

**LAW No. 154/2012 regarding the regime of the electronic communications
networks infrastructure
(date of entry into force: 31 October 2012)**

The Parliament of Romania adopts this law.

CHAPTER I: General provisions

Art. 1. - (1) This law establishes the terms for performing access on the public or private property, for the purpose of installation, maintenance, replacement or relocation of the electronic communications networks and of the associated infrastructure, the methods for the shared use of the infrastructure elements, as well as certain measures regarding the roll-out of electronic communications networks.

(2) The provisions of this law do not apply to the electronic communications networks and to the infrastructure elements owned or managed by the public authorities or institutions of the national defence, public order and national security systems.

Art. 2 - (1) For the purposes of this law, the terms and expressions below will be defined as follows:

- a) access on properties – access on, over, in or under public or privately owned property, as the case may be, for the purpose of installing, maintaining, replacing and relocating electronic communications networks or associated facilities;
- b) infrastructure – facilities situated on, over, in or under land, buildings or other public or privately owned structures, that may be used for the installation of electronic communications networks, including channels, ducts, masts or pillars;
- c) exclusive right – right granted to an individual entity through any legislative, regulatory or administrative instrument, which reserves it the right to provide electronic communications services or to perform an activity in the electronic communications field, in a specified geographic area;
- d) special right – the right granted to a limited number of entities by any legislative, regulatory or administrative instrument, in a specified geographic area, that:

1. designates or limits to two or more the number of entities authorised to provide an electronic communications service or to perform an activity in the electronic communications field, based on other criteria than non-discriminatory, objective and proportionate; or

2. confers to an entity, otherwise than in accordance with the above-mentioned criteria, legal or regulatory advantages that substantially affects all the other entities' capacity to provide the same service or to perform the same activity in the same geographical area, in substantially equivalent conditions.

(2) For the purposes of this law, the definitions provided in Article 4(1) of the Government Emergency Ordinance no.111/2011 on electronic communications, approved with amendments and completions by Law no.140/2012, are also applicable.

CHAPTER II: The right of access on properties

Art. 3 - (1) The providers of public electronic communications providers, authorised under the legislation in the field of electronic communications, have the right of access on properties according to this law.

(2) The persons who provide electronic communications networks exclusively for their own needs, under the provisions of the laws in the electronic communications field, have the right of access on the public property of the state or of the territorial-administrative units, according to this law.

(3) The right of access on properties provided in paragraphs (1) and (2) in relation to private or publicly owned property is a right of easement, exercised under the legal provisions, with the observance of the principle of minimal intervention on the respective property.

(4) The right of access on a private property and the terms for exercising this right by the persons who provide electronic communications networks exclusively for their own needs will be negotiated by the parties, under the legal provisions.

(5) By way of exception from the provisions of Article 1(2), the right of access on properties for the installation of electronic communications networks for the own needs of the state authorities and institutions, including those in the field of national defence,

public order and national security, until the adoption of special regulations, will be exercised based on this law.

Art. 4 – The providers of electronic communications networks benefit from the right of access on, over, in or under the public property, including roadways, bridges, tunnels, technical and public works infrastructure, passways and viaducts, masts and pillars, forests and agriculture lands, under this law, if the following conditions are cumulatively met:

- a) the exercise of this right does not jeopardize the public interest or use for which the respective property is intended;
- b) the required works do not jeopardize the specific urbanism, land management or building quality requirements, nor the requirements regarding the protection of the environment, of public health, national defence, public order and national security, which the activities conducted on, over, in or under the respective property must observe.

Art. 5 - (1) The providers of public electronic communications networks have the right of access on, over, in or under private property, if the following conditions are cumulatively met:

- a) the right of use over the respective property would not be affected or would be insignificantly affected by the performance of such works or – when another provider of electronic communications networks, authorised under the legal provisions in the electronic communications field, has already performed works of access on, over, in or under the respective property – the right of use over the respective property would not be permanently affected by an additional restriction triggered by the performance of such works;
- b) the required works do not jeopardize the specific urbanism, land management or building quality requirements, nor the requirements regarding the protection of the environment, of public health, national defence, public order and national security, which the activities conducted on, over, in or under the respective property must observe;

c) the holder of the right of property over the respective property agrees to conclude a contract which states the terms of exercising the right of access on his/her private property, or – in case of refusal – an irrevocable judicial order serves as a contract between the parties.

(2) The provisions of paragraph (1) are also applicable to the right of access on the space of joint tenancy in condominium buildings, including as regards the installation of electronic communications networks or of the associated facilities on the walls or terraces of such buildings.

Art. 6 - (1) Public companies and institutions, including the authorities of the central or local public administration, as well as any other entities exercising the right of administration over the public property of the state or of the territorial-administrative units have the obligation to publish, on their own website – if they have one – and to post on visible spots, at the holder's headquarters, within 30 days from the date of receiving the first request for exercising the right of access to a certain public property, the terms under which the right of access to the respective property is exercised and the documents to be submitted by the requester with a view to complying with the respective terms, under the provisions of Article 4.

