

Monitoring compliance with the provisions Regulation (EU) 2015/2120 on open internet access

1 mai 2018 – 30 aprilie 2019



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1. General overview

1.1. Legal framework

Regarding the open internet access, there were no major changes to the applicable legislation in the reference period, hence this matter abides by the same normative acts. Thus, the Romanian legal framework is represented by Regulation (EU) 2015/2120¹ (hereinafter referred to as *the Regulation*) and by the secondary legislation developed by ANCOM on setting quality indicators for the provision of the internet access service and the publication of the related parameters², as well as on the transparency of certain information that providers are required to make available to end-users³.

The Romanian legal framework is also complemented by the national transposition of the transparency obligations related to the traffic management practices provided by the Universal Service Directive, implemented into national law through the provisions of Government Emergency Ordinance no. 111/2011 on electronic communications, approved, with amendments and completions, by Law no. 140/2012⁴ as subsequently amended and supplemented.

There were some changes however regarding the content of the obligations imposed through the previously mentioned legislation, given that all the obligations laid down in the ANCOM President's Decision no. 1112/2017⁵ became effective for the providers of internet access services as of 01 May 2018.

As said, starting 01 May 2018, the providers of internet access services have the obligation to publish on their websites certain information which refers to the speeds of the fixed and mobile internet access service, while also having to observe obligations that relate to the application developed by ANCOM, considered a certified monitoring mechanism within the meaning of the Regulation (EU) no. 2015/2120, which enables the measurement of certain technical parameters of the internet access service: data transmission speed (download and upload), data transmission delay, jitter and packet loss rate.

The information that the providers of internet access services provided over both fixed and mobile networks must publish on their websites, in view of better informing the end-users, refers to the speeds specified in the Regulation for the offered internet access service and to the remedies to which the consumers are entitled if discrepancy, continuous or regularly recurring, is found between the real performance of the internet access service as regards the

¹ Regulation (EU) 2120/2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union;

²The ANCOM President's Decision no. 1112/2017 on setting quality indicators for the provision of the internet access service and the publication of the related parameters, with the subsequent amendments and completions;

³The ANCOM President's Decision no. 158/2015 on the obligations to inform the end-users, with the subsequent amendments and completions;

⁴ The consolidated version of the Government Emergency Ordinance no. 111/2011 on electronic communications can be consulted at the following address: http://www.ancom.org.ro/uploads/links_files/O_U_G_Nr_111_2011.pdf;

⁵ Published in the Romanian Official Journal, Part One, no. 41 of 17 January 2018;

speed or other quality parameters of the service and the performance indicated in the contract, as well as to the procedure for measuring the speeds which the consumers must follow in order to obtain the respective remedies.

With respect to the tool for measuring the quality of the internet access service certified by ANCOM – Netograf –, the internet access service providers have the obligation to publish on the main page of their websites a direct link to this tool and they are not allowed to charge, cut from the traffic under the tariff plan, limit or block the data traffic consumed by the end-users to and from the interactive application Netograf.

According to Article 5 (1) of the Regulation, ANCOM “*shall closely monitor and ensure compliance with Articles 3 and 4*” and “*shall publish reports on annual basis regarding their monitoring and findings*”. The present report refers to the period elapsed between 01 May 2018 and 30 April 2019.

1.2. The institutional implications of Regulation (EU) 2015/2120

Several national authorities ensure the monitoring and supervision as regards the application of the Regulation.

The main authority responsible for monitoring and ensuring compliance with the provisions of the Regulation is ANCOM, who can verify the compliance by the internet access service providers (hereinafter *providers* or *ISPs*) with most of the provisions of the Regulation. These are new powers that the authority has received in the field of net neutrality.

No amendments to national laws were required for ANCOM to receive and exercise these powers as the national legislation already contained the necessary provisions in this regard.

Together with ANCOM, two other national authorities are involved in ensuring the observance of the Regulation, as follows:

- The National Consumer Protection Authority (hereinafter *ANPC*) is the authority that can apply sanctions in case of non-observance of the contract provisions.

