

## GOVERNMENT OF ROMANIA

### EMERGENCY ORDINANCE

#### on the release of the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz radio frequency bands

Having regard the need to use the radio spectrum under conditions which would ensure, within a specified timeframe, broadband electronic communications services by means of radio waves, in order to stimulate competition, to provide the consumers with more possibilities of choice and to extend the access to these services in the rural areas and in other areas where the installation of electronic communications networks which do not use the radio spectrum scarce resource is difficult or economically unsustainable,

taking into account that the 790-862 MHz (*800 MHz*) radio frequency band is optimal for covering large areas with broadband electronic communications networks, since the propagation in this radio frequency band is similar to that of the 890-915 MHz/935-960 MHz frequency bands,

whereas the 2500-2690 MHz radio frequency band, together with the 800 MHz band, have been designated by the European Commission for the introduction of broadband electronic communications services,

since the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz radio frequency bands have or had governmental/non-governmental use, all of them being further used by equipment belonging to the Ministry of National Defence, according to the National Table for Frequency Band Allocation

taking into consideration the limited timeframe available for releasing the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz frequency bands, and the mandatory stages which must be undertaken in order to purchase and replace the equipment used for the functioning under optimum conditions of the military radio-electric equipment intended for aeronautical radionavigation services, radiocommunications for the command and control of the military forces and the surveillance of Romania's air space,

taking into account that the lack of the necessary funds and the delay in starting the procedures required for the purchase of the radio-electric equipment have a negative impact on the effective assurance of the national air space surveillance, of efficient response in the event of an aerial assault and of the uninterrupted provision of the air police service,

having regard to the fact that the shutdown and the reduction of the technical parameters for the radio-electric equipment in service or the failure to replace this radio-electric equipment might cause serious limitations in fulfilling the obligations incumbent on Romania as a NATO Member State, due to sending delayed or partial information on the status of the air space for the responsibility area established at the North Atlantic Alliance level,

considering the need to assure a period of time necessary for organising the selection procedures, subsequently to the release of the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz frequency bands, in view of awarding, according to the law, the rights to use the radio frequencies in the 790-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz, respectively 2500-2690 MHz bands,

having regard to Romania's obligation, as a European Union Member State, to approach the use of spectrum in line with the policies elaborated at the European Union

level for the purpose of strengthening the electronic communications services single market by means of radio waves, thus creating new opportunities for innovation while observing the social, cultural and economic value of the radio spectrum, relevant for the accomplishment of objectives and for the making available of the radio spectrum in due time,

taking into account that the regulation of the radio spectrum scarce resources has also a cross-border character, this deriving from the propagation characteristics of the radio frequencies, as well as from the nature of the electronic communications single market, which is dependent on electronic services supplied by means of radio waves, whereas adequate measures for preventing harmful interferences between various states are necessary, in particular in the areas where the neighbouring states are not Members of the European Union, being therefore relevant the geographic location which must be managed by Romania,

bearing in mind that the failure to adopt immediate measures, by emergency ordinance, would create difficulties regarding the process of releasing and authorising the use of the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz frequency bands and, implicitly, the possibility of granting the rights to use radio frequencies under conditions which would ensure the provision of broadband electronic communications services,

taking into consideration that the available period of time does not permit to undergo the regular stages of the elaboration of a normative act procedure, according to the legislative process,

Considering that these elements concern the public interest and represent emergency and extraordinary circumstances whose regulation may not be delayed

On grounds of Article 115 paragraph (4) of Romania's Constitution, republished,

**The Government of Romania** adopts this emergency ordinance,

**Art. 1.** – This emergency ordinance establishes the legal framework and the conditions concerning the release by the Ministry of National Defence, hereinafter referred to as *MApN*, of the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz frequency bands.

**Art. 2.** – The frequency bands specified in Article 1, which are currently managed by *MApN*, shall be onwards managed by the National Authority for Management and Regulation in Communications, hereinafter referred to as *ANCOM*, in view of granting the right to use these frequencies for the provision of broadband electronic communications services.

**Art. 3.** – (1) The costs incurred by the change of destination or reorganization of the radio frequency bands provided for in Article 1 are in the amount of:

- a) 93 million euros, for the 830-862 MHz band;
- b) 130.2 million euros, for the 2500-2690 MHz band;
- c) 11.2 million euros, for the 1747.5-1785 MHz and 1842.5-1880 MHz bands.

(2) The costs incurred by the change of destination or reorganization of the radio frequency bands shall be borne as follows:

- a) partly from *ANCOM's* budget, namely an amount equal to the equivalent in RON of 30 million euros, to be paid, under the law, within 15 days from the date of the approval of the payment from the budget of incomes and expenditures;

- b) the difference between the total value of the costs set according to paragraph (1) and the amount provided for in letter a) shall be paid from the licence fee charged from each of the winners of the selection procedures to be held in order to grant the rights to use the radio frequencies in the bands released by *MApN*;
- c) the costs under letters a) and b) shall be paid in the order specified in paragraph (1).

(3) The amount specified in Article (2) letter a) shall be considered income of the fully financed activity, established under *MApN*, in accordance with the provisions of the Government Decision no. 468/2005 on approving the establishment under the Ministry of National Defence of an activity fully financed from own revenues.

**Art. 4.** – (1) *MApN* shall release the radio frequency bands specified in Article 1 under the following conditions:

- a) the 830-862 MHz frequency band, no later than six months from the payment, according to the law, of the amounts required for covering the costs provided for in Article 3 paragraph (1) letter a);
- b) the 2500-2690 MHz frequency band, no later than six months from the payment, according to the law, of the amounts required for covering the costs provided for in Article 3 paragraph (1) letter b);
- c) the 1747.5-1785 MHz, 1842.5-1880 MHz frequency bands, no later than six months from the payment, according to the law, of the amounts required for covering the costs provided for in Article 3 paragraph (1) letter c).

(2) The amounts mentioned in Article 3 paragraph (1) shall be paid in RON, at the exchange rate communicated by the National Bank of Romania, valid for the day when the payment is made.

**Art. 5.** – Other intermediary stages, the technical conditions related to the release of the radio frequency bands specified in Article 1, as well as any other required elements may be established under a protocol concluded between *MApN* and *ANCOM*, within the limits of the calendar provided for in Article 4.

**PRIME – MINISTER**

**EMIL BOC**