

On grounds of the provisions of Article 6(2) and of Article 7(1), (3) and (5) of the Government Emergency Ordinance no.134/2006 on the establishment of the National Regulatory Authority for Communications and Information Technology, as well as of Article 4(4) and of Article 23(2) of Law no.304/2003 on the universal service and users' rights relating to electronic communications networks and services, with the subsequent amendments and completions,

Considering the Order of the Minister for Communications and Information Technology no.184/2004 on the approval of the policy and strategy document regarding the implementation of universal service in the electronic communications sector, amended by the Order of the Minister for Communications and Information Technology no.318/2005,

**THE PRESIDENT OF THE NATIONAL REGULATORY
AUTHORITY FOR COMMUNICATIONS AND INFORMATION TECHNOLOGY**

issues the present:

DECISION

**on the amendment and completion of the Decision of the President of the National
Regulatory Authority for Communications no.1.074/EN/2004 on the implementation of
universal service in the field of electronic communications**

Art.I. – The Decision of the President of the National Regulatory Authority for Communications no.1.074/EN/2004 on the implementation of universal service in the field of electronic communications, published in the Romanian Official Journal, Part I, no.750 of August 18, 2004, amended and completed by the Decision of the President of the National Regulatory Authority for Communications no.1.188/EN/2004, published in the Romanian Official Journal, Part I, no.843 of September 15, 2004 and by the Decision of the President of the National Regulatory Authority for Communications no.1.298/EN/2005, published in the Romanian Official Journal, Part I, no.822 of September 12, 2005, shall be amended and completed as follows:

1. Within Article 2(1), letter b) a new letter shall be introduced, letter c), reading as follows:

"c) directory inquiry service and subscribers' directories."

2. After article 2(3) a new paragraph shall be introduced, paragraph (3¹), which shall read as follows:

"(3¹) The right of access to the services under paragraph (1) letter c) shall be ensured by making available for end-users a directory inquiry service and a subscribers' directory, in compliance with the terms of Section 3 under Chapter II."

3. Within Article 2(4), after letter b) a new letter shall be introduced, letter c), reading as follows:

"c) the providers of publicly available electronic communications services for the service specified in paragraph (1) letter c)."

4. Within Article 3(1), after letter d) two new letters shall be introduced, letters e) and f), which shall read as follows:

"e) *subscribers' directory* – organized structure of data for identifying the subscribers of publicly available telephone services, provided in electronic or printed form, as the case may be;

f) *directory inquiry service* – organized structure of data, in electronic form, for identifying the subscribers of publicly available telephone services, made available for the public through a consultation service, by dialling a 118(xyz) national short number from the National Numbering Plan, allotted to the universal service provider, according to the procedure established by the National Regulatory Authority for Communications and Information Technology, hereinafter referred to as *ANRCTI*, which provides to the user of such service information on the subscriber's telephone or fax number or numbers, as the case may be."

5. Within Article 3, paragraph (4) shall read as follows:

"(4) Within the text of the present decision, the relevant definitions in Article 3 of Law no.677/2001 for the protection of persons concerning the processing of personal data and the free circulation of such data, with the subsequent amendments and completions, in Article 2 of the Government Ordinance no.34/2002 on the access to the public electronic communications networks and associated infrastructure, as well as their interconnection, approved with amendments and completions by Law no.527/2002, with the subsequent amendments and completions, in Article 2(1) of the Government Emergency Ordinance no.79/2002 on the general regulatory framework for

communications, approved with amendments and completions by Law no.591/2002, with the subsequent amendments and completions, and in Article 2(1) of Law no.304/2003, with the subsequent amendments and completions, shall also apply.”

6. After Article 3 a new article shall be introduced, Article 3¹, which shall read as follows:

“**Art.3¹.** – (1) Within the regulatory field of the present decision, the legal provisions on the compensation of the services of general economic interest shall apply correspondingly.

(2) The provisions of paragraph (1) do not bring prejudice to the power of ANRCTI to impose obligations on the providers of electronic communications networks and services designated as having significant market power, in accordance with the special legislation in the field.”