(2) The publishing provided in paragraph (1) will mention at last:

a) the entity exercising the right of administration, as well as its contact details for the purpose of submitting the requests for access on properties;

b) the characteristics of the building on which the right of access is exercised and the areas where this right may be exercised;

c) the maximum tariffs for exercising the right of access and the terms under which these are applied, as well as the criteria based on which they were established, depending on the elements of the communications networks and on the associated facilities envisaged by the respective works;

d) all the technical limitations on exercising the right of access, resulting from the public interest or usage characteristics of the respective property;

e) the detailed procedure to be observed by the requester of the right of access, including all the details regarding the documents he/she has to submit.

(3) The maximum tariffs are to be established with the observance of the following principles:

a) they should be justified and proportionate to the degree of affecting the respective property;

b) they should cover no more than the direct and certain damage caused by the required works, as well as by the installation and functioning of the infrastructure elements of the electronic communications networks envisaged by the respective works;

c) they should take into account, when applicable, the added value brought to the respective property by the installation of electronic communications networks or of the supporting infrastructure elements.

(4) For the public property buildings assigned as a concession, a lease or a commodatum, the terms – including tariffs – under which the right of access is exercised will be established and posted by the providers of the right of administration, in accordance with the provisions of paragraphs (1)-(3), whereas by the holders of the right of concession, of lease or of commodatum – only when this possibility is clearly stated by the documents granting the right of concession, lease or commodatum.

(5) Central or local public authorities, as well as any other entities cannot levy taxes, fees, charges or other amounts in addition to the amounts stated in the contracts concluded by the parties according to this law, for the electronic networks providers' trespassing or using public property real estate or in consideration of their performing other activities related to exercising the right of access on properties, regulated by this law.

(6) The terms established for exercising the right of access according to this article will observe the principles of transparency and objectivity and will be non-discriminatory to all the electronic communications networks providers.

(7) Where the holder of the administration right or, as applicable, where the holder of the right of concession, lease or commodatum intends to amend or to complete the terms established in accordance with the provisions of paragraphs (1)-(3), he/she has the right to post the draft amendment or completion at least 30 days prior to the adoption date, by the means provided in paragraph (1).

(8) The providers of electronic communications networks that install networks on masts, pillars or on other publicly owned associated facilities, including on roadways, will owe charges exclusively to the person who owns or administers the infrastructure elements, under the mutually established terms.

Art. 7 - (1) The entities that have the obligation to establish and post these terms will send a copy of the posting, including all the access terms established in accordance with the provision of Article 6, as well as of the emerging amendments and completions, to the National Authority for Management and Regulation in Communications, hereinafter referred as ANCOM.

(2) Based on the information provided in paragraph (1), ANCOM will create, will update and will make publicly available, on its own website, a database including the terms for access to the public property of the state or of the administrative-territorial units, as well as the entity responsible for granting the access right.

Art. 8 - (1) With a view to exercising the right of access on public property, the requester will submit a request to the holder of the right of administration, of concession, of lease or of commodatum, as applicable, over the respective property, endorsed by all the required documents, showing compliance with the access terms. The respective entity will receive the request for settlement, when this possibility is provided in the documents granting it the right of administration, of concession, of lease or of commodatum or – as applicable – will send it, accompanied by a motivated request, to the holder of the right of administration, established by law or by other judicial act.

(2) The access request will contain information regarding:

- a) the contact and identification data of the provider of electronic communications networks that intends to conduct the works of access on properties;
- b) the area where the right of access needs to be exercised;
- c) the works to be performed;
- d) the purpose of requesting the right of access to the respective area;
- e) the estimated duration of the required works.

(3) The holder of the right of administration, established by law or by judicial act, as applicable, or the holder of the right of concession, of lease or of commodatum, as applicable, when enabled to settle the request, will analyse the observance of the access terms provided in Article 6 and will communicate the requester the grounded answer, within 30 days from the date of receiving the request accompanied by the documents attesting compliance with the access terms.

(4) The first request sent to the holder of the right of administration, of concession, of lease or of commodatum, as applicable, with a view to exercising access on properties, will be analysed within 30 days from the date of posting the access terms, in accordance with the provisions of Article 6(1)-(3), not exceeding 60 days from the date of sending the initial request. The request will include at least the elements provided in paragraph (2).

(5) The requests sent to the holder of the right of administration, of concession, of lease or of commodatum, with a view to exercising the right of access on public property, will be analysed based on the principles of transparency, objectivity, proportionality and non-discrimination. In case of receiving an incomplete request, a completion will be requested within 10 days from the reception date, within the term provided in paragraphs (3) or (4), the time interval for the requester to complete the request being extended accordingly.

