The Chair

The secretaries

Annex XXVIII-B (Rules applicable to telecommunication services) to the Agreement shall be amended by replacing the text between Directive (EU) 2018/1972 and Regulation (EU) 2018/1971 with the following text:

Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (recast) ('EECC').

Without prejudice to Moldova's obligation to implement Directive (EU) 2018/1972 fully and completely for the purpose of an eventual decision by the Association Council to grant further market opening for telecommunication services pursuant to Article 452(2), for the purpose of an eventual decision by the Association Council to grant further market opening for roaming pursuant to Article 452(2) the following provisions of Directive (EU) 2018/1972 need to be implemented:

- Article 1 – Subject matter, scope and aims
- Article 2 – Definitions, points (1) and (2), (4) to (11), (13) to (16), (22), (27) to (34), (36), and (38) to (40)
- Article 3 – General objectives
- Article 5 – National regulatory and other competent authorities
- Article 6 – Independence of national regulatory and other competent authorities
- Article 7 – Appointment and dismissal of members of national regulatory authorities
- Article 8 – Political independence and accountability of the national regulatory authorities
- Article 9 – Regulatory capacity of national regulatory authorities
- Article 10 – Participation of national regulatory authorities in BEREC
- Article 11 – Cooperation with national authorities
- Article 12 – General authorisation of electronic communications networks and services
- Article 13 – Conditions attached to the general authorisation and to the rights of use for radio spectrum and for numbering resources, and specific obligations, except all mentions to the rights of use for radio spectrum and numbering resources and the cross references to Article 45, Article 51, Article 62, Article 68, Article 83, and Article 94
- Article 14 – Declarations to facilitate the exercise of rights to install facilities and rights of interconnection
- Article 15 – Minimum list of rights derived from the general authorisation
- Article 16 – Administrative charges
- Article 17 – Accounting separation and financial reports
- Article 18 – Amendment of rights and obligations, except all mentions to the rights of use for radio spectrum, numbering resources and to install facilities
- Article 19 – Restriction or withdrawal of rights, except all mentions to the rights of use for radio spectrum, numbering resources and to install facilities
- Article 20 – Information request to undertakings

- Article 21 – Information required with regard to the general authorisation, rights of use and specific obligations, except all mentions to rights of use and specific obligations and the cross references to Article 13(2), Article 22, and Annex I, parts D and E
- Article 23 – Consultation and transparency mechanism, except paragraph (2) and the cross references to Article 32(10), and Article 45(4) and (5)
- Article 24 – Consultation of interested parties
- Article 25 – Out-of-court dispute resolution
- Article 26 – Dispute resolution between undertakings
- Article 27 – Resolution of cross-border disputes, paragraphs (1) and (2), and paragraphs (4) to (6)
- Article 29 – Penalties, paragraph (1)
- Article 30 – Compliance with the conditions of the general authorisation or of rights of use for radio spectrum and for numbering resources and compliance with specific obligations, except all mentions to the rights of use for radio spectrum and numbering resources and the cross references to Article 4, Article 13(2), Article 45(1), Article 47, Article 67, and Article 69
- Article 31 – Right of appeal
- Article 59 – General framework for access and interconnection
- Article 60 – Rights and obligations of undertakings, paragraphs (1) and (2)
- Article 61 – Powers and responsibilities of the national regulatory and other competent authorities with regard to access and interconnection, paragraph (1), paragraph (2), points (a) to (c), paragraphs (3), (5), and (6)
- Article 75 – Termination rates, paragraphs (2) and (3)
- Article 93 – Numbering resources, the first subparagraph of paragraph (5)
- Article 97 – Access to numbers and services
- Article 99 – Non-discrimination
- Article 100 – Fundamental rights safeguard
- Article 108 – Availability of services
- Article 111 – Equivalent access and choice for end-users with disabilities
- Article 120 – Publication of information
- Article 122 – Review procedures, the second and third subparagraphs of paragraph (1)
- Annex I – List of conditions which may be attached to general authorisations, rights of use for radio spectrum and rights of use for numbering resources, parts A to C
- Annex III – Criteria for the determination of wholesale voice termination rates

<p>Timetable: the provisions of Directive (EU) 2018/1972 shall be implemented within 1 year after the date of entry into force of this</p>
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Decision.

Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile communications networks within the Union (recast).

The provisions of Regulation (EU) 2022/612 shall, for the purposes of this Agreement, be read with the following adaptation: Article 1(4) refers to reference exchange rates published by the European Central Bank in the *Official Journal of the European Union*. For as long as the European Central Bank does not publish exchange rates for the Moldovan leu, exchange rates between the euro and the Moldovan leu published by the National Bank of Moldova should be used for the purposes of applying Article 1(4). The reference periods and conditions laid down in Article 1(4) remain unchanged.

