



EMERG (18) 03

**EURO-MEDITERRANEAN REGULATORS GROUP  
EMERG**

**ANNUAL REPORT 2017**

**20 MARCH 2018**

## **INTRODUCTION**

In 2017 AGCOM, the Italian Regulatory Authority for the electronic communication sector, took over the Presidency of the European Mediterranean Regulators Group (hereinafter referred to as “EMERG”), having been appointed during the 2016 Plenary meeting in Sharm el Sheik (Egypt).

The present document will go through all the activities undertaken during 2017, in line with the mission and the remit of the Group, as stated in the EMERG Charter.

The EMERG experienced some logistic problems in 2016 that undermined the participation of the Members in the meetings. For this reason, in 2017 it was decided to hold most of the events in Europe, also trying to optimize their organization by strengthening the cooperation among the Members. In 2017 the EMERG, in cooperation with DETECON (the consultant company supporting the Group selected by the European Commission) made an effort to meet the deadlines set and to produce documents as foreseen in the rules of procedures. The present report will therefore provide a summary of the activities carried out as stemming from a dense agenda, due to the delay in the accomplishment of the work plan 2016, as well as to other institutional activities planned at international level. The report will summarize the main results achieved in every meeting, not only in terms of participation, recommendations and discussion, but also with a view to the international role played by the Group within and outside Europe. In this latter respect, the EMERG participated in several inter-platform initiatives, including the joint BERECEM-EMERG meeting held in Cascais (Portugal) on 31 May-1 June and two further events:

1. Regional Co-operations among Regulators, held in Paris on 25 April 2017.
2. Global Symposium for Regulators (GSR)\_Regional Regulatory Associations Meeting (RA) in Bahamas on 11-14 July 2017.

### **1. CN/BENCHMARK MEETING AND PLENARY AND OTHER INSTITUTIONAL MEETINGS**

In 2017 for the first time an EMERG meeting was held in Bosnia Herzegovina, kindly hosted by the National Regulatory Authority for the electronic communication sector (CRA).

The CN prepared and submitted the documents to be subsequently approved by the Plenary in Rome and namely:

1. Agreement on the recommendations from the workshops in 2016;
2. Selection of the topics to be included in the work plan 2017. In this regard AGCOM, in its capacity as Chair, sent out a mail asking all the Members to propose at least four topics of

common interest and considering the goal of the approximation to the EU legislative Framework.

3. DETECON presented some ideas for the future EMERG self-sustainability, considering the intention of the European Commission not to finance the EMERG after 2019, when the NATP IV project will expire.
4. In this latter respect, the two main ideas raised consist in either setting up a permanent secretariat based on the example of the IRG (Independent Regulators Group) in Europe, or establishing a virtual organisation along the lines of Regulatel (the Forum of the Regulators in South America). In order to understand whether the Members still see the benefits of being part of the EMERG, it was decided to circulate a questionnaire and to propose a relevant summary during the Plenary.

At the Plenary in Rome<sup>1</sup> the EMERG adopted its Work Plan as proposed by the 2017 Chair, thus defining the schedule of all the meetings over the year as well as the relevant Rapporteurs and hosts. INTT (Tunisia) presented the annual report of 2016, while WIK/DETECON provided an outline of the benchmark report related to 2016.

At the same time, the Plenary provided its steering on the key issues of the future EMERG self-sustainability, in particular:

1. the Plenary expressed its preference for a virtual organisation because apparently less costly;
2. at the same time, the Plenary qualified its position as a preliminary one and envisaged the need to further look into the different options available. To this end, ANACOM (Portugal) and CNMC (Spain) invited the EMERG to take part in a Summit in Cascais, together with other regional platforms, with a view to gaining experience from them on this topic.

At the Plenary in Rome, NTRA, the Egyptian authority for the electronic communication sector, was appointed as Chair 2018 and a Permanent Secretariat was set up, composed of AGCOM (Italy) NTRA (Egypt), CRA (BeH), TRC (Jordan) and INTT (Tunisia).

