

DECISION

SINGLE VERSION

REQUEST TO DEDUCT MAILING RECORDS FOR THE CALCULATION OF THE 2023 QUALITY OF SERVICE INDICATORS

September 2023

ANACOM

AUTORIDADE
NACIONAL
DE COMUNICAÇÕES

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1. Framework

By decision of 29.04.2021¹, Autoridade Nacional de Comunicações (ANACOM), under paragraph 1 of article 13 of Law No 17/2012, of 26 April (Postal Law), as amended at the time, established the Quality of service parameters and performance targets associated with the provision of the universal postal service, to be met by CTT - Correios de Portugal, S. A. (CTT), as the concessionaire for the provision of the universal postal service, under the terms of the concession contract signed between CTT and the Portuguese State and which came into force on 08.02.2022 (Concession Contract).

ANACOM's abovementioned decision came into force with the entry into force of the Concession Contract and, under paragraph 2 of article 3 of Decree-Law No 22-A/2022 of 7 February, it remains in force temporarily until the member of the Government in charge of the communications area sets new quality of service parameters and performance targets, in accordance with article 13 of the Postal Law, as amended by the abovementioned decree-law.

In accordance with paragraph 1 of article 5 of the referred quality of service parameters and performance targets associated with the provision of the universal postal service, approved in annex to the decision of 29.04. 2021, in the event of force majeure or other phenomena the triggering and development of which are manifestly beyond the control of the USP(s), and which have an impact on the quality-of-service performance, the USP(s) may request ANACOM to deduct the records relating to the affected periods of time and geographical flows from the calculation of the quality of service indicators (QSI).

Paragraph 2 of the same article stipulates that the force majeure situations or phenomena referred to in paragraph 1 mean “[... *third-party or natural, unforeseeable or unavoidable occurrences, the triggering, development and effects of which are independent of the USP's will and ability to control them, such as acts of war or subversion, epidemics, hurricanes, earthquakes, fire, lightning, floods, general strikes and any other events of the same nature*”

¹ Available at <https://www.anacom.pt/render.jsp?contentId=1624123>.

which jeopardise the normal conditions of acceptance, processing, transport and distribution of postal items”.

According to paragraph 4 of the same article 5, the request for activation of the deduction referred to in paragraph 1 “*must be submitted by the USP(s) to ANACOM in writing, stating the reasons and providing all the information necessary for its analysis, within a maximum of 60 working days from the date of the event*”.

The decision as to whether the event should be classified as a force majeure situation or phenomenon, and whether it should be deducted from the records relating to the affected periods of time and geographical flows, is the responsibility of ANACOM, in accordance with paragraph 5 of article 5.

ANACOM must notify the USP(s) of its decision within a maximum of 45 working days from the date of receipt of the request from the USP(s), taking into account paragraph 6 of article 5.

Irrespective of whether a request for deduction is submitted, the USP(s) are required to try to find the best alternatives during the period of occurrence of the situations referred to in paragraphs 1 and 2 of the aforementioned article 5 of the annex to ANACOM’s Decision of 29 April 2021, as set out in paragraph 7 of the same provision.

2. Request for deduction of mailing records

Within the framework described above, by communication dated 28.07.2023 and received by ANACOM on the same date, CTT requested that the following mailings be deducted for the purpose of calculating the 2023 QSI:

- a) standard letter mail, standard bulk mail, standard parcels and newspapers and periodicals with a frequency greater than weekly, from 4 to 10 May (inclusive); and
- b) priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 5 to 10 May (inclusive);

which, according to CTT, were directly affected by air traffic interruptions at Funchal airport caused by very strong winds between 08.05.2023 and 10.05.2023, in flows to and from the

Autonomous Region of Madeira (Mainland to the Autonomous Region of Madeira (ARM) and vice versa).

The request for deduction was received within the time limit laid down in paragraph 4 of article 5 of the Quality of service parameters and performance targets associated with the provision of the universal postal service, approved in annex to ANACOM's decision of 29.04.2021.

Between 08.05.2023 and 10.05.2023, the island of Madeira was hit by strong winds, which led to the cancellation of most of TAP's flights, affecting air connections with this island².

According to CTT, these disruptions led to several flight cancellations and significant reductions in cargo capacity, with a direct impact on air transport to Madeira. In fact, the planned cargo capacity for 8 to 10 May was 123m³, while only 70m³ was made available during this period.

These disruptions have therefore had a negative impact on airmail transport operations to the ARM, causing delays in the routing of postal items and consequently affecting the quality of mail service to and from this Autonomous Region in May 2023.