(6) The right of access may be denied only in objectively and soundly justified cases. The grounds for denying access will be communicated to the requester.

(7) A request that has not been answered within the term provided in paragraphs (3) or (4) shall be deemed tacitly approved.

(8) In the case provided in paragraph (7), the requester will send a notification, with acknowledgement of receipt, regarding the inception date of the works required for the access on public property, a date which cannot be sooner than 10 days from the date of sending the notification. The tariffs for the installation of the respective infrastructure will be owed from this date on.

(9) The provisions of paragraph (7) do not apply in case the access terms have not been posted according to the provisions of Article 6.

(10) The requester may challenge the denial of the access right directly to the competent court, under the provisions of Article 14.

Art. 9 - (1) In the areas where - as established according to the provisions of specific normative acts - certain restrictions are applicable regarding the performance of works for access on the public property, so that further elements of the electronic communications networks or other associated facilities cannot be installed, the already installed infrastructure elements, irrespective of their belonging to a particular electronic communications network, will be shared, in accordance with the provisions of Articles 20-23.

(2) To the extent that the terms established according to Article 6 are not fulfilled, and other infrastructure elements have already been installed in the respective area, the holder of the right of administration, of concession, of lease or of commodatum, as applicable, will inform the requester, with a view to the shared use of the infrastructure elements. The requester may address the person that holds or administers the respective elements and, as the case may be, to ANCOM, in accordance with the provisions of Articles 20 and 21.

(3) The holder of the right of administration, of concession, of lease or of commodatum, as applicable, over the public property, may request the providers of electronic communications networks to include contractual clauses that restrict the exercise of the right of access in certain areas, so that the progress of other public utility works should not be affected.

(4) The clauses established following paragraph (3) will not affect the functionality of the infrastructure elements and of the electronic communications networks and will be objective, non-discriminatory, proportionate and justified.

Art. 10 - (1) Granting or extending special or exclusive rights as regards the installation or the provision of electronic communications networks, including the installation of associated facilities, is forbidden.

(2) In the situation of infrastructure installing projects conducted with the participation or with the support of the central or local public administration or financed, totally or

partially, from public funds, the providers of electronic communications networks benefit from open access to this infrastructure for a period of at least 7 years, observing the principles of non-discrimination, proportionality and objectivity.

(3) The technical and economic terms under which the providers of electronic communications networks perform access to infrastructure in the case provided in paragraph (2) will be established only upon ANCOM's advice of conformity.

(4) The set up of special or exclusive rights as regards the installation or the provision of electronic communications networks or the implementation of infrastructure installation projects, under the terms of paragraph (2), in the absence of ANCOM's advice of conformity provided in paragraph (3), may be attacked by any interested person in front of the competent administrative contentious court.

Art. 11 – If the public institutions provided in Article 6(1) exercise the right of exclusive property or control over providers of public electronic communications networks or of publicly available electronic communications services, they have the obligation to conduct a structural separation of the activities associated with exercising the rights of exclusive property or control from the activities associated with granting the right of access to properties, in accordance with the provisions of this law.

Art. 12 - (1) With a view to exercising the right of access to a private property, under the provisions of Article 5, the requester will send the holder of the right of property or of administration, as applicable, a request regarding the conclusion of a contract. The request will be sent by registered letter, with acknowledgement of delivery.

(2) The request must specify the following:

- a) identification and contact data of the provider of public electronic communications networks that intends to perform works with a view to exercising the right of access to properties;
- b) the network and infrastructure elements that are to be installed on the respective property;
- c) the estimated duration of the respective works;

d) terms under which the requester's intervention on the private property will be conducted, for the purpose of maintaining and repairing the networks and infrastructure elements to be installed.

(3) When the conditions provided in Article 5(1) are fulfilled, the holder of the right of property or of administration cannot reject the exercising of the access right except on soundly justified reasons, despite any contrary conventions.

(4) In the situation of the private property of the state or of the administrative-territorial units assigned as a concession or a lease, the provisions of this article will apply to the holders of the right of concession or of lease only when the responsibility of granting the access right resides with them, according to the acts by which they were granted the right of concession or of lease, as applicable.

Art. 13 - (1) The holders of the right established in articles 4 or 5, excepting the case provided in Article 8(8), can exercise their right of access only upon the conclusion of a contract, in original, with the holder of the right of property or of administration over the respective property or, for the public property real estate, with the holder of the right of administration, as applicable, establishing the terms for exercising this right, or, in the case provided in Article 5(2) - with the owner's association.

(2) In the case of exercising the right of access on the public or private property of the state or of the administrative-territorial units, the contract provided in paragraph (1) may be concluded with the holders of the rights of concession, of lease or of commodatum, as applicable, only when this possibility is clearly provided in the acts granting the right of concession, lease or commodatum.

