



On grounds of Decision no.113/2002 of the Prime Minister on the appointment of the president of the National Regulatory Authority for Communications,

On grounds of the provisions of art.38(1), (3) and (5) and the provisions of art.36(5) and of art.44 letter i) of Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002,

**THE PRESIDENT OF THE  
NATIONAL REGULATORY AUTHORITY FOR COMMUNICATIONS**

issues the present:

**DECISION  
ON THE PROCEDURE REGARDING THE SETTLEMENT OF THE DISPUTES WITHIN  
THE COMPETENCE OF THE NATIONAL REGULATORY AUTHORITY FOR  
COMMUNICATIONS**

**CHAPTER I  
General provisions**

**Art.1.** - (1) This decision sets out the preliminary administrative-jurisdictional procedure for the settlement of disputes between the providers of electronic communications networks or services or between the providers of postal services within the competence of the National Regulatory Authority for Communications, hereinafter referred to as *ANRC*.

(2) Should a dispute between the providers of electronic communications networks or services or between the providers of postal services appear with respect to their obligations imposed on grounds of Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002, hereinafter referred to as *Framework Ordinance*, or of special legislation in the field of electronic communications and postal services, the interested party is obliged to notify *ANRC* in order to settle the dispute.

**Art.2.** – Within the meaning of this decision, the terms below are defined as follows:

- a) *plaintiff* – the person, or persons, who initiates the procedure hereby regulated;
- b) *respondent* – the person against whom the procedure hereby regulated is initiated;

c) *complaint* – the request whereby the *plaintiff* initiates in front of *ANRC* the procedure for the mediation and settlement of disputes.

**Art.3.** – (1) The disputes within the competence of *ANRC* may be settled, under the conditions herein, through the mediation procedure or through the contentious procedure.

(2) The aim of the mediation procedure is to amicably settle the dispute and the role of *ANRC* is to assist the parties in concluding an agreement concerning the object of the dispute.

(3) The aim of the contentious procedure is that *ANRC* settles the dispute in case the parties do not undergo the mediation procedure or such procedure fails.

(4) The parties may conclude an agreement concerning the object of the dispute at any time during the mediation or contentious procedure.

**Art.4.** – The right to defense, equal rights, speediness and contradictoriness principles shall be observed during the activities related to dispute mediation and settlement mentioned herein.

## **CHAPTER II**

### **Initiating the procedure**

**Art.5.** – The interested party is required to submit to *ANRC* a written letter registered with the *ANRC* registration office or sent by registered mail with confirmed receipt.

**Art.6.** – (1) The *complaint* shall include the following mandatory information:

a) the parties to the dispute and their identification data;

b) the object of the dispute – shall include the obligations imposed on ground of *Framework Ordinance*, or of special legislation, which the *respondent* is pretended not to comply with;

c) the facts of the dispute – the *plaintiff* is required to provide as many details as possible, including relevant documents (e.g. copies of the correspondence, notes of meetings between parties etc.);

d) legal grounds – the legal provisions it is based upon;

e) the manner in which the *plaintiff* is affected by the dispute;

f) efforts made by the parties in order to amicably settle the dispute;

g) the solution or the measures suggested by the *plaintiff* for the settlement of the dispute;

h) the agreed procedure for the settlement of the dispute;

i) signature and seal, as the case may be.

(2) The *complaint* shall be mandatory made using the standard form set forth in the annex hereby attached.

(3) The standard form may be obtained from the head office, territorial offices, or website of *ANRC*.

## **CHAPTER III**

### **Preliminary measures**

**Art.7.** - (1) Following the registration of the *complaint*, depending on the nature and complexity of the dispute, the president of *ANRC* shall appoint a commission

responsible with the settlement of the dispute, hereinafter referred to as the *commission*. This commission shall consist of a president and one or more members.

(2) During the activity of dispute settlement, the *commission* shall play an active role and shall also maintain permanent contact with the parties.

**Art.8.** - (1) The *commission* shall conduct a preliminary analysis of the provided material, the nature and cause of the dispute, and the efforts made by the parties in order to settle the problem.

(2) Should additional information be deemed necessary for the settlement of the dispute, the *commission* may request the parties to provide such information.

(3) The *commission* shall invite the parties before it and shall communicate them the meeting date at least 7 days prior to this date. Together with this communications, *ANRC* shall provide the *respondent* the *complaint* of the *plaintiff*, for the *respondent* to be able to present his own standpoint.

