



**To the attention of Mr. Jean-Claude Juncker, president of the EU Commission**

**Procedure for appointing the Office of the the National Authority for Management and Regulation in Communications (ANCOM)**

Relying on the expiry of the term of office of the President of the Authority a couple of months ago, the government carried out the appointing of a new leadership, but in an alarming way that the executive relates to the rule of law.

Government Emergency Ordinance (GEO) 22/2009 on setting up the ANCOM, approved by Law 113/2010, as subsequently amended and supplemented, explicitly state in Article 11(1) that the President and the Vice-Presidents of ANCOM are appointed by the President of Romania, on a proposal from the government: "The Office of ANCOM shall be managed the President and the two Vice-Presidents, appointed by the President of Romania, on a proposal from the government".

On the 27th of April this year, by introducing the point "Amendments on organisation and functioning of ANCOM" on the supplementary agenda of the meeting, the government has launched a quick process of amending the rule of procedure of a state institution and of changing the relationship between two entities, namely the President of Romania and a National Authority. The proposal is immediately adopted during the meeting as an urgency procedure, GEO 33/2017.

Just a few days after, the Official Journal (Monitorul Oficial) published on the 2nd of May the "Emergency Ordinance for amending and supplementing Article 11 from the GEO 22/2009 on setting up the ANCOM", which amends the appointing procedure of the Office of ANCOM in the sense of abolishing the role of the President of Romania and transferring this privilege to the Parliament, keeping however the government as the only entity in



charge of appointing proposals: "The Office of ANCOM shall be managed the President and the two Vice-Presidents, appointed on a proposal from the government by the two chambers of the parliament, in a joint meeting, by a majority of present Members and Senators".

Through this measure, the government is in the event of a repeat offence. The way of adopting GEO 13/2017, its immediate effects amongst the Romanian population and the criticism at home and abroad seem to not have left a single trace on the conscience of the current government. We note with regret their continuous appetite for political and non-transparent interferences in the functioning of the state, by ignoring the enshrined links of the legislation in force on the relations between the authorities of the state and hence by avoiding public debate and democratic consultation.

In addition, the government is ignoring that in the past years the procedure of appointing the Office of ANCOM was under the Commission's spotlight, subject of a reminder to an infringement procedure. Back then, the Commission was having reactions at all type of changes following rushed decisions (subsequently sanctioned by the court) and the adoption of an emergency ordinance which was prejudicing the independence and the stability of the institution and its office.

We are seeing that the mechanism of appointing the Office of ANCOM, in force until the adoption by the government of the GEO 33/2017, has proved stable and well-functioning, which was consistent with the Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services: "The independence of the national regulatory authorities should be strengthened in order to ensure a more effective application of the regulatory framework and to increase their authority and the predictability of their decisions. To this end, express provision should be



made in national law to ensure that, in the exercise of its tasks, a national regulatory authority (...) is protected against external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it".

In this context, noting the reasoning of the GEO 33/2017, reported at the provisions of the above mentioned Directive, we draw the attention to the intention of the current government and the supporting majority of the Parliament to have political interferences in the activity of the ANCOM and to jeopardize the independence of this institution.

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