In 2010, ANCOM signed an official collaboration agreement with the ANPC establishing in detail the way in which the two authorities collaborate, especially in order to enhance efficiency in solving the complaints received from the consumers.

- The National Supervisory Authority for Personal Data Processing (hereinafter *ANSPDCP*) is the only authority responsible for monitoring compliance by the providers with the provisions of the national legislation in the field of data protection when applying Regulation (EU) 2015/2120, including when enforcing the data protection obligations referred to in Article 3 (4) of the Regulation.

ANCOM does not have the power to verify data protection breaches or privacy obligations.

There is no formal agreement between ANCOM and ANSPDCP, but, according to the Romanian law, if one authority receives a complaint it does not have the legal power to solve, then it must send the complaint to the competent authority within a 5-day timeframe.

1.3. Internal organization

There are no formal dedicated ANCOM departments or teams to deal with open internet access issues, but tasks regarding monitoring and ensuring compliance with the Regulation are carried out by different persons from various ANCOM units covering economic, legal and technical expertise, along with their regular tasks.

1.4. External organization

At national level, ANCOM has organised several individual and collective meetings with stakeholders in order to clarify various aspects regarding the implementation of the Regulation provisions, including aspects mentioned in the BEREC Guidelines⁶ on the implementation by national regulators of European open internet access rules (hereinafter referred to as the *BEREC Guidelines*). The topics approached during these meetings envisaged: the quality assessment procedure, respectively the procedure for assessing discrepancies between the speeds specified in contracts and those resulting from measurements, defining in the contracts the speeds laid down by the Regulation, aspects taken into consideration by providers in establishing (committing to ensure) the respective values, as well as traffic management practices. Discussions with the internet access service providers revealed different approaches to the analysed aspects, so that one cannot refer to a common approach as regards defining the speeds or interpreting the meaning of "significant discrepancy, continuous or regularly recurring" in the Regulation.

At international level, ANCOM was part of the drafting team in charge of developing the BEREC Guidelines, helping to ensure an application of the Regulation as consistent as possible across EU Member States, while taking into consideration national legislation. Also, ANCOM takes part in the BEREC Expert Working Group dealing with open internet access matters, being a member of the drafters' team working on updating the BEREC Guidelines.

2. Monitoring obligations

ANCOM has focused mainly on analysing the complaints received in relation to the provisions of the Regulation and, where needed, has sent requests for information to ISPs.

⁶ The full version in English is available at https://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/6160-berec-guidelines-on-the-implementation-by-national-regulators-of-european-net-neutrality-rules;

In the relevant period, ANCOM received about 70 complaints concerning the performance of IAS (fixed and mobile), most of them being solved by offering explanations on the applicable contract and legal provisions or directly by the ISPs. In some cases, to amicably settle the complaints, ISPs even agreed to terminate end-user contracts without any penalties for early termination, despite the end-users being still within the minimal contract period.

As well, a control campaign was conducted to check the extent to which the information specified in Article 4 paragraph (1) indent (1) letters a) to e) of the Regulation (EU) no. 2015/2120 is reflected in the contracts concluded by the main ISPs from Romania. Further detail on this action are provided in Section 2.3 below.

2.1 Commercial practices

In the relevant period, ANCOM continued to monitor the commercial practices carried on the telecommunication market. With regard to zero-rating practices, the following types of services were mainly identified:

- music and video streaming services;
- social media services;
- instant messaging services (including voice and video);
- email services;
- maps;
- cloud services;
- applications used for cost control, top-up credit/data traffic, add/remove options.

From publicly available information on ISPs' websites and from the information the ISPs made available in response to the information requests submitted by ANCOM, the following practices were identified:

- Upon concluding a new contract or renewing the existing one for a period of 12 or 24 months, Telekom Romania Mobile Communications offers as a bonus unlimited access to internet at speeds up to 1.5 Mbps for video-streaming and up to 150 Mbps for any other content. Thus, the quality of video content is limited to a maximum of 480p. No commercial agreements have been concluded between the ISP and the CAPs. End-users can easily turn the bonus on and off (in which case the tariff plan becomes a classic data-capped plan) as many times as they want. If bonus is activated, data traffic is free-of-charge both at national level as well as when roaming in the EEA (subject to regulated FUP), both directly via mobile device and via tethering.

