

**Monitoring compliance with the
provisions of Regulation (EU) 2015/2120
on open internet access
(01 May 2023 - 30 April 2024)**

JUNE 2024

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The [National Authority for Management and Regulation in Communications](#) (ANCOM) is the institution that protects the interests of service users in Romania, by promoting competition and innovation in the markets of electronic communications and postal services, ensuring the competition-oriented management of scarce resources (radio spectrum, numbering and associated technical resources), encouraging efficient investments in networks and infrastructure, and promoting ultra-fast connectivity. Further information on ANCOM's activity is available on www.ancom.ro, www.portabilitate.ro and www.veritel.ro. For testing and monitoring your internet service quality, please access www.netograf.ro. The mobile signal coverage of localities, national and county roads in Romania can be checked on www.aisemnal.ro.

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1. General overview

1.1 Legal framework

In the reference period, there were no major changes in the applicable legislation, hence the same primary and secondary normative acts apply regarding open internet access. Thus, the Romanian legal framework consists of Regulation (EU) 2015/2120¹ (hereinafter referred to as the Regulation) and by the secondary legislation developed by ANCOM on setting quality indicators for the provision of the internet access service and the publication of the related parameters². With regard to the transparency of certain information that providers are required to make available to end-users, ANCOM issues Decision no.73/2023³.

The Romanian legal framework in the field is also complemented by the provisions of Government Emergency Ordinance no. 111/2011⁴ on electronic communications, approved, with amendments and completions, by Law no. 140/2012, with the subsequent amendments and completions, as amended by Law no. 198/2022 for amending and supplementing certain normative acts in the field of electronic communications and for setting measures to facilitate the development of electronic communications networks, which transposed into the national legislation the Directive (EU) no. 2018/1972 establishing the European Electronic Communications Code.

During the reporting period, ANCOM continued to monitor the proper functioning of electronic communications networks and services intended for the public and the quality of internet access services by analysing the measurements made by users through the Netograf platform⁵.

According to Article 5 paragraph (1) of the Regulation, ANCOM “*shall closely monitor and ensure compliance with Articles 3 and 4*” and “*shall publish reports on annual basis regarding their monitoring and findings*”. This report covers the period between 01 May 2023 and 30 April 2024.

1.2 The institutional implications of Regulation (EU) 2015/2120

In Romania, several national authorities ensure the monitoring and supervision as regards the application of the Regulation.

The main authority responsible for monitoring and ensuring compliance with the provisions of the Regulation is ANCOM, who can verify the compliance of the internet access service providers (hereinafter referred to as *ISPs*) with most of the provisions.

Together with ANCOM, two other national authorities are involved in ensuring the observance of the Regulation, as follows:

- The National Consumer Protection Authority (hereinafter ANPC) is the authority that can apply sanctions in case of non-observance of the contract provisions, according to the primary national legislation. In 2010, ANCOM has concluded a collaboration protocol with ANPC, renewing it in 2018, which sets a detailed framework for the two institutions’

¹ Regulation (EU) 2015/2120 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union;

²ANCOM President's Decision no. 1112/2017 on setting quality indicators for the provision of the internet access service and the publication of the related parameters, with the subsequent amendments and completions;

³ ANCOM Decision no. 73/2023 on the obligations to inform end users and other measures for their protection - text available, in Romanian only, here: https://www.ancom.ro/uploads/forms_files/Decizia_anCOM_73_2023_privind_IUF1677596088.pdf;

⁴The consolidated version (text available in Romanian) of the Government Emergency Ordinance no. 111/2011 on electronic communications is available at the following address: http://www.ancom.org.ro/uploads/links_files/O_U_G_Nr_111_2011.pdf;

⁵ www.netograf.ro

collaboration, especially for the efficient settlement of complaints received from the users⁶.

- The National Data Protection Authority (hereinafter ANSPDCP) is the only authority responsible for monitoring compliance by the providers with the provisions of the national legislation in the field of data protection, also when enforcing the data protection obligations referred to in Article 3 paragraph (4) of the Regulation.

ANCOM does not have the power to verify potential breaches of privacy protection obligations.

There is no formal agreement between ANCOM and ANSPDCP, but, according to the Romanian law, if an authority receives a complaint which it doesn't have the legal power to solve, then it must send the complaint to the competent authority within a 5-day timeframe.

1.3 Internal actions

In the reference period, there were no formal dedicated ANCOM departments/units or teams dealing exclusively with open internet access issues. Tasks regarding monitoring and ensuring compliance with the Regulation were carried out by specialists from various ANCOM units covering technical, economic and legal expertise, along with their regular tasks.

1.4 External actions

At national level, ANCOM organised several meetings with industry stakeholders in order to clarify various aspects regarding the implementation of the Regulation's provisions, including aspects mentioned in the BEREC Guidelines on the implementation by national regulators of European open internet access rules (hereinafter referred to as the BEREC Guidelines⁷). The topics approached during these meetings concerned, among others, traffic management practices and application of judgments C-34/20 – Telekom Germany⁸, C-854/19 – Vodafone Germany⁹ and C-5/20 – Vodafone Germany¹⁰ of the Court of Justice of the European Union (CJEU) on zero-rating practices.