**Art.9.** - Should the nature of the dispute affect the rights or interests of other persons, the *commission* shall identify them and communicate such persons a summary of the dispute, including the deadline to submit their opinion. The *commission* is bound to analyze all such opinions when settling the dispute.

**Art.10.** – (1) Should parties be present on the date established according to art.8 (3), the *commission* shall inform them on the possibility to settle the dispute through the mediation procedure.

(2) Should parties agree to solve the dispute through mediation, the *commission* shall fill in a minute to be signed by the president of the *commission* and by the parties and to be the initial act of the mediation procedure.

(3) In case one of the parties is not present or in case the parties are present and at least one of them does not agree to settle the dispute through the mediation procedure, the contentious procedure shall be initiated. The therefore concluded minute shall constitute the initial act of the contentious procedure.

#### **CHAPTER IV** **The mediation procedure**

**Art.11.** - (1) The parties shall make all necessary efforts in order to amiable settle the dispute. The role of the *commission* role is to therefore support the parties.

(2) The *commission* shall make all efforts in order to make parties understand each other's standpoint.

**Art.12.** – During the mediation procedure, the parties are separately or together invited to meetings, the number of such meetings depending on the complexity of the case. Following each meeting, the *commission* shall fill in a statement of facts to be signed by the participants to that meeting and to be communicated to the parties.

**Art.13.** – The parties may request the *commission* to clarify the scope of certain legal provisions in the field of electronic communications or postal services applicable to the cause.

**Art.14.** – Should the mediation entail the amicable settlement of the dispute, the parties shall conclude an agreement. The agreement shall be made in writing, in several copies, one for each party and one for *ANRC*.

**Art.15.** - (1) The mediation procedure shall observe the principle of confidentiality and may not exceed 30 days following the date when *ANRC* was notified.

(2) In case the parties do not reach an agreement within the term under paragraph (1), the dispute shall be settled through the contentious procedure.

(3) During the entire mediation procedure, any of the parties may request the *commission* to settle the dispute through the contentious procedure, all acts and documents of the file managed until that moment remaining with the cause.

## **CHAPTER V**

### **The contentious procedure**

**Art.16.** - (1) In case the dispute is to be settled through the contentious procedure, the *commission* shall inform the parties on the date they are invited before it.

(2) In case the dispute is to be directly settled through the contentious procedure, the *respondent* shall be requested to answer the *complaint* within 15 days after receiving it, under the sanction that further defense will not be taken into account. The *respondent* shall be provided, by means of registered mail with confirmed receipt, with copies of the complaint and other documents forwarded by the *plaintiff*.

(3) Under exceptional circumstances, the *respondent* may be requested to answer within a shorter term. Such circumstances may include, without limitation to, situations when the *commission* considers that the *plaintiff* would suffer from severe prejudice until the settlement of the dispute.

**Art.17.** – Should further information from any party be deemed necessary, such party may be obliged to provide the respective information within 7 days, under the sanction provided by art.56(1) of *Framework Ordinance* or of art.60(1) of Government Ordinance no.31/2002 on postal services, as the case may be.

**Art.18.** – When the *commission* deems to have all information necessary for the settlement of the dispute, it shall invite the parties to express their standpoints over the dispute.

**Art.19.** - The parties may be separately or together invited by the *commission* to meetings, the number of such meetings depending on the complexity of the dispute. Following each meeting, the *commission* shall fill in a minute to be signed by the participants to that meeting and to be communicated to the parties.

**Art.20.** - After analyzing all information and hearing the standpoints on the dispute, the *commission* shall draft a preliminary solution, to be communicated to the parties together with the measures suggested for the settlement of the dispute.

**Art.21.** - (1) Any party may address a request to the *commission*, within 15 days after the preliminary solution is communicated, in order for the suggested solution to be revised.

(2) In case new information is brought to the *commission's* attention within the term under paragraph (1), the *commission* shall decide whether such information is relevant for the respective dispute and may analyze again the preliminary solution.

**Art.22.** – (1) In case the *commission* has been addressed with a revision request or in case new relevant information have been brought to its knowledge, the *commission*, after the term under art.21(1) expires, shall immediately convoke the parties to express their standpoints.