7. Within Article 6, paragraph (1) shall read as follows:

“**Art.6.** – (1) ANRCTI shall designate by tender or, by exception, *ex officio* the universal service providers which shall ensure the provision of access to the public fixed telephone network, by means of telecentres, in the localities chosen in accordance with the provisions under Article 5.”

8. Within Article 6, after paragraph (1) a new paragraph shall be introduced, paragraph (1¹), reading as follows:

“(1¹) In view of ensuring access to the public pay telephones in the localities identified in accordance with the provisions specified in Article 5, ANRCTI shall designate the universal service providers by tender or *ex officio*.”

9. Within Article 7, paragraph (2) shall read as follows:

“(2) In case the provider is designated *ex officio*, the negative difference between the commercial benefits, both tangible and intangible, and the costs for the provision of access to the public fixed telephone network, by means of telecentres, or of access to public pay telephones, under the terms established by ANRCTI, annually calculated during the designation period, based on a methodology pre-established by ANRCTI through the decision of designating the universal service provider, represents the net cost of the provision of services within the scope of universal service, following to be transferred, upon request, to the universal service provider, according to the compensation mechanism established by ANRCTI.”

10. Within Article 8, paragraph (1) shall read as follows:

“Art.8. – (1) In order to accomplish the objective of ensuring the accessibility of services of access to the public fixed telephone network or to a reasonable means of access to the publicly available telephone service, for certain categories of disadvantaged users, ANRCTI may impose on the universal service providers, designated under the conditions of Article 9(1), the obligation to grant a subsidy for the service of access to the public fixed telephone network, as well as the obligation to offer the facilities specified at paragraph (2), applicable in case of non-payment of the telephone bill to the families who require supplementary protection, due to their low incomes.”

11. Within Article 9, paragraph (1) shall read as follows:

“Art.9. – (1) ANRCTI may designate, ex officio, as universal service providers all the providers of services of access to the public telephone network, at a fixed location, irrespective of the type of network or technology used, who will have the obligation to offer to the end-users subsidies for the services of access to the public fixed telephone network and facilities applicable in case of non-payment of the telephone bill.”

12. Within Chapter II, after Section 2, a new section shall be introduced, Section 3, with the Articles 16¹–16⁷, reading as follows:

“SECTION 3

***Making available for end-users a directory inquiry service
and a subscribers’ directory***

Art.16¹. – (1) In order to accomplish the objective on the assurance of availability, quality and accessibility of the directory enquiry services and subscribers’ directories, ANRCTI shall impose on the universal service providers designated under the conditions of paragraph (2) the obligation to provide a directory inquiry service and a subscribers’ directory, at affordable prices and at a certain quality level, to all end-users in the entire country.

(2) ANRCTI shall designate for at least 2 years by public tender or, by exception, *ex officio*, one or several universal service providers which shall provide to end-users a directory inquiry service and a subscribers’ directory.

(3) The subscribers' directory and the directory inquiry service shall comprise information on the subscribers of publicly available telephone services, provided at fixed or mobile locations, irrespective if the publicly available telephone services are prepaid or are subsequently paid.

Art.16². – (1) The universal service providers designated according to the provisions of Article 16¹(2) shall have the following obligations:

a) design and manage a complete database, to include the telephone numbers and certain data for identifying all the subscribers of publicly available telephone services, under the form set out in Article 16³, in view of observing the obligations specified in letters b) and c);

b) provide on a website a subscribers' directory for end-users;

c) make available for all end-users connected to a public telephone network, irrespective of the type of network and technology used, including for the users of public pay telephones, an updated subscribers' directory service;

d) update, by the 15th of each month, the database under letter a).

(2) The directory inquiry service and the subscribers' directory provided by the universal service provider, under the terms of the present decision, shall exclusively enable the search of the subscribers' telephone and fax numbers, based on the parameters under paragraph (3). The use of the directory inquiry service and the subscribers' directory for other purposes shall be made in compliance with the provisions of Law no.506/2004 on the processing of the personal data and privacy protection in the electronic communications field, with the subsequent completions, and with other relevant legal provisions.