(3) The terms established by the contract concluded according to the provisions of paragraph (1) must be non-discriminatory to all the providers of electronic communications networks.

(4) If, following negotiations, a contract provides more favourable terms for a certain provider of electronic communications networks, including as regards tariffs, than those provided in the terms posted according to the provisions of Article 6 or provided in the agreements concluded with other providers of electronic communications networks,

then these terms will be offered to all the other providers, on a non-discriminatory basis.

(5) Within 15 days from the date of concluding the contract with a view to exercising the access right on public property, the holder of the right of administration, of concession, of lease or of commodatum, as applicable, has the obligation to post this contract on its website.

(6) The providers of electronic communications networks who exercise the right of access on public property must send a copy of such contracts to ANCOM, which has the obligation to make it available to any interested persons.

(7) The contract concluded following this article must provide at least:

a) areas where access is permitted, working methods to be used and the actual terms, including the term within which the holder of the access right may conduct works of installation, maintenance, replacement or relocation of the electronic communications networks or the infrastructure elements, including emergency repair work;

b) terms under which the owner or the holder of the building may conduct works that could affect access to the electronic communications networks or to the associated infrastructure required for their proper maintenance or that could require their relocation;

c) the methods and terms of information between the parties regarding the performance of works on the public or private property where the access right is requested;

d) price or tariff owed for exercising the right of access, representing the amount for the usage and the damage for the prejudice caused by the respective works.

(8) A contract concluded following this article, registered in the real estate register of the property on which the right of access is requested, is enforceable against any holders of a right *in rem* over the respective property, against holders of any other titles, as well as against the acquirer of the property.

(9) The clauses included in contracts that prevent the shared use of infrastructure or provide exclusive or special rights regarding the installation or provision of electronic communications networks on a private or public property are automatically void.

(10) The standard contract for access on private property with a view to installing, maintaining, replacing or relocating public electronic communications networks or associated facilities shall be posted by ANCOM within 6 months from the entry into force of this law.

Art. 14 - (1) Where the contract provided in Article 13 cannot be concluded within two months from the date of receiving the request for concluding the contract of access on private property or the request for exercising the right of access on the public property, or in the case of denial of the access right, according to the provisions of Article 8, any of the parties may address the competent court.

(2) When deemed grounded, the court may issue a decision that stands as a contract between the parties.

(3) The disputes will be settled in court by urgent, priority ruling procedure.

(4) The court decision issued following a request submitted under the provisions of paragraph (1) may be challenged by second appeal.

(5) Where the right of access is exercised over a public property, within 15 days from the date when the court decision has become final, the holder of the right of administration, of concession, of lease or of commodatum, as applicable, over the building must make it publicly available on its website.

(6) The providers of electronic communications networks exercising the right of access on the public property must send a copy of this decision to ANCOM, which will have to make it available to all the interested persons.

(7) The court decision standing as a contract between the parties, in accordance with the provisions of paragraph (2), will be accordingly applied the provisions of Article 13(8).

Art. 15 - (1) The persons mandated by the providers of electronic communications networks to perform works of access on properties or to conduct survey or design activities for the purpose of performing such works have the right of access only to the extent necessary for the fulfilment of their job duties, based on a written mandate from the respective providers, upon the agreement of the holder of the right of usage, or – in

the absence of this agreement, upon the agreement of the holder of the right of property, of administration, of concession or of lease, as applicable.

(2) The right provided in paragraph (1) cannot be exercised unless a notification has been sent two working days before to the holder of the right of usage, or – in the absence of this agreement, to the holder of the right of property, of administration, of concession or of lease, as applicable, over the respective property, excepting the case when emergency repair works are required.

(3) The holder of the right of usage, and the holder of the right of property, of administration, of concession or of lease, as applicable, do not have the right to deny access to the persons provided in paragraph (1) when such access is performed under the terms established by a contract concluded according to the provisions of Article 13 or by a court decision issued following Article 14.

(4) In the absence of an agreement, access may be authorised by court decision. In case of emergency, the court may decide access by way of a president's order.

(5) Where maintenance or repair works are required for preventing or removing the consequences of a natural calamity or of a disaster, or for ensuring the uninterrupted functioning of the electronic communications networks and services, the persons mandated following paragraph (1) have the right of access based on a notification communicated to the holder of the right of usage or, in his/her absence, to the holder of the right of property, of administration, of concession or of lease, as applicable, over the respective property. The methods of sending the notification are established by the contract provided in Article 13 or by the court decision provided in Article 14.

Art. 16 - (1) The right established pursuant to Articles 13 or 14 does not interfere with the property right or with other rights *in rem* over the building, respectively over the shared infrastructure or over the electronic communications networks or over the associated facilities.

(2) The exercise of the right established pursuant to Articles 13 or 14 will not cause a change of destination of the respective building and will affect its use by the holder of the right of usage to the least possible extent.