- Vodafone Romania offers zero-rated access to certain categories of applications. Each category (e.g. social media, video-streaming, audio-streaming, maps, email services) is open. Every interested CAP can request to join the programme for free, subject to a commercial agreement and in compliance with specific conditions presented on ISP's website. The CAP should provide certain information such as IP address of the servers or media-storage in order to allow the ISP to identify the specific traffic. Zero-rated applications benefit from free-of-charge data traffic both at national level and when roaming in the EEA (subject to regulated FUP), both directly via mobile device and via tethering.

- Orange Romania offers zero-rated access to certain applications in different categories of traffic. All zero-rated applications benefit from free-of-charge data traffic both at national level and when roaming in the EEA (subject to regulated FUP).

Following an investigation which concerned the practices of Telekom Romania Mobile Communications S.A., ANCOM found that this provider breached the provisions of Article 3 paragraph (3) indents (1) and (3) of the Regulation EU no. 2015/2120 and imposed on Telekom Romania the obligation to remove the discriminatory traffic treatment applied for video-streaming as opposed to the other traffic categories. The provider challenged in Court the ANCOM decision, asking for its suspension and annulment. In the first instance, the Bucharest Court of Appeal admitted the request to suspend the ANCOM decision until a court decision on its annulment is pronounced. ANCOM appealed the ruling of the Court of Appeal. Both the appeal against the suspension decision and the lawsuit concerning the annulment of the ANCOM decision are now in progress.

As for the practices of the other providers, given that the Regulation does not prohibit *per se* this type of practices, ANCOM has requested additional information and continues to monitor their evolution. In the reference period, there were no sufficient indications on the breach of the legal provisions to justify the Authority's intervention.

2.2 Traffic Management

In order to monitor the traffic management practices used/applied by ISPs, ANCOM has paid close attention to end-users' complaints.

In the relevant period, ANCOM received complaints regarding two types of traffic management measures.

The first issue referred to a possible limitation (under specific conditions) applied by the ISP to the 2 Mbps download speed, for the users that are roaming (Czech Republic and Republic of Croatia). However, upon the investigations conducted by ANCOM, and considering the explanations of the provider in question, no aspects to support/confirm the provider's application of these practices were identified.

The second issue concerned the unavailability of a service (contracted with a view to enhance the signal level) possibly due to port blocking applied by the ISP. The ANCOM investigations in this case showed that the complaint was not grounded, and it was only a matter of a customer equipment misconfiguration.

2.3. Transparency in the contracts concluded with the end-users

In the second half of 2018, ANCOM started a control campaign which concerned the analysis of the contracts which include fixed and mobile internet access services, concluded with the end-users by the main ISPs. To this end, ANCOM analysed the contracts in question from the

perspective of compliance with the provisions of Article 4 paragraph (1) indent (1) letters a) to e) of the Regulation (EU) no. 2015/2120.

Upon this action, ANCOM concluded that, in principle, the analysed contracts include general information on the aspects regulated by Article 4 paragraph (1) indent (1) letter a) to c) of the Regulation.

Incomplete information was however assessed regarding the speeds of the fixed and mobile internet access service which the contracts must specify pursuant to Article 4 paragraph (1) indent (1) letter d) of the Regulation (EU) no. 2015/2120. Thus, the analysed contracts included information on the speeds which a user can reach, but the procedure that the consumer needs to follow in order to measure the speeds specified in the contract and to obtain the remedies provided for by the national law was not included by the majority of the analysed providers. Another information only partly reflected in the contracts verified by ANCOM concerned the explanations on the remedies at the consumers' disposal according to the national law in the event they discover significant discrepancy, continuous or regularly recurring, between the real performance of the internet access service in terms of speed or other service quality parameters and the performance indicated in the contract, contract termination being a remedy whose conditions were not established by the providers.

