
Emergency Ordinance no.22 on the establishment of the National Authority for Management and Regulation in Communications, approved by Law no. 113/2010, as subsequently amended and supplemented

-unofficially consolidated text as of 14 July 2022-

Art. 1

(1) The National Authority for Management and Regulation in Communications, hereinafter referred to as ANCOM, is hereby established as an autonomous public authority with legal personality, under parliamentary control, financed exclusively from own resources, by the reorganisation of the National Authority for Communications, which is dissolved.

(1¹) During the execution of its regulatory responsibilities under this Emergency Ordinance, ANCOM will not be restricted by any other authority; it will act independently in terms of decision-making, organization, and operations, distinct from other public authorities.

(2) ANCOM is based in Bucharest and has territorial structures required for conducting its specific activity.

Art. 2

(1) ANCOM's role is putting into practice the national policy in the field of electronic communications, audio-visual communications and postal services, including through market regulation and technical regulation in these fields.

(2) ANCOM administrates and manages the limited resources in the field of electronic communications, including, among others, the radio frequency spectrum, the numbering resources and other associated technical resources, and monitors the radio frequency bands with non-governmental use.

(3) ANCOM verifies and controls the fulfilment of the obligations regarding the efficient and effective use of the radio frequency spectrum for non-governmental use and controls the fulfilment of the obligations regarding the use of numbering resources and associated technical resources.

(3¹) ANCOM is the supervisory and control authority of the market for radio equipment and equipment in the field of electromagnetic compatibility.

(4) In order to develop the national policy in the field, ANCOM shall make available to the specialized ministry reports, studies and analyses carried out by it. For the proper coordination of Romania's representation in international bodies, ANCOM has the obligation to inform the specialized ministry on a monthly basis about the results of the international meetings where it has been represented.

Art. 3

With a view to achieving its roles, ANCOM fulfils the following functions:

a) enforce the sectorial policy and strategy in the field of electronic communications, audio-visual communications and postal services;

b) administrate and manage the limited resources, planning, allotting, monitoring and evaluating their use with a view to enforcing the policies in the field, by:

1. administration of the radio spectrum by planning, allocating, allotting the frequency bands, assigning and monitoring the radio frequencies in the frequency bands with non-governmental use, as well as by coordinating, at the national level, the radio frequency

management in accordance with the National Table for Frequency Band Allocation, hereinafter referred to as *the NTFA*, and with the international agreements in which Romania is a party;

1¹. administration and management of the radio frequency spectrum for space radiocommunication services associated with geostationary orbital positions and space orbits in accordance with the procedures provided in the Radio Regulations of the International Telecommunication Union, so as to prevent the occurrence of harmful interference; watching the rational, equitable and efficient use of radio spectrum for space radiocommunication services that use geostationary orbital positions or other space orbits;

2. effective management of the radio frequency bands with non-governmental use in accordance with the NTFA, by allotment and/or assignment of radio frequencies, for the purpose of ensuring their rational and efficient use;

3. administration and allocation of the numbering resources and of the associated technical resources for electronic communications networks and services, including by elaborating the National Numbering Plan, hereinafter referred to as the NNP, and certain joint numbering plans, together with the competent authorities of other Member States of the European Union;

4. management of the numbering resources at the national level, with a view to their rational and efficient use;

5. administration and management of other limited resources in the field of electronic communications;

c) regulate the activities in the electronic communications field, audio-visual communications and postal services, by adopting and implementing normative and individual decisions, as well as functional, operational and financial procedures by which policies in the field are enforced and compliance is monitored and verified;

d) elaborate specific secondary rules in the field of electronic communications and of postal services;

e) ensure representation in the national, regional and international bodies and organisations for the field of electronic communications and of postal services, and for the administration of limited resources in the electronic communications field;

f) ensure collaboration and communication with the other structures of the public administration, with the civil society and with the citizens, as well as with the providers of networks and services in the field of electronic communications, audio-visual communications and postal services;

g) decisional body, according to the law, in the settlement of disputes between the providers of electronic communications networks and/or services, for the purpose of ensuring free competition and protecting the end-user's interest in the markets for these services;

h) survey and control of the limited resource users' compliance with the obligations incurred under the legal provisions and under the administrative acts which granted them the right of use;

i) elaborate technical procedures and rules specific to the ANCOM activity;

j) survey and control the market of radio equipment and the market of equipment in the field of electromagnetic compatibility;

k) control with a view to check compliance with the obligations regarding the efficient use of the radio spectrum with non-governmental usage.

Art. 4

(1) With a view to of fulfilling its role and legal functions, ANCOM consults and collaborates with the Competition Council, with the National Authority for Consumer Protection and with the National Audiovisual Council, including by the mutual provision of information required for enforcing the provisions of the legislation in the respective fields of competence.

The institution receiving such information ensures the same level of confidentiality as the institution that provides it.

(2) In its activity, ANCOM supports the objectives of the Body of European Regulators in the Field of Electronic Communications, hereinafter referred to as BEREC, in order to create a harmonized and coherent regulatory framework at European level. In this regard, in the exercise of its powers, ANCOM shall take into account the guidelines, opinions, recommendations, common positions, good practices and methodologies adopted by BEREC.

(3) ANCOM promotes competition in the following realms:

- a) provision of electronic communications networks and associated facilities, including efficient infrastructure-based competition;
- b) provision of communications services and related services;
- c) provision of postal services.

Art. 5

ANCOM ensures the efficient use of the limited resources in the field of electronic communications and of postal services, acting especially in the following directions:

- a) avoid the hoarding of limited resources, where used below the licensed level;
- b) encourage efficient investment in infrastructure and promote innovation.

