

DECISION

SINGLE VERSION

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

October 2023

ANACOM

AUTORIDADE
NACIONAL
DE COMUNICAÇÕES



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1. Framework

By decision of 29.04.2021¹, Autoridade Nacional de Comunicações (ANACOM), under Article 13(1) of Law 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 concessionary 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 Article 3(2) of Decree-Law 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 Article 5(1) of the aforementioned 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, for the purposes of calculating the quality of service indicators (QSI), in the event of force majeure or other phenomena the causes and progression of which are clearly outside the USP(s)'s control, and which have an impact on the quality of service performance, the USP(s) may request ANACOM the deduction of records relating to the time periods and geographical flows affected.

Paragraph 2 of the same Article establishes that situations of force majeure or the phenomena referred to in paragraph 1 are considered to be: “[...] events caused by third parties or natural phenomena that are unpredictable or inevitable, the causes, progression and effects of which are outside the volition and control of the USP(s), such as acts of war or subversion, epidemics, cyclones, earthquakes, fire, lightning, floods, general strikes and any other events of a similar nature that undermine normal conditions of acceptance, handling, transport and distribution of postal items”.

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

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 a phenomenon, and whether it should be deducted from the records relating to the affected time periods and geographical flows, is the responsibility of ANACOM, in accordance with Article 5(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 made by the USP(s), taking into account Article 5(6).

Irrespective of whether a request for deduction is submitted, the USP(s) is(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 29.04.2021, as set out in paragraph 7 of the same provision.

2. Request for deduction of mailing records

Under the framework described above, by communication dated 31.08.2023, 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 mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcels, from 1 to 6 June (inclusive) in the Autonomous Region of Madeira (ARM) and from 2 to 6 June (inclusive) in the Autonomous Region of the Azores (ARA); and
- b) priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 2 to 6 June (inclusive) in the ARM and from 5 to 6 June (inclusive) in the ARA,

in flows to and from the ARM (mainland Portugal to the ARM and vice versa) and the ARA (mainland Portugal to the ARA and vice versa), and on inter-island flows in the ARA, on the

grounds of the air traffic disruptions at the airports of Funchal, Ponta Delgada and Terceira, caused by very strong winds on 05.06.2023 and 06.06.2023 on the island of Madeira and on 06.06.2023 in the Azores archipelago.

The request for deduction was received within the deadline established in Article 5(4) of the Quality of service parameters and performance targets associated with the provision of the universal postal service, approved in the annex to ANACOM's decision of 29.04.2021.

The Autonomous Regions were affected, between 05.06.2023 and 06.06.2023 (the ARA only on 06.06.2023), by strong winds that caused the cancellation of several flights operated by TAP, SATA and Cargueiro Mais Madeira, affecting air connections with those Autonomous Regions².

According to CTT, these disruptions led to impacts in cargo capacity for the ARM and the ARA: (i) in the ARM, on 5 and 6 June, the planned cargo capacity was 108 m³, but only 48 m³ was made available; and (ii) in the ARA, on 6 June, the planned cargo capacity was 69 m³, but only 24 m³ was made available.

These disruptions resulted in delays in the routing of postal items to and from the ARM, to and from the ARA and inter-island in the ARA and, consequently, affected the quality of the mail service in flows to and from these Autonomous Regions in June 2023.

In order to minimise the impact of this situation on quality of service and with a view to recovering as soon as possible from the delays caused by the disruption of air transport, CTT reported that it had implemented a series of measures, in particular the following:

- a) use of the maximum transport capacity available for the ARM and for the ARA, with TAP and SATA having been asked to provide more air transport capacity on flights following the disruption at affected airports;

² See, for example, the following news items published regarding bad weather in the Autonomous Regions: <https://www.tempo.pt/noticias/previsao/tempo-da-proxima-semana-em-portugal-invulgar-depressao-atlantica-trara-rio-atmosferico-eis-os-efeitos-meteorologia.html>; <https://www.dnoticias.pt/2023/6/6/363148-oscar-com-balanco-final-de-72-voos-cancelados/>; <https://observador.pt/2023/06/06/mau-tempo-provoca-11-ocorrencias-em-sao-miguel-e-afeta-ligacoes-aereas/>.