The control campaign will be completed with the imposition of measures for the remediation of the found breaches so as to ensure that the providers observe the incumbent transparency obligations. In order to support the providers, for the purpose of observing the obligations under Article 4 paragraph (1) indent (1) letter (d) of the Regulation, ANCOM intends to elaborate a guide which would offer an understanding as unitary as possible of the implementation of the mentioned article. The guide will be available by the end of this year and will comprise, *inter alia*, information on the modality to measure the speed, the conditions to be met when measurements are made by the subscribers, the tool for measuring the quality of the internet access service etc.

In the reference period, ANCOM has elaborated a draft of this document, which was made available to the providers, these having thus the opportunity to submit comments.

3. Transparency measures for ensuring open internet access

Considering the provisions of the Regulation (EU) 2015/2120 and the BEREC Guidelines emphasizing the importance of ensuring transparency, which is essential in end-user assessment of ISPs' performance, ANCOM issued the Decision no. 1112/2017, some of its provisions coming into force on 1 May 2018.

The Decision aims to establish a relevant set of (technical and administrative) quality indicators for the provision of the internet access service from the end-users' point of view, to define and establish the measuring methods for the relevant set of parameters, imposing on the providers the obligation to publish the quality parameters and to include them in the contracts

concluded with the end-users. The Decision does not impose target-values for these parameters. The committed value of the parameters (quality level) is established by the providers in the contract on the provision of the internet access service concluded with end-users, irrespective of the payment method (prepaid or post-paid).

The administrative quality indicators established through the Decision no. 1112/2017 are the following:

- supply time for internet access service;
- frequency of the end-user complaints;
- fault report rate;
- frequency of bill correctness complaints;
- fault repair time;
- end-user complaint (other than fault-related) resolution time.

The technical quality indicators established through the mentioned decision are the following:

- data transmission speed;
- packet transmission delay;
- jitter and
- packet loss rate.

Within the Decision no. 1112/2017, ANCOM defined the technical quality parameters provided in the Regulation, without interfering with other issues regarding these parameters. The parameters were defined in broad terms, precisely for not hindering/restricting the providers. Thus, ANCOM aims to closely monitor the implementation of the Regulation's provisions by the providers and to step-in subsequently, as appropriate. Moreover, the decision establishes the quality parameters measured by the end-users, so that they can monitor and assess the contracted service quality.

3.1. Data transmission speed

Data transmission speed is the data transmission rate, measured in Megabits/second (Mbps), achieved separately for the transmission of the test files downstream, respectively upstream, between the end-user's terminal equipment and a test server.

The data transmission speed is specified based on the transport layer protocol payload.

For **fixed internet access services**, the following parameters have been defined:

- *Minimum speed* – the lowest data transmission rate that an end-user can experience in accessing the service, according to the contractual or general conditions, as applicable. In principle, the actual speed, experienced by the end-users, should not be lower than the minimum speed, except in cases of service interruption.
- *Normally available speed* – the data transmission rate that an end-user can experience most of the time when accessing the service, during a specified period.

- *Maximum speed* – the data transmission rate that an end-user can experience at least once during a specified period.
- *Advertised speed* – the data transmission rate that a provider uses in advertising materials, in promoting commercial offers. The advertised speed should not exceed the maximum speed.

For **mobile internet access services**, the following parameters have been defined:

- *Estimated maximum speed* – the data transmission rate that an end-user can experience in realistic usage conditions. This speed will be specified separately, for different network technologies.
- *Advertised speed* – the data transmission rate that a provider uses in advertising materials, in promoting commercial offers. The advertised speed should not exceed the estimated maximum speed.

In order to ensure the possibility to assess the quality of the service provided, the technical quality parameters will be accompanied by the following information:

- a description of the conditions under which the minimum speed, the normally available speed and the maximum speed could be achieved, for fixed internet access services;
- a description of the methodology used to ascertain the estimated maximum speed and of the factors influencing the achievement of the estimated maximum speed, for mobile internet access services.

The data transmission speed measured by ANCOM's application – *Netograf* – is calculated in real time for both fixed and mobile internet access services, dividing the size of the test file by the transfer time required for error-free transmission. The results will be displayed to the user after the measurement has been completed. Measurements are performed at the edge of the network by means of which the internet access service is provided (e.g., at the end-users' premises, for fixed access, or via the radio access network, for mobile access). The test server is located outside the network ensuring the IAS, in a public internet exchange point (IXP). The measurement uses multiple TCP connections for saturating the measured path.

The quality of an internet access service must not be assessed based exclusively on data transmission speed. Packet transmission delay, jitter and packet loss rate are the parameters that, besides data transmission speed, may create a thorough and accurate image of the internet access service quality. ANCOM did not impose on the providers the obligation to publish the three quality parameters and to include them in the contracts concluded with the end-users. Nevertheless, the decision defines these parameters and ANCOM's application will measure them. Thus, the end-users can receive relevant, complete, comparable and easily accessible information on the quality of the internet access services.

3.2. The certified monitoring mechanism – Netograf

At the end of 2014, ANCOM made available to the interested parties Netograf.ro, an online application where internet access users can assess the providers' performance from the technical quality parameters perspective, as well as their evolution over time, respectively the improving or the degrading quality of the internet access service offered. The application is available on *www.netograf.ro*.

Using this application, internet access service users can measure parameters such as the download speed, the upload speed, delay, jitter and packet loss rate.

Before performing a test, the user is presented a series of information fields (IP address, location detected, information regarding the terminal equipment used). Furthermore, although the provider is automatically detected, the user can choose another provider, if the identified one is not the respective user's provider. To perform a test, the user must select his internet access service offer, and the access type (wired/wireless, indoor/outdoor).

The values of quality parameters resulted from the measurement are displayed in real time to the users. The users can compare the measured values with the nominal values of the respective parameters indicated by the providers in the contract. Moreover, for registered and logged-in users, the application enables viewing a history of individual measurements, offering a series of additional functions, such as the possibility to sort measurements by tested connection and to display graphs and tables with the historic values of the performed tests.

By means of this application, ANCOM publishes regular statistics on the quality of the internet access services, from the technical quality indicators' perspective. Thus, in order to compare the quality achieved by different providers of internet access services, or to assess the quality of various connections from one provider, the application returns the number of measurements and average values of the quality parameters, according to the options selected by end-users (period, offer type, test location).

In view of simplifying the measuring process for end-users, ANCOM decided to introduce new features to Netograf. The new features, developed early in 2019 (by means of a third party), consist (among others) in the followings:

- free of charge applications dedicated to mobile terminals (for the top three most used operation systems), which can be downloaded from the official applications' stores and enable the users to measure the technical quality parameters of their mobile internet connection and to view statistics/history/information on the performed tests;
- free of charge applications dedicated to fixed terminals (for the top two most used operation systems), the installation kits of which the users can download from *www.netograf.ro* and which enable them to measure the technical quality parameters of their fixed internet connection and to view statistics/history/information on the performed tests;
- a module for mapping the results, by means of which the users will be able to see the measurement results distributed geographically on the map of Romania;

- a measurement module based on advanced technologies, which enables measuring speeds above 300 Mbps with greater accuracy.

In order to verify that the measurements were carried under optimum conditions and that the results were not influenced by exogeneous factors, the Netograf applications collect and measure various indicators (e.g., processor load, memory usage, download/upload background traffic). If a certain pre-set threshold for one of these indicators is exceeded, the application pinpoints the factors that influenced the respective measurement.

In order to obtain the values under the contract for the quality parameters of the internet access service, there are several recommendations for the fixed and mobile internet (e.g. related to the operating system limitations, lower characteristics of a terminal, background traffic during measurements, specific programmes like antivirus or firewall).

Measuring the quality parameters of the internet access services does not require creating a user account. However, if the user wishes to create an account, the applications for fixed and mobile terminals have several additional features such as the possibility to display graphs and tables with the historical values of the performed tests, and to schedule tests at periodical time intervals, during one or several days.

According to the Decision no. 1112/2017, ISPs are required not to charge, deduce from the data-cap, limit or block the data traffic consumed by end-users from and to Netograf.ro.