(3) The providers of electronic communications networks have the obligation to restore to the initial state the property affected by the works of access on properties or, by the agreement of the parties, they can compensate charges of the holder of the right of property, administration, concession or usage, as applicable, determined by restoring the affected property to the initial state.

Art. 17 – Where certain works performed for exercising the right of access on properties are affected by public utility works of national or of local interest, the expropriation procedure will apply, under the terms of Law no.33/1994 *on* expropriation for public utility reasons, republished.

Art. 18 - (1) The holder of the right established pursuant to Article 13 or 14 may request the holder of the right of property, of administration, of concession, of commodatum or of lease, as applicable, where there is no alternative solution, to cut down, under the legal provisions in the field of environment protection, the trees and bushes, as well as the branches or roots that jeopardize or may jeopardize the progress of works of access on properties. These operations will be performed at the requester's expense and upon payment of damages, pursuant to Article 13(7), letter d).

(2) If, within 45 days from the date of receiving a request, the holder of the right of property, of administration, of concession, of commodatum or of lease, as applicable, does not perform the operations provided in paragraph (1), the provider of electronic communications networks may perform the respective operations, after sending a notification at least two working days in advance.

(3) The operations provided in paragraph (1) will be performed in such a way that they could affect the outer image of the property and the environment to the least possible extent.

Art. 19 - (1) The holder of the right established pursuant to Article 13 or 14 must relocate the elements of the electronic communications networks or the associated facilities, within one property, at his/her own expense, when this relocation is necessary for raising buildings or for the performance of works by the owner, the holder of the

right of administration, of concession, of commodatum or of lease, as applicable, under the terms agreed by the contract concluded pursuant to Article 13 or by the court decision issued pursuant to Article 14.

(2) When electronic communications network elements or the associated facilities is required for performing works by other persons than the owner, or, as applicable, the holder of the right of administration, of concession, of commodatum or of lease, the expenses will be born by the latter, if the contract provided in Article 13 or by the court decision provided in Article 14 does not establish otherwise.

CHAPTER III: The shared use of infrastructure

Art. 20 - (1) The providers of electronic communications networks have the right to negotiate agreements for the shared use of infrastructure with the persons who own or administer infrastructure elements.

(2) Where no agreement is concluded within two months from the date of receiving a firm negotiation request or where negotiation is denied, any of the parties may address ANCOM.

Art. 21 - (1) In the case provided in Article 20(2), ANCOM, taking into account the principle of proportionality, may impose a person that owns or holds infrastructure elements the obligation to allow a provider of electronic communications networks to use these elements, including buildings or building entrances, ducts through buildings, pillars, antennae, towers and other associated facilities, channels, pipes, visiting rooms and cabinets, as well as passive network elements, with a view to installing, maintaining, replacing or relocating the electronic communications networks, where this is technically and economically feasible.

(2) The obligation to share infrastructure provided in paragraph (1) may be imposed only when it is required for the protection of the environment, of public hygiene and health or public order or when it is required for the fulfilment of specific urban and land management requirements.

(3) Where ANOM imposes on a person that owns or administers infrastructure elements the obligation provided in paragraph (1), ANCOM also establishes the terms under which the infrastructure is shared, including the cost allocation criteria.

Art. 22 - (1) In well justified cases, given the coverage of the infrastructure elements and the availability of similar elements in certain areas, ANCOM may impose on a person that holds or administers infrastructure elements the obligation to negotiate the shared use of infrastructure, as well as to inform all the requesters on the terms under which the shared use may be achieved.

(2) Where the duplication of infrastructure elements is economically inefficient, of physically impossible, ANCOM may impose on a provider of electronic communications networks or on the infrastructure owner the obligation to allow other providers of electronic communications networks to share the ducts installed in buildings or up to the first concentrator or network distribution point situated outside the building.

(3) Where the obligation provided in paragraph (2) is imposed, ANCOM also establishes the terms for the shared use of infrastructure, including the criteria for sharing the costs, taking into account the risk involved in making the initial investment.

Art. 23 – The obligation and the terms for the shared use of infrastructure, pursuant to Articles 21 and 22, will be imposed by decision of the ANCOM president, upon completion of the public consultation procedure provided in Article 135 of the Government Emergency Ordinance no. 111/2011, approved with amendments and completions by Law no. 140/2012.

CHAPTER IV: Provisions on authorising the construction of electronic communications networks

Art. 24 - (1) When drawing up land management plans or performing construction, repair, upgrading, refurbishment or extension works on the roadways or on the public utility networks, the necessity of installing electronic communications networks will be taken into account.

(2) When performing the works provided in paragraph (1) on public or private property, the authorities of the public administration that issues construction authorisations or that coordinates the performance of the respective works will post announcements on the filing of a request for the issuance of a construction authorisation for the works provided in paragraph (1) or on conducting other categories of works, within 10 days from the date of filing the request or from the date on which the authorities of the local public administration have become aware of the respective works, so that there should be possible to synchronize certain installation, maintenance, replacement or relocation of electronic communications networks or of the associated infrastructure elements, according to this law.

