

# **DECISION no. 431 of 20 June 2019 on amending and completing the Government Decision no. 487/2016 on electromagnetic compatibility and Government Decision no. 740/2016 on making available on the market of radio equipment**

On grounds of the provisions of the Article 108 of the Constitution of Romania, republished,

**The Romanian Government** adopts the present decision.

## **Article I**

Government Decision no. 487/2016 on electromagnetic compatibility, published in the Official Journal of Romania, Part I, no. 563 of 26 July 2016, is hereby amended and completed as follows:

**1.** In Article 1 paragraph (3), letter b) shall be amended and shall have the following content:

"b) the following aeronautical equipment, if these equipment fall within the scope of Regulation (EU) 2018/1.139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) no. 2.111/2005, (EC) no. 1.008/2008, (EU) no. 996/2010, (EU) no. 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) no. 552/2004 and (EC) no. 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) no. 3.922/91 and are intended for in-flight use only:

(i) aircrafts, other than unmanned aircrafts, and their engines, propellers, parts and non-installed equipment;

(ii) unmanned aircrafts, and their engines, propellers, parts and non-installed equipment whose design is certified in accordance with Article 56 paragraph (1) of the Regulation (EU) 2018/1.139 and which are intended for operation exclusively on radio frequencies assigned, in accordance with the Radio Regulations of the International Telecommunications Union, for protected aeronautical use;"

**2.** In Article 2 paragraph (1), after point 27, three new points, points 28, 29 and 30, shall be inserted, with the following content:

"28. *end-user* – any person who puts into service or uses an equipment;

29. *device designed to produce electromagnetic disturbances* - any apparatus designed and manufactured with the intention of producing electromagnetic disturbances, so as to degrade the operation of other equipment;

30. *durable support* - any tool that allows end-users to access the information that is addressed to them, in a manner accessible for future reference for an adequate period of time, for information purposes, and that allows unaltered reproduction of stored information."

**3.** In Article 3, paragraph (1) shall be amended and shall have the following content:

"Article 3

(1) Equipment may be made available on the market by the economic operators, put into service and/or used only if they comply with the requirements of this decision and only when properly installed, maintained and used in accordance with their destination."

**4.** After Article 4, a new article, article 4<sup>1</sup>, shall be inserted:

"Article 4<sup>1</sup>

Manufacturing, importing, owning, advertising, placing on the market, making available on the market, putting into service and/or using equipment or devices intended to produce electromagnetic disturbances are banned on Romanian territory."

**5.** In Article 6, letters b), f), l) and m) shall be amended and shall have the following content:

"b) to draw up the technical documentation referred to in Annex no. 2 or Annex no. 3 and carry out the relevant conformity assessment procedure referred to in Article 13 or to delegate the authorized representative to carry it out;

.....  
f) to ensure that changes in apparatus design or those on its characteristics and changes in the harmonised standards, provisioned in Article 12 paragraph (1), or changes in other technical specifications by reference to which conformity of the apparatus is declared, shall be properly taken into account;

.....  
l) further to a reasoned request from the market surveillance and control authorities, and within the term set by them, to provide, in paper or electronic form, all the information and documentation necessary to demonstrate the conformity of the apparatus with the provisions of this decision, presented in Romanian or in English language;

m) to cooperate with market surveillance and control authorities, upon their request, on any action taken in view of eliminating the risks posed by the apparatus which they have placed on the market;"

**6.** In Article 7 paragraph (3), points 2 and 3 shall be amended and shall have the following content:

"2. further to a reasoned request from the market surveillance and control authorities, to provide, in paper or electronic form, all the information and/or documentation necessary to demonstrate the conformity of the apparatus, presented in Romanian or in English language;

3. to cooperate with the market surveillance and control authorities, upon request, on any action taken in view of eliminating the risks posed by the apparatus falling under the obligations specified in the mandate of the authorised representative."