(3) In order to search for the telephone or fax number or numbers, as the case may be, of the subscribers to publicly available telephone services, the users of the directory inquiry service and the subscribers' directory made available by the universal service provider, under the conditions of the present decision, shall use the following parameters:

a) name of the residential subscriber, respectively of the non-residential user;

b) first name of the residential subscriber;

c) name of the branch or, as the case may be, of the subsidiary of the non-residential subscriber;

d) domicile of the residential subscriber, respectively the social headquarters of the non-residential subscriber, as the case may be, complying with the provisions under paragraph (5).

(4) The subscribers' directory provided by the universal service providers, under the terms of the present decision, shall offer the users of such service the following information:

a) name of the residential subscriber, respectively of the non-residential subscriber, as the case may be;

b) first name of the residential subscriber;

c) name of the branch or, as the case may be, of the subsidiary of the non-residential subscriber;

d) domicile of the residential subscriber, respectively the social headquarters of the non-residential subscriber, as the case may be, complying with the provisions under paragraph (5);

e) telephone or fax number or numbers, as the case may be, of the subscribers to publicly available telephone services.

(5) The information in paragraph (3) letter d) and paragraph (4) letter d) shall include:

a) street;

b) number of the street;

c) locality: village, town and residence city;

d) main administrative-territorial unit: commune or town;

e) sector;

f) county.

Art. 16³. – (1) The fields of the complete database specified in Article 16²(1) letter a) shall include the following information regarding the subscribers of the publicly available telephone services, complying with the legal provisions in the field of personal data protection:

a) name of the residential subscriber, respectively name of the non-residential subscriber, as the case may be (a maximum 256 characters alphanumeric field);

b) first name of the residential subscriber (a maximum 256 characters alphanumeric field);

c) domicile of the residential subscriber, respectively social headquarters of the non-residential subscriber, as the case may be, observing paragraph (2);

d) unique registration code of the non-residential subscriber (a maximum 13 characters numeric field or, as the case may be, according to the form of the unique registration code in force);

e) name of the branch, or as the case may be, of the subsidiary of the non-residential subscriber (a maximum 256 characters alphanumeric field);

f) subscriber's telephone number or numbers, as the case may be (a maximum 13 characters numeric field for each element);

g) subscriber's telephone number or numbers, as the case may be (a maximum 11 characters numeric field for each element).

(2) The information in paragraph (1) letter c) shall include:

a) street (a maximum 50 characters alphanumeric field);

b) number of the street, block, entrance, apartment (a maximum 60 characters alphanumeric field);

c) locality: village, town or residence city (a maximum 25 characters alphanumeric field);

d) main administrative-territorial unit: commune or town (a maximum 25 characters alphanumeric field);

e) sector (a maximum 12 characters alphanumeric field);

f) county (a maximum 25 characters alphanumeric field).

Art. 16⁴. – (1) In order to fulfil the obligations under Article 16²(1), within 14 days from the communication date of the designation decision, the universal service providers shall require from the providers of publicly available telephone services that assign telephone numbers to subscribers to send all the relevant information necessary in order to design the complete database specified in Article 16²(1) letter a).

(2) In view of observing the obligation under paragraph (1), ANRCTI shall send to the universal service providers the list of the providers of publicly available telephone services, holders of licences for the use of numbering resources, which assign telephone numbers to subscribers.

(3) The universal service providers may make available for end-users a printed subscribers' directory, based on the use, under the terms set between the parties, of the relevant information provided by the providers of publicly available telephone services, which assign telephone numbers to subscribers according to the provisions of Article 16⁵(1)-(6).

Art. 16⁵. – (1) The providers of publicly available telephone services, which assign telephone numbers to subscribers, shall provide to the universal service providers, within 6 months from receiving a request, according to Article 16⁴(1), under equitable, objective, non-discriminatory and at cost-oriented tariffs, all the relevant information in order to design the complete database under Article 16²(1) letter a) and update, by the 10th of each month, the information sent.

(2) In order to accomplish the obligations under paragraph (1), the providers of publicly available telephone services, which assign telephone numbers to subscribers, design and administrate the database with their own directory inquiry under Article 16³.

(3) In order to accomplish the obligations under paragraph (1), the providers of publicly available telephone services, which assign telephone numbers to subscribers, shall conclude agreements with the universal service providers whereby they establish the conditions in which the relevant information under paragraph (1) are sent.