Thus, the users of internet access services benefit from a unique, independent, objective and free of charge tool for quality assessment measuring the technical parameters, by which they will be able to measure their own connections through a dedicated browser and dedicated applications, on fixed or mobile terminals, with access to the history of their own measurements.

Using this certified monitoring tool and considering the measurement methodologies established by the ISPs, internet access service users can compare between the actual/measured performance of the service and the performance committed by the providers under contract. Moreover, the users will be able to access the statistics with the values of the technical quality parameters, based on the tests performed by other users over a defined period. The end-users could thus compare the quality of the services ensured by different providers and could make informed choices when they conclude a contract with a provider of internet access services or intend to switch providers.

3.3. The means of ensuring the transparency of the information regarding the quality of the internet access service

Decision no. 1112/2017 also introduced specific obligations on the providers of electronic communications services (hereinafter *ECS providers*) in respect of the means of ensuring transparency regarding the quality of the internet access service provided, by amending accordingly the provisions of ANCOM Decision no. 158/2015 establishing various transparency

obligations for the ECS providers, regarding the tariffs charged, the conditions of use of the services, as well as the quality of the service, which were considered relevant for the end user's taking the purchasing decision. Thus, based on Decision no. 158/2015 with the subsequent amendments, starting 01 May 2018, in the first description of each tariff plan containing an internet access service, ECS providers are required to publish on their websites the values of each type of speed established by the Regulation.

From 01 May 2018, ECS providers also have the obligation to communicate to end-users, before the conclusion of an internet access service contract, information on the values for each type of speed established by the Regulation. This obligation applies to contracts concluded in the presence of the two parties in the ECS providers' shops.

Furthermore, from 01 May 2018, the ECS providers' website must display information on the speeds measurement procedure that allows a consumer to identify any significant discrepancy, continuous or regularly recurring, between the actual performance of the internet access service regarding speed or other quality of service parameters and the performance indicated by the provider of internet access services in the contract. From 01 May 2018, the ECS providers also have to publish on their website the remedies available to the consumer in accordance with the national law if such discrepancies are found by using the certified quality measurement mechanism.

4. Report on the quality of the internet access service

Every year, ANCOM provides a report on the quality of the internet access service, based on the measurements performed by the users through Netograf.ro. The report presents comparative statistics on service quality, as well as analyses on the dynamics of service quality. In 2018, statistics were generated upon analysing approx. 321.753 valid tests, about 18% more than in 2017, when a total of 273.414 tests had been analysed. Out of all the valid tests, 83.75% were performed using fixed connections and 16.25% were performed over mobile connections. This difference may be due to the fact that the mobile internet service is generally limited in respect of the data volume that can be transferred by the users and, therefore, the latter are rather reluctant to performing tests over mobile connections.

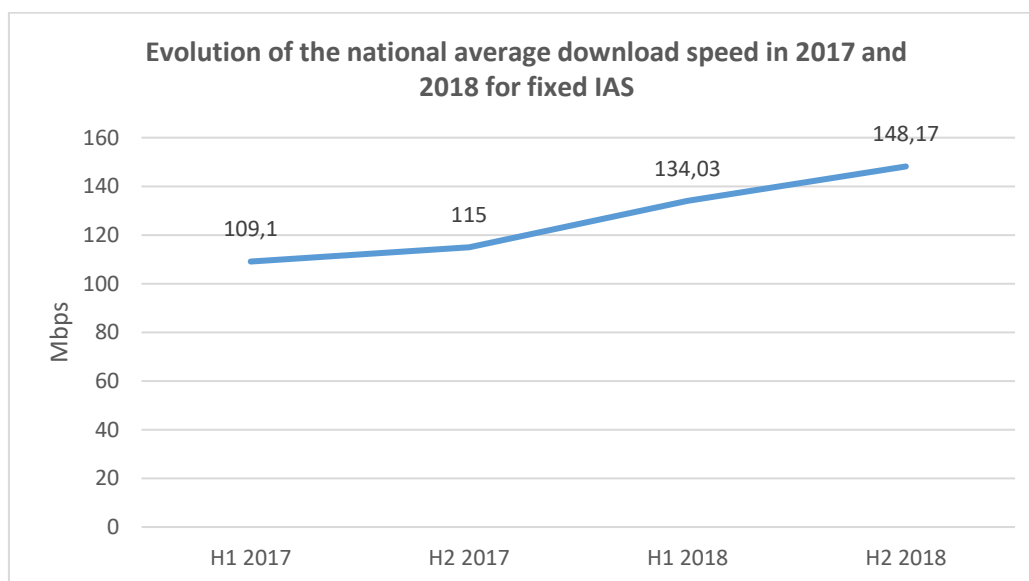
Taking into account that fixed and respectively mobile internet access connections feature different technical characteristics and subsequently trigger substantially different values of the quality parameters, ANCOM's analysis was conducted separately for the providers of internet access services using fixed networks and respectively for the providers of internet access services using mobile networks.