**7.** In Article 8, points 5, 11 and 12 shall be amended and shall have the following content:

"5. to indicate on the apparatus their name, registered trade name or registered trade mark and the postal address at which they may be contacted or, where that is not possible, on its packaging or in a document accompanying the apparatus; the contact details shall be clear, accessible, intelligible, relevant and presented in Romanian language;

.....  
11. further to a reasoned request from the market surveillance and control authorities and within the term set by them, to provide, in paper or electronic form, all the information and documentation necessary to demonstrate the conformity of the apparatus with the provisions of this decision, presented in Romanian or in English language;

12. to cooperate with the market surveillance and control authorities, upon request, on any action taken to eliminate the risks posed by the apparatus which they have placed on the market."

**8.** In Article 9, points 6 and 8 shall be amended and shall have the following content:

"6. to ensure that any corrective measures necessary to bring that apparatus into conformity or to withdraw it and/or recall it, as the case may be, are taken, when they have indications or information that an apparatus that they have made available on the market does not comply with the provisions of this decision;

.....  
8. to provide, further to a reasoned request from the market surveillance and control authorities, and within the term set by them, in paper or electronic form, all the information and documentation necessary to demonstrate the conformity of the apparatus with the provisions of this decision, presented in Romanian or in English language;"

**9.** In Article 14, paragraph (3) shall be amended and shall have the following content:

"(3) The EU declaration of conformity is presented in Romanian or in English language."

**10.** In Article 15, paragraph (3) shall be amended and shall have the following content:

"(3) The EC marking shall be affixed visibly and legibly, indelibly and in a form impossible to be removed, to the apparatus or to its data plate. Where that is not possible or not warranted on account of the nature of the apparatus, the EC marking shall be affixed to the packaging and to the accompanying documents."

**11.** In Article 16, paragraph (4) shall be amended and shall have the following content:

"(4) All information under paragraph (1) is provided to end-users as a user manual in Romanian language, on paper. Information may be provided on a durable support as well, upon the end-user's consent."

**12.** In Article 31, paragraph (3) shall be amended and shall have the following content:  
"(3) ANCOM and ANPC shall organise and carry out the surveillance and control activity in accordance with the provisions of Article 15 paragraph (3) and Articles 16-29 of Regulation (EC) no. 765/2008, including the apparatus sold by electronic means, intended for the end-user, for his own use, and which are subject to custom control."

**13.** In Article 31, after paragraph (4) a new paragraph shall be inserted, paragraph (5), with the following content:

"(5) In the surveillance and control activity, ANCOM and ANPC may request the National Institute for Research and Development in Informatics, in the case of the register of domains and sub-domains in the «.ro» field, to transmit the data or information that may lead to the identification of the persons who sell apparatuses through electronic means. The requested data are transmitted without delay to the market surveillance and control authorities in accordance with the legal provisions regarding the protection of personal data."

**14.** Article 32 shall be repealed.

**15.** In Article 33, paragraph (2) shall be amended and shall have the following content:  
"(2) For the purpose of performing the tests in accordance with the provisions of paragraph (1), the manufacturer, his authorised representative, the importer or the distributor, as the case may be, has the obligation to allow the control personnel to retain, based on an official report, free of charge, a representative number of samples of the apparatus to be submitted to testing. Retain of samples may be also ordered on the apparatus/apparatuses to be found at the end-user, if there are sufficient indications that the respective apparatus/apparatuses produces/produce electromagnetic disturbances."

**16.** In Article 35, paragraphs (2) and (3) shall be amended and shall have the following content:

"(2) The assessment provisioned in paragraph (1), that covers all the relevant requirements established by this decision, may also be performed as a result of the technical tests provided in Article 33 paragraph (1).

(3) The economic operators over which control actions are taken in the context of paragraphs (1) and (2) have the obligation to cooperate, at the request of the market surveillance and control authorities."

**17.** In Article 35, after paragraph (3) a new paragraph shall be inserted, paragraph (4), with the following content:

"(4) The assessment provided in paragraph (1) also takes into account, as the case may be, data on: the identified risks associated with the respective apparatus, the possible data on the risks that have materialized in relation to the respective apparatus or the measures taken by the concerned economic operator in order to mitigate the risks."