At international level, ANCOM continued its active presence in the BEREC Expert Working Group on open internet access issues, taking part in the drafting team for the 2023 BEREC report on the implementation of the provisions of Regulation (EU) 2015/2120 in the Member States of the European Union, and working on several other BEREC internal documents regarding this issue.

⁶ https://www.ancom.ro/uploads/files/9953/Protocol_ANCOM_ANPC_20181.pdf.

⁷The updated full version, in English, is available at <https://www.berec.europa.eu/en/document-categories/berec/regulatory-best-practices/guidelines/berec-guidelines-on-the-implementation-of-the-open-internet-regulation-0>;

2. Compliance monitoring

ANCOM has focused mainly on analysing the complaints received from end-users regarding the provisions of the Regulation and, where needed, has sent requests for information to the internet access service providers. In the reference period, ANCOM received about 50 complaints on the performance of the internet access service (fixed and mobile), most of which were solved by either offering explanations on the applicable contract and legal provisions, or directly by the ISPs. In some cases, to amicably settle the complaints, ISPs even agreed to terminate end-user contracts without any penalties for early termination, despite the end-users being still within the minimal contract period.

2.1 Commercial practices

2.1.1. General overview of the market for publicly available electronic communications services in Romania

During 01 May 2023 – 30 April 2024, ANCOM continued to monitor the commercial practices carried on the Romanian telecommunications market. Having regard to the CJEU rulings of September 2021 on zero-rating services and the issuance of the updated BEREC Guide in June 2022, the situation on the Romanian market has changed. The providers continued the process of aligning their offers to the new interpretations of the Regulation. Thus, towards the end of the reference period, although some types of zero-rating services were still available (such as video-streaming, social media, instant messaging, applications used for cost control or applications that allow access to emergency services), the number of users of these services decreased significantly.

Following the discussions between ANCOM and the providers, they stopped promoting and marketing such services offered on a commercial bases, opting for a natural migration of end users to new offers that no longer include zero-rating services. The services still on the market are provided based on legacy contracts and ANCOM had analyzed them in the past from the perspective of the BEREC Guidelines and based on the interpretations of the Regulation at that time, concluding that there were not sufficient indications of non-compliance with the provisions of the Regulation, with one exception – the *Net Nelimitat* bonus offered by Telekom Romania Mobile Communications S.A. (*Telekom Mobile*) -, which has been the subject matter of a case file in front of the court since 2018. Moreover, the providers whose tariff plans still include such services offered under commercial conditions have committed to withdraw them permanently, in the next period. Zero-rating services offered under the exceptional conditions provided by the Regulation will continue to operate – e.g. traffic to and from the national instrument for monitoring the quality of the internet access service, certified by ANCOM (Netograf) is free of charge and unlimited, according to the provisions of the ANCOM President's Decision no. 1112/2017.

2.1.2. Monitoring the *Net Nelimitat* bonus

Upon concluding a new contract or renewing the existing one for a period of 12 or 24 months, Telekom Romania Mobile Communications S.A. (*Telekom Mobile*) offers as a bonus unlimited access to internet at speeds up to 1.5 Mbps for video-streaming and up to 150 Mbps for any other content. Thus, the quality of video content is limited to a maximum of 480p. At the moment of the analysis, in 2018, there were no commercial agreements in force between *Telekom Mobile* and the CAPs. Customers could easily activate or deactivate the bonus (in which case the tariff plan becomes a classic data-capped plan) as many times as they want during the contractual period. If the bonus is activated, all data traffic is free-of-charge both at national level as well as when roaming in the EEA (subject to regulated Fair Use Policy), both directly on the mobile device and via tethering.

Following a detailed investigation concerning the Telekom Mobile practices, ANCOM found that this provider breached the provisions of Article 3 (3) indents 1 and 3 of the Regulation (EU) 2015/2120 and decided - by ANCOM President's Decision no. 669/08.08.2018 - that Telekom Romania shall remove the discriminatory traffic treatment applied for video-streaming compared to the other traffic categories. The provider challenged ANCOM's decision in Court, asking for its suspension and annulment. In the first instance, the Bucharest Court of Appeal admitted the request to suspend the ANCOM decision until a court ruling on its annulment is pronounced. ANCOM appealed against the ruling of the Court of Appeal on the admission of the suspension request, but the appeal was rejected on 12 December 2019 by decision of the High Court of Cassation and Justice - Administrative and Fiscal Contentious Section and the decision on the suspension was therefore final. Regarding the case on the annulment of ANCOM President's Decision 669 of 08 August 2018, which was to be judged on the merits at the Bucharest Court of Appeal, Section VIII - Administrative and Fiscal Contentious. After several postponements of the sentence, on 26 May 2021, the court decided to annul the above-mentioned decision. ANCOM appealed against this sentence at the High Court of Cassation and Justice (HCCJ), the last instance of appeal in this case. During the trial, following Telekom Mobile's request, in April 2024, the HCCJ decided that it was necessary to refer a preliminary question to the Court of Justice of the European Union, worded as follows: "*Must Article 3 of Regulation (EU) 2015/2120 be interpreted as meaning that a tariff option offered by a telecommunications undertaking which allows final customers who have accepted it to use all video-streaming services free of charge, independently of the service provider and regardless of whether or not they have the status of content partner of the telecommunications undertaking, is compatible with the obligations arising from that provision, without the data volume consumed by using those services being included in the monthly data allowance guaranteed by the mobile communications tariff, but with a limitation of the bandwidth for that type of content?*". The case has been registered with CJEU under no. C-367/24 and is under Court deliberation.

2.2 Traffic management

With a view to monitoring the traffic management practices used/applied by ISPs, ANCOM has paid close attention to end-users' complaints that could be due to specific practices.

During the reference period, ANCOM received only 2 complaints regarding possible breaches of the Regulation in terms of traffic management. These concerned a zero-rating offer of a provider (the case presented in section 2.1.2 – The *Net Nelimitat* bonus offered by Telekom Mobile). ANCOM will keep monitoring the way in which the provisions of the Regulation are applied.

2.3 Transparency in contracts concluded with the end-users

During the reference period, following subscribers' complaints, ANCOM continued to analyse the contracts concluded by the ISPs with the end-users, with a view to assessing compliance with Art. 4 para. (1) indent (1) letters a)-e) of the Regulation.

Having analysed the complainants' contracts, ANCOM found that information on speeds, the speed measuring procedure and the remedies available to consumers in the event of significant, permanent, or recurring differences between the actual performance of the internet access service in terms of speed or other QoS parameters and the performance mentioned by the ISP in the contract were included in most of the verified contracts – in a few, exceptional, cases such information was missing or was inaccurate/incomplete.

In the case of the above-mentioned contracts affected by breaches of the Regulation, remedial measures were imposed, the respective providers being obliged to amend the provisions

of the standard contract, as well as the contracts concluded with the complainants for the provision of internet access services.

Thus, the contractual provisions by which the provisions of art. 4(1) para. 1 of the Regulation were implemented have been improved and supplemented, ANCOM noting that – when drafting or amending the new contractual clauses – the ISPs considered most of the provisions of the ANCOM Guidelines on the implementation of the requirements regarding the contracts' comprising information on the internet access speeds through fixed and mobile networks, although the Guidelines are not compulsory and failure to implement its provisions is not sanctioned by the Authority¹¹.

¹¹ The BEREC Guidelines, in Romanian, are available here: https://www.ancom.ro/uploads/links_files/2019-10-09_Ghid_msurare_viteze_bun.pdf

3. Transparency measures for ensuring open internet access

The obligation to ensure transparency regarding the quality of the internet access service laid down in Article 4 para. (2) of Regulation (EU) 2015/2120 is detailed in the secondary legislation developed by ANCOM, i.e. ANCOM President's Decision no. 73/2023, and ANCOM President's Decision no. 1112/2017. ANCOM President's Decision no. 73/2023 provides the steps required for making available to the public the information regarding the quality of the internet access service. ANCOM President's Decision no. 1112/2017 sets the (technical and administrative) quality indicators for the provision of the internet access service that are relevant from the end-users' point of view, definitions and measuring methods for this set of indicators, and imposes on the providers the obligation to publish the quality parameters and to include them in the contracts concluded with the end-users. The Decision does not impose target-values for these parameters. The value of the parameters (quality level) to be ensured by the ISPs is stipulated in the contract on the provision of the internet access service concluded with the end-users, irrespective of the payment method (prepaid/prepaid cards or post-paid/subscription).

The *administrative quality indicators* established under the Decision no. 1112/2017 are the following:

- term for providing the internet access service;
- frequency of the end-user complaints;
- fault report rate;
- frequency of bill correctness complaints;
- fault repair time;
- end-user complaint (other than fault-related) resolution time.

The *technical quality indicators* established through the above-mentioned decision are the following:

- data transfer speed
- packet transmission delay
- jitter and
- packet loss rate.

Within the Decision, ANCOM defined the technical quality parameters provided in the Regulation, without approaching further issues regarding these parameters. The parameters were defined in broad terms, precisely for not hindering/restricting the providers. ANCOM President's Decision no. 1112/2017 also establishes details to accompany the technical quality parameters measured, so that end-users could assess the quality of the contracted service. Thus, ANCOM aims to closely monitor the implementation of the Regulation's provisions by the providers and to step in subsequently, as appropriate.

In order to apply the provisions of Article 4 para. (1) letter (d) of Regulation (EU) 2015/2120 as uniformly as possible, ANCOM developed and published the Guidelines on the implementation of the requirements regarding the inclusion in the contracts of information on the speeds of fixed and mobile internet access services. The ANCOM Guidelines are intended for the electronic communications networks and services providers and bring clarifications and good practice examples concerning the legal requirements the providers must implement as regards the inclusion in the contracts of the information on the internet access speeds through fixed and mobile networks, such as:

- how the speed values should be expressed.
- factors that may influence reaching certain speeds, so that users understand the issues that may affect the results of a measurement.
- the conditions in which measurements should be performed by the users to obtain the internet access speeds from the contract, for example conditions related to the terminal from which the measurements are performed.

- aspects to be included in contracts to identify significant discrepancies, permanently or regularly recurring, between the actual performance of the service and that indicated in the contract, for example the number of days for performing measurements, the number of measurements to be performed per day and the corresponding time intervals.
- how a user can submit a complaint regarding the non-compliance with the contractual clauses, to be able to benefit from remedies.

3.1 Data transfer speed

According to the provisions of ANCOM President's Decision no. 1112/2017, **data transfer speed** is the data transmission rate, measured in Megabits/second (Mbps), achieved separately for the transmission of the test files downstream, respectively upstream, between the end-user's terminal equipment and a test server.

The data transfer speed is specified based on the transport layer protocol payload.

For **internet access services on fixed networks**, the following parameters have been defined in the above-mentioned decision:

- *Minimum speed* – the lowest data transmission rate that an end-user can experience in accessing the service, according to the contractual or general conditions, as appropriate. In principle, the actual speed, experienced by the end-users, should not be lower than the minimum speed, except in cases of service interruption.
- *Normally available speed* – the data transmission rate that an end-user can experience most of the time when accessing the service, during a specified period.
- *Maximum speed* – the data transmission rate that an end-user can experience at least once during a specified period.
- *Advertised speed* – the data transmission rate that a provider uses in advertising materials, in promoting commercial offers. The advertised speed should not exceed the maximum speed.

For **internet access services on mobile networks**, the following parameters have been defined in the above-mentioned decision:

- *Estimated maximum speed* – the data transmission rate that an end-user can experience in realistic usage conditions. This speed will be specified separately, for different network technologies.
- *Advertised speed* – the data transmission rate that a provider uses in advertising materials, in promoting commercial offers. The advertised speed should not exceed the estimated maximum speed.

To ensure the possibility to assess the quality of the service provided, the technical quality parameters will be accompanied by the following information – according to the provisions of ANCOM President's Decision no. 1112/2017:

- a description of the conditions under which the minimum speed, the normally available speed and the maximum speed could be achieved, for internet access services on fixed networks.
- a description of the methodology used to ascertain the estimated maximum speed and a description of factors influencing the achievement of the estimated maximum speed, for internet access services on mobile networks.

The data transfer speed measured by ANCOM's application – *Netograf* – is calculated in real time for internet access services, in the cases of both fixed and mobile networks, dividing the dimension of the test file by the transfer time required for error-free transmission. The results will

be presented to the user after the measurement has been completed. Measurements are performed at the edge of the network by means of which the internet access services are provided (e.g. at the end-users' premises, for fixed access, or via the radio access network, for mobile access). The test server is located outside the network that provides the internet access service, at the national internet exchange point. The measurement uses multiple TCP connections for saturating the measured path.

The quality of an internet access service must not be assessed based exclusively on data transmission speed. Packet transmission delay, jitter and packet loss rate are the parameters that, besides data transmission speed, may create a thorough and accurate image of the internet access service quality. ANCOM did not impose on the providers the obligation to publish the three quality parameters and to include them in the contracts concluded with the end-users this obligation being incumbent on the providers based on the provisions of the Government Emergency Ordinance no. 111/2011, insofar as the ISPs offer these parameters. Nevertheless, ANCOM President's Decision no. 1112/2017 defines these parameters and ANCOM's application measures them. Thus, the end-users can receive relevant, complete, comparable and easily accessible information on the quality of the internet access services.

3.2 The certified monitoring mechanism – Netograf

In 2014, ANCOM launched Netograf.ro, an online application where internet access users can measure service quality as regards technical parameters. In 2019, ANCOM extended the Netograf platform, making publicly available a set of applications (a web app, as well as desktop and mobile apps) through which users of internet access services can test, monitor and assess the service performance ensured by the providers and its evolution over time, respectively the improving or the degrading quality of the internet access service offered.

During 2020, the Netograf platform was improved by upgrading the web app, the desktop and mobile apps (for Android and iOS). Moreover, with a view to enhancing the platform functionalities, the methodology for finding the location of the terminal used in the measurements has been improved. The platform allows the test location to be identified, where the user enables the location finding option, thus providing valuable information to ANCOM for its statistics based on location, as well as for uploading the Netograf users' test results onto the corresponding map.

During the reference period, the Netograf applications incurred no further changes or developments, but the technical assistance and support services, necessary for the proper functioning of the applications, were maintained.

Using this application, internet access service users can measure parameters: data transfer speed, delay, jitter and packet loss rate, and they can compare the measured values with the nominal values of the respective parameters indicated by the providers in the contract. Measuring the quality parameters of the internet access services does not require creating a user account. However, if the user wishes to create an account, Netograf makes available several additional features such as the possibility to display graphs and tables with the historical values of the completed tests, and to schedule tests at regular time intervals, during one or several days. Netograf tests the quality of the connection between the end-user's terminal equipment and a test server connected to two national public interexchange internet nodes. The measurements indicate a value of the parameters close to the actual user experience in accessing the internet, as the measured path includes the provider's network as well as, in the case of very small providers, other networks interconnected with their own network. On Netograf, the users of internet access services have access to relevant, detailed, and easy to reach information on the quality of the contracted services, in terms of technical parameters, based on which they can make informed decisions. Netograf is not only an information tool for end-users, raising awareness on the quality of services as a key component in a competitive

market, but it is also a measuring instrument by which end-users are enabled to detect any discrepancy between the real/measured performance of the service and the performance indicated by providers in the contracts.

This issue is detailed in ANCOM's Guidelines on the implementation of the requirements regarding the inclusion in the contract of information on the access speeds on fixed and mobile networks.

Thus, for the fixed internet access service, ANCOM established, through the Guidelines, the conditions that need to be met and the procedure that a user must follow in order to ascertain **significant discrepancies** and, on the other hand, **discrepancies that are permanently or regularly recurring**.

In order to ascertain **significant discrepancies**, the user must perform, under certain conditions, at least 6 measurements within 24 hours, of which at least one must be taken between 23:00 and 07:00. Measurements must be carried out at intervals of at least one hour apart. A discrepancy is deemed significant if it meets at least one of the following conditions:

- the minimum speed is not achieved for at least two measurements.
- at least half of the measurements performed by the user do not exceed 50% of the normally available speed indicated in the contract.

In order to ascertain **discrepancies that are continuous or regularly recurring** between the contractual speeds and the actual performance of the internet access service, the user is required to perform measurements, under certain conditions, for at least 5 days (out of which at least one should be a weekend day), during a maximum of 30 consecutive days, performing a minimum of 6 measurements per day, out of which at least one daily measurement should be carried out between 23:00 and 07:00. Measurements must be made at least one hour apart. A discrepancy is deemed continuous or regularly recurring if it meets at least one of the following conditions:

- the minimum speed is not achieved for at least two measurements.
- at least half of the measurements do not reach the normally available speed.
- no measurements reach the maximum speed.

For the mobile internet access service, ANCOM has established the procedure that a user must follow in order to ascertain the **discrepancies that are significant, permanent, or regularly recurring** between the contractual speeds and the actual performance of the internet access service. Thus, the user is required to perform measurements, under certain conditions, for at least 5 days (out of which at least one should be a weekend day), within a timeframe of 30 consecutive days, performing a minimum of 6 measurements per day, out of which at least one daily measurement should be performed between 23:00 and 07:00. Measurements must be made at least one hour apart. A discrepancy is considered to be significant, permanent, or regularly recurring if at least half of the measurements performed are below certain values, stipulated by providers in the contracts.

Moreover, Netograf makes available to Internet access services statistics on the quality of Internet access services provided by various operators. In the *Technical Parameters* section, the average results of the measurements are presented based on the tests performed by the users through the Netograf applications. As well, the test results can be viewed graphically on the map of Romania. These statistics are for information purposes only, and not a guarantee that a user's connection will always ensure a certain quality level. According to ANCOM President's Decision no. 1112/2017 on setting quality indicators for the provision of the internet access service and publishing the corresponding parameters, ISPs are required not to charge, limit or block the end-users' data traffic from and to Netograf.ro. The accuracy of the test results can be influenced by several factors. End-users can find a series of recommendations for obtaining most accurate results, here: <https://www.netograf.ro/#/about>.

3.3 Monitoring signal coverage of mobile telephony networks

ANCOM has carried out annual campaigns to measure the coverage of the national territory with mobile voice signal since 2019. The results of these measurement campaigns have been reflected on a map, available for end users here: <https://aisemnal.ro/home>.

The map shows the mobile signal coverage of localities, national and county roads in Romania, and was fully developed by ANCOM following its annual monitoring campaigns, therefore the users can follow the evolution of signal coverage from year to year. The platform reflects the mobile signal coverage for all technologies available at the time of measurement (2G/3G/4G) for each of the mobile operators active on the Romanian market, the aggregate signal level at the level of the entire country, the maximum measured level for signals from operators in neighbouring countries, as well as - starting with 2022 - the mobile voice signal coverage map of the Bucharest metro network.

