

Disclaimer: This is a Romanian to English translation meant to facilitate the understanding of this document. Should discrepancies occur between the Romanian version and the English version, following translation, the Romanian version shall prevail.

ENDORSEMENT REPORT
on the draft Decision of the President of the
National Regulatory Authority for Management and Regulation in Communications
on the procedure for granting the rights of use for the radio frequencies
to diplomatic missions, consular offices and representative offices
of international organisations accredited in Romania

Radio frequencies are used in compliance with the rules and procedures adopted on the international level (through the International Telecommunication Union and/or the European Conference of Postal and Telecommunications Administrations), on the European level (by the European Union bodies) and/or on the national level. The structuring and relationship pattern of the norms regarding the use of radio frequencies is established so that to ensure an efficient and effective use of the limited radio resource.

Radio frequencies are an important public resource for various sectors, as they enable the provision, among others, of land mobile services, wireless fixed services and satellite communications, radio and television broadcasting, specialised communications for the proper functioning of maritime and aeronautic communications, radiolocation, radio navigation, meteorology ancillary communications, radio astronomy etc., the limited radio spectrum resource being also used for applications implemented through short range devices such as alarms, microphones, medical devices etc. Moreover, radio frequencies are used by public services – civil protection, national defence, security and safety etc. Therefore, there are whole activity fields that are influenced by or depend on the scarce radio spectrum resource.

In this context, The National Authority for Management and Regulation in Communications of Romania (ANCOM), in its capacity as a body that ensures the management and administration of scarce radio spectrum resources, must take into account the radio communications needs and the requirement of assigning spectrum resources to various types of users – be they governmental or non-governmental ones. If, in the case of non-governmental users, radio frequencies are a means/medium by which electronic communications services are provided, for governmental users, legal attributions established according to the legal provisions in force are of primary importance. Therefore, radio frequencies are a limited resource that must be put to good use as a whole, that is why radio spectrum management is to be performed with due regard to certain priorities that ensure its rational and efficient allotment, awarding, and use.

The importance of the limited radio spectrum resource determines various implications of the adopted legislation, such as in the fields of public health and security, of the public interest, of

cultural and scientific activities etc., so the regulatory steps envisaged by ANCOM must observe the requirements provided by the law.

In addition to the rules and procedures regarding the use of radio frequencies, in its activity, ANCOM must also take into account further obligations that are incumbent on the Romanian state on grounds of international treaties that indirectly impact the resources managed and administrated by the regulatory authority in the electronic communications field.

A special category of users of this scarce resource are diplomatic missions, consular offices and representative offices of the international organisations accredited in Romania. Their communications needs are to be fulfilled with due regard to Article 27 point 1 of the Vienna Convention on Diplomatic Relations, ratified by Decree no. 566/1968, or of other international agreements signed by the Romanian state, and to the provisions of the Government Emergency Ordinance no. 111/2011 on electronic communications, approved, with amendments and completions, by Law no. 140/2012, with the subsequent amendments and completions, a normative act that stipulates, in Article 34*, that - in pursuit of the own communications needs of the embassies and diplomatic missions of other states, situated on the territory of Romania - the procedure for obtaining the right of use and the associated conditions are established by ANCOM President's Decision.

Therefore, taking into account the above-mentioned regulatory framework, the draft decision under approval proposes a transparent procedure for awarding the limited radio spectrum resources, provisions of this document concerning the categories of users envisaged by the legal requirements.

The draft decision provides the procedural stages to be completed in order to be granted the rights to use radio frequencies, while the correspondence is to be performed exclusively by means of the Ministry of Foreign Affairs – Protocol Division, which is the contact point for all the embassies and diplomatic missions on the territory of Romania. Therefore, in the relationships between the Romanian authorities and entities belonging to other states, well-established practices are followed.

Unlike the procedure followed by the providers of electronic communications networks and services for the issuance of the rights for the use of radio frequencies, the text of the draft decision refers exclusively to situations that have been encountered in practice, their specificity conducting sometimes to the adoption of different solutions.

From a procedural point of view, the use of radio frequencies falls under the main rules stipulated in the Government Emergency Ordinance no. 111/2011, i.e. radio frequencies are used: i) upon issuance of a licence, for use on a permanent basis ii) upon establishment of the usage conditions, for the radio frequencies used on a temporary basis, during visits of foreign dignitaries to Romania. One must say that, for the situation under item ii), the use of radio frequencies is bound by the fulfilment of certain conditions established by ANCOM.

As regards the duration for which usage rights are granted, the draft normative act stipulates different provisions depending on the usage character – permanent or temporary. Thus, where the radio frequencies are to be used on a permanent basis, the rights are granted for a five-year period, exceptions from this rule being clearly defined in the draft normative act.

* "Article 34. – As for the radio frequencies necessary for the communication needs of the embassies and diplomatic missions of other states in Romania, the procedure on the obtainment of the usage right and the conditions associated to this right shall be set by decision of the ANCOM president, with the approval of the Ministry of Foreign Affairs, in compliance with the European harmonised procedures and the international agreements in which Romania is a party."

ANCOM has drawn up the draft normative act with due consideration of the Protocol Handbook, a document available on the website of the Ministry of Foreign Affairs, at the following address: http://mae.ro/sites/default/files/file/pdf/Indrumar_protocol_2010.pdf.

Furthermore, in consideration of the legal provisions, prior to the launch for public consultation of the draft decision, the Ministry of Foreign Affairs was asked for advice.

The draft decision was under public consultation between 2 April 2015 and 15 April 2015.

Taking into account the above-mentioned, we hereby submit for approval the draft Decision of the ANCOM President on the procedure for granting the rights of use for the radio frequencies to diplomatic missions, consular offices and representative offices of international organisations accredited in Romania.