(4) The agreements under paragraph (3) shall include at least the following aspects:

a) conditions of interoperability between the databases sent under the format and conditions established according to the present decision;

b) procedure of sending and, respectively, of updating the relevant information under paragraph (1);

c) tariffs due for providing to the universal service providers the relevant information under paragraph (1);

d) responsibility for the accurateness of the relevant information sent by the providers of publicly available telephone services, which assign telephone numbers to subscribers;

e) technical and organisational measures required to protect the identification data of the subscribers included in the databases from the accidental or illegal destruction, loss, modifications, disclosure or unauthorized access, as well as from any form of illegal processing, under the terms of Law no.677/2001, with the subsequent amendments and completions.

(5) By way of derogation from the provisions of paragraph (1) and Article 16⁴(1), the new-entrants on the market, which assign telephone numbers to subscribers, have the following obligations:

a) require the universal service provider to conclude the agreements specified in paragraph (3), within 45 days from starting to assign the telephone numbers to subscribers;

b) make available for the universal service, under equitable, objective, non-discriminatory and at cost-oriented tariffs, the relevant information for the purpose of designing the complete database under Article 16²(1) letter a), within 6 months from the date of starting to assign the telephone numbers to subscribers;

c) update the information sent to the universal service providers according to letter b), by the 10th of each month.

(6) The universal service providers shall apply the principle of non-discrimination when treating the information made available by the providers of publicly available telephone services, which assign telephone numbers to subscribers.

(7) The universal service providers shall send ANRCTI a copy of each of the agreements specified in paragraph (3), within 10 days from their conclusion date. As well, the universal service

providers shall send to ANRCTI all the information regarding the amendment or cessation of these agreements, together with the certifying documents, as the case may be, within 10 days from the date the amendment or cessation occurred.

Art.16⁶. – (1) When establishing the tariffs for the provision of the relevant information required for designing the complete database under Article 16²(1) letter a) to the universal service providers by the providers of publicly available telephone services, which assign telephone numbers to subscribers, the following cost elements shall be taken into consideration:

a) costs of creating and sending to the universal service providers the database in the form specified in Article 16³;

b) costs of updating and sending to the universal service providers the updated database.

(2) In determining the costs under paragraph (1) letter a) the following costs shall be considered:

a) creation of the export procedure of the database in TXT format, using the „pipe“ symbol as separator from the fields;

b) use of the software and hardware required for the administration of the database;

c) use of the communications server, if sending the database on-line;

d) support, if sending the database on optical support;

e) manual labour;

f) effective transmission of the database.

(3) In determining the costs under paragraph (1) letter b) the following costs shall be considered:

a) use of the software and hardware required for the administration of the database;

b) manual labour;

c) use of the communications server, if sending the updated database on-line;

d) support, if sending the updated database on optical support;

e) effective transmission of the updated database.

(4) In order to ensure the compliance with the obligations of tariffs cost-orientation due for the provision to the universal service providers of the relevant information in view of designing the complete database, the providers of publicly available telephone services, which assign telephone numbers to subscribers, shall send to ANRCTI the justification for these tariffs cost-orientation, based on the cost elements specified in paragraphs (1)–(3), within 30 days from the date of

concluding the agreements provided under Article 16⁵(3) and, if such is the case, from the date of changing the tariffs provided in these agreements.

Art.16⁷. – (1) If the provider is designated by tender, the net cost for the provision of services within the scope of universal service, resulted from the application of this procedure, will be transferred, upon request, to the universal service provider, according to the compensation mechanism established by ANRCTI.

(2) In case the provider is designated *ex officio*, the negative difference between the commercial benefits, both tangible and intangible, and the costs for the provision of the directory inquiry service and for making available to end-users the subscribers' directory, under the terms established by ANRCTI, annually calculated during the designation period, based on a methodology pre-established by ANRCTI through the decision of designating the universal service provider, represents the net cost of the provision of services within the scope of universal service, following to be transferred, upon request, to the universal service provider, according to the compensation mechanism established by ANRCTI."