- b) bolstering of distribution activities, namely by extending working hours, including early start and Saturday work in various postal distribution centres.

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

- a) for flows to and from the ARM (mainland Portugal to the ARM and vice versa): (i) for standard mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcels, from 1 to 6 June (inclusive), and (ii) for priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 2 to 6 June (inclusive);
- b) for flows to and from the ARA (mainland Portugal to the ARA and vice versa) and for the inter-island flows in that Autonomous Region: (i) for standard mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcels, from 2 to 6 June (inclusive), and (ii) for priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 5 to 6 June (inclusive).

3. Analysis and decision

Whereas:

- 1) The request for deduction of mailing records submitted by CTT under Article 5(1), (2) and (4) of the Quality of service parameters and performance targets associated with the provision of the universal postal service, approved in the annex to ANACOM's decision of 29.04.2021, was timely;
- 2) According to the information provided by CTT and publicly available information, the airport of Funchal, in the ARM, was affected by strong winds between 05.06.2023 and 06.06.2023, and the airports of Ponta Delgada and Terceira, in the ARA, were

affected by strong winds on 06.06.2023 which caused the cancellation of several flights operated by TAP, SATA and Cargueiro Mais Madeira, making it impossible to operate the various air connections with the ARM and with the ARA, including inter-island in the ARA;

- 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;
- 4) The atmospheric disturbances in question qualify as unpredictable or inevitable phenomena, the causes, progression and effects of which are outside CTT's volition and control under Article 5(2) of the Quality of service parameters and performance targets associated with the provision of the universal postal service mentioned above;
- 5) Given the established routing times, 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, without prejudice to the implementation by CTT of a set of measures aimed at minimising their impact, affecting:
 - a) in the flows to and from the ARM (thus excluding the inter-island flows and the flows within each island), standard mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcels from 1 to 6 June (inclusive), and priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly from 2 to 6 June (inclusive); and
 - b) in the flows to and from the ARA, and in the inter-island flows in the ARA (thus excluding the flows within each island), standard mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcels from 2 to 6 June (inclusive), and priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly from 5 to 6 June (inclusive),

the Board of Directors, in the exercise of the powers conferred upon it by Article 26(1)(b) of ANACOM's Statutes, as approved by Decree-Law 39/2015 of 16 March, in pursuit of the duties conferred upon this Authority by Article 8(1)(h) and (i) of the abovementioned Statutes and pursuant to Article 5(5) of the Quality of service parameters and performance targets associated with the provision of the universal postal service, established in the annex to ANACOM's decision of 29.04.2021, hereby determines to accept the request submitted by CTT – Correios de Portugal, S.A. on 31.08.2023 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, Ponta Delgada and Terceira airports caused by strong winds, in the flows:

- 1) to and from the Autonomous Region of Madeira, with the exception of the inter-island flows, the flows within the Island of Madeira and the flows within the Island of Porto Santo, of:
 - i) standard mail, standard bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcel post, from 1 to 6 June (inclusive); and
 - ii) priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 2 to 6 June (inclusive);
- 2) to and from the Autonomous Region of the Azores, and in the inter-island flows within the Autonomous Region of the Azores, with the exception of flows within each island, of:
 - i) standard mail, bulk mail, newspapers and periodicals with a frequency greater than weekly and standard parcel post, from 2 to 6 June (inclusive); and
 - ii) priority mail, registered mail and newspapers and periodicals with a frequency equal to or less than weekly, from 5 to 6 June (inclusive).

Pursuant to Article 124(1)(f) of the Code of Administrative Procedure, the prior hearing of CTT – Correios de Portugal, S.A. was waived.



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Month of year

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