In 2017, the cooperation of EMERG with BEREC continued under the umbrella of an MoU signed back in 2014 with a high-level thematic Summit held in Cascais on the topic of “ENSURING CONNECTIVITY IN A CONVERGENT WORLD”. After a very productive discussion and exchange of experience also with the countries representing Regulatel and EaPeReg, a common declaration was released. Participants agreed that the Summit was “*a fundamental opportunity to promote the needed regulatory dialogue, based on fair and added valued discussions. Building upon the already existent cooperative liaisons and noting the financial support provided by the European Commission to EMERG and EaPeReg, this Summit recognized the benefit of promoting permanent initiatives of*

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<sup>1</sup> Link to the relevant documents: <http://www.emergonline.org/plenary/#108-2017-march-20-rome> (private section)

*cooperation celebrated between BEREC and its counterparts of EMERG, EaPeReg and REGULATEL”.*

On the same occasion, the BEREC Plenary confirmed the intention to extend the MoU with EMERG for further two years.

Still on the cooperation with BEREC, in November the Joint workshop with this latter took place in Munich on NGN and Network Sharing and Local Loop Unbundling.

On 25 April 2017, ARCEP represented EMERG in the workshop held in Paris on Regional Co-operations among Regulators. The EMERG experience in the field of electronic communication sector was shared with other attendees, since the purpose of the workshop was to investigate the experiences, across several regions and industries, of different regulatory cooperation patterns worldwide, in order to highlight the trends and the lessons that can be drawn.

Furthermore, the EMERG attended one session of the Global Symposium for Regulators (GSR)\_Regional Regulatory Associations Meeting (RA) in Bahamas on 11-14 July 2017, represented by HAKOM (the Croatian regulator), whose representative provided a general overview on the groups' activities and presented the work program for 2017. In both events the EMERG experience raised a lot of interest among the partners.

## **2. IMPLEMENTATION OF THE EMERG WORK PLAN 2017**

### **2.1 Workshop on Licensing and Auctions**

As a carry over to the Work plan 2016, in April a workshop took place in Cologne on Licensing and auctions<sup>2</sup>, kindly hosted by DETECON. The workshop took into consideration two of the most critical spectrum-related regulatory issues. A flexible licensing system, as the one applied in the EU, provides indeed the basis for sustainable competition. Mainly all countries opening the telecom markets for competition start with the one or the other form of licensing system. Since the opening of telecom markets and the introduction of market regulation in the EU under the so called “Open Network Provision” in 1997, the EU established a rather flexible system of “general authorization”, considering a licensing only in case of scarcity of spectrum resources.

The main difference between licensing approaches within the EU and outside EU relates to a basic regulatory principle: MENA and Gulf Cooperation Council countries (GCC) apply the principle according to which “every economic activity in electronic communications is forbidden, unless they are explicitly allowed by a license”, while in the EU there the principle is in place that every economic activity is allowed, unless there is a specific restriction of the freedom formulated in a license

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<sup>2</sup> Link to the relevant documents: <http://www.emergonline.org/workshop-s-and-events/#106-licensing-and-auctions> (private section)

(basically if scarce resources like spectrum are involved and physically limit the number of possible competitors). As a result of this latter approach, market dynamics and the introduction of competition are limited outside the EU as stiff systems of licensing are hindering the freedom of market development and competition.

The workshop provided the chance to share best practices examples from the EU members of EMERG and discuss the situation in the MENA countries.

A questionnaire was preliminarily circulated as a basis for the discussion with a series of questions regarding different topics such as: existing general authorizations; which kind of licensing system the countries had in place; decisions on national spectrum plan, with a specific reference to the 700/800 MHz bands: re-farming and spectrum trading; spectrum usage fees.

On the basis of the discussion and of the answers to the questionnaires, taking into consideration the goal of approximating the applicable EU law, the participants agreed on the following recommendation:

### **Improve Licensing System**

The governments and authorities should take into consideration a review of the current licensing systems with a possible switch to a general authorization system, where possible. Conditions may be specific to every country as concerns the use of scarce resources and explicit public interest goals.