13. Within Article 17, paragraph (1) shall read as follows:

"Art.17. – (1) In accordance with the provisions of the present decision, the universal service providers will be designated by public tenders, organised in compliance with the principles of fair competition, transparency, non-discrimination, confidentiality, efficiency and objectivity."

14. Article 19(2), letter a) shall read as follows:

"a) services within the scope of universal service, as well as for the services under Article 4, the localities for which it is intended to designate universal service providers;"

15. Within Article 21, letters a) and c) shall read as follows:

"a) acknowledging certificate issued by the National Office of the Trade Register on the non-existence of a procedure of a voluntary or legal dissolving or following a non-solvency procedure;

.....

c) copies of the annual financial statements for the last 3 years or for the entire period since the establishment, should this period be less than 3 years, that have been submitted to the territorial units of the Ministry of Public Finance, according to the legislation in force;"

16. Within Article 28, the introduction and letters d), f) and g) under paragraph (2) shall read as follows:

“(2) In order to establish the winning offer, the tender commission shall mainly apply the criterion of the most advantageous financial offer, as regards the volume of the net cost, as well as the following additional criteria, as the case may be:

.....
d) the coverage and density of the network, as well as the capacity of the tenderer to develop and to have access to electronic communications networks for the purpose of providing publicly available telephone services in the localities taken into consideration for this tender, for the services specified in Article 4;

.....
f) the retail tariffs to be charged for the services specified in Article 4;

g) the costs for the design and administration of the complete database of subscribers, for the services specified in Article 16¹(1);”.

17. Within Article 28(2), after letter g) two new letters shall be introduced, letters h) and i), reading as follows:

“h) the interconnection tariffs for call termination charged for the access to directory inquiry service;

i) other criteria provided in the terms of reference.”

18. Article 28(8) shall read as follows:

“(8) Within 5 working days from the date of submitting the legal contests, a commission designated by decision of the President of ANRCTI, comprising other persons than the members of the tender commission shall solve the legal contests and shall draw up a statement-of-facts, approved by the president of ANRCTI. The result will be communicated in writing to all the contestants.”

19. Within Article 30, paragraph (1) shall read as follows:

“**Art.30.** – (1) ANRCTI may designate *ex officio* a provider of electronic communications networks or services as universal service provider for the purpose of ensuring access to the public

pay telephones in the localities identified in accordance with the provisions of Article 5, as well as in the cases and under the conditions set out in Article 6(3), Article 9(1) and Articles 27 and 29.”

20. Article 31 shall read as follows:

“**Art.31.** – (1) In order to designate *ex officio* the universal service provider for the purpose of ensuring access to the public pay telephones in the localities identified in accordance with the provisions of Article 5, as well as in the cases set out in Articles 27 and 29, the President of ANRCTI shall establish, by decision, an evaluation commission formed as referred to in Article 18(2).

(2) The evaluation commission will propose the designation of a provider of electronic communications networks or services as a universal service provider, based upon one or several of the criteria set out in Article 28(2), as well as based on other relevant criteria, as the case may be, in compliance with the principle of efficiency, especially related to costs, objectivity, transparency and non-discrimination.”

21. Article 35 shall read as follows:

“**Art.35.** – (1) In case of being designated by tender, the universal service providers entrusted with the provision of the services specified in Article 4 or, as the case may be, in art. 16¹(1), shall receive the amount representing the net cost for the provision of the respective services, within 30 days from the date ANRCTI receives a request in this regard, submitted after the telecentres or the public pay telephones had been installed or, respectively, after making available for end-users the directory inquiry services and the subscribers’ directory, under the terms provided in the designation decision.

(2) In case of being designated *ex officio*, in view of ensuring access to the public pay telephones in the localities identified in accordance with the provisions of Article 5, as well as in the cases set out in Articles 27 and 29, the universal service providers shall receive the amount representing the net cost for the provision of the services within the scope of universal service for which they have been designated, within 60 days from the date ANRCTI receives a request in this regard. The request shall be submitted annually, under the conditions set out in the designation decision.”

