[RO] A new way to appoint the management of the telecom watchdog

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On 27 April 2016, the Government of Romania adopted the Emergency Government Decree no. 33/2017 for the modification and completion of Article 11 of the Government Decree no. 22/2009 on the establishment of the National Authority for Administration and Regulation in Communications (ANCOM - the telecom watchdog) (see IRIS 2009-5/31 and IRIS 2010-7/31).

According to the new version of Article 11(1), the management of ANCOM is provided by a president and two vice presidents, proposed by the government and appointed by the plenary of the parliament, with the majority of the present MPs. A new paragraph 11 provides that the nominations shall be forwarded to the permanent offices of the two Chambers of Parliament within 30 days of the date of vacancy. Prior to the approval of this Emergency Decree, the ANCOM management was appointed by the President of Romania, at the proposal of the government. All the positions, of president and vice presidents, were vacant at that moment.

On 11 May 2017, the senators and deputies voted by a large majority in favour of Adrian Diță becoming the ANCOM President for a six-year mandate.

A dispute arose between the Presidential Administration of Romania and the government on the matter. Mădălina Dobrovolschi, the spokesperson for the President of Romania, Klaus Iohannis, said that the adoption of the Emergency Government Decree to modify the procedure for appointing the National Authority for Administration and Regulation in Communications Management is another alarming signal regarding the non-transparent manner in which the government acts. Dobrovolschi stated that if the government had wanted to solve this situation by way of an urgent formula, it had the tools and it also had the time to do so, because, after all, ANCOM had had no management for months, so the situation could have been solved by using the legislation in force, simply by appointing other people for the vacancies.

In line with the president’s opinion, the interim leader of the National Liberal Party (opposition), Raluca Turcan, sent a letter to the Romanian Ombudsman asking him to appeal to the Constitutional Court concerning the Emergency Government Decree no. 33/2017, which amended the procedure for appointing the president of ANCOM so that he would be appointed by parliament instead of by the

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President of Romania. The letter mentions that the government did not provide justification for the urgency procedure, and that the ordinance was adopted without the Legislative Council's opinion.

Ordonanţa de urgenţă a Guvernului nr.33 din 27.04.2017 pentru modificarea şi completarea art. 11 din Ordonanţa de urgenţă a Guvernului nr. 22/2009 privind înfiinţarea Autorităţii Naţionale pentru Administrare şi Reglementare în Comunicaţii

http://www.legex.ro/OUG-33-2017-153068.aspx

Emergency Government Decree no. 33/2017 for the modification and completion of Art. 11 of the Government Decree no. 22/2009 on the establishment of the National Authority for Administration and Regulation in Communications

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