## **2.2 EMERG Workshop on Broadband strategies and Universal Service Obligations<sup>3</sup>**

The workshop, held in Berlin also in this case kindly hosted by DETECON, dealt with national broadband strategies in the different EMERG countries with a view to paving the way to the development of new technologies including artificial intelligence, self-driving cars and Industry 4.0-related applications: like all new technologies, the mentioned ones are bringing about new benefits along with new challenges. The new panorama implies also new roles and responsibilities on governments and regulators.

Main strategies will be converging on the broadband development which forms the baseline to foster efficiently all this new technology, emphasising the need to a comprehensive state of the art and future proof networks.

The workshop focused on key questions regarding broadband deployment strategies such as:

- Broadband target setting
- Cost-minimizing roll-out of fixed and mobile broadband technology mix

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<sup>3</sup> Link to the relevant documents and presentations: <http://www.emergonline.org/workshops-and-events/#105-broadband-strategies-and-universal-service-obbligations> (private section)

- Demand and supply-side regulatory support
- Measuring and monitoring of broadband QoS/QoE
- State aid and other forms of promoting broadband deployment
- How to set incentives to stimulate the demand side for high speed broadband

The Questionnaire circulated among the Members focused on issues relating to the broadband strategies in place in the different EMERG Countries, their scope and the responsibilities often shared between the Government and the Regulator. A special focus was dedicated to the minimum broadband speed to be considered as part of the Universal service.

On the basis of the discussion and of the answers to the questionnaires, taking into consideration the objective of approximating the relevant EU acquis, the participants agreed on the following recommendations:

#### **Update Broadband Strategies**

*All EMERG members should encourage the elaboration of a national broadband strategy with the objective to accelerate broadband network deployment and broadband service usage over and above the purely market driven level. Strategies should include appropriate financing instruments.*

#### **Improve Universal Service System**

*EMERG members are encouraged to further develop their universal service systems to include a minimum broadband access service offered to every citizen.*

### 2.3 EMERG Workshop on Quality of Service and Consumer protection<sup>4</sup>

In continuity with the discussion held at the EMERG workshop in Paris on 14-15 April 2011, the EMERG Plenary decided to include in the EMERG Work Plan 2017 a workshop on the Consumer protection and quality of service. The intention was to deal with some of the topics already taken into consideration in 2011, considering them though from additional perspectives. Besides, the workshop opened the discussion on the most relevant objectives covered by the Digital Single Market Strategy of the European Union around consumer protection and quality of service in the overall digital markets, such as the removal of Geo-blocking practices and other geographically-based restrictions to boost e-commerce in a context of online cross-border sales. In addition, the workshop addressed, with a comprehensive approach, the general subject of the “Quality of Service”, adding also the concept of the “Quality of Experience”, which is now deemed as relevant from the consumers’

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<sup>4</sup> Link to the relevant documents and presentations: <http://www.emergonline.org/workshops-and-events/#102-quality-of-services-and-consumer-protection> (private section)

perspective, meaning how electronic communications services are perceived by users, considering the different factors affecting their perception. In recent years, a shift has been registered indeed from a network-based “technological approach”, typical of the quality of service measurement, to a more subjective one, centred on the users’ experience.

Furthermore, during the workshop, the participants discussed about some other topics of common interest, which were covered by the questionnaire:

- latest updates on the transparency regulation policies in different Countries;
- consumers’ empowerment through educational campaigns;
- special provisions concerning disabled users;
- Consumers' complaints handling and dispute resolution.

A questionnaire<sup>5</sup> was circulated as a basis for the discussion with a series of questions regarding different topics, such as:

- Consumers’ protection policies and regulation in the EMERG Countries;
- Minimum requirements advertised and transparency of the contracts;
- Procedures for disputes resolutions;
- Geo-blocking;
- Quality of services and related KPIs for evaluation;
- Traffic management;
- Awareness of the young population and educational potentialities of the electronic communications services;
- Measures in favor of disabled and elderly people.

On the basis of the discussion and of the answers to the questionnaires, taking into consideration the goal of approximating the relevant EU law, the participants agreed on the following recommendation:

### **Improve the Complaint Process**

*All EMERG members should improve consumer protection by implementing a consumer complaint unit and clearly defining a process on how customer complaints will be handled, including actions taken and publications.*

### **Improve Transparency and consumer awareness**

*EMERG members should improve consumer rights by enforcing and publishing minimum standards for contracts between Telco Operators and retail customers. In particular, all EMERG members should publish minimum standards and KPIs to enforce the consumer rights when changing the access provider.*

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<sup>5</sup> See note n. 6

### **Improve Services for elderly and disabled people**

*The EMERG members should encourage service providers to improve standards for emergency calls, special services and harmonize specific low price offers for disabled and elderly people.*

## 2.4 EMERG Workshop on OTT, Cross Border Content Portability, Big Data and Key Market Indicators<sup>6</sup>

The workshop covered different topics, which are of extreme relevance in the electronic communications sector.

Regarding OTT services, BEREC, (Body of European Regulators for Electronic Communications) in its report published in 2016, acknowledged that the availability of OTT services is driving a change as for the competitive dynamics and technology scenarios in communication markets. Starting from the BEREC report and the initiatives of the European Commission in this field, the workshop provided some ideas regarding the evaluation of the impact of OTT services in the electronic communication market in terms of market power and Telco operators' strategies.

The second session of the workshop dealt with the issue of cross-board content portability, as the right of the consumers to enjoy contents legally purchased in the country of residence also when temporarily abroad.

As for the Roam-Like-At Home Regulation, the portability of contents presents some criticalities because, on the one hand, it grants the consumers the right of access abroad in the EU the contents legitimately purchased in the home country; nevertheless, on the other hand, it also bears the risk of circumvention of the Regulation itself, thus potentially resulting into distortions of competition dynamics.

In the third session of the workshop, Big data issues were addressed in the presentations as well as in the discussion among the EMERG Members. Building a European data economy constitutes part of the European Digital Single Market strategy, which aims at fostering the best possible use of the potential of digital data in order to benefit the whole economy and society.

In this context, the free flow of non-personal data has been considered a leverage for boosting a competitive data economy in the Digital ecosystem, the aim being to allow companies and public administrations to store and process non-personal data wherever they choose.

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<sup>6</sup> Link to the relevant documents and presentations: <http://www.emergonline.org/workshops-and-events/#115-ott-cross-border-content-portability-big-data-and-key-market-indicators> (private section)

Even in preparation of this workshop, a questionnaire<sup>7</sup> was circulated as a basis for the discussion with a series of questions regarding topics such as:

- Regulatory initiatives on OTTs in specific Countries;
- Economic impact of OTT players on national markets;
- Institutions involved in this field;
- Possible initiatives on cross boarder content portability;
- The usage of Big Data in terms of security, economic impact, access and so on;

On the basis of the discussion and of the answers to the questionnaires, taking into consideration the approximation to the EU law, the participants agreed on the following recommendations:

#### **OTT market access**

*Within the EMERG region, an ex-ante regulatory approach for OTT voice services terminating on licensed networks and an ex-post regulatory approach for OTTs entering the markets should be adopted. Number based OTT communication services are to be monitored if they should be regulated in a comparable way as licensed telecommunications services, particularly in the field of consumer protection rights.*

#### **OTTs and market assessment**

*EMERG member NRAs should have the power to analyze the impact of OTTs on existing competition conditions and the possible distortive effects stemming from differentiated regulatory treatments. Should the market assessment show distortions, it is suggested that NRAs should have the powers to apply suitable remedies also on OTTs.*

#### **Big Data usage**

*EMERG member NRAs should set up a regulatory framework in order to be able to use big data delivered by telecommunications operators with the aim of improving the quality of services provided to the end users. NRAs should initiate in EMERG countries the development of a strategy for a data driven economy, in co-operation with other national institutions.*

## **2.5 EMERG - BEREC Workshop on NGN and Network Sharing and Local Loop Unbundling<sup>8</sup>**

The workshop was an initiative covered by the Memorandum of Understanding (MoU) between BEREC and EMERG with a view to strengthening the cooperation in the Mediterranean area. The

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<sup>7</sup> See note n. 6

<sup>8</sup> Link to the relevant documents and presentations: <http://www.emergonline.org/workshops-and-events/#119-ngn-and-network-sharing-and-local-loop-unbundling> (private section)

approximation to the European framework is an objective for the EMERG Members as neighbouring Countries and, after the fruitful Summit held in Cascais (Portugal) on a topic of common interest, the last workshop represented a crucial opportunity to exchange views among experts from the two platforms.

The workshop covered issues related to network sharing including co-invest models, shared access of passive infrastructure and active infrastructure (including LLU) as well as open access networks. These topics are of the utmost relevance due to the need to foster CAPEX intense roll-out required for next generation fixed and mobile networks and to the opportunity to increase efficiency through the implementation of sharing solutions. In the light of the upcoming new EU sectoral regulation, sharing as a method to incentivize investment represents a major cornerstone.

Considering that the telecommunications sector experienced a significant growth in traffic, mainly driven by the consumption of non-linear audio-visual content, new applications and the whole digitization of the life of the Citizens in the EMERG countries, it is clear that new and more specific requirements on telecommunications networks are essential, since the legacy copper- based networks cannot meet the increased demand.

The workshop aimed at identifying the initiatives required by national regulators in order to adapt the respective regulatory frameworks and enable operators to share infrastructure and therefore foster innovation in networks, which is a pre-requisite for the digitization of EMERG countries. By means of the common definition of relevant initiatives, the approximation of the EU regulation in the EMERG countries is carried forward.

The workshop was organized in sessions covering the following matters:

- Open access models/wholesale-only models and the requirements for a future proof regulatory framework;
- Future regulation of local loop unbundling, which is suitable for next generation fibre-based networks (NGN) and the digitization of the economy;
- Regulation of co-investment models to foster investments in NGN;
- Sharing of mobile access networks to enable a cost efficient deployment of 5G networks.

The questionnaire<sup>9</sup> was structured considering the above issues with reference to the EMERG countries' state of play.

On the basis of the discussion and of the answers to the questionnaires, taking into consideration the objective of the approximation of the EU law, the participants agreed on the following recommendations:

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<sup>9</sup> See note n.10

### **Facilitate co-investment and other sharing models**

*Within the EMERG region, access to passive infrastructure is important for the development of, and investments in NGN networks and hence, national regulators should consider to facilitate infrastructure sharing by adapting the regulation to facilitate co-invest and other sharing models. For mobile RAN high level value chain sharing (including spectrum sharing) may be restricted to low-density regions.*

### **Improve in-building Standardization**

*EMERG member NRAs should consider the necessity of standardization of in-building infrastructure as a measure to reduce the costs of deployment of NGN and fiber networks ant to achieve an easy customer choice between operators and individual services.*

### **Adapt regulated wholesale access to NGN**

*EMERG member NRAs should adapt the access regulation including access obligations and reference offers to the technological development in each country, taking VULA, Fibre unbundling and duct access into consideration.*

## **3. THE FUTURE EMERG SUSTAINABILITY: REGIONAL SUMMIT IN CASCAIS (PT)**

At the plenary meeting in Rome, the issue was addressed of the future EMERG sustainability, and the different options at stake were investigated. As already mentioned in the first paragraph, the NATP IV project, currently funding the EMERG, is going to expire in 2019 and for this reason in 2017 EMERG started reasoning on the feasible solutions for continuing its activities at organisational and financial level.

