

## FINAL CA5

### Radio Spectrum Coordination among Member States

The CA covers Art 2(20), 2(27), 28 and related recitals. All relevant AMs, including AMs 328-331, as well as IMCO xx, CULT ~~yy32-33~~, ~~LIBE-zz~~, fall.

#### Recitals

- (67) Lack of coordination between Member States *with respect to their approaches to the assignment and authorisation for the use of radio spectrum as well as with respect to* large-scale interference issues *can have a severely impact on* the development of the Digital Single Market. Member States should *therefore cooperate with each other taking full advantage of the good offices of the Radio Spectrum Policy Group (RSPG). Furthermore, coordination between* Member States *to resolve harmful interference should be made more efficient, by using the RSPG as a means to facilitate dispute resolution. Taking into account the Union's specific concerns and objectives preference should be given to such a* Union process of dispute settlement *on cross border issues between* Member States, *in priority to any dispute settlement under international law.*<sup>1</sup>
- (68) The Radio Spectrum Policy Group (RSPG) is ~~currently~~ a Commission high-level advisory group which was created by Commission Decision 2002/622/EC<sup>30</sup> to contribute to the development of the internal market and to support the development of a Union-level radio spectrum policy, taking into account economic, political, cultural, strategic, health and social considerations, as well as technical parameters. *For the purposes of its role in the further strengthening of cooperation between Member States and the RSPG should be established in this Directive.* It should be composed of the heads of the bodies that have overall political responsibility for strategic spectrum policy. It should *assist and* advise the *Member States and the Commission with respect to* spectrum policy. This should further increase the visibility of spectrum policy in the various EU policy areas and help to ensure cross-sectorial coherence at national and Union level. It should also provide advice to the European Parliament and the Council upon their request. Moreover, the RSPG should also be the forum for the coordination of implementation by Member States of their obligations related to radio spectrum under this Directive and should play a central role in fields essential for the internal market such as cross-border coordination or standardisation. Technical or expert working groups could also be created to assist plenary meetings, at which strategic policy is framed through senior-level representatives of the Member States and the Commission.<sup>2</sup>

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1 DR AM 9. [DLA input.](#)

2 DR AM 10

(112) Radio spectrum should be managed so as to ensure that harmful interference is avoided. This basic concept of harmful interference should therefore be properly defined to ensure that regulatory intervention is limited to the extent necessary to prevent such interference, having regard also to the need for network equipment and end-user devices to incorporate resilient receiver technology. *The ITU Radio Regulations define harmful interference, ~~inter alia among other things~~,<sup>3</sup> as any interference which endangers the functioning of safety services, which are themselves defined as any radiocommunications services used permanently or temporarily for the safeguarding of human life or property; for the protection of life or property harmful interference should therefore be avoided in particular in critical situations whenever the functioning of a safety service is put in danger. While this includes, under the ITU definition, radiodetermination, which is essential to transport and navigation, it should cover any mission-critical aspects of the operation of electronic communications services or networks when life or property is at stake, also beyond the field of transport, such as in health services.* Transport has a strong cross-border element and its digitalisation brings challenges. Vehicles (metro, bus, cars, trucks, trains, etc) are becoming more and more autonomous and connected. In an EU single market, vehicles travel beyond national borders more easily. Reliable communications, and avoiding harmful interferences, are critical for the safe and good operation of vehicles and their on-board communications systems.

## Articles

Art 2(20), 2(27) (Definitions)

(20) 'harmful interference' means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable international, Union or national regulations;<sup>4</sup>

(27) 'harmonised radio spectrum' means radio spectrum for whose availability and efficient use harmonised conditions have been established by way of a technical implementing measure in line with Article 4 of Decision No 676/2002/EC (Radio Spectrum Decision).

## Article 28

### Radio Spectrum Coordination among Member States

1. Member States and their competent authorities shall ensure that the use of radio spectrum is organised on their territory in a way that no other Member State is impeded, ~~in particular due to cross-border harmful interference between Member States~~, from allowing on its territory the use of<sup>5</sup> radio spectrum, *in particular of harmonised radio spectrum*, in accordance with Union legislation, *especially due to harmful cross-border ~~harmful~~ interference between Member States*.<sup>6</sup>

3 [DLA input.](#)

4 AM 328 Reimon, 330 Kumpula-Natri.

5 AM 499 Kumpula-Natri.

6 [DLA input.](#)

They shall take all necessary measures to this effect without prejudice to their obligations under international law and relevant international agreements such as the ITU Radio Regulations.

2. Member States shall cooperate with each other, **and**<sup>7</sup> through the Radio Spectrum Policy Group **established pursuant to paragraph 4a**, in the cross-border coordination of the use of radio spectrum in order to:<sup>8</sup>

- (a) ensure compliance with paragraph 1;
- (b) solve any problem or dispute in relation to cross-border coordination or cross-border harmful interference;
- (c) **contribute to the development of the internal market.**<sup>9</sup>

**2a. Member States shall also cooperate with each other, and through the Radio Spectrum Policy Group, with respect to aligning their approaches to the assignment and authorisation of use of radio spectrum.**<sup>10</sup>

3. Any Member State concerned as well as the Commission may request the Radio Spectrum Policy Group to use its good offices and, where appropriate, to propose a coordinated solution in an opinion, in order to assist Member States in complying with paragraphs 1 and 2, **including where the problem or dispute involves third countries.**<sup>11</sup> **Member States shall refer any unresolved dispute between them to the Radio Spectrum Policy Group, in priority to any available dispute settlement process provided under international law.**<sup>12</sup>

4. At the request of a Member State or upon its own initiative, the Commission may, taking utmost account of the opinion of the Radio Spectrum Policy Group, adopt implementing measures to resolve cross-border harmful interferences between two or several Member States which prevent them from using the harmonised radio spectrum in their territory. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 110(4).<sup>13</sup>

**4a. An advisory group on radio spectrum policy, called the Radio Spectrum Policy Group, consisting of one high level governmental expert from each Member State as well as of a high-level representative from the Commission is hereby established.**

**The group shall assist and advise the Member States and the Commission on cross-border coordination of the use of radio spectrum, on aligning their approaches to the assignment and authorisation of use of radio spectrum and on other radio spectrum policy and coordination issues.**

**The secretariat of the Radio Spectrum Policy Group shall be provided by [the BEREC Office/BEREC].**<sup>14</sup>

7 AM 502 Kumpula-Natri

8 DR AM 54. Justif: *In order to enhance the role of the RSPG it should be created in the EECC itself and the secretariat (currently provided by the Commission) should be discussed, as reflected in this amendment and in the amendment for a new paragraph 4a (the Rapporteur is aware that full implementation of this idea might require further technical work at a later stage). Further, the opportunity should be taken of expanding this structured cooperation to spectrum issues more generally.*

9 AM 504 Kallas

10 DR AM 55. Justif: *Inextricably linked to other admissible AMs.*

11 505 Kallas, suggested amended

12 DR AM 56. Justif: *Coordination between Member States to resolve interference when authorising harmonised spectrum uses should be strengthened by requiring more prominently recourse to RSPG in the case of lengthy and problematic cases. The proposed amendment aims at giving precedence to an EU process of dispute settlement. Suggested addition of "between them" if 505 Kallas is included.*

13 507 Beres and 508 Niebler et al delete 28(4) entirely. To discuss.

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14 DR AM 57. Justif: *Inextricably linked to other admissible AMs. Formulation within brackets depends on the outcome on the BEREC Regulation.* [DLA input.](#)