(3) The announcement will be posted on the webpage of the public administration authority, and on visible spots, at the authority's headquarters and will contain information regarding the area where the works provided in paragraph (1) are to be performed, as well as the estimated date of starting the works.

(4) If the providers of public communications networks do not choose the synchronised performance of the works of access on properties at the same time with the works of construction, repair, upgrading, refurbishment or extension of the roadways and of the public utility networks, according to the provisions of this article, the public administration authorities may establish restrictive conditions for granting construction authorisations in the respective area, for at most 2 years, for the works provided in paragraph (1) announced pursuant to this article at least 6 months in advance.

Art. 25 - (1) Within the designs for the authorisation and performance of construction works, there will be provided systematised tracks for the installation of electronic communications networks.

(2) Authorisation of the infrastructure works for the public electronic communications networks, including the issuance of the coordination advice for such works, respectively the designing and set up of systematised tracks for the electronic communications networks will be conducted based on the specific technical norms.

(3) In elaborating the technical norms provided in paragraph (2) there will be taken into consideration the proposals of the technical associations incorporated by the providers

of electronic communications networks, as well as of other incorporated associations and of the interested public authorities.

(4) The technical norms provided in paragraph (2) will include and will establish the constructive characteristics, the minimum capacity to be ensured on the tracks corresponding to different categories of construction works, the protection areas for certain elements of the electronic communications networks or associated facilities, the procedure for the issuance of the technical advice attesting conformity with the norms, required for the issuance of the construction authorisation, as well as the categories of advices and agreements necessary for the authorisation of infrastructure works with a view to installing electronic communications networks.

(5) The technical norms provided in paragraph (2) will be adopted upon launching their draft for public consultation, at least on the websites of the public authorities, for at least 30 days.

(6) All the interested persons can send suggestions and comments on the draft technical norms launched for consultation, within the term provided in paragraph (5). The suggestions and comments received will be taken into account in completing the draft.

Art. 26 - (1) The works of access on properties may be conducted only upon compliance with the legal provisions regarding:

- a) the construction, design, authorisation of works, execution, use and afteruse of the buildings;
- b) the design and construction of buildings and of the installations in roadway areas and in the area of railway infrastructures, on bridges, passways, viaducts and road tunnels, as well as in airport protection and in sailing protection areas;
- c) the conditions for setting up the technical and public work facilities and the pillars for installations in roadway and railway areas;
- d) construction quality;
- e) protection of public hygiene and health;
- f) environment protection;
- g) labour protection;

h) protection of historic heritage.

(2) To the extent that, in certain areas, there has been established a regime of protection through the land management plans and through the urbanism documentations as regards the performance of works of access on properties, as well as in the case of areas with a special regime, according to the legal provisions, the access right cannot be exercised unless the prior agreement of the competent authorities has been obtained.

(3) The required advices or authorisations will be obtained by the person that requests to exercise the right of access or of shared use of the infrastructure, as the case may be.

Art. 27 - (1) In roadway areas, there will be prohibited works of access on properties that:

- a) restrict the right-of-way, after the completion of works;
- b) hinder the traffic of vehicles;
- c) jeopardize the traffic safety, including by reducing visibility.

(2) The underground electronic communications networks will be installed in ditches, by specially established cable ducts or by cable galleries.

Art. 28 – The persons that perform works for the installation, relocation or extension of the electronic communications networks have the obligation to mark the network tracks, under the terms established by the technical norms provided in Article 25(2).

Art. 29 - (1) The installation of network elements on the inner and outer walls of buildings will be performed by means of systematised routings, according to the technical norms provided in Article 25(2).

(2) The costs occasioned by systematising the network elements will be born by all the providers of electronic communications networks that install these elements, according to the technical norms provided in Article 25(2).

(3) Within 18 months from the entry into force of the technical norms provided in Article 25(2), the providers of electronic communications networks will perform the works required with a view to observing the provisions of paragraph (1).

Art. 30 - (1) New buildings intended for residence or for educational, financial-banking use, or designed as office space or hotels, for which a construction authorisation is issued after the date of 1 January 2013, will be provided with infrastructure access that should enable the provision of broadband electronic communications services.

(2) The terms for the enforcement of the provision of paragraph (1) will be established by the technical norms provided in Article 25(2).

Art. 31 - (1) In the protection areas of electronic communications networks or of their associated facilities, established by the technical norms provided in Article 25(2), one cannot perform works that could affect these elements without the prior written agreement of the respective provider of electronic communications networks.

(2) The electronic communications provider can request that the works performed in the protection area of the network should be conducted in the presence of its representatives.