(2) After the term under art.21(1) expires, or after the parties are convoked as under paragraph (1), the *commission* shall consider the procedure is finalized.

**Art.23.** - (1) After the procedure is finalized, the *commission* shall provide the president of *ANRC* with a report including the suggestions for the settlement of the dispute.

(2) In order to settle the dispute, the president of *ANRC* shall issue a decision that shall include the following mandatory elements:

a) the members of the *commission*;

a) the name and domicile, or name and headquarters, respectively, of the parties;

b) the object of the dispute and the standpoints of the parties;

c) the facts of the dispute and its legal grounds/basis;

d) the measures ordered and the way to comply with them;

e) the way to appeal the decision.

(3) The decision is mandatory for the parties and shall be communicated to them and published on the website of *ANRC*, under the observance of legal provisions on confidentiality.

(4) The decision may be appealed in front of the Administrative Section of the Bucharest Court of Appeal within 30 days after it is communicated, without the fulfillment of the preliminary procedure under art.5 of Law no.29/1990 on the *administrative contentious*, with the subsequent amendments.

**Art.24.** - (1) The decision whereby *ANRC* settles the dispute must be pronounced within 4 months after the date when the minute initiating the mediation procedure stated by art.10 (2) is concluded or the date when the minute initiating the contentious procedure stated by art.10 (3) is concluded.

(2) Under exceptional situations and for the appropriate settlement of the dispute, this term may be extended through decision of the president of *ANRC*.

## CHAPTER VI

### Transitory and final provisions

**Art.25.** – The hereby set out procedure for the mediation and settlement of disputes is free of any charge.

**Art.26.** - (1) The parties may personally exert the rights stated herein or through a representative.

(2) The representatives of the parties must provide written proof of their capacity.

**Art.27.** – The disputes provided herein, that are pending before the Courts of Law by the date Law no.591/2002 on the approval of Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications entered into force, shall be further settled by the respective Courts of Law.

**Art.28.** – The dispute file shall be kept with *ANRC* and shall include all documents received or communicated by *ANRC* during the procedure stated herein, having attached, as the case may be, the proof that the decision concerning the solving of that dispute has been communicated.

**Art.29.** – (1) Terms provided herein are calculated in accordance with the provisions of art.101 of Code of Civil Procedure.

(2) Under exceptional circumstances, these terms may be extended or reduced, as the case may be.

**Art.30.** – Under exceptional circumstances, when the *commission* considers one party may suffer severe prejudice until the settlement of the dispute, the president of ANRC, through decision, may impose temporary measures in order to avoid the prejudice or to limit its extent.

**Art.31.** – (1) In case during the settlement procedure stated herein is noted the non-compliance of a certain obligation under the authorizations or licenses, under the *Framework Ordinance*, under the Government Ordinance no.31/2002 on postal services, or under the specific legislation in the field of electronic communications or postal services, such non-compliance being sanctioned as administrative breach or contravention, the sanctioning regime provided by the respective legal provisions shall be applied.

(2) In such case, the decision issued by the president of ANRC in order to settle the dispute shall take into consideration the act through which the act under paragraph (1) is ascertained and sanctioned.

**Art.32.** – This decision shall be published in the Romanian Official Journal, Part I.

**PRESIDENT,**

**ION SMEEIANU**

Bucharest, December 16, 2002  
No. 139/ EN

**STANDARD COMPLAINT FORM**

**1. Identification data of the *plaintiff***

a. Name and domicile/ Company name and headquarters

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b. Represented by

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c. Telephone/ Fax/ E-mail address

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d. Holder of the general authorization/license

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**2. Identification data of the *respondent***

a. Name and domicile/ Company name and headquarters

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b. Represented by

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c. Telephone/ Fax/ E-mail address

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d. Holder of the general authorization/license

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### **3. Object of the dispute**

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### **4. The facts of the dispute**

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### **5. Legal grounds**

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**6. The way in which the *plaintiff* is affected by the respective dispute**

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**7. Efforts made by the parties in order to amicably settle the dispute**

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**8. Solution or measures suggested by the *plaintiff* for the settlement of the dispute**

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**9. The agreed procedure for the settlement of the dispute**

- a. mediation;
- b. contentious procedure.

**10. Any other information deemed necessary for the settlement of the dispute**

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**Signature/ Seal**

ABROGATED