Implement all provisions with the exception of:

- Article 1 – Subject matter and scope, paragraph (5)
- Article 3 – Wholesale roaming access, paragraph (8)
- Article 4 – Provision of regulated retail roaming services, paragraph (3)
- Article 7 – Implementation of fair use policy and of sustainability mechanism, paragraphs (1) to (3) and (5). The exception regarding Article 7(1) to (3) is without prejudice to Moldova's obligation to implement the implementing acts on the application of fair use policies, the methodology for assessing sustainability of the provision of retail roaming services at domestic prices and the application to be submitted by a roaming provider for the purpose of the assessment of the sustainability
- Article 8 – Exceptional application of retail surcharges for the consumption of regulated retail roaming services and provision of alternative tariffs, paragraph (6)
- The first and third subparagraphs of Article 16 – Databases of numbering ranges for value-added services and means of access to emergency services
- Article 20 – Committee procedure
- Article 21 – Review
- Article 23 – Repeal

Timetable: the provisions of Regulation (EU) 2022/612 shall be implemented within 2 years after the date of entry into force of this Decision.
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Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment.

Implement all provisions with the exception of:

- Article 12 – Review.

Timetable: the provisions of Commission Implementing Regulation (EU) 2016/2286 shall be

implemented within 2 years after the date of entry into force of this Decision.

Commission Delegated Regulation (EU) 2021/654 of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate.

The provisions of Commission Delegated Regulation (EU) 2021/654 shall, for the purposes of this Agreement, be read with the following adaptation: Article 3(2) and 3(3) refers to reference exchange rates published by the European Central Bank in the *Official Journal of the European Union*. For as long as the European Central Bank does not publish exchange rates for the Moldovan leu, exchange rates between the euro and the Moldovan leu published by the National Bank of Moldova should be used for the purposes of applying Article 3(2) and 3(3). The reference period laid down in Article 3(2) is adapted to the latest relevant quarter for which information is available. The reference periods and conditions laid down in Article 3(3) remain unchanged.

Moldova shall implement Article 1(1), Article 3(1), Article 4(1) and Article 5(1) by mandating its operators not to exceed the single maximum European Union-wide mobile voice termination rate and the single maximum European Union-wide fixed voice termination rate, respectively.

Implement all provisions with the exception of:

- Article 1(2)
- Article 4(2) to (5)
- Article 5(2).

Timetable: the provisions of Commission Delegated Regulation (EU) 2021/654 shall be implemented before the Roaming Regulation and shall be implemented within 2 years after the date of entry into force of this Decision.

Regulation (EU) 2018/1971 of the European Parliament and of the Council 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 1211/2009.

Implement the following provisions:

- Article 3 – Objectives of BEREC, paragraph (5)
- Article 4 – Regulatory tasks of BEREC, paragraph (4)
- Article 7 – Composition of the Board of Regulators, paragraphs (1) to (3)
- Article 8 – Independence of the Board of Regulators
- Article 11 – Meetings of the Board of Regulators, paragraph (5)
- Article 12 – Voting rules of the Board of Regulators, paragraph (2)
- Article 15 – Composition of the Management Board, paragraphs (1) to (3)

- Article 18 – Meetings of the Management Board, paragraph (5)
- Article 38 – Confidentiality, paragraph (2)
- Article 40 – Exchange of information, paragraphs (1), (2), (4), and (5)
- Article 42 – Declarations of interests, paragraphs (1) and (2).

— The national regulatory authority of Moldova with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services shall participate fully in the work of the Board of Regulators of BEREC, the working groups of BEREC and the Management Board of the BEREC Office. The national regulatory authority of Moldova shall have the same rights and obligations as the national regulatory authorities of the EU Member States, except for the right to vote and for the Chairmanship of the Board of Regulators and of the Management Board.

— In light thereof, the national regulatory authority of Moldova shall be represented at an appropriate level in accordance with the provisions of Regulation (EU) 2018/1971. In accordance with the relevant rules of the Regulation (EU) 2018/1971, BEREC and the BEREC Office shall, as the case may be, assist the national regulatory authority of Moldova in the performance of its tasks.

— The national regulatory authority of Moldova shall take the utmost account of any guideline, opinion, recommendation, common position and best practices adopted by BEREC with the aim of ensuring the consistent implementation of the regulatory framework for electronic communications. For the purpose of market opening for roaming pursuant to Article 452(2), the national regulatory authority of Moldova shall take the utmost account of any guideline adopted by BEREC with the aim of ensuring the consistent implementation of the regulatory framework on roaming and shall provide reasons when deviating from such a guideline.

Timetable: the provisions of Regulation (EU) 2018/1971 shall be implemented within 1 year after the date of entry into force of this Decision.