22. Within Article 38, letters a)–c) shall read as follows:

“a) the universal service provider ceases to exist, except for the cases of mergence or division, when the provision of electronic communications networks and services is transferred to other persons;

b) as result of the non-solvency procedure applied on the universal service provider, under the conditions of Law no.85/2006 on the non-solvency procedure, with the subsequent amendments;

c) as result of the withdrawal of the right to provide electronic communications networks under the general authorization regime, of the licence for the use of radio frequencies or of the licence for the use of numbering resources, under the conditions of Article 59(4) of the Government Ordinance no.79/2002, approved with amendments and completions by Law no.591/2002, with the subsequent amendments and completions;”.

23. Within Article 38, after letter e) a new letter shall be introduced, letter f), reading as follows:

“f) if the universal service provider is in the objective impossibility to provide the services it was designated to provide for more than 90 days from receiving a notification from ANRCTI regarding the partial or total limitation of end-users’ access to the services provided and to the causes that generate the limitation, out of reasons non-imputable to it.”

24. Within Article 38 a new paragraph shall be introduced, paragraph (2), which shall read as follows:

“(2) In the cases of mergence or division specified in paragraph (1) letter a), the person that takes over the activity of provision electronic communications networks and services of the universal service provider shall observe the obligations and shall benefit from the rights established by the decision for the designation of the universal service provider.”

Art.II. – Annex no.3 shall be amended and replaced with the annex which is part of the present decision.

Art.III. – The present decision shall be published in the Romanian Official Journal, Part I, and shall enter into force within 3 days from its publication.

**PRESIDENT,
DAN CRISTIAN GEORGESCU**

Bucharest, November 13, 2007

No.3.284

REQUEST for the Designation as a Universal Service Provider

A. Data necessary for identifying and efficiently communicating with the requester:

Name of the requester:					
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Headquarters/Domicile of the requester:					
Street:		No.	Block	Entrance	App.
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Locality:					
<input type="text"/>					
County/Sector:		Telephone:		Fax:	
<input type="text"/>		<input type="text"/>		<input type="text"/>	
E-mail:			Website:		
<input type="text"/>			<input type="text"/>		
The requester is registered with the Trade Register of:					
County/Sector:		Unique registration code:			
<input type="text"/>		<input type="text"/>			
Representative of the requester – identification and contact data:					
Surname:		First name:			
<input type="text"/>		<input type="text"/>			
Numerical Personal Code:					
<input type="text"/>					
Street:		No.	Block	Entrance	App.
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Locality:					
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County/Sector:		Telephone:		Fax:	
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E-mail:					
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The correspondence address of the requester is:					
Street:		No.	Block	Entrance	App.
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Locality:					
<input type="text"/>					
County/Sector:		Telephone:		Fax:	
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Contact person:					
Surname:		First name:			
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Telephone:

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Fax:

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B. Description of the types of services within the scope of universal services the requester intends to provide as universal service provider:

- B.1. Access to the public fixed telephone network;
- B.2. Access to public pay telephones;
- B.3. Directory inquiry services and subscribers' directories.

C. Locality/localities for which is requested the designation as a universal service provider for the provision of access to the public fixed telephone network, by means of telecentres or for the provision of access to public pay telephones (an annex to the designation request may be added in case there is not enough space below):

D. The following documents are attached to the present request for the designation as a universal service provider:

- acknowledging certificate issued by the National Office of the Trade Register on the non-existence of a procedure of a voluntary or legal dissolving or a procedure that follows the legal restructuring or the bankruptcy;
- copies of the annual financial statements for the last 3 years or for the entire period since the establishment, should this period be less than 3 years, that have been submitted to the territorial units of the Ministry of Public Finance, according to the legislation in force;
- technical proposal together with a detailed description of the technological, material and human resources by which the requester will ensure the services within the scope of universal service for which he requests the designation;
- financial proposal together with justifying documents for possible losses caused by the provision of the services within the scope of universal service for which designation is requested;

other documents requested by the documentation of the tender.

E. The undersigned, in my capacity as the legal representative of the requester, declare on my own responsibility, being full aware of the provisions under art. 292 of the Penal Code regarding false statements, that all data and information mentioned in the present request and the attached documents are correct and complete.

Date of filling in:

The seal of the requester:

The signature of the legal representative of the requester: