

TELECOMMUNICATIONS LAWS OF THE WORLD

Romania



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ROMANIA



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OVERVIEW OF LEGAL LANDSCAPE

Regulatory body

The Romanian telecommunications regulatory body is the National Authority for Management and Regulation in Communications of Romania ("**ANCOM**").

Applicable telecom regulation(s)

The legislative framework is dense and is composed of various laws, Government emergency ordinances and ANCOM decisions.

The main legislative act is Government emergency ordinance no. 111/2011 on electronic communications ("**GEO no. 111/2011**") which transposed in Romania the provisions of EU Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code and provides vast regulatory provisions that guide both operators and ANCOM.

Scope of each regulation

Please see below.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

Key regulatory provisions

Provisions regulating telecommunications may be found in GEO no. 111/2011 and in other various regulations, including:

- [Law no. 159/2016](#) on the regime of the physical infrastructure of electronic communications networks, as well as for establishing measures to reduce the cost of installing electronic communications networks
- [Law no. 175/2022](#) on ensuring access of natural persons to fixed large bandwidth internet services
- [Law no. 362/2018](#) on ensuring a high common level of security of networks and informational systems
- [Law no. 506/2004](#) on the processing of personal data and the protection of privacy in the electronic communications sector
- [Government Decision no. 740/2016](#) on the marketing of radio equipment
- [ANCOM Decision no. 987/2012](#) on the general authorisation regime for providing electronic communications networks

and services

- [ANCOM Decision no. 353/2015](#) on the procedure for granting radio frequency utilisation rights
- [ANCOM Decision no. 311/2016](#) on radio frequencies or frequency bands exempted from licensing regime
- [ANCOM Decision no. 551/2012](#) on establishing the spectrum utilisation fee
- [ANCOM Decision no. 1112/2017](#) on establishing the quality indicators for Internet access service and publishing the corresponding parameters
- [ANCOM Decision no. 375/2013](#) on the National numbering plan
- [ANCOM Decision no. 376/2013](#) on the procedure for requesting and issuing numbering resources use licenses
- [ANCOM Decision no. 144/2006](#) on implementing number portability

Key features of the laws, regulations and policies

Key features of GEO no. 111/2011 include:

- the provision of electronic communications networks and services, other than number-independent based interpersonal communications services, is carried out under the conditions of the general authorization regime; as such, any person intending to provide public electronic communications networks or electronic communications services intended for the public, except for non-number based interpersonal communications services, has the obligation to send ANCOM a notification (art. 5 and 6 of GEO no. 111/2011)
- ANCOM promotes competition through the process of granting, amending, or renewing the rights to utilize the radio frequencies spectrum, being able to:
 - limit the quantity of spectrum for a certain operator
 - establish conditions for granting spectrum, such as granting access to wholesale market
 - reserve certain bands for new entrants on the market
 - refuse to grant new rights of use
 - amend existing rights of use, as indicated by the Competition Council (art. 231 of GEO no. 111/2011)
- Regulation of limited resources, such as numbering resources and radio frequencies, which are allocated by ANCOM (Chapter III of GEO no. 111/2011)
- Regulation of the providers of public electronic communications networks or electronic communications services' obligation to take all appropriate, objective, and proportionate technical and organizational measures to properly manage the risks to the security of electronic communications networks and services (Chapter IV of GEO no. 111/2011)
- Regulation of consumers' rights, including requirements for agreements between providers and consumers and transparency obligations (Chapter V of GEO no. 111/2011)
- Regulation of the universal service obligation (Chapter VI of GEO no. 111/2011)
- Regulation of promotion of competition on the market (Chapter VII of GEO no. 111/2011).

REGULATORY BODIES OR AUTHORITIES

Relevant regulator(s) for the local telecom sector

The Romanian telecommunications regulatory body is the National Authority for Management and Regulation in Communications of Romania (ANCOM).

Address: 2 Delea Nou Street, Sector 3, Cod 030925, Bucharest, Romania.

Telephone: 0800 855 855 (general interest information), 0372 845 400 (registry office)

Website: www.ancom.ro

TYPES OF TELECOMMUNICATIONS ACTIVITIES AND/OR PERSONS WHICH ARE SUBJECT TO LEGAL AND REGULATORY REQUIREMENTS

Who is subject to the regulations?

The provision of electronic communications networks and services, other than number-independent based interpersonal communications services, is carried out under the conditions of the general authorization regime.

"Electronic communications service" means a service normally provided for remuneration via electronic communications networks, which encompasses the following types of services:

- 'internet access service' as defined in point (2) of the second paragraph of Article 2 of Regulation (EU) 2015/2120;
- interpersonal communications service; and
- services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting.

The following services are not considered electronic communications services: services through which the content of the information transmitted through the networks or electronic communications services is provided or editorial control over this content is exercised and the information society services, defined in art. 1 point 1 of Law no. 365/2002 on electronic commerce, republished, with subsequent amendments, which do not consist, in whole or in part, in the transmission of signals through electronic communications networks.

"Electronic communications network" means transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

"Number-independent interpersonal communications service" means an interpersonal communications service which does not connect with publicly assigned numbering resources, namely, a number or numbers in national or international numbering plans, or which does not enable communication with a number or numbers in national or international numbering plans.

Manufacturers, distributors and importers of certain transmitters and other telecommunications equipment may also be subject to certain requirements and obligations under GEO no. 111/2011.

Furthermore, ANCOM is the authority on allocation of limited resources, such as numbers from the national plan and radio frequencies.

Who is not subject to regulations?

Please see above.

What activities are regulated?

Please see above.

What activities are not regulated?

Please see above.

OVERVIEW OF CONSENTS, LICENCES AND AUTHORISATIONS REQUIRED PRIOR TO THE COMMENCEMENT OF TELECOMMUNICATIONS ACTIVITIES

Do telecom providers need special licensing or authorization from a regulatory body?

The provision of electronic communications networks and services, other than number-independent based interpersonal communications services, is carried out under the conditions of the general authorization regime; as such, any person intending to provide public electronic communications networks or electronic communications services intended for the public, except for non-number based interpersonal communications services, has the obligation to send ANCOM a written notification.

Licenses for radio frequency and frequency assignment authorisation, respectively numbering resources use license may be needed, depending on the envisaged activity.

What is needed to be granted a consent, license, and authorization?

Written notification sent to ANCOM containing information such as name, legal structure, headquarters, contact person, description of envisaged activities etc.

What is the scope of consents, licences and authorizations?

The general authorisation contains the general rights and obligations for providing electronic communications networks and services, while the licenses for limited resources provide for the specific frequency or number that may be used.

DOMICILE RESTRICTIONS PREVENTING THE OPERATION OF CERTAIN TELECOMMUNICATIONS ACTIVITIES BY NON-DOMICILED ENTITIES

Do providers need to live or conduct business in the country?

Foreign entities which carry out activities on the national territory which are permanent or have a character of continuity must be legally established in Romania.

Since Romania is an EU Member State, the authorisation of foreign entities is regulated as follows:

- Foreign entities with their main headquarters outside the European Union / the European Economic Area must have a secondary establishment (with or without legal personality) in Romania.
- Foreign entities with main headquarters in other EU Member States or of the European Economic Area may exercise the freedom to provide services under Article 56 TFEU and can apply for the general authorisation; nevertheless, if the activity carried out on the national territory becomes permanent or has a character of continuity (e.g. if services are provided to end-users having the domicile/ residency in Romania and are not only provided in a trans-border context), said entities must legally establish in Romania.

Are their regulations for global businesses?

The provision of electronic communications networks and services by both domestic and foreign entities is done under the terms

of the *general authorisation* regime (unless an exemption applies).

The law does not specifically regulate the provision of services by foreign entities. It only requires that foreign persons who provide trans-border public electronic communication services to end-users in the Romanian territory submit a notification for general authorisation to ANCOM.

Are there special regulations for specific geographic locations?

Please see above.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

The obligations imposed by ANCOM through the general authorisation may envisage service interoperability and network interconnection.

Furthermore, operators of public electronic communications networks have:

- the right to negotiate an interconnection agreement with any other operator of a public electronic communications network, for the purpose of providing publicly available electronic communications services, including electronic communications services available to users through another public communications network interconnected with the network of either provider
- the obligation to negotiate an interconnection agreement with a third party authorised under the conditions of GEO 111/2011, upon the latter's request, for the purpose of providing publicly available electronic communications services, including electronic communications services available to users over another public communications network interconnected with the network of either provider.

ANCOM may impose on the providers of electronic communications networks obligations regarding the joint use of passive infrastructure or obligations regarding the conclusion of localized access agreements to roaming services, as well as the obligation to provide necessary services to ensure the interoperability of the roaming service in mobile networks.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

Are there specific consumer protections?

Geo no. 111/2011 contains numerous provisions pertaining to consumer protection which cannot, for the most part, be excluded. These provisions do not exclusively refer to the term "consumer", but also to "users", "end-users" and "subscribers".

Who is considered a consumer?

"Consumer" means any natural person that uses or requests a public electronic communications service intended for purposes other than those of his commercial or professional activity.

"User" means any natural or legal person that uses or requests a public electronic communications service.

"Subscriber" means any natural or legal person that has concluded a contract for the provision of public electronic communications services offered by a provider of such services, regardless of whether the payment is made in advance or after the provision of the services.

"End-user" means any user that does not provide public electronic communications networks or services.

What are telecom providers obligations to consumers?

Specific obligations related to consumer protection include:

- The requirement to include certain minimum terms in contracts with consumers and other end-users (Chapter V of GEO

no. 111/2011)

- The initial minimum contract term of a contract with a consumer may not exceed 24 months (art. 50 of GEO no. 111/2011)
- Before the conclusion an agreement, regardless of the method of its conclusion, providers of public electronic communications services provide consumers, free of charge, on a durable medium or, if the provision on a durable medium is not feasible, in a document that can be easily opened, viewed and downloaded, a concise and easy-to-read summary of the agreement (art. 506 of GEO no. 111/2011)
- Providers of internet access services or public interpersonal communication services shall offer consumers the facility to monitor and control in a timely manner the level of consumption related to each of the services included in the tariff plan, which are charged according to the volume or the period of use and shall inform consumers when the volume of a service is fully consumed. (art. 5010 of GEO no. 111/2011)
- In the case of the provision of services or the delivery of terminal equipment without the consent of the consumer, the consumer is exempted from any payment (art. 597 of GEO no. 111/2011)
- Number portability is free of charge for end users (art. 75 of GEO no. 111/2011)

REGULATORY TAXES AND FEES

What is the cost of licensing?

Any provider of electronic communications public networks or publicly available services is under the obligation to pay an annual monitoring tariff to ANCOM, as of the date it was granted until such provision of service ceases. However, providers that obtain a turnover below the RON equivalent of EUR 100,000 are exempted from the obligation to pay the monitoring tariff.

All license for radio frequency holders must pay annually tariffs to ANCOM for spectrum use. The tariff is individualised based on the radio frequencies allocations or assignments carried out.

From Romanian tax perspective, there are several aspects to be considered in relation with carrying out operational activity at local level.

Is there a tax for providing telecom services?

Please see above.

How are fees determined?

Please see above.

KEY SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENTION OF TELECOMMUNICATIONS LAWS AND REGULATIONS

What governmental entity enforces telecom regulations?

ANCOM is the governmental entity that enforces telecom regulations.

The National Supervisory Authority for the Processing of Personal Data (ANSPDCP) is the governmental entity that enforces the provisions of Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector.

What are the penalties for violating the law and/or regulation?

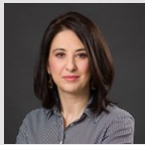
GEO no. 111/2011 provides for various measures which are at ANCOM's disposal to enforce the applicable telecommunications regulations. These measures include formal information requests, investigations, fines and the suspension or withdrawal of the right to provide electronic communications networks or services or the right to use technical, numbering resources or radio frequencies.

Fines range between RON 5.000 – 60.000 and may go up to RON 100.000 for repeated breaches. Fines may also reach up to 5% turnover for persons with turnover above RON 3.000.000, respectively 10% turnover for repeated breaches.

Is there a fine for violations?

Please see above.

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