**18.** In Article 36, paragraphs (1) and (4) shall be amended and shall have the following content:

"Article 36

(1) Where, in the course of the assessment referred to in Article 35, ANCOM or ANPC, as the case may be, finds that the apparatus does not comply with the requirements herein, the relevant economic operators are without delay required to take all necessary corrective actions to bring the apparatus into compliance with those requirements and to limit its making available on the market or to withdraw the apparatus from the market and/or to recall it within a reasonable term, commensurate with the nature of the risk, prescribed by ANCOM or ANPC, as the case may be.

.....  
(4) Corrective measures and restrictions established under paragraph (1) shall apply by means of a decision of ANCOM President, respectively by means of an order of ANPC President, as the case may be."

**19.** In Article 41, paragraph (1) shall be amended and shall have the following content:  
"Article 41

(1) In the implementation of the provisions of this decision, the authorised personnel of ANCOM or ANPC, as the case may be, has the right to require from the economic operators or the end-user any information or documents necessary in order to exercise the powers relating to market surveillance and control. "

**20.** In Article 43 paragraph (1), points 2, 3, 10, 16, 21, 24, 25 and 28 shall be amended and shall have the following content:

"2. the manufacturer does not draw up the technical documentation provisioned under annex no. 2 or no. 3, in accordance with Article 6 letter b), or the EU declaration of conformity, or does not affix the EC conformity marking according to Article 6 letter c), respectively the authorised representative does not draw up the EU declaration of conformity or does not affix the EC marking, according to the received mandate;

3. the manufacturer does not fulfil the obligation under Article 6 letter b) to carry out the relevant conformity assessment procedure provisioned in Article 13;

.....  
10. the deed of the economic operator not to take immediately any necessary corrective measure to bring that apparatus into conformity or to withdraw or recall it, if appropriate, where he holds indications or information that an apparatus he placed on the market and/or made available on the market is not compliant with the provisions of this decision, in accordance with Article 6 letter j) or Article 8 point 8, respectively not to ensure the fulfillment of the obligation established according to Article 9 point 6, as the case may be;

.....  
16. the importer does not fulfil the obligation to inform the manufacturer and the market surveillance and control authorities, if he holds indications or information that an apparatus does not comply with the essential requirements, according to Article 8 point 4;

.....  
21. the deed of the importer or distributor to place on the market, respectively to make available on the market an apparatus, if he holds indications or information that it is not compliant with the essential requirements provisioned in annex no. 1, previous to bring that apparatus into conformity, in accordance with the obligations provisioned in Article 8 point 4, respectively in Article 9 point 4;

.....  
24. refusal of the end-user to make available for the market surveillance and control authorities, under the provisions of Article 41, information and/or documents needed to verify the observance of the provisions of this decision;

25. the economic operators do not fulfil the obligations provisioned under Article 11, Article 40 or Article 41;

.....  
28. the deed of the controlled economic operator not to take the corrective measures set in accordance with Article 38 or Article 39 paragraph (1);"

**21.** In Article 43 paragraph (1), after point 32, two new points, points 33 and 34, shall be inserted, with the following content:

"33. the distributor does not fulfil the obligation to inform the manufacturer or importer and the market surveillance and control authorities, if he holds indications or information that an apparatus does not comply with the essential requirements, under conditions set in Article 9 point 4;

34. manufacturing, importing, holding, advertising, placing on the market or making available on the market, putting into service and/or use of equipment or devices intended to produce electromagnetic disturbances."

**22.** In Article 43 paragraph (2), point 20 shall be amended and shall have the following content:

"20. In the case of the contraventions provisioned under paragraph (1) points 28 and 33, with fine ranging from RON 20,000 to 50,000;"

**23.** In Article 43 paragraph (2), after point 21, a new point, point 22, shall be inserted, with the following content:

"22. In the case of the contravention provisioned under paragraph (1) point 34, with fine ranging from RON 15,000 to 50,000."

**24.** In Article 44 paragraph (2), letters a), b) and c) shall be amended and shall have the following content:

"a) by means of the official report establishing the contravention and applying the sanction by the specialised personnel of the market surveillance and control authorities, for the contraventions identified under Article 43 paragraph (1) points 10, 11, 13, 16, 18, 19, 21, 24, 28 and 31;

b) by means of written resolution inscribed on the official report establishing the contravention and applying the sanction, by the president of ANCOM, for the contraventions assessed by the personnel of ANCOM, in those cases referred to under Article 43 paragraph (1) points 1-9, 12, 14, 15, 17, 20, 25-27, 29, 30, 32-34;

c) by means of the official report establishing the contravention and applying the sanction by the ascertaining agent, for the contraventions assessed by ANPC personnel, in those cases referred to under Article 43 paragraph (1) points 1, 11-13, 21, 24, 25, 32-34, where the equipment was purchased by the consumer;"

**25.** Article 45 shall be amended and shall have the following content:

"Article 45

(1) ANCOM or ANPC, as the case may be, may also order, by means of the official report establishing the contravention and applying the sanction, the following additional sanctions:

a) the use of the apparatus is banned until the equipment is brought in compliance with the essential requirements, in the event of the deed provisioned under Article 43 paragraph (1) point 32;

b) confiscation, in the case of the deed provisioned under Article 43 paragraph (1) point 34, under the conditions set in Article 5 paragraph (3) letter a) of the Government Ordinance no. 2/2001 regarding the legal regime of the contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions.

(2) The additional sanctions provisioned under paragraph (1) shall be applied by the persons specified under Article 44 paragraph (2) letters b) and c)."

## **Article II**

Government Decision no. 740/2016 on making available on the market of radio equipment, published in the Official Journal of Romania, Part I, no. 836 of 21 October 2016, shall be amended and completed as follows:

**1.** In Article 1 paragraph (3), letter b) shall be amended and shall have the following content:

"b) radio equipment or devices used or intended to be exclusively used for activities concerning national defense, public order and State security, including protection of the economic interests of the State, when these interests concern the State security, as well as for activities of the State in the area of criminal law. "

**2.** In Article 2 paragraph (1), after point 28, a new point, point 29, shall be inserted, with the following content:

"29. *end-user* – any person who puts into service or uses a radio equipment."

**3.** In Article 3, paragraph (2) shall be amended and shall have the following content:

"(2) Radio equipment shall be so manufactured as to also comply with the essential requirement to use in an optimum way radio spectrum and support its efficient use in order to avoid harmful interference."

**4.** In Article 3, after paragraph (3), a new paragraph, paragraph (4), shall be inserted, with the following content:

"(4) The categories or classes of radio equipment regarding the essential requirements provided in paragraph (3) are the subject of European Commission delegated acts and are not hereby regulated."

**5.** In Article 4, paragraph (1) shall be amended and shall have the following content:

"Article 4

(1) Manufacturers of radio equipment and of software allowing radio equipment to be used as intended and which are part of those categories or classes of radio equipment provided by the European Commission through delegated acts shall provide the National Authority for Management and Regulation in Communications, hereinafter referred to as ANCOM, as well as the European Commission, with information on the compliance of the radio equipment-software combinations with the essential requirements set out in Article 3."

**6.** In Article 5, after paragraph (1), a new paragraph, paragraph (1<sup>1</sup>) shall be inserted, with the following content:

"(1<sup>1</sup>) The categories of radio equipment targeted by the provisions of paragraph (1) are established by the European Commission through delegated acts."

**7.** In Article 5, paragraph (2) shall be amended and shall have the following content: "(2) Registering shall be done before the radio equipment within categories provisioned at paragraph (1) are placed on the market."

**8.** In Article 6, paragraph (1) shall be amended and shall have the following content: "Article 6

(1) Radio equipment may be made available on the market by the economic operators, put into service and/or used only if it complies with the requirements of this decision and only when it is properly installed, maintained and used for its intended purpose."

