

**DETERMINATION FOR THE CORRECTION OF INFORMATION DISCLOSED BY CTT -  
CORREIOS DE PORTUGAL, SA (CTT) CONCERNING THE OBLIGATION TO MAKE  
COMPLAINT BOOKS AVAILABLE AT POSTAL SERVICE ESTABLISHMENTS**

**I. FACTