[RO] ANCOM Regulated in Response to Infringement Proceedings

IRIS 2010-7:1/31

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On 26 May 2010, the plenary session of the Romanian Senate adopted the *Ordonanţa de Urgenţă a Guvernului, OUG nr. 22/2009* (Emergency Government Decree no. 22/2009) in its original form, establishing the *Autoritatea Naţională pentru Administrare şi Reglementare în Comunicaţii* (National Authority for Administration and Regulation in Communications - ANCOM) (see IRIS 2009-5: 18/31).

The European Commission had written to the Romanian government on 29 January 2009 informing it that infringement proceedings would be launched if legislative provisions in Romania jeopardised the authority's independence and thus violated Art. 3 of Directive 21/2002/EG on a common regulatory framework for electronic communications networks and services (see IRIS 2010-4: 1/36). On 5 May 2010, the Commission sent a second formal letter to Romania, asking the government to provide, within two months, information about the authority's independence.

The Commission launched two infringement procedures against Romania in 2009. The first procedure opened in January 2009, as part of which the aforementioned request for information was submitted, concerned the lack of a legislative framework to guarantee the ANCOM's independence and the fact that the ANCOM was controlled by the government, which could restructure it by means of an emergency decree and had done so four times in the previous five years. In September 2008, the ANCOM was restructured by means of such a decree and its President was replaced, despite a court order to the contrary. In April 2009, the Romanian authorities informed the Commission that the ANCOM had been restructured in accordance with Emergency Government Decree no. 22/2009 of 19 March 2009 and placed under parliamentary control. The second procedure, opened in October 2009, also concerned the ANCOM's independence, in particular the structural separation between telecommunications regulators and service providers.

The *Ministerul Comunicaţiilor şi Societăţii Informaţionale din România* (Ministry for Telecommunications and Information Society - MCSI) announced on 26 May 2010 that, under the recently-adopted legislation, all the principles agreed with the European Commission had now been implemented:

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- political independence by means of parliamentary control;

- financial independence through the fulfilment of all conditions required for the proper functioning of the authority; and

- administrative continuity through the appointment of the same board of directors for at least one period of office.

It therefore declared that all conditions for ending the infringement procedure had been met.

Ordonanţa de Urgenţă a Guvernului, OUG nr. 22/2009

http://www.dreptonline.ro/legislatie/oug_autoritatea_nationala_administrare_reglementare_comunicatii_22_2009.php

Emergency Government Decree no. 22/2009, establishing the National Authority for Administration and Regulation in Communications (ANCOM), adopted by the plenary session of the Romanian Senate on 26 May 2010

Senatul a aprobat OUG privind înființarea ANCOM, 26 mai 2010

http://www.mcsi.ro/Minister/Comunicate-de-presa/Senatul-a-aprobat-OUG-privind-infiintarea-ANCOM

Press release of the Ministry for Telecommunications and Information Society

Decizia nr. 338/2010 privind regimul de autorizare generală pentru furnizarea reţelelor şi a serviciilor de comunicaţii electronice, publicată în Monitorul Oficial al Romaniei nr. 347/26.05.2010

http://www.ancom.org.ro/DesktopDefault.aspx?tabid=1130

Decision no. 338/2010 on the general authorisation regime for providing electronic communications networks and services, published in the Official Journal of Romania no. 347 of 26 May 2010

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