(3) The electronic communications networks provider concerned will make available to the persons that perform works in the protection area all the necessary information so that they could avoid possible damages to the electronic communications network.

CHAPTER V: Sanctions

Art. 32 – Breach of the provisions of this law will trigger civil, disciplinary, contravention or criminal sanctions.

Art. 33 - (1) The following deeds will be deemed a contravention and will be sanctioned by fine amounting between RON1,000 and RON100,000:

- a) breach of the provisions of Article 7(1);
- b) breach of the provisions of Article 13(5) and (6) or of Article 14(5) and (6);
- c) breach of the provisions of Article 16(3);

- d) breach of the provisions of Article 25(2);
- e) breach of the provisions of Article 27;
- f) breach of the provisions of Article 28;
- g) breach of the provisions of Article 29(1) and (3);
- h) breach of the provisions of Article 30(1);
- i) breach of the provisions of Article 31(1).

(2) Breach of the obligations and of the terms imposed by ANCOM pursuant to Articles 21 and 22 will be deemed contraventions and will be sanctioned as follows:

- a) by fine between RON5,000 and RON100,000;
- b) by way of exception from the provisions of Article 8(2) letter a) of the Government ordinance no.2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, by fine amounting to up to 2% of the turnover, and – in case of repeated breaches, by fine amounting to up to 5% of the turnover for the companies with a turnover of more than RON5,000,000.

(3) Contraventions provided in paragraph (1) letters a) and b) and paragraph (2) will be assessed by the speciality control personnel mandated by ANCOM and will be sanctioned, through decision, by the ANCOM president.

(4) The contraventions provided in paragraph (1) letters c)-i) will be assessed and sanctioned by the control personnel of the State Inspectorate for Constructions.

(5) The fines provided as sanctions for the contraventions provided in paragraphs (1) and (2) may be applied both to legal and to natural persons.

Art. 34 – The provisions regarding the contraventions provided in Article 33(1) and (2) will be completed by the provisions of the Government Ordinance no. 2/2001, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions.

Art. 35 - (1) ANCOM has the right to request the providers of electronic communications networks and the entities that control or hold infrastructure elements all the information

required with a view to applying the provisions of Articles 21 and 22, as well as of the issuance of the advice provided in Article 10(3).

(2) With a view to ensuring the enforcement of the provisions of Articles 21 and 22, as well as to conducting an inventory of the public electronic communications networks and of their associated facilities, all the providers of public electronic communications networks have the obligation to send ANCOM, as well as to update on an annual basis, by 1 July each year, thorough information regarding the development and the geographical location of the public electronic communications networks they operate and of their associated infrastructure elements.

(3) The information provided in paragraph (2) is made available to ANCOM within 12 months from the date of adopting an ANCOM president's Decision establishing the manner of enforcement of the information to be transmitted.

(4) The information provided in paragraph (1) will be requested by written letter specifying the grounds of the request, and establishing the deadline by which the information must be sent, the quality and nature of the information being proportionate with the purpose for which they are requested.

(5) ANCOM may compel the persons provided in paragraphs (1) and (2) to pay administrative fines amounting to up to RON30,000 per day of delay, also establishing the date from which a fine is calculated, in order to determine them to provide accurate and complete information, as requested pursuant to paragraphs (1) and (2) or to observe the term provided in paragraph (3).

(6) Administrative fines are applied by decision of the ANCOM president. This decision becomes enforceable with no further formalities, if unchallenged within the term provided by the law.

Art. 36 – For the purpose of checking compliance with the provisions of this law, the specifically mandated personnel of ANCOM or of the State Inspectorate for Constructions, as applicable, will have the right to request statements or any other documents necessary for performing the inspection, to take copies of all the relevant registries, financial-accounting and commercial documents or other acts; moreover, they may conduct inspections, including snap checks, to all the installations, facilities,

lands or infrastructures, the result of which will be laid down in a statement-of-facts, and to receive, upon summons or on the spot, information and explanations.

CHAPTER VI: Final Provisions

Art. 37 - (1) Holders of the right of management, of concession, of lease or of commodatum, as applicable, over public property real estate where works of access on properties were performed or where access was requested with a view to performing such works, up to the date of entry into force of this law, will have the obligation to publish the terms, including the tariffs, for exercising the right of access, in accordance with the provisions of Article 6, within 60 days from the date of entry into force of this law.

(2) In case of breach of the obligation to publish the terms for exercising the right of access, according to the provisions of paragraph (1) or Article 6(1) and (4), as well as in the case of establishing access terms, tariffs or obligations in breach of the provisions of Article 6 or Article 9(4), ANCOM or any interested person may address directly to the competent court, with a view to compelling the holders of the right administration, of concession, of lease or of commodatum, as applicable, to establish and to publish access terms, in compliance with the provisions of this law.