In order to minimise the impact of this situation on the quality of service, and with a view to making up for the delays caused by the disruption to air transport as soon as possible, CTT said it had implemented a number of measures, including the following:

- a) Use of the maximum transport capacity available to Madeira, with TAP having been asked to provide more air transport capacity on flights following the disruption at Funchal airport;
- b) Strengthening of distribution activities in the ARM, in particular by extending working hours, including early start and Saturday work in various postal distribution centres in the ARM.

² See, for example, the following news items published between 08.05.2023 and 10.05.2023:
<https://www.dnoticias.pt/2023/5/9/359215-vento-forte-motivos-novos-cancelamentos-de-voos-no-aeroporto-da-madeira/>;
<https://www.dinheirovivo.pt/geral/aeroporto-da-madeira-com-42-chegadas-e-37-partidas-canceladas-desde-a-meia-noite-16323769.html>;
<https://newmen.pt/dezenas-de-voos-cancelados-no-aeroporto-da-madeira/>.

Taking into account the routing times for the various services to and from the ARM (delivery of up to 3 working days for standard mail, standard bulk mail, standard parcels and newspapers and periodicals with a frequency greater than weekly and delivery of up to 2 working days for priority mail, newspapers and periodicals with a frequency equal to or less than weekly and registered mail), CTT considers that these disruptions have affected the quality performance of mailings of:

- a) standard mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcels, from 4 to 10 May (inclusive), for flows to and from the ARM;
- b) priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 5 to 10 May (inclusive), for flows to and from the ARM.

3. Analysis and decision

Whereas:

- 1) The request for deduction of mailing records submitted by CTT under paragraphs 1, 2 and 4 of article 5 of the Quality of service parameters and performance targets associated with the provision of the universal postal service, approved in annex to ANACOM's decision of 29.04.2021, was timely;
- 2) According to the information provided by CTT and publicly available information³, the airport of Funchal, in the ARM, was affected by strong winds between 08.05.2023 and 10.05.2023, which caused the cancellation of several flights and made it impossible to operate the various air connections with the ARM;
- 3) The routing time for the various services to or from the ARM is up to 3 working days for standard mail, standard bulk mail, standard parcels and newspapers and periodicals with a frequency greater than weekly, and up to 2 working days for priority mail, newspapers and periodicals with a frequency equal to or less than weekly and registered mail;

³ Veja-se, a título de exemplo, a notícia publicada em https://www.rtp.pt/noticias/economia/onze-voos-de-e-para-o-aeroporto-da-madeira-cancelados-devido-ao-vento_n1484988.

- 4) The atmospheric disturbances in question qualify as unforeseeable or unavoidable phenomena, the triggering, evolution and effects of which occur independently of CTT's will and ability to control them, within the meaning of paragraph 2 of article 5 of the referred Quality of service parameters and performance targets associated with the provision of the universal postal service;
- 5) It is likely that the abovementioned atmospheric disturbances, as claimed by CTT, have had an impact on the quality of service provided by the company, affecting, in the flows to and from RAM (with the exception of flows within the island of Madeira and flows within the island of Porto Santo), the routing of standard mail, standard bulk mail, standard parcels and newspapers and periodicals with a frequency greater than weekly from 4 to 10 May (inclusive), and the routing of priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly from 5 to 10 May (inclusive) - taking into account the established routing times - without prejudice to the implementation by CTT of a set of measures aimed at minimising their impact,

the Board of Directors, in the exercise of powers conferred on it by point b) of paragraph 1 of article 26 of ANACOM's Statutes, approved by Decree-Law No 39/2015, of 16 March, in pursuit of the powers conferred on this Authority by paragraphs h) and i) of paragraph 1 of article 8 of the abovementioned Statutes and in compliance with paragraph 5 of article 5 of the Quality of service parameters and performance targets associated with the provision of the universal postal service, set out in annex to ANACOM's decision of 29.04.2021, hereby determines to accept the request submitted by CTT - Correios de Portugal, S.A. on 28.07.2023 to allow the deduction, for the purpose of calculating the 2023 quality of service indicators, of mailing records directly affected by air traffic interruptions at Funchal airport caused by strong winds, in the flows to and from the Autonomous Region of Madeira - with the exception of the flows within the Island of Madeira and the flows within the Island of Porto Santo -, specifically the records of:

- 1) standard mail, standard bulk mail, standard parcels and newspapers and periodicals with a frequency greater than weekly, from 4 to 10 May (inclusive); and
- 2) priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 5 to 10 May (inclusive).

In accordance with point f) of paragraph 1 of article 124 of the Administrative Procedure Code, the prior hearing of CTT - Correios de Portugal, S.A. was waived.



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