4.1. Quality of internet access service in the case of fixed networks

According to the results of the tests performed using Netograf.ro, in the second half of 2018, Romanian users experienced average download speed on a national level of 148.17 Mbps for the fixed internet access service. The average upload speed on a national level was 119.50 Mbps.

Compared to the first semester of 2018, in the second half of the year, the download speed using fixed networks increased on a national level, by 10.5% (the average speed achieved in the first semester was 134.03 Mbps), while the upload speed grew by 26.5% (the average speed achieved in the first semester was 94.42 Mbps), for this connection type.

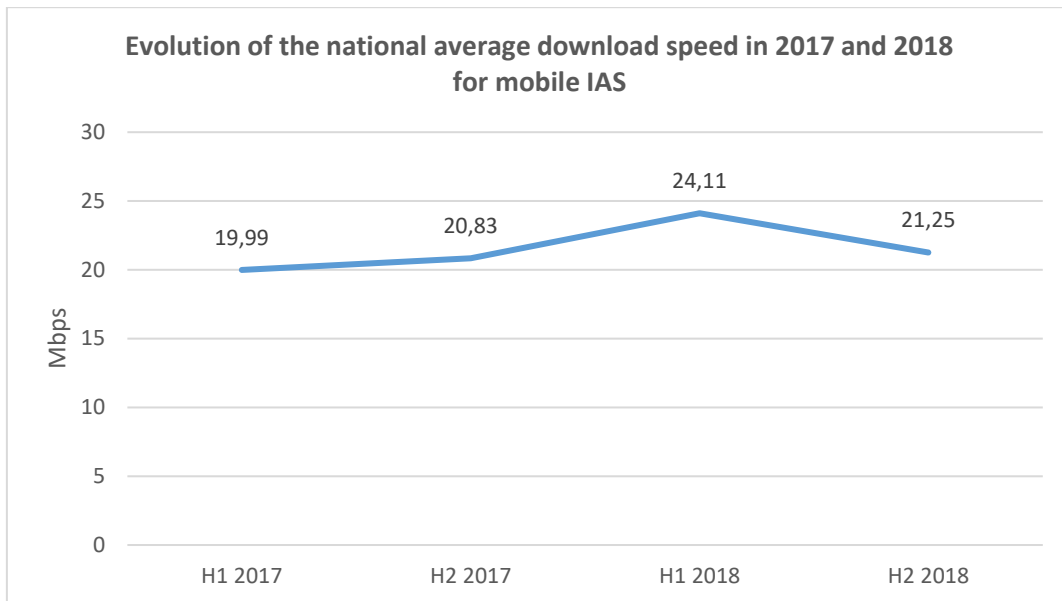
The evolution of the average download speed at a national level in 2017 and 2018, for fixed internet access services, is presented in the figure below.



4.2. Quality of internet access service in the case of mobile networks

According to the results of the tests performed using Netograf.ro, in the second half of 2018, Romanian users experienced average download speed on a national level of 21.25 Mbps for the mobile internet access service. The average upload speed on a national level was 10.90 Mbps. Compared to the first semester of 2018, in the second half of the year we witnessed a decrease by 11.8% of the download speed, respectively by 5.3% of the upload speed, on a national level.