Between the two main meetings, the Contact network and the Plenary, AGCOM, as EMERG Chair 2017, circulated a questionnaire concerning the EMERG Membership Benefits, as currently perceived by the Members. The Questionnaire<sup>10</sup> tried to look into the value added of participating in the EMERG platform from both sides of the Mediterranean Sea, asking, inter alia, questions to the Members on the following issues:

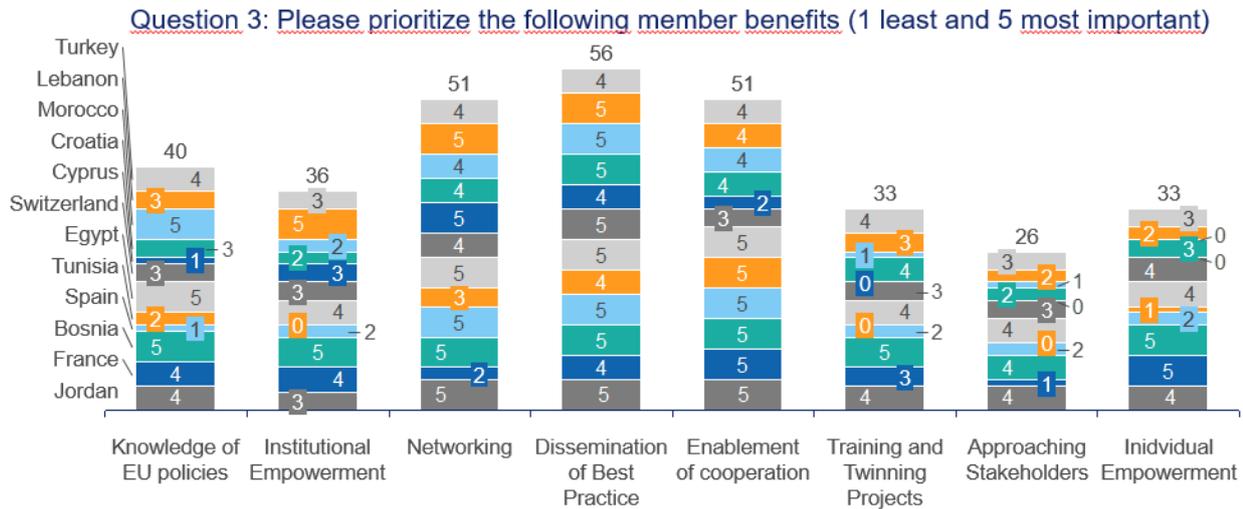
- The primary function of the EMERG according to the NRAs;
- Most important benefits perceived being Members of the platform;
- A prioritization of the above mentioned benefits.

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<sup>10</sup> Link to the answers and relevant documents: <http://www.emergonline.org/workshops-and-events/#107-berec-emerg-eapereg-regulatel-summit> (private section)

The final result was summarised by DETECON as follows:

**12 members answered the Membership Benefits questionnaire, with “dissemination of best practice” and “networking” being most important.**



Considering the outcomes of the Plenary discussion and the results of the questionnaire, the agenda of the mentioned Summit in Cascais was prepared, with a view to discussing sustainability issues together with other Regional platforms, i.e. Regulatel and EaPeReg. During the meeting devoted to the “Elements to improve sustainability of regional platforms” an open and fruitful discussion was held, trying to identify common tools to deal with the sustainability problem and therefore ensure the future of the regional platforms for regulatory cooperation among NRAs in the electronic communication sector. As already mentioned above, the options emerged from the discussion were two: a virtual organisation (such as in the Regulatel case) and a physical secretariat sponsored by the Members (such as the IRG). It was pointed out though that Regulatel has a different statutory mission, making it difficult to compare the different organisational models. Nevertheless, at the end of the day, a common statement was released, where the platforms, participated also by European NRAs, clearly stated:

*“without the current support of the EU Commission, the achievements attained since their establishment would have been impossible. While showing a strong commitment to find innovative solutions to keep up the synergic cooperation in an autonomous and sustainable way, the delegates expressed their desire to continue the privileged and fruitful dialogue with the European Commission,*

*aiming at exchanging views with the European institutions, and in particular with BEREC, on regulatory issues of common interest.”*

In 2018 the discussion will continue among the Members with the intention of creating a specific virtual Expert Working Group on this issue, together with another one devoted to the approximation of the EU sectoral legislation, aiming at elaborating a more concrete proposal to be submitted to the EU and to the Members.