As part of the monitoring campaign carried out between May and October 2022, measurements were made in 13,388 localities, covering 240,000 km of national, county and local roads.

In the process of defining the signal levels represented in the National Map of Mobile Signal Coverage, ANCOM considered the circumstances in which users may need to find out the level of the mobile signal offered by the operators.

Thus, through aisemnal.ro, ANCOM informs the users and answers frequently asked questions:

- Where is the best signal?
- Is there indoor signal?
- Is there outdoor signal?
- Where are weak signal areas?
- Where are no-signal areas?
- Where does signal from neighbouring countries prevail, with a likelihood of incurring international roaming charges?
- Is there signal at all?

3.4 Means of ensuring information transparency on the internet access service quality

ANCOM President's Decision no. 73/2023 introduced specific obligations on the providers of electronic communications services (hereinafter ECS providers) for ensuring transparency regarding their services, both in relation to the tariffs charged, the conditions of use of the services, and in relation to the quality of the service, which were considered relevant information for end-users to make informed decisions. The Decision also lays down specific obligations on the means by which information transparency on the quality of the internet access service provided is ensured.

Thus, regarding the internet access service, for each tariff plan published on their website, the providers are required to make publicly available – at the users' first visit on the website and in the content the first description of the respective tariff plan –, information regarding the values of each technical quality parameter (minimum data transfer speed, normally available data transfer speed, best effort data transfer speed, advertised data transfer speed – for fixed internet access services –, and the estimated best effort data transfer speed and the advertised data transfer speed - for mobile internet access services). Moreover, to the extent they are offered, ISPs have the obligation to also publish the minimum levels of other parameters, such as jitter and packet loss rate.

The providers who reported to ANCOM to have at least 1,000 subscribers/connections for the internet access service have the obligation develop their own website, according to the provisions of Art. 5 (1) of the ANCOM Decision no. 73/2023.

Moreover, according to the provisions of Annex 1 to ANCOM Decision no, 73/2023, the following items of information must be provided in the same place or at maximum one click away:

1. the details associated with the technical quality parameters mentioned above, under the conditions provided by the secondary legislation on the establishment of quality indicators for the provision of the internet access service and the publication of the related parameters, issued by ANCOM, i.e. the ANCOM President's Decision no. 1112/2017;
2. a clear and understandable explanation of the remedies available to consumers under national law in the event of any permanent or regularly recurring difference between the actual performance of the internet access service in terms of speed or other quality of service parameters and the performance indicated in the contract;
3. the procedure that end-users may follow to measure the actual performance of the internet access service and to identify any significant permanent or regularly recurring differences between the actual performance of the internet access service in terms of speed, or other technical QoS parameters, and the performance indicated in the contract concluded.

ECS providers will archive information on the minimum data transfer speed, normally available data transfer speed, maximum/best effort data transfer speed, advertised data transfer speed - for fixed internet access services -, respectively the estimated maximum/best effort data transfer speed and advertised data transfer speed - for mobile internet access services -, together with the tariff plans that are no longer part of the commercial offer, which must be posted on their website, in an easily accessible place.

4. Quality of the internet access service

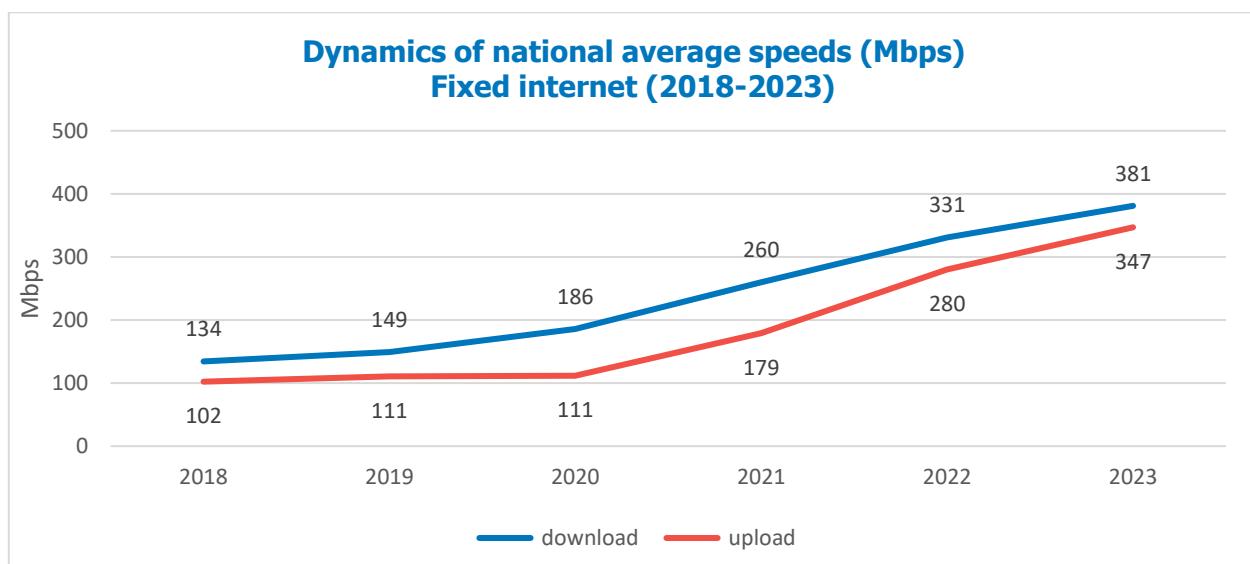
Annually, ANCOM prepares a report on the quality of the internet access service, based on the measurements performed by users through the Netograf online platform. The latest report shows the dynamics of the values of internet access service quality parameters in 2023 and presents comparative statistics on service quality, and analyses on the QoS trends in the recent years. In 2023, the statistics were based on the analysis of 116,740 valid tests. 73% of all the valid tests were performed by fixed connections and 27% were performed by mobile connections.

Given that fixed and, respectively, mobile access technologies have different characteristics from the perspective of service provision, thus yielding substantially different values of the quality parameters, ANCOM analysed separately the performance of fixed network ISPs and that of mobile network ISPs.

4.1 Quality of the fixed internet access service

Tests performed by users on Netograf in 2023 show that the national average download speed for **fixed** internet access services was 381 Mbps, whereas the average upload speed was 347 Mbps. Compared to the previous year, in 2023 there was an increase in the download speed nationwide by about 15%, while the upload speed for these connections surged, by approx. 24% compared to the 2022 average.

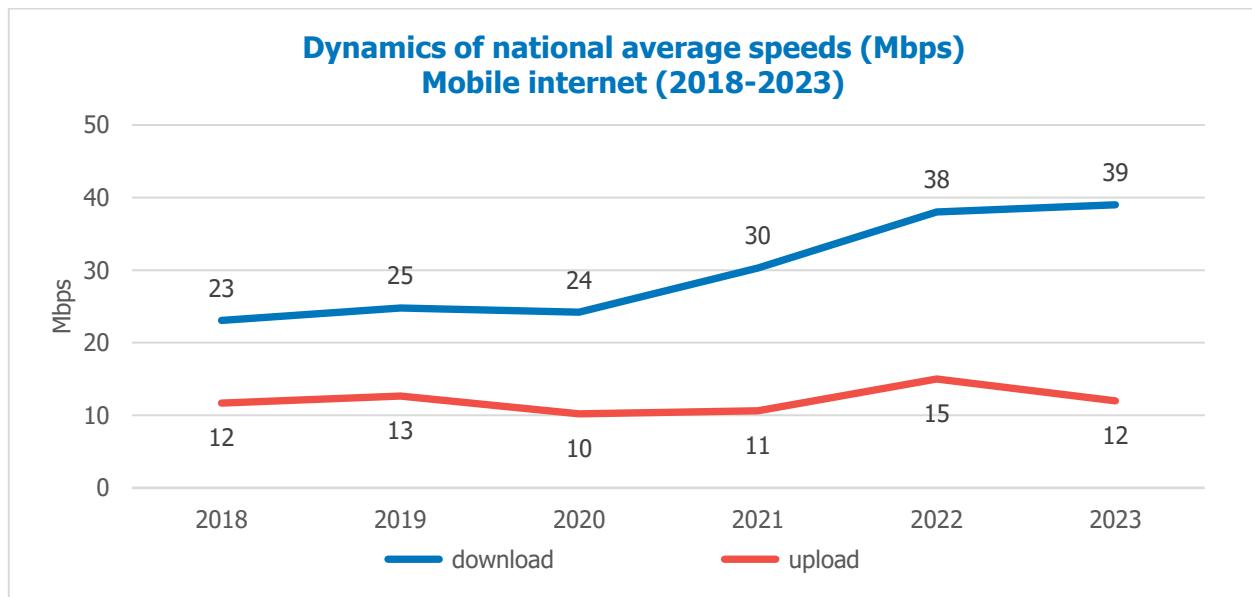
The evolution of the average download speed at national level during 2018 - 2023, for fixed internet access services, is presented in the figure below.



4.2 Quality of the mobile internet access service

According to the results of the tests performed on the Netograf online platform, in 2023 Romanian users witnessed average download speeds of 39 Mbps for the mobile internet access service, at national level. The average upload speed nationwide was 12 Mbps for the mobile internet access service. Compared to the previous year, in 2023 the average download speed at national level increased by approx. 3%, while the average upload speed dropped, by approx. 20%.

The evolution of the average download speed for mobile internet access services, at national level, during 2018 - 2022, is presented in the figure below:



The data recorded through the Netograf computer platform regarding data transfer speeds are correlated with the general trend resulting from the providers' reporting of statistical data, corresponding to the speed value indicated by each provider. Thus, the number of ultra-fast fixed connections (ensuring at least 100 Mbps) increased by slightly compared to the previous year, the share of ultra-fast connections reaching 93% at the end of 2023. In terms of access connections to mobile internet, the number of 4G/5G connections grew 7% year-on-year, so that in 2023 they held a majority share of approx. 79% of all mobile internet connections.

5. Transparent, simple and efficient complaint settling procedures

According to the secondary legislation issued by ANCOM¹², ISPs have to publish on their website and also to hand in to end-users, upon the contract conclusion, a procedure that details the steps an end-user has to follow in order to submit a complaint related to the provision of electronic communications services. The same information must be found in contracts concluded with end-users¹³. This is a general procedure that also applies to the complaints related to the application of the Regulation and the ISPs apply it in relation to the end-users, in order to settle complaints related to the internet access service, to its quality or its open character.

Concerning the minimum required content of the procedure, in ANCOM President's Decision no. 73/2023, establishes that internet access service providers should include in the procedure the following information, thus making it available in a transparent manner:

- how an end-user can submit a complaint.
- the name, address and the working program of the department in charge of solving the complaints.
- the maximum timeframe for submitting the complaint, if applicable.
- the maximum timeframe for solving the complaint.
- the maximum timeframe for remedying the disturbance.
- the compensations applicable if the provider exceeds the timeframe for solving the complaint and for remedying the disturbance.
- the timeframe and means by which the provider informs the end-user on the outcome of his/her complaint.
- a specification of the fact that the end-user can address a complaint to ANCOM or can use other Alternative Dispute Resolution procedure if he/she is not satisfied with the way in which his/her complaint has been solved by the provider.

All electronic communications service providers have implemented this procedure, as it is mandatory, and failure to implement it according to the conditions set by ANCOM President's Decision no. 73/2023 is sanctioned.

¹² ANCOM President's Decision no. 158/2015, whose text in Romanian is available at the following link: http://www.ancom.org.ro/uploads/forms_files/decizia_2015_1581428306401.pdf

¹³ According to the provisions of GEO 111/2011 (<https://legislatie.just.ro/Public/DetaliiDocument/134098>).

6. Sanctions

Regarding the sanctions applicable in case of non-compliance with the provisions of the Regulation, no changes have occurred in the legal framework, from the previous reporting period. Thus, according to the provisions of Article 142 indent 55 of Government Emergency Ordinance no. 111/2011, the non-compliance by the providers with the obligations deriving from the regulations of the European Union in the field of electronic communications, where the competence of monitoring and verification of the compliance with these obligations belongs to the national regulatory authority, is a contravention that can be sanctioned by ANCOM. Therefore, ANCOM can sanction any breach of the provisions of the Regulation, with the exceptions mentioned above, related to the competence of the national ANPC and the national ANSPDCP, as mentioned in section 1.2 above.

Government Emergency Ordinance no. 111/2011 also provides for the penalties applicable in case that the contraventions provided by Article 142 indent 55 are observed, as a result of infringements of the provisions of Articles 3, 4, and 5 of the Regulation.

There were no changes from the previous reporting period, the maximum thresholds of the fine that can be applied to the providers with a turnover above 3,000,000 RON remained at 5% of the turnover, respectively 10% of the turnover in the case of repeated breaches.

Thus, according to Article 143 of Government Emergency Ordinance no. 111/2011, a breach of the obligations laid down in the Regulation constitutes a contravention that can be sanctioned by ANCOM as follows:

- by fine - ranging from 5,000 RON up to 60,000 RON and, in case of repeated breach, up to 100,000 RON.
- by fine of up to 5% of the annual turnover, or up to 10% of the turnover - in case of repeated breach - for the providers with an annual turnover of more than 3,000,000 RON.

Such breaches may also be sanctioned by warning, according to Government Ordinance no. 2/2001 on the legal framework for contraventions, with the subsequent amendments and completions.

The contravention is assessed, and appropriate penalties are applied by decision of the ANCOM President. The decision is an enforceable title and can be challenged in administrative contentious, at the Bucharest Court of Appeal, within 30 days from the time it was communicated.

According to the provisions of Article 149 (1) letter a) of Government Emergency Ordinance no. 111/2011, where an infringement has been found, ANCOM may also require the cessation of the infringement either immediately or within a reasonable timeframe, as well as any other measures necessary to ensure the cessation of the infringement and the remedy of the respective situation. The measures shall be proper and proportionate to the committed breach and shall provide a term within which the provider must comply with them. The non-observance of the measures ordered by ANCOM is, in its turn, according to the provisions of art. 151 of the Government Emergency Ordinance no. 111/2011, sanctionable with an administrative fine of up to 30,000 RON per day of delay.

During the reporting period, 4 sanctions were applied in the form of a warning for failure to comply with the Regulation provisions on the transparency of information in the contracts concluded with the complainants. In the case of a complainant, the sanctions were accompanied by measures to ensure ceasing the failure and remedying the respective situation, by obliging the provider to insert the omitted items of information in the respective contracts.



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