

Romania: Public debate now underway for Bill on new conditions for 5G providers

On 4 August 2020, the Romanian Ministry of Transport, Infrastructure and Communications (MTIC) initiated public debate on a draft law on measures to be adopted relating to information and communication infrastructure of a national interest and the conditions for implementing 5G networks.

The draft law includes the requirement that authorisation will be necessary for all manufacturers of technology, equipment and software used in information and communication infrastructure with a national interest or in electronic communications networks through which 5G services are provided.

An applicant must file the request with the MTIC, which will forward it to the Supreme Council of National Defence (CSAT). The Prime Minister will grant authorisation on the recommendation of CSAT, which will issue an opinion within a maximum of four months from the filing of a request.

Each applicant must submit information on its shareholding structure and its corporate group, including detailed information on any parent company. Also, the applicant must file a statement on its liability, affirming that it is not under the control of a foreign government lacking an independent legal system.

In order to issue a favourable opinion, CSAT will assess the risks, threats and vulnerabilities to national security and defence that an applicant's technology could present. The draft law goes further, explicitly enabling CSAT to consider Romania's obligations under international cooperation and any bilateral strategic partnerships. (One such bilateral strategic partnership is Romania's 20 August 2020 Memorandum on 5G with the US).

The draft law requires providers of electronic communications networks and services to use only technologies, equipment and software in 5G networks made available by authorised manufacturers, a requirement that will be checked by the National Authority for Administration and Regulation in Communications (ANCOM).

In regard to manufacturers of technologies used in 5G communications that do not have authorisation at the date of entry into force of the law, the draft law allows them to continue using this technology for a maximum of five years.

Failure by electronic communication network and service providers to use only technologies, equipment and software in 5G networks made available by authorised manufacturers can result in fines of between 1% and 5% of turnover. The same fine will be enforced against existing manufacturers that fail to obtain authorisation after the expiry of the above-mentioned five-year grace term.

Finally, the providers of electronic communications networks and services that do not provide information requested by ANCOM regarding any of their technologies and equipment can receive fines of between 3% and 10% of their turnover. According to the Draft Law, the previous year's turnover of the respective economic operator will apply.

Any sanctioned economic operator will also be forbidden to use non-authorised technology.

The draft law is open for public debate until 17 August 2020. CMS is monitoring the status of the draft law and will provide updates on its progress.

For more information on this e-Alert and 5G regulation in Romania, contact your regular CMS advisor or local CMS expert **Valentina Parvu**.