Art. 6

(1) ANCOM contributes to the development of the internal market of the European Community, especially by:

- a) removal of barriers to investment in electronic communications networks, to the provision – at European level – of the electronic communications networks and services, of the associated infrastructure and facilities and of postal services;
- b) fostering open innovation, deployment and development of trans-European electronic communications networks, the provision, availability and interoperability of pan-European services and end-to-end connectivity;
- c) supporting the harmonisation of certain numbers or categories of numbering resources within the European Union for pan-European or cross-border services;
- d) cooperation with fellow authorities abroad, including, where necessary, through the conclusion of cooperation agreements, as well as with the European Commission, BEREC and the Radio Spectrum Policy Group, hereinafter referred to as the *RSPG*, with a view to developing coherent regulatory practice and the uniform and concerted application of European Union law;
- e) promoting the coordination of radio spectrum policies in the European Union and, where appropriate, promoting harmonised conditions for the availability and efficient use of radio spectrum for the purpose of establishing and functioning the internal market in the field of electronic communications, taking into account, inter alia, economic, safety, health and security aspects in the use of the limited radio spectrum resource, of public interest, freedom of expression, cultural, scientific, social and technical policies of the European Union, as well as the opinions expressed during public consultations on the use of radio spectrum, in order to optimize the use of the limited radio spectrum resource and avoid harmful interference;
- f) cooperating with similar authorities of the other Member States of the European Union, the European Commission, the European Parliament and the Council through the *RSPG*, at their request, on the strategic planning, coordination and harmonisation of the use of radio spectrum in the European Union, in accordance with the Union's policies on the establishment and functioning of the internal market for electronic communications;
- g) ensuring an adequate level of security of public electronic communications networks or publicly available electronic communications services.

(2) ANCOM promotes the interests of the end-users in the European Union, especially by:

a) ensuring a high level of protection to the end-users in their relationship with the providers;

b) getting involved in ensuring a high level of protection of personal rights, especially of the right to privacy, as regards the processing of personal data;

c) promoting the provision of clear information, especially as regards the transparency of tariffs and of the usage terms for publicly available electronic communications services;

d) ensuring the conditions for exercising the right of access to services within the scope of universal service in the field of electronic communications and postal services;

d¹) promoting the specific interests of end-users with disabilities in terms of choice and ensuring access conditions equivalent to those enjoyed by other end-users;

e) promoting other specific interests of users with disabilities, the elderly or those with special social needs, in particular as regards the accessibility of fares;

f) ensuring the protection of the integrity and security for the public electronic communications networks.

g) promoting the possibility of end-users to access and distribute information or to use applications or services according to their own decisions.

h) promoting connectivity, user access to very high capacity networks, including fixed, mobile and radio networks, and the use of these types of networks;

i) ensuring the connectivity, availability and widespread use of very high capacity networks, including fixed, mobile and radio networks, and of electronic communications services.

Art. 6¹. — In order to achieve the objectives set out in Articles 4 to 6, ANCOM shall apply the principles of impartiality, objectivity, transparency, non-discrimination and proportionality in its regulatory activity, inter alia, by:

a) promoting predictable regulations by ensuring a coherent approach, revised at appropriate timeframes and by cooperating with fellow authorities with similar powers in other Member States of the European Union, BEREC, the RSPG and the European Commission; cooperation with BEREC and the European Commission aims in particular to identify the types of tools and remedies that are most appropriate to address particular types of market situations;

b) ensuring compliance with the principle of non-discrimination in the treatment applied to providers of electronic communications networks and services or postal service providers in similar situations;

c) *repealed*

d) promoting efficient investment and innovation in new and improved infrastructure, including by ensuring that any access obligations imposed take into account the specific risks associated with the investment and allow for cooperative arrangements between investors and persons seeking access, in order to share the risks of the investment, while ensuring competition in the market and compliance with the principle of non-discrimination;

e) taking into account the various conditions that may arise in relation to the existing infrastructures, the competitive environment, the situations in which end users, especially consumers, find themselves, depending on the different geographical areas in Romania, including the cases in which there are infrastructures at local level managed by non-profit-making individuals;

f) the imposition of ex ante regulatory obligations only where there is no effective or sustainable competition and the relaxation or withdrawal of such obligations where these conditions are met;

g) promoting the application of the legislation in a technology-neutral manner, to the extent that it is consistent with the objectives set out in Articles 4 to 6 and without prejudice to the possibility of adopting proportionate measures to promote certain services or technologies, if justified on the way to achieving those objectives.

Art. 7

(1) In its activity, ANCOM aims at observing the principle of technological neutrality, considering the phenomenon of technological convergence and contributes, within the limits of its competences, to ensuring the implementation of the policies that aim to promote cultural and linguistic diversity, as well as media pluralism.

(2) In order to fulfil its attributions, ANCOM pursues achieving the objectives provided in Articles 4-6, taking reasonable steps therefor, observing the principles of proportionality, non-discrimination, transparency and full objectivity.

Art. 8

(1) ANCOM will encourage the use of standards and/or of the technical specifications for service provision, of technical interfaces and/or of the network functions, published in the Official Journal of the European Union, to the strict extent required for ensuring service interoperability end-to-end connectivity, for facilitating transfer from one internet service provider to another and number portability, and improving choice for users.

(2) Until the publication of the standards and specifications provided for in para. (1), ANCOM shall encourage the implementation of standards and specifications adopted by the European standardization organizations or, in their absence, of standards and recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organization for Standardization (ISO) or the International Electrotechnical Commission (IEC).

(3) This Article shall not apply to essential requirements, interface specifications or harmonised standards to which the legal provisions on the making available on the market of radio equipment apply.