**9.** In Article 7, paragraphs (1) and (4)-(7) shall be amended and shall have the following content:

"Article 7  
(1) Authorisation of putting into service and use of radio equipment, if it complies with the requirements of this decision, is fulfilled by ANCOM in accordance with the provisions of the Government Emergency Ordinance no. 111/2011, approved, with amendments and completions, by Law no. 140/2012, with the subsequent amendments and completions, as well as with the provisions of the Broadcasting Law no. 504/2002, with the subsequent amendments and completions.

.....  
(4) In order to comply with the rules on limiting exposure of population to electromagnetic fields effects, the holder of the license, granted according to the law, has the obligation to ensure, for the entire duration of use of the radiocommunications/broadcasting stations, compliance with the essential requirement under Article 3 paragraph (1) letter a).

(5) The holder of the license, granted according to the law, has the obligation to forward, at the request of ANCOM, in the case of radiocommunications/emission stations placed within the localities and outside the buildings, the results of the non-ionizing electromagnetic radiation measurements indicating the value of the cumulative electromagnetic field in the targeted site. The measurements are performed according to the recommendations of the Electronic Communications Committee (ECC) within the European Conference of Postal and Telecommunications Administrations (CEPT).

(6) The measurements provisioned under paragraph (5) shall not be older than 24 months from the date of the request, and their submission shall meet the deadline and the proceedings established by ANCOM.

(7) ANCOM may request the information provisioned under paragraph (5) in accordance with paragraph (6) and in order to comply with the provisions of paragraph (2) letter c)."

**10.** In Article 10, letters c), m) and q) shall be amended and shall have the following content:

"c) to ensure that the radio equipment is manufactured so that it may operate without breaching the applicable requirements on the use of radio spectrum;

.....  
m) to ensure that each radio equipment is accompanied by a copy of the EU declaration of conformity or by the simplified EU declaration of conformity, presented in Romanian or in English language; the simplified EU declaration of conformity shall include the exact Internet address where the full text of the EU declaration of conformity is to be obtained;

.....

q) to provide, upon reasoned request received from the market surveillance and control authorities and within the term set by them, in paper or electronic form, all required information and documentation necessary to demonstrate the conformity of the radio equipment with the provisions of this decision, presented in Romanian or in English language;"

**11.** In Article 11, paragraph (2) shall be amended and shall have the following content:  
"(2) All information provided at paragraph (1) is provided to the end-users as a user manual written in Romanian, in paper format. Information may be provided on a durable support as well, upon the end-user's consent, according to Article 2 point 30 of Government Decision no. 487/2016 on electromagnetic compatibility."

**12.** In Article 12, paragraph (2) shall be amended and shall have the following content:  
"(2) The obligation laid down in Article 10 letter b) and the obligation to draw up the technical documentation provided in Article 10 letter d) are not a part of the mandate of the authorised representative."

**13.** In Article 12 paragraph (3), letter b) shall be amended and shall have the following content:

"b) provide, further to a reasoned request from the radio equipment market surveillance and control authorities, in paper or electronic form, all the information and documentation necessary to demonstrate the conformity of the radio equipment, presented in Romanian or in English language;"

**14.** In Article 13, letters b) and l) shall be amended and shall have the following content:  
"b) to ensure, before placing on the market of radio equipment that the appropriate conformity assessment procedure referred to in Articles 18 and 19 was fulfilled by the manufacturer and that the radio equipment is manufactured so that it can operate without breaching the applicable requirements on the use of radio spectrum established by law;

.....  
l) to provide the market surveillance and radio equipment control authorities, upon their reasoned request and within the term set by them, in paper or electronic form, with all information and documentation necessary to demonstrate the compliance of the radio equipment with the provisions of this decision, presented in Romanian or in English language;"

**15.** In Article 14, letters e) and f) shall be amended and shall have the following content:  
"e) to ensure that the necessary corrective actions are taken to bring the radio equipment into conformity, to withdraw and/or recall it, as appropriate, if they hold indications or information that an apparatus which they made available on the market does not comply with the provisions of this decision and to immediately inform the market surveillance and radio equipment control authorities of the Member States where they made the radio equipment available on the market, if they find that the radio equipment poses a risk that may affect its operation or the operation of other equipment or for safety reasons, giving details, in particular, on the non-compliance and on any corrective actions that were taken;

.....  
f) to provide the market surveillance and radio equipment control authorities, upon their reasoned request and within the term set by them, in paper or electronic form, all information and documentation necessary to demonstrate the compliance of the radio equipment with the provisions of this decision, presented in Romanian or in English language;"

**16.** In Article 17, paragraph (3) shall be amended and shall have the following content:  
"(3) If it is considered that a harmonised standard referred to in paragraph (1) does not fully meet the essential requirements provisioned in Article 3, ANCOM notifies the European Commission in accordance with Article 11 paragraph (1) of the Regulation (EU) no. 1.025/2012 of 25 October 2012 on the European standardization, amending Directives 89/686/EEC and 93/15/EEC of the Council and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Decision

87/95/EEC of the Council and Decision no. 1.673/2006/EC of the European Parliament and of the Council."

**17.** In Article 20, paragraph (3) shall be amended and shall have the following content:  
"(3) The EU declaration of conformity is presented in Romanian or in English language."

**18.** In Article 37, paragraph (3) shall be amended and shall have the following content:  
"(3) ANCOM and ANPC organize and perform the market surveillance and control activity in accordance with the provisions of Article 15 paragraph (3) and Articles 16-29 of the Regulation (EC) no. 765/2008, including on radio equipment sold by electronic means, intended for the end-user, for his own use, and are subject to custom control."

**19.** In Article 37, after paragraph (4) a new paragraph, paragraph (5), shall be inserted, with the following content:

"(5) In the surveillance and control activity, ANCOM and ANPC may request the National Institute for Research and Development in Informatics, in the case of the register of domains and sub-domains in the «.ro» field, to transmit the data or information that may lead to the identification of the persons who sell radio equipment through electronic means. The requested data are transmitted without delay to the market surveillance and radio equipment control authorities in accordance with the legal provisions regarding the protection of personal data."

**20.** In Article 38, paragraph (1) shall be amended and shall have the following content:  
"Article 38

(1) In the implementation of the provisions of this decision, the authorised personnel of ANCOM or ANPC, as the case may be, has the right to require from the economic operators or the end-users any information or documents necessary in order to exercise the powers relating to the market surveillance and radio equipment control."

**21.** Article 39 shall be repealed.

**22.** In Article 43, paragraph (2) shall be amended and shall have the following content:  
"(2) Assessment provisioned in paragraph (1), on all relevant requirements laid down in this decision, may be performed as a result of the technical tests provisioned in Article 40 paragraph (1), as well."

**23.** In Article 43, after paragraph (3) a new paragraph, paragraph (4), shall be inserted, with the following content:

"(4) The assessment provided in paragraph (1) also takes into account, as the case may be, data on: the identified risks associated with the respective radio equipment, the possible data on the risks that have materialized in relation to the respective radio equipment or the measures taken by the concerned economic operator in order to mitigate the risks."

**24.** In Article 44, paragraphs (1) and (4) shall be amended and shall have the following content:

"Article 44

(1) Where, in the course of the assessment referred to in Article 43 paragraph (2), ANCOM or ANPC finds that the radio equipment does not comply with the requirements herein, the relevant economic operators are without delay required to take all necessary corrective actions to bring the radio equipment into compliance with those requirements and to limit its making available on the market or to withdraw the radio equipment from the market and/or to recall it within a reasonable term, commensurate proportionally with the nature of the risk, prescribed by ANCOM or ANPC, as the case may be.

.....  
(4) The corrective actions and restrictions provisioned under paragraph (1) are ordered by a decision of ANCOM President or by order of ANPC President, as the case may be."

**25.** In Article 48, paragraph (1) shall be amended and shall have the following content:  
"Article 48

(1) Where, having carried out an assessment in accordance with Article 43 paragraph (2), finds that, although the radio equipment is in compliance with the requirements herein, it however presents a risk to the health or safety of persons or to other aspects of public interest protection covered by the provisions of this decision, ANCOM or ANPC, as the case may be, may require the relevant economic operator to take all corrective actions



deemed necessary in order to ensure that the radio equipment concerned no longer presents that risk or to withdraw the radio equipment from the market and/or to recall it within a reasonable term, commensurate with the nature of the risk."

**26.** In Article 49, the introductory part shall be amended and shall have the following content:

"Article 49

Without excluding measures taken under Articles 43-48, ANCOM or ANPC may require the relevant economic operator to bring the radio equipment in conformity with the provisions of this decision, within maximum 15 calendar days, if it finds the following:"

**27.** In Article 51 paragraph (1), points 3, 16-18, 20, 23, 26, 33, 41, 44 and 45 shall be amended and shall have the following content:

"3. failure of the manufacturer to comply with the obligation to manufacture radio equipment so that it may operate without breaching the applicable requirements on the use of radio frequency spectrum, in accordance with the provisions of Article 10 letter c);

.....

16. failure of the controlled economic operator to take, immediately, any necessary corrective measure to bring that apparatus into conformity, to withdraw it or recall it, as the case may be, where he holds indications or information that an apparatus he placed on the market and/or made available on the market is not compliant with the provisions of this decision, in accordance with the provisions of Article 10 letter o) and Article 13 letter j), respectively to immediately inform the market surveillance and radio equipment control authorities, under the conditions provisioned in Article 10 letter p) and Article 13 letter j), or to ensure the fulfillment of the obligation established according to the provisions of Article 14 letter e), as the case may be;

17. failure of the controlled economic operator to take the measures provisioned under Article 47 paragraph (1), under conditions set out in Article 47 paragraph (6) or to comply with the requirement set out in Article 46 or Article 48 paragraph (2);

18. failure of the economic operator to comply with the obligation to provide the information and documentation requested by ANCOM or ANPC, as the case may be, under the conditions set out in Article 10 letter q), Article 12 paragraph (3) letter b), Article 13 letter l) or Article 14 letter f);

.....

20. failure of the controlled economic operator to comply with the obligation set out in Article 16 to provide the requested identification data or with the obligation set out in Article 38 to provide the necessary information in order for the duties related to the market surveillance to be exercised;

.....

23. failure of the importer to comply with the obligation to ensure, before being placed on the market, that the radio equipment is manufactured so that it may operate without breaching the applicable requirements on the use of radio spectrum established in accordance with the law, under the provisions of Article 13 letter b);

.....

26. failure of the importer to comply with the obligation set out in Article 13 letter d) not to place radio equipment on the market before they are brought into conformity with the provisions of this decision, where he holds indications or information that the radio equipment is not compliant with the essential requirements, or with the obligation to inform the manufacturer and the market surveillance and radio equipment control authorities when the radio equipment poses a risk;

.....

33. failure of the distributor to comply with the obligation not to make available on the market the radio equipment until it has been brought into conformity with the provisions of this decision, where he holds indications or information that the radio equipment does not comply with the essential requirements, or with the obligation to inform the manufacturer or the importer and the market surveillance and radio equipment control authorities when the apparatus presents a risk in accordance with the provisions of Article 14 letter c);

.....  
41. refusal of the end-user to provide the market surveillance and radio equipment control authority, according to provisions set out in Article 38, with the necessary data and/or information in order to check the compliance with the provisions of this decision;  
.....

44. non-compliance by the holder of the license granted according to the law of the obligation established according to Article 7 paragraph (4);

45. failure of the holder of the license granted according to the law to provide the information requested according to the provisions of Article 7 paragraphs (5) and (7), under conditions set out in Article 7 paragraph (6);"

**28.** In Article 52 paragraph (2), letters a), b) and c) shall be amended and shall have the following content:

"a) by means of the official report establishing the contravention and applying the sanction by the specialised personnel of ANCOM for the contraventions identified under Article 51 paragraph (1) points 1, 9, 10, 16, 17, 19, 26-28, 30, 33, 35, 36, 41 and 43-46;

b) by means of written resolution of the president of ANCOM, inscribed on the official report establishing the contravention and applying the sanction for the contraventions assessed by the personnel of ANCOM, in those cases referred to in Article 51 paragraph (1) points 2-8, 11-15, 18, 20-25, 29, 31, 32, 34, 39, 40, 42, 47 and 48;

c) by means of the official report establishing the contravention and applying the sanction by the ascertaining agent, for the contraventions assessed by ANPC personnel, in those cases referred to in Article 51 paragraph (1) points 2, 16-21, 26, 33, 34, 40, 41 and 48, where the radio equipment was purchased by the consumer;"

**29.** Article 53 shall be amended and shall have the following content:

"Article 53

(1) ANCOM or ANPC, as the case may be, may also order by means of the official report establishing the contravention and applying the sanction, the following additional sanctions:

a) the use of the equipment is banned until it is brought in compliance with the essential requirements, for the deed provisioned under Article 51 paragraph (1) point 48;

b) confiscation, in the case of the deed provisioned under Article 51 paragraph (1) point 40, under conditions set out in Article 5 paragraph (3) 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.

(2) The additional sanctions provisioned under paragraph (1) shall be applied by the persons and by observing the procedure specified according to Article 52 paragraph (2) letters b) and c)."

**30.** In Annex no. 1 "Equipment not covered by this decision", point 3 shall be amended and shall have the following content:

"3. The following airborne products, where they fall within the scope of Regulation (EU) 2018/1.139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) no. 2.111/2005, (EC) no. 1.008/2008, (EU) no. 996/2010, (EU) no. 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) no. 552/2004 and (EC) no. 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) no. 3.922/91 and are intended for in-flight use only:

a) aircrafts, other than unmanned aircrafts, as well as their engines, propellers, parts and non-installed equipment;

b) unmanned aircrafts, as well as their engines, propellers, parts and non-installed equipment whose design is certified in accordance with Article 56 paragraph (1) of Regulations (EU) 2018/1.139 and which are intended for operation exclusively on assigned radio frequencies, in accordance with the Radio Regulations of the International Telecommunications Union, for protected aeronautical use."

### **Article III**

**(1)** Equipment placed on the market prior to the date of entry into force of this decision and which comply with the provisions of the Government Decision no. 57/2015 on electromagnetic compatibility may be made available on the market and/or put into service.

**(2)** Radio equipment placed on the market prior to 13 June 2017 and which comply with the provisions of the Government Decision no. 130/2015 on radio equipment and electronic communications terminal equipment and the mutual recognition of their conformity may be made available on the market and/or put into service.

### **Article IV**

Government Decision no. 487/2016 on electromagnetic compatibility, published in the Official Journal of Romania, Part I, no. 563 of 26 July 2016, as well as Government Decision no. 740/2016 on making available on the market of radio equipment, published in the Official Journal of Romania, Part I, no. 836 of 21 October 2016, with the amendments and completions hereby, shall be republished in the Official Journal of Romania, Part I, giving the texts a new numbering.

### **Article V**

This decision shall enter into force within 30 days from the date of its publication in the Official Journal of Romania, Part I.

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PRIME-MINISTER  
**VASILICA-VIORICA DĂNCILĂ**  
Countersigned:  
Minister of Communications and Information Society,  
**Alexandru Petrescu**  
for Minister of Economy,  
**Bogdan Constantin Andronic,**  
Secretary of State  
Minister of Transport,  
**Alexandru-Răzvan Cuc**  
Minister of Foreign Affairs,  
**Teodor-Viorel Meleşcanu**  
for Minister delegate for European Affairs,  
**Melania-Gabriela Ciot,**  
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Published in the Official Journal of Romania, number 564 of 9 July 2019