The evolution of the average download speed at a national level in 2017 and 2018, for mobile internet access services, is presented in the figure below.



Data registered by means of Netograf.ro regarding transmission speeds are correlated with the general trend resulted from the providers' statistical data reports, corresponding to their committed transmission speeds. Thus, the number of fixed high-speed (at least 100 Mbps) internet connections grew by 16% compared to the previous year, the share of high-speed connections reaching 69% at end-2018. Regarding mobile internet access connections, the number of 4G connections increased by 27%, so these connections held a majority share in 2018, namely 51% of the total mobile internet connections.

5. Transparent, simple and efficient procedures to address end-user complaints

According to the secondary legislation issued by ANCOM⁷, providers must publish on their website and also to hand in the end-users, upon the contract conclusion, a procedure that details the steps an end-user has to follow in order to submit a complaint related to the provision of electronic communication services. This is a general procedure that also applies to the complaints related to the application of the Regulation.

No changes occurred during the reference period as regards the procedure the end-users can follow in order to complain about issues related to the application of the Regulation's provisions.

Concerning the minimum required content of the procedure, the ANCOM decision no. 158/2015 established that internet access service providers should include in the procedure and thus make available in a transparent manner the following information:

⁷ The ANCOM President's decision no. 158/2015, which is available, in Romanian, at: http://www.ancom.org.ro/uploads/forms_files/decizia_2015_1581428306401.pdf.

- the means by which an end-user can submit a complaint;
- the name, address and the working hours of the department in charge of solving the complaints;
- the maximum timeframe for submitting the complaint, if applicable;
- the maximum timeframe for solving the complaint;
- the maximum timeframe for remedying the disturbance;
- the compensations applicable if the provider exceeds the timeframe for solving the complaint and for remedying the disturbance;
- the timeframe and means by which the provider informs the end-user on the outcome of his/her complaint;
- a specification of the fact that the end-user can address a complaint to the NRA or can use other Alternative Dispute Resolution procedure if he/she is not satisfied by the way in which his/her complaint has been solved by the provider.

All electronic communications service providers have implemented this procedure, as it is mandatory, and may trigger sanctions if not implemented according to the conditions set by ANCOM's decision no. 158/2015.

6. Sanctions

Regarding the sanctions applicable in case of non-compliance with the provisions of the Regulation, no changes have occurred in the legal framework, from the previous reporting period. According to the provisions of Article 142 indent 55 of Government Emergency Ordinance no. 111/2011, the non-observance by the providers of the obligations deriving from the regulations of the European Union in the field of electronic communications, where the competence of monitoring and verification of the compliance with these obligations belongs to the national regulatory authority, is a contravention that can be assessed and sanctioned by ANCOM. Therefore, ANCOM can sanction any breach of the provisions of the Regulation, with the exceptions mentioned above falling under the competence of ANPC and ANSPDCP.

Government Emergency Ordinance no. 111/2011 also provides for penalties applicable to infringements of the provisions of Articles 3, 4, and 5 of the Regulation.

In this case there were changes from the previous reporting period, as the maximum thresholds of the fine that can be applied to the providers with a turnover above 3,000,000 RON were increased from 3%, respectively 5% to 5%, respectively 10% in case of repeated breaches.

Thus, according to Article 142 item 55 and Article 143 of the Government Emergency Ordinance no. 111/2011, breach of the obligations laid down by the Regulation constitutes a contravention that can be sanctioned by ANCOM as follows:

- with fines ranging from 5,000 RON up to 60,000 RON and, in case of repeated breach, up to 100,000 RON;

- with fines of up to 5% of the annual turnover or 10% in case of repeated breach, for the providers with an annual turnover of more than 3,000,000 RON.

Where an infringement has been found, according to the provisions of Article 149 paragraph (1) letter a) of the Government Emergency Ordinance no. 111/2011, ANCOM may also require the cessation of the infringement either immediately or within a reasonable timeframe, as well as any other measures necessary to ensure the cessation of the infringement and the remedying of the situation. The measures shall be adequate and proportionate to the committed breach and shall provide a term within which the provider must comply with them.

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