Art. 9

(1) In case the European Commission adopts recommendations with a view to ensuring the harmonised enforcement of the community rules in the field of electronic communications, ANCOM will take utmost account of these recommendations in exercising its attributions.

(2) If ANCOM chooses not to enforce a recommendation, it will send a reasoned notice to the European Commission.

Art. 10

(1) ANCOM exercises the following general attributions in the fields of electronic communications, audio-visual communications, radio equipment, electromagnetic compatibility, and of postal services:

1. elaborates and adopts technical rules, in the field of electronic communications, audio-visual communications, radio equipment/radio interfaces, and of postal services, as well as for the use of numbering resources;

2. ensures representation in international bodies and institutions in the field of regulation of electronic communications, audio-visual communications, radio equipment and terminal telecommunications equipment, including as regards electromagnetic compatibility, and of postal services, upholding, within these, the national policy and strategy in the field;

2¹. ensures, as the surveillance and control authority for the market of radio equipment and of the electromagnetic compatibility equipment market, representation in international

institutions and working groups; cooperate with similar market surveillance and control authorities in the European Economic Area;

3. collaborates with institutions, including with competent authorities of the national defence, public order and national security system, regarding radio frequencies in the bands with governmental use or with governmental/non-governmental shared use, with national organizations - and participates in the technical committees of international institutions or organizations - in the field of electronic communications, audiovisual communications, radio equipment, compatibility electromagnetic services, postal services, including those provided for in art. 6 para. (1), and develop relations with them and may conclude cooperation agreements to facilitate collaboration on monitoring and control, where necessary;

3¹. supports the European Commission in establishing, implementing and verifying the fulfilment of benchmarks and reports on the effectiveness of measures taken at EU level with regard to the implementation of policies in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility and postal services, in collaboration with BEREC, the RSPG or, where appropriate, other national institutions and organisations; international authorities or regulatory authorities;

3². participates in the work of technical committees organised within national and international standardisation institutions and organisations in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility and postal services;

4. enforces the international agreements in the field of electronic communications, audio-visual communications, radio equipment, electromagnetic compatibility, and of postal services;

5. collaborates with MCSI in all the fields where the ANCOM expertise is necessary or useful;

5¹. elaborates and initiates draft normative acts regarding the amount of the license fee in the case of rights of use of radio frequencies granted through the selection procedure, as well as regarding the approval of its own investment projects, the inclusion of its investment projects in its draft budget and its own actions and categories of expenses for which advance payments can be made according to Law no. 500/2002 on public finances, with subsequent amendments and completions, the establishment of expenditure norms and/or maximum expenditure limits for its own protocol actions of a special nature and other measures necessary for the proper and efficient conduct of protocol actions in the country and abroad or the administration of assets in the public or private domain of the state that are under its administration;

6. develops proposals for normative acts in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility, as well as in the field of postal services, which it submits to the specialized ministry;

7. approves any draft normative acts issuing regulations on the administration and management of radio frequencies, draft normative acts regulating the organization and functioning of ANCOM, as well as draft normative acts issuing regulations in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility, as well as postal services;

8. forecasts, plans and schedules, in its own draft budget, the financial resources required in view of implementing the policies within its competence;

9. implements financial assistance programs from the European Union in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility and postal services, which target the institutional capacity of ANCOM;

10. prepares and publishes reports, studies, analyses and the like in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility and postal services, in particular for assessing the necessity and opportunity of

issuing new regulations, for the evaluation and control of the implementation of policies and regulations, as well as for the management of programmes and projects, organises seminars and round tables and other promotional actions;

11. monitors and controls the application of the provisions contained in the normative acts in force or in the international agreements in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility and postal services, taking measures to prevent, remove and sanction non-compliance with these provisions, according to the competences established by them;

12. settles disputes, in accordance with the law, between providers of electronic communications networks and/or services, in order to ensure free competition and protect the interests of end users.

(2) ANCOM exercises the following specific attributions in the field of electronic communications, audio-visual communications and postal services:

1. elaborates and updates general authorisations;

2. monitors and controls compliance with the obligations imposed on the providers of electronic communications networks and services by the general authorisations;

3. promotes and supports the harmonisation, at the European level, of the use of numbering resources, in accordance with the legal instruments in force in the European Union;

3¹. Contribute to the development of relevant technical rules and regulations within the European Union, ITU and CEPT, as appropriate, for the harmonised use of radio spectrum at European and/or international level, including by participating in international meetings organised within those organisations or within the International Maritime Organisation, the International Civil Aviation Organisation, the North Atlantic Treaty Organisation and the European Institute Telecommunications Standards, insofar as they discuss issues related to the management of the radio frequency spectrum;

4. adopts adopt the PNN, joint numbering plans with other Member States of the European Union and any amendments thereto, subject to restrictions imposed for reasons of national security;

4¹. promotes remote over-the-air provisioning of numbering resources, where technically feasible, to facilitate porting;

5. manages, at a national level, the numbering resources and the radio frequencies in the bands allotted for non-governmental use;

5¹. administer, manage and assign radio frequencies assigned to space radiocommunications in accordance with the procedures contained in the Radio Regulations of the International Telecommunication Union; to this end, ANCOM ensures the representation of Romania in the procedures carried out at ITU level;

6. manages, at a national level, the technical resources required in view of providing publicly available electronic communications services or of operating public electronic communications networks;

7. administrates and coordinates at a national level the management of frequencies in accordance with the NTFA and with the international agreements in which Romania is a party;

8. grants licenses for the use of numbering resources, in accordance with the legislation in force;

9. establishes and charges tariffs for the use of the numbering resources, in accordance with the legislation in force;

10. issues regulations regarding the usage of the numbering resources and of the radio frequencies in the bands allotted for non-governmental use;

