



# Transposition Monitoring Sample

European Electronic Communications Code

EU Member States Transposition Monitoring Report

2023.04.06

## Executive Summary

This report covers the transposition process of the **European Electronic Communications Code** (Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code) in **France**, **Germany** and **Ireland**.

- In **France**, a government bill ratifying an ordinance to transpose the European Electronic Communications Code is pending in the Senate since July 2021. A decree amending the Consumer Code was published in the Official Gazette.
- In **Germany**, the Law regulating data protection and the protection of privacy in telecommunications and telemedia was published in the Federal Law Gazette.
- In **Ireland**, the Communications Regulation and Digital Hub Development Agency (Amendment) Bill has been signed into law by the President of Ireland.

# Table of Contents

<b>Directive (EU) 2018/1972</b>	<b>4</b>
Main contents of the Directive	4
<b>France</b>	<b>4</b>
Current State of Play	4
Senate to examine government bill transposing European Electronic Communications Code directive	4
Government publishes decree amending consumer code to transpose European Electronic Communications Code directive	5
<b>Germany</b>	<b>5</b>
Current State of Play	5
Law transposing European Electronic Communications Code directive published in Official Gazette	5
<b>Ireland</b>	<b>6</b>
Current State of Play	6
Law transposing European Electronic Communications Code directive signed into law	6

## Directive (EU) 2018/1972

*Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code*

### Main contents of the Directive

Directive (EU) 2018/1972 on the European Electronic Communications Code seeks to establish an updated set of rules which will regulate electronic communications networks and telecoms services, as well as associated facilities and services. It also establishes the tasks and responsibilities of national regulatory authorities and a framework for regulatory harmonisation throughout the EU. Finally, it aims to foster competition and increase investment in 5G technologies and very high capacity networks.

Of interest to telecommunications providers, the Code seeks to promote competition in the delivery of telecoms networks and other associated services, as well as help the development of the internal market for telecoms in the EU by introducing common rules and predictable regulations. It features measures which reinforce the effective and coordinated use of radio spectrums, promote open innovation, and increase the availability and interoperability of Europe-wide services and end-to-end connectivity.

### France

#### Current State of Play

12 FEB 2022 - Decree No. 2022-163 of February 11, 2022 amending the Consumer Code was published in the French Official Journal.

13 JUL 2021 - The Bill ratifying Ordinance No. 2021-650 of 26 May 2021 transposing Directive (EU) 2018/1972 and relating to adaptation measures of the powers of the Regulatory Authority for Electronic Communications, Posts and Press Distribution was submitted to the Senate for its first reading.

#### **Senate to examine government bill transposing European Electronic Communications Code directive**

Proposed by the government on 13 July 2021, the bill seeks to introduce new definitions and update certain concepts that relate to electronic communications networks and services in the Postal and Electronic Communications Code. This is in order to account for the changing uses of electronic communications and better protect end-users. It will allow public authorities to utilise operator networks to transmit emergency messages and promote co-investment and network pooling, as well as harmonise the framework for the allocation of harmonised radio spectrum. The bill also provides predictability and guarantees to operators by setting a minimum duration of harmonised spectrum licences at fifteen years in order to support the development of 5G networks.

In regard to the transposition of Directive (EU) 2018/1972, 1° of I of Article 38 of the bill ratifies ordinance No. 2021-650 of 26 May 2021, transposing the Directive into national law.

The bill was introduced to the Senate and must now be voted on before it will pass to a parliamentary committee for their consideration.

[Full Text](#)

## **Government publishes decree amending consumer code to transpose European Electronic Communications Code directive**

The purpose of this decree is to restore the provisions resulting from decree n° 2021-1281 of 30 September 2021 in order to transpose the obligations contained within Directive (EU) 2018/1972 establishing a European Electronic Communications Code which had been accidentally repealed by decree no. 2021-1944 of 31 December 2021.

Of interest to telecommunications providers is the obligation outlined in the decree that pre-contractual information must be provided to consumers before they complete a purchase and states that any pre-contractual information must be clear, complete, up-to-date and machine readable to make it accessible to people with disabilities.

[Full Text](#)

## **Germany**

### **Current State of Play**

23 JUN 2021 - The Law regulating data protection and the protection of privacy in telecommunications and telemedia was published in the Federal Law Gazette (Bundesgesetzblatt Teil I).

### **Law transposing European Electronic Communications Code directive published in Official Gazette**

The main purpose of this law is to regulate telecommunications secrecy and implement measures to ensure the protection of usage data, the suppression and display of telephone numbers and the protection of privacy via cookies. Of interest to telecommunications providers, is the bill's focus on telecommunications secrecy. It obliges telecom providers to maintain telecommunications secrecy, as well as legal persons who assist in the provision of telecoms services. Operators of both publicly and privately owned telecom companies are bound by these obligations. The bill also prohibits both corporate bodies and private individuals from gaining knowledge of the content or the detailed circumstances of telecommunications outside of the bounds necessary for the proper functioning of their services.

The bill also works to ban eavesdropping and put in place confidentiality obligations on the operators of radio systems, as well as forbidding the manufacture, importation or distribution of telecommunications equipment that resembles another object.

The law came into force in Germany from 1 December 2021.

[Full Text](#)

## Ireland

### **Current State of Play**

02 MAR 2023 - The Communications Regulation and Digital Hub Development Agency (Amendment) Bill has been signed into law by the President of Ireland.

### **Law transposing European Electronic Communications Code directive signed into law**

The bill, which was previously titled Communication Regulation Bill 2022, sets out consumer and service security rules applicable to providers of electronic communications networks and services while transposing the European Union Directive (EU) 2018/1972, which established the European Electronic Communications Code (EECC). The bill was proposed by the government on 26 September 2022 and passed by both Houses of the Oireachtas on 22 February 2023.

The law defines the provider as a provider of public electronic communications networks or of publicly available electronic communications services. Of particular relevance to telecommunications providers is part 2 of the bill which looks to place specific obligations upon providers to take measures to manage the risks posed to the security of networks and services, with section 6 allowing the Minister for the Environment, Climate and Communications to detail such measures in supplementary regulations. Section 11 and 12 also implement notification requirements upon providers, including the obligation to notify the ComReg of any incident of significant impact on networks or services, as well as the obligation to notify users of a significant threat of a security incident. Providers must notify users potentially affected by a threat to services, of any possible protective measures or remedies, and where appropriate inform the user of the threat. Failure to notify in both circumstances is liable to a class A fine.

In addition, part 3 of the bill, which sets out security measures in respect of high-risk vendors, is equally relevant to telecommunications providers. A vendor can be deemed high-risk following an assessment by the Minister, covering aspects such as the likelihood of a vendor being subject to interference by a third country, the risk that the vendor will not be able to secure a supply of critical components, and inadequate cybersecurity practices. It is worth noting that the term 'high-risk vendor' was replaced in the bill by 'relevant vendor', following an amendment in the Seanad (upper house). Within part 3, Section 33 empowers the Commission for Communications Regulation (ComReg) to monitor providers' compliance with high-risk vendor measures.

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