(3) In case of the infrastructure installation projects performed or about to be performed provided in Article 10(2), the authorities of the central or local public administration participating in or supporting the carrying through of these projects or financing them have the obligation to send ANCOM the technical and economic terms for access of the electronic communications networks, with a view to implementing Article 10(3), within 30 days from the date of entry into force of this law. ANCOM may request amendments and completions to the proposed terms.

Art. 38 - (1) Upon the request of the providers of electronic communications networks or of the entities provided in Article 13(1) or (2), the clauses in the contracts for exercising the right of access on public property concluded by the date of entry into force of this law will be amended, within 6 months from the date of publishing the

terms and tariffs for access, according to the provisions of Article 37(1), with a view to ensuring compliance with the provisions of this law.

(2) Where, up to the date of publishing the terms and tariffs for access, according to the provisions of Article 37(1), no contracts for exercising the right of access on the public property have been concluded, the holders of the right of administration, of concession, of lease or of commodatum, as applicable, have the obligation to conclude these contracts in accordance with the provisions of this law, within 6 months from this date.

(3) Upon the request of the providers of electronic communications networks or *ex officio*, the clauses provided in the already concluded contracts establishing the access of the providers of electronic communications networks to the projects provided in Article 10(2) will be amended, with a view to ensuring compliance with the technical and economic terms established in accordance with the provisions of Article 37(3).

Art. 39 - (1) The specific technical norms provided in Article 25(2) will be approved by Government Decision, upon the joint proposal of the Ministry of Communications and Information Society and of the Ministry of Regional Development and of the Tourism, within 90 days from the entry into force of this law.

(2) In elaborating the technical norms provided in Article 25(2) the proposals of the incorporate professional associations of the providers of electronic communications networks, as well as of other incorporated associations and the proposals of the interested public authorities will be taken into account.

(3) The technical norms provided in Article 25(2) will provide and establish the constructive characteristics, the minimum required capacity to be ensured by the tracks of the various categories of construction works, the protection areas for certain elements of the electronic communications networks or associated infrastructure elements, the procedure of issuance of the technical advice attesting conformity with these norms, required with a view to issuing a construction authorisation, as well as the categories of advices and agreements requested for the authorisation of infrastructure works for the electronic communications networks.

(4) The technical norms will be adopted only upon launching their draft for public consultation, at least on the websites of the public authorities provided in paragraph (1), for a period of at least 30 days.

(5) All the interested persons may send suggestions and comments on the draft technical norms under consultation, within the term provided in paragraph (4). The suggestions and observations received will be taken into consideration in completing the received proposals.

Art. 40 – Upon the expiry of the terms provided in Article 38(1) and (2), there will be abrogated any other legal provisions or administrative acts that establish the obligation of the holders of the right of access on the public property of the state and of the territorial-administrative units to pay taxes, tariffs or charges and any other amounts or contributions for rights similar to the right of access, otherwise than based on a contract of access on properties.

Art. 41 – On the date of entry into force of this law, there will be abrogated Articles 22-31, Article 55(1) letter g) and paragraph (2) of the Government Emergency ordinance no. 79/2002 on the general regulatory framework for communications, published in the Romanian Official Journal, Part I, no. 457 of 27 June 2002, approved with amendments and completions by Law no. 591/2002, with the subsequent amendments and completions.

Art. 42 - Article 4 of Law no. 50/1991 on authorizing the execution of construction works, republished, with subsequent amendments, republished in the Romanian Official Journal, Part I, no. 933 of 13 October 2004, with the subsequent amendments and completions, will be amended and completed as follows:

1. Paragraph (1) letter c), point 3 will be amended and will read as follows:

"3. modernization works, rehabilitation, extension of the urban municipal networks, of the urban ground and underground transport networks, of water and gas transport networks, as well as heating, electricity and sewage networks and/or rehabilitation of the streets that are in the administration of the Mayoralty of Bucharest."

2. After paragraph (2), a new paragraph, i.e. (2₁), will be inserted, reading as follows:

"(2₁) For the installation and development of electronic communications networks, the Ministry for Tourism and Regional Development will give a coordinating notice, with which the presidents of district councils involved, and the mayor of Bucharest will give construction authorisations in their area of competency."

3. Paragraph (3) will be amended and will read as follows:

"(3) Construction authorisations provided in paragraphs (2) and (2₁) produce effects as of the entrance into force of the last construction authorisation issued according to this law."

Art. 43 – This law enters into force within 30 days from the date of publication in the Romanian Official Journal, Part I.

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This law transposes the provisions of Articles 11 and 12 of Directive 2002/21/CE of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework-directive), published in the Official Journal of the European Communities, series L, no. 108 of 24 April 2002.

This law was adopted by the Parliament of Romania, in compliance with the conditions laid down in Article 77(2), and having regard to the provisions of Article 75 and of Article 76(2) of the Constitution of Romania, republished.