11. adopts, by decision, the NTFA, after obtaining the assent of the Interdepartmental Radiocommunications Commission for the assignments comprising radio frequency bands with the status of governmental use or those in governmental/non-governmental sharing;

12. grants licences for the use of radio frequencies for the provision of electronic communications networks and services using the radio spectrum, as well as broadcasting licences and sets and collects the spectrum usage tariff;

13. allots and assigns radio frequencies in the bands with the status of non-governmental, exclusive or shared use, provided for in the NTFA, in compliance with national and international regulations, agreements and protocols and implements the coordination procedures established by international agreements;

14. grants radio frequency assignment authorizations and technical authorizations, in compliance with the regulations in force;

15. conducts the technical assessments required for the rational and efficient use of the radio frequencies, for the purpose of establishing the possibility of allotting the radio frequency bands, under the legal provisions;

16. analyses and conducts the technical assessment of the use of radio frequencies for the purpose of ensuring electromagnetic compatibility between the authorised radiocommunication stations and networks, as well as for the purpose of preventing harmful interferences, in order to evaluate the possibility of assignment, upon request;

17. allots and assigns the identification codes for certain radiocommunication services, authorises the radiocommunication stations personnel and ensures the records for these activities;

18. ensures the permanent record of the radio frequency use by ensuring the registration of frequency assignments and by permanently maintaining the specialised databases that are part of the National Record of Assigned/Allotted Frequencies;

19. monitors the radio frequency spectrum with non-governmental use;

20. monitors and controls compliance with the obligations contained in licences for the use of radio frequencies, broadcasting licences or licences for the use of radio frequencies in the digital terrestrial system or in regulations in the field of radiocommunications;

20¹. develops technical rules, including on the enforcement of obligations in the field of electronic communications, audiovisual communications and postal services, as well as on the use of limited resources in the field of electronic communications;

20². Develop strategies and/or position papers in the field of radio spectrum management;

21. identifies the relevant markets in the electronic communications sector;

22. conducts market analyses in the situations when these are obligatory, according to the law;

23. designates the providers of electronic communications networks and services with significant market power;

24. imposes specific obligations on operators and providers of electronic communications services with significant market power, in accordance with the legal provisions in force;

24¹. imposes, under the conditions of the Government Emergency Ordinance no. 111/2011, as subsequently amended and completed, other obligations regarding access to/or interconnection between electronic communications networks;

25. designates the Universal Service providers in the field of electronic communications and of postal services and imposes corresponding obligations on them;

25¹. assesses the unfair burden and calculates, in accordance with the Government Emergency Ordinance no. 111/2011, as subsequently amended and supplemented, and Government Emergency Ordinance no. 13/2013 on postal services, approved, with amendments and completions, by Law no. 187/2013, as subsequently amended and supplemented, the net cost related to the provision of the universal service in the field of electronic communications, respectively in the field of postal services;

26. manages the mechanisms of financing the Universal Service obligations provided by the special legislation;

27. establishes the necessary steps for implementing number portability;

28. controls compliance with the obligations imposed on the Universal Service providers on grounds of the provisions of the special legislation;

29. exercises the attributions established by Law no. 506/2004 on processing personal data and the protection of privacy in the electronic communications sector, with the subsequent amendments and completions;

30. exercises the powers incumbent on the regulatory authority under the provisions of the Government Emergency Ordinance no.13/2013, with subsequent amendments and completions;

31. issues the necessary permits to obtain the building permit for physical infrastructures, electronic communications networks and buildings that may affect the functioning of ANCOM's monitoring systems;

32. develop the necessary regulations for the implementation of communications to the Single National Emergency Call System, including with regard to the transmission of emergency calls from vehicles through the use of the eCall call service;

33. directs and organizes the work of the Interdepartmental Radiocommunication Commission.

34. adopts, under the conditions of the Government Emergency Ordinance no. 111/2011, as subsequently amended and completed, or Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures on open internet access and amending Directive 2002/22/EC on universal service and users' rights with regard to electronic communications networks and services and Regulation (EU) no. 531/2012 on roaming in public mobile communications networks within the Union, as subsequently amended and completed, any measures necessary to ensure end-users' access rights to the open internet;

35. performs any other task which, according to Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, falls to the national regulatory authority.

(3) ANCOM exercises the following specific attributions in the field of radio equipment and electromagnetic compatibility:

a) exercises the powers of the supervisory and control authority in the field of radio equipment established by law;

b) exercises the powers of the supervisory and control authority in the field of electromagnetic compatibility established by law.

(4) ANCOM also fulfils other attributions established by special legal provisions.

(5) ANCOM may conclude, under the legal provisions, contracts with legal entities under the public or the private law, with the object of conducting specific activities, required in view of fulfilling functions, objectives and attributions.

Article 11

(1) The management of ANCOM is ensured by a president and 2 vice-presidents, appointed by the two Chambers of Parliament, gathered in a joint session, with the vote of the majority of the deputies and senators present.

(1¹) The president and the 2 vice-presidents of ANCOM, the positions being specified, are appointed upon the joint proposal of the Committee for Information Technology and Communications of the Chamber of Deputies and of the Commission for Communications and Information Technology of the Senate.

(1²) The joint commissions provided for in para. (1¹) shall make the selection of proposals from a list containing one or more candidates, based on the criteria provided in para. (3) and (4).

(1³) The persons who meet the criteria provided in this law for the positions of president and vice-president may submit their candidacies to one of the secretariats of the commissions provided for in para. (1¹).

(1⁴) The proposals of candidates for the positions provided for in para. (1) shall be submitted to the Standing Bureaus of the two Chambers of Parliament, within 30 days from the date of vacancy of the positions.

(2) The salary of the president of ANCOM is set at the level of 5 average salaries within the institution, as of the month of January of each year, and the salary of the vice-presidents of ANCOM is established at the level of 4 average salaries at the level of the institution, as of the month of January of each year.

(2¹) The positions of president and vice-president of ANCOM are positions of public dignity assimilated to the position of Minister, respectively Secretary of State, with a right to a cabinet of the dignitary.

(3) The ANCOM president and vice-presidents must meet the following conditions:

a) they should be Romanian citizens with at least 5 year-experience in the communications field or, in the law or economy fields, in general;

b) they should not exercise other public or private functions (the teaching ones are excluded);

c) they have no criminal record;

d) they do not hold, directly or indirectly, social shares or equity interests in commercial companies operating in the electronic communications or postal services fields or involved in other activities which fall within ANCOM's scope of regulation and must not belong to the management board of such companies;

e) not be members of any political parties during their mandate.

(4) The provisions of Chapter IV "Other conflicts of interests and incompatibilities" within title IV "The conflict of interests and the incompatibility regime in the exercise of public dignities and public positions" of Law no. 161/2003 on certain measures to ensure transparency in exercising public dignities, public positions and in the business environment, and on preventing and sanctioning corruption, with the subsequent amendments and completions, will be applied correspondingly to the president and vice-presidents of ANCOM.

(5) The president and vice-presidents of ANCOM are appointed for 6 years. Their mandates can be extended for the same period only once. The mandates of the president and vice-presidents of ANCOM end in the following cases:

a) should it be impossible for them to fulfil their mandate for more than 120 consecutive calendar days out of a total of 140 days;

b) should there be a criminal conviction delivered by final judgement, without expungement;

c) should not be observed the 3-month term provided for remedying the incompatibility status regulated under paragraph (8);

d) by resignation;

e) by death;

f) upon expiry;

g) by dismissal, if they no longer meet the conditions provided in para. (3) and (4), under the conditions of para. (8), or in exceptional situations, when, through their actions, they have seriously affected the functional independence of the authority from the entities provided in art. (5).

(5¹) The dismissal from office shall be made by the Chamber of Deputies and the Senate, in a joint session, with the vote of the majority of the deputies and senators present,

on the basis of a joint report of the committees provided in art. 15 para. (1). The report shall be published on the websites of the Chamber of Deputies and of the Senate and shall be communicated to the dismissed person.

(6) If any of the president or vice-president positions becomes vacant, a new person will be appointed for the period remaining until the end of the mandate, as provided in paragraph (1).

(7) The members whose mandates have expired keep exercising their function until their successors are appointed.

(8) The president or the vice-presidents who, at the time of their appointment or during their mandate, are found in one of the incompatibility cases stated in paragraphs (3) and (4) are provided a 3-month term for remedying the incompatibility status.

(9) In the case provided in para. (8), the person concerned has the obligation to immediately notify, in writing, the Commission for information technology and communications within the Deputy Chamber and the Commission for communications and information technology within the Senate on the existence of the incompatibility status.

(10) In the event of a vacancy of the position of president, the duties of the ANCOM president are exercised by the person who occupies the highest management position in the institution. In the situation where the two or more persons occupy equal positions, the duties are exercised by the one who has the longest seniority in the respective position, and in case of equal seniority, by the one who has the longest seniority in the institution.

Article 12

(1) The president represents ANCOM in its relations with the Parliament, Government, ministries, other public authorities and organisations, as well as with legal and natural persons from Romania and abroad.

(2) The president of ANCOM is a credit principal.

(3) In exercising the attributions provided by the law, the president issues Decisions.

(4) The normative decisions will be published in the Romanian Official Journal, Part I.

(5) The decisions adopted in the exercise of the powers provided by the law in the field of electronic communications, audiovisual communications, radio equipment, electromagnetic compatibility, postal services, physical infrastructure of electronic communications networks, as well as in the other matters provided by law within the competence of ANCOM, may be appealed in administrative litigation at the Bucharest Court of Appeal, without going through the prior procedure provided for in art. 7 of the Law on Administrative Litigation no. 554/2004, as subsequently amended and supplemented. Individual decisions may be appealed within 30 days since the communication date.

(6) ANCOM shall transmit to the European Commission or BEREC, upon their reasoned request, statistical information on the number of suits pending before the courts regarding the decisions issued by ANCOM, the court decisions issued, including as regards any temporary measures ordered by the courts, as well as on the duration of judicial proceedings.

Article 13

(1) The president of ANCOM has the following attributions:

a) approves the strategies of institutional development of ANCOM, the activity programmes and the cooperation programmes;

b) approves the ANCOM annual activity plan;

c) approves the ANCOM investment plan;

d) coordinates the process of elaboration and implementation of ANCOM regulations;

e) convokes and presides the plenary reunions of the Consultative Council;

f) approves, by way of an internal decision, the organisational chart, the explanatory list of positions and the number of positions within ANCOM;

- g) establishes the territorial structures of ANCOM;
 - h) establishes, by internal decision, the specific attributions of each compartment within ANCOM;
 - i) approves the ANCOM internal regulation;
 - j) coordinates the activity of ANCOM compartments;
 - k) negotiates and signs for and on behalf of ANCOM the collective labour contract;
 - l) approves the organisation of exams for the occupation of the vacant positions within ANCOM;
 - m) approves the employment, promotion, as well as amendment or cessation of the labour contract of the ANCOM personnel;
 - n) approves the ANCOM personnel's official travels within the country and abroad;
 - o) any other attributions provided by the law.
- (2) The president of ANCOM may delegate certain attributions under paragraph (1) to the subordinated personnel.
- (3) The president of ANCOM establishes the attributions of the vice-presidents of ANCOM.
- (4) In the absence of the president, his/her attributions are exercised by the vice-president designated by decision of the president.
- (5) If the president and the 2 vice-presidents are missing or it is impossible for them to exercise their prerogatives, the ANCOM representation is ensured by a person with a managing function, designated by decision of the president of ANCOM.

Article 14

- (1) ANCOM's current and capital expenditures are entirely financed from own revenues, which come from the following sources:
- a) the monitoring tariff, in accordance with the provisions of Chapter X of the Government Emergency Ordinance no. 111/2011, as subsequently amended and supplemented, for the supervision and control activity in the field of electronic communications and postal services, carried out by ANCOM;
 - b) the tariff for the use of the spectrum, in accordance with the provisions of art. 30 of the Government Emergency Ordinance no. 111/2011, as subsequently amended and supplemented, and art. 62 of the Audiovisual Law no. 504/2002, with subsequent amendments and completions;
 - c) the tariff for the use of numbering resources, in accordance with the provisions of art. 43 of the Government Emergency Ordinance no. 111/2011, with subsequent amendments and completions;
 - d) donations, legacies and sponsorship, according to the law;
 - e) internal and external credits contracted according to the law;
 - f) other revenues that can be achieved under the law.
- (2) The amounts collected from the sources provided for in para. (1) shall be retained in full as own revenues, on a permanent basis, at the disposal of ANCOM and shall be used in accordance with the provisions of the income and expenditure budget. The claims provided for in para. (1) are budgetary receivables assimilated to tax receivables and are administered by ANCOM, the provisions of Law no. 207/2015 regarding the Fiscal Procedure Code, with subsequent amendments and completions
- (2¹) From the sources of financing provided for in para. (1), ANCOM may decide to contribute to the budget of BEREC, in accordance with the provisions of 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 Support Agency for BEREC (BEREC Office) and amending Regulation (EU) 2015/2.120 and repealing Regulation (EC) no. 1.211/2009.

(3) The annual income and expenditure budget of ANCOM shall be approved by decision of the Parliament, with the endorsement of the Commission for information technology and communications within the Chamber of Deputies and of the Commission for communications and information technology within the Senate, upon the proposal of the President of ANCOM.

(3¹) Within the limit of the approved annual income and expenditure budget, ANCOM shall decide on the management of its human and financial resources.

(4) The annual surplus derived from the execution of the ANCOM budget of incomes and expenditures will be reported in the following year.

(5) By exception from the provisions of para. (4), in 2013, out of the availabilities registered by ANCOM, representing surplus from previous years, the amount of 100,000 thousand lei shall be transferred to the state budget, in the revenue account of the state budget – 36.01.05 "Payments from the revenues and/or availabilities of public institutions", within 15 days from the date of entry into force of this emergency ordinance.

Article 15

(1) The activity of ANCOM is analysed by the Parliament through the debate of the annual report, which is presented for the previous year, as well as of the specific reports drawn up at the request of the Commission for information technology and communications within the Chamber of Deputies and of the Commission for communications and information technology within the Senate.

(2) The annual activity report shall be submitted to the Commission for information technology and communications within the Chamber of Deputies and of the Commission for communications and information technology within the Senate and to the specialized ministry, by April 30, and shall be debated in the presence of the president and vice-presidents of ANCOM. On the annual report, the committees draw up and adopt a report

(2¹) The annual activity report shall contain, inter alia, information on the existing situation in the electronic communications market, the decisions issued by ANCOM during the reference period, the existing human and financial resources, as well as their allocation in the previous year, respectively on ANCOM's future plans.

(3) Upon the request of the Commission for information technology and communications within the Chamber of Deputies and of the Commission for communications and information technology within the Senate, ANCOM shall present for debate and approval to the committees a program of concrete measures to remedy any shortcomings identified in the report.

(4) The report of the Commission for information technology and communications within the Chamber of Deputies and of the Commission for communications and information technology within the Senate on the annual activity report shall be subject to debate and adoption in the plenary session of the Parliament, in the presence of the president and vice-presidents of ANCOM.

Article 16

Within 60 days from the date this emergency ordinance comes into force, the Regulation on the Organisation and Operation and the organisational chart of ANCOM will be approved by decision of the president of ANCOM.

Article 17

(1) ANCOM takes over the number of positions and personnel of the former National Authority for Communications, maintaining the salary rights as until the takeover.

(2) As soon as the new organisational structure of ANCOM is approved, within 90 days, exams will take place for the occupation of the vacant places within the new organisational structure, under the salary conditions set out by the new salary grid, approved by decision of

the president of ANCOM. The manner in which the exams will take place, the promotion criteria, as well as any other related aspects will be approved by decision of the president of ANCOM.

(3) The persons whose work positions are dissolved will be dismissed, according to the law.

Article 18

(1) The personnel of ANCOM are employed upon taking an exam organised under the law, in accordance with the organisational structure, and the individual labour contract is concluded pursuant to the law.

(2) The individual attributions, tasks and responsibilities of the personnel of ANCOM are established in the job description fiche, signed by the hierarchical chief and by the job holder, based on the Regulation on the Organisation and Operation of ANCOM.

(3) The promotion, amendment, suspension or cessation of the work activity of the personnel within ANCOM's compartments is achieved by decision of the president, pursuant to the law.

(4) The remuneration of ANCOM staff and other personnel rights are established exclusively under the conditions of Law no. 53/2003 – Labor Code, republished, with subsequent amendments and completions, through negotiation within the collective labor agreement at the level of ANCOM and the individual labor contract, within the limits of the income and expenditure budget, the provisions of the general normative acts aimed at establishing the collective or individual salary rights in the budgetary sector not being applicable. The collective labour agreement shall be concluded at the latest on the expiry date of the collective labour agreement in force.

(5) In its activity, ANCOM has the obligation to exercise its duties in a transparent, objective, non-discriminatory and impartial manner, respectively, in a timely manner, and to maintain its operational and financial independence from:

- a) the providers of electronic communications networks and services;
- b) manufacturers or authorized representatives of manufacturers of radio equipment or equipment in the field of electromagnetic compatibility, importers or distributors of such equipment;
- c) the providers of postal services;
- d) any other person acting in such a way as to jeopardise the exercise of his or her duties independently.

(5¹) ANCOM, the members of its management and staff shall not request or accept instructions of any kind from any other institution, body or authority in the exercise of their duties conferred by law.

(6) ANCOM employees cannot hold shares or social parts in commercial companies operating in the sector of electronic communications, postal services, audio-visual or any other sectors which fall within ANCOM's scope of competence and cannot be members of the management board of such companies.

Art. 18¹. — (1) ANCOM must have adequate technical, financial and human resources to carry out the tasks assigned to it. In order to carry out its activity in optimal conditions, including for substantiating any measure taken in the exercise of its duties, as well as for the elaboration of the acts necessary for their implementation, ANCOM has the right to contract and use therefor consultancy, expertise, technical assistance and similar services.

(2) ANCOM has the right to conclude, for the President and Vice-Presidents of ANCOM, as well as for the rest of its staff, professional civil liability insurance contracts, for the damages caused during the performance of specific duties in the exercise of the mandate or under individual employment contracts.

(3) In order to perform its duties, ANCOM may request and obtain, free of charge, including through access to the information systems of the National Trade Register Office, following the conclusion of a protocol, information on data registered in the computerized trade register, corresponding to its field of activity, in compliance with the legislation in force, in particular that on the protection of personal data.

(4) In order to perform its duties, ANCOM may request and obtain, free of charge, following the conclusion of a protocol, information from the Ministry of Finance and the National Agency for Fiscal Administration, through access to the IT systems of these institutions, in compliance with the legislation in force, in particular that on the protection of personal data.

Article 19

(1) ANCOM takes over the patrimony and budget of the former National Authority for Communications, which is dissolved in accordance with this emergency ordinance, as well as all its rights and obligations, except for the infrastructure and equipment required to exercise the attributions of administration and management, at the national level, of the TLD ".ro", the name servers for the .ro domain, the national directory for the .ro domain, including the rotld.ro portal, all applications, databases, licences, related textbooks and procedures.

(2) The patrimony of the former National Authority for Communications is established based on the closing accounting balance sheet at the dissolution date, along with the synthetic trial balance, the patrimony result account, the statement on the treasury flows, the execution accounts drawn up within the approved budgets and the other annexes, as the case may be, prepared according to the existing methodology, and is taken over on the basis of the aforementioned documents and of the handover-takeover protocol, within 30 days from the date on which this emergency ordinance enters into force.

Article 20

Within the text of the normative acts in force, the following wordings are correspondingly replaced according to the provisions of this emergency ordinance:

- a) "National Authority for Communications" by "National Authority for Management and Regulation in Communications";
- b) "ANC" by "ANCOM".

Article 21

Government Decision no. 12/2009 on the organisation and functioning of the Ministry of Communications and Information Society, published in the Romanian Official Journal, Part I, no. 51 of 28 January 2009, is amended and completed as follows:

1. Within paragraph (1) of Article 4, after indent 53, 6 new indents will be introduced, indents 54-59, reading as follows:

"54. surveillance and control of the compliance with the legal provisions in the electronic commerce field, in its capacity of regulatory and supervisory authority, in accordance with the provisions of Law no. 365/2002 on electronic commerce, republished;

55. exercise of the attributions as regulatory and supervisory authority in the electronic signature field, as provided by Law no. 455/2001 on electronic signature;

56. exercise of the attributions as regulatory and supervisory authority in the temporal marking field, as provided by Law no. 451/2004 on temporal marking;

57. exercise of the attributions as regulatory and supervisory authority in the electronic notary activity field, as provided by Law no. 589/2004 on the legal regime of the electronic notary activity;

58. exercise of the attributions as regulatory and supervisory authority in the electronic archiving field, as provided by Law no. 135/2007 on electronic archiving;

59. surveillance and control of the compliance with the legal provisions in the field of information systems used for electronic invoicing, in its capacity of regulatory, homologation and supervisory authority."

2. After paragraph (3) of Article 4, a new paragraph shall be introduced, paragraph (3¹), reading as follows:

"(3¹) The organisation, implementation, elaboration and administration of all national programmes, infrastructure, systems and services relating to the information society will be fulfilled upon the approval, under the coordination and control of the Ministry of Communications and Information Society."

3. Paragraph (2) within Article 12 will be amended and will read as follows:

"(2) The maximum number of positions is 248, excluding the dignitaries and the positions in the minister's cabinet."

4. Annex no. 1 "Organisational chart of the Ministry of Communications and Information Society" will be amended and replaced with the annex which is part of this emergency ordinance.

Article 22

Within Article 2(1) letter A in Annex no. 2 to the Government Decision no. 1621/2003 on the organisation and functioning of the National Institute for Research-Development in Informatics - ICI Bucharest, published in the Romanian Official Journal, Part I, no. 56 of 23 January 2004, with the subsequent amendments, after letter n), a new letter will be introduced, letter o), reading as follows:

"o) organisation, administration and management of the TLD (top level domain) «.ro», fulfilling the function of directory for the «.ro» domain names;"

Article 23

Within Article 2 of the Government Emergency Ordinance no. 73/2007 on the organisation and functioning of the Agency for Information Society Services, published in the Romanian Official Journal, Part I, no. 444 of 29 June 2007, approved with amendments and completions by Law no. 125/2008, letter c) will be amended and will read as follows:

"c) implements and operates, at national level, information and communications systems for the purpose of providing services required for the electronic government;"

Article 24

Within the text of the normative acts in force the wording "National Authority for Communications" will be replaced with the wording "Ministry of Communications and Information Society" as regards the specific attributions provided in Article 4(1) indents 54-59 of the Government Decision no. 12/2009.

Article 25

(1) With the entry in force of this emergency ordinance, the Government Emergency Ordinance no. 106/2008 on the establishment of the National Authority for Communications, published in the Romanian Official Journal, Part I, no. 659 of 18 September 2008, with the subsequent amendments, Chapters VII and VIII of the Government Emergency Ordinance no. 79/2002 on the general regulatory framework for communications, published in the Romanian Official Journal, Part I, no. 457 of 27 June 2002, approved with amendments and completions by Law no. 591/2002, with the subsequent amendments and completions, as well as any other contrary legal provisions are repealed.

(2) The final mention on the transposition of the Community rules in the Government Emergency Ordinance no. 79/2002 on the general regulatory framework for communications is amended and will read as follows:

"This emergency ordinance transposes Directive 2002/20/CE of the European Parliament and of the Council of 7 March 2002 on the authorisation of the electronic communications networks and services (the Authorisation Directive), published in the Official Journal of the European Communities no. L 108 of 24 April 2002, and the Directive 2002/21/CE of the European Parliament and of the Council of 7 March 2002 on the common regulatory framework for the electronic communications networks and services (the Framework Directive), published in the Official Journal of the European Communities no. L 108 of 24 April 2002, except for the provisions of Articles 3, 4, 8, 17 and 19."

*

This Emergency Ordinance transposes the provisions of art. 3—11, art. 38 para. (2) and art. 39 para. (2) and (8) of Directive (EU) 2018/1.972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, published in the Official Journal of the European Union, L series, no. 321 of 17 December 2018.

PRIME-MINISTER

EMIL BOC

Countersign:

Ministry of Communications and Information Society,

Gabriel Sandu

Vice-prime-minister, Minister of Administration and Interior,

Dan Nica

Head of the European Affairs Department,

Vasile Puscas

Minister of Labour, Family and Social Protection,

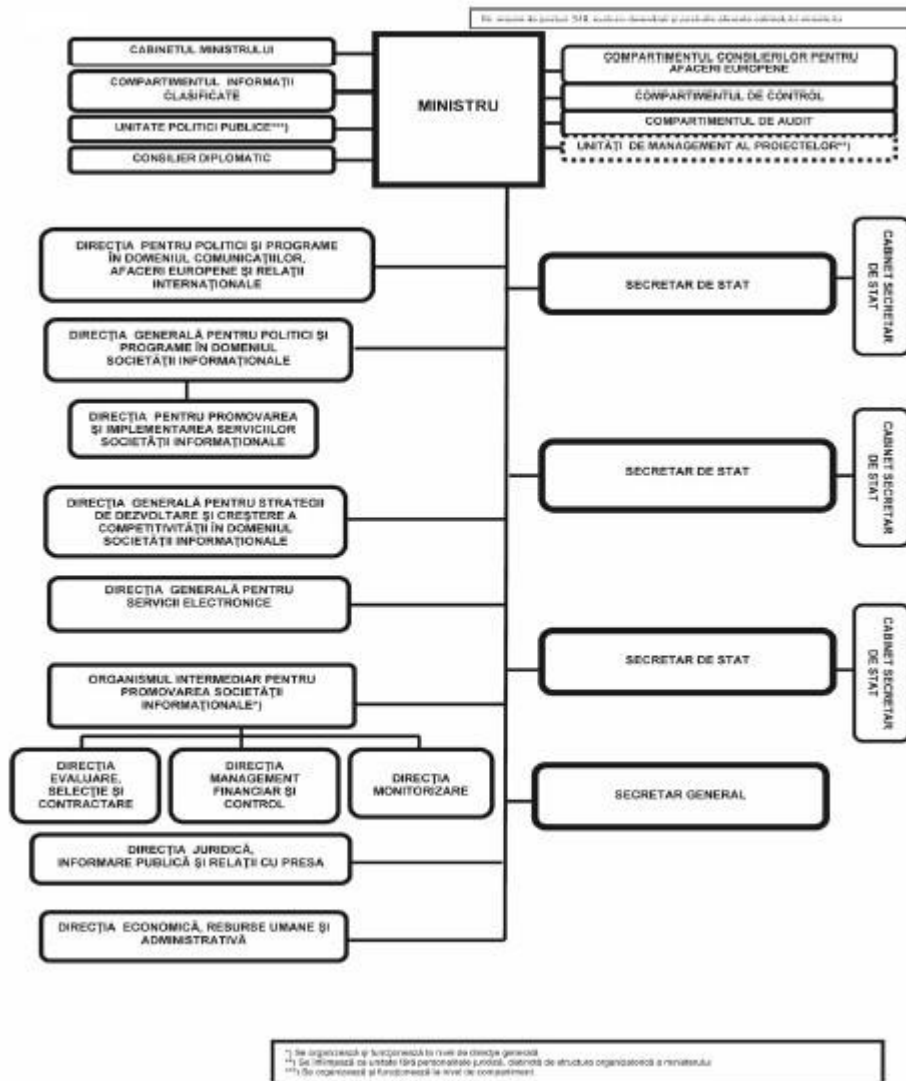
Marian Sarbu

Minister of Public Finances,

Gheorghe Pogea

ANNEX: ORGANISATIONAL CHART of the Ministry of Communications and Information Society

(- Annex no. 1 to the Government's Decision no. **12/2009**)



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