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COMMISSION DECISION

of 16 December 2008

granting a derogation requested by the Republic of Bulgaria pursuant to Decision 2008/477/EC on the harmonisation of the 2 500-2 690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community

(notified under document number C(2008) 8302)

(Only the Bulgarian text is authentic)

(2009/1/EC)

(OJ L 2, 6.1.2009, p. 6)

Amended by:

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(2009/1/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) ([1]), and in particular Article 4(5) thereof,

Having regard to Commission Decision 2008/477/EC of 13 June 2008 on the harmonisation of the 2 500-2 690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community ([2]), and in particular Article 2(2) thereof,

Whereas:

(1) Under Decision 2008/477/EC Member States must designate and subsequently make available, on a non-exclusive basis, the 2 500-2 690 MHz frequency band for terrestrial systems capable of providing electronic communications services subject to specific parameters, within six months of its entry into force.

(2) Member States are required to designate and subsequently make available the 2 500-2 690 MHz band, in accordance with Decision 2008/477/EC, no later than 13 December 2008.

(3) Article 2(2) of Decision 2008/477/EC states that, by way of derogation, Member States may request transitional periods that may include radio spectrum sharing arrangements, pursuant to Article 4(5) of Decision No 676/2002/EC.

(4) The Republic of Bulgaria has informed the Commission that, since this band is currently occupied on an exclusive basis by mobile electronic communication equipment used for national security needs, it is not in a position to implement on time the requirements set out in Decision 2008/477/EC.

(5) By letter of 22 October 2008, the Republic of Bulgaria therefore requested a temporary derogation from these requirements in order to be able to continue using this equipment whilst putting in place a new national security mobile radio communication system using a different frequency band.

(6) The length of the derogation would vary according to region. For the regions of Vidin, Montana, Vratsa, Lovech, Pleven, Gabrovo, Veliko Tarnovo, Russe, Turgovishte, Razgrad, Shumen, Silistra, Dobrich and Varna (i.e. North Bulgaria), the derogation would extend until end 2009. For the areas around the town of Triavna, Blagoevgrad, Pazardjik, Plovdiv, Smolyan, Kurdzhaly, Haskovo, Stara Zagora, Sliven, Yambol, Burgas, Sofia City and Sofia

([1]) OJ L 108, 24.4.2002, p. 1.
([2]) OJ L 163, 24.6.2008, p. 37.

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Region (i.e. South Bulgaria), the derogation would extend until end 2010, while Bulgaria would aim to meet its obligations in Sofia City and the Sofia Region in 2009.

(7) Bulgaria has provided sufficient justification to its derogation request by clarifying, in particular, the need to assign other appropriate frequencies to the current users of the frequency band 2 500-2 690 MHz, the importance of migrating all links within a region simultaneously and the need to allocate financial resources to procure new public security mobile communication equipment. A report on the progress of migration and meeting the commitments would help manage the transitional period properly.

(8) The members of the Radio Spectrum Committee indicated at the meeting of the Committee on 2 October 2008 that they do not object to this transitional derogation.

(9) The requested limitation would not unduly defer implementation of Decision 2008/477/EC nor create undue differences in the competitive or regulatory situations between Member States. The request is justified and a transitional derogation would be appropriate to facilitate the full implementation of Decision 2008/477/EC,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to its request submitted on 22 October 2008, the Republic of Bulgaria is hereby authorised to postpone the implementation of Decision 2008/477/EC in North Bulgaria until ►**M1** 31 December 2010 ◄ and in South Bulgaria until ►**M1** 31 December 2011 ◄, subject to the conditions set in Article 3.

Article 2

For the purposes of this Decision:

— North Bulgaria means the administrative regions of Vidin, Montana, Vratsa, Lovech, Pleven, Gabrovo, Veliko Tarnovo, Russe, Turgovishte, Razgrad, Shumen, Silistra, Dobrich and Varna,

— South Bulgaria means the area around the town of Triavna, the region of Sofia, the city of Sofia as well as the administrative regions of Blagoevgrad, Pazardjik, Plovdiv, Smolyan, Kurdzhaly, Haskovo, Stara Zagora, Sliven, Yambol and Burgas.

Article 3

Bulgaria shall submit by ►**M1** 16 January 2011 ◄ a report on the implementation of Decision 2008/477/EC in North Bulgaria, the city of Sofia and the Region of Sofia and shall submit by ►**M1** 16 January 2012 ◄ a report covering its whole territory.

Article 4

This Decision is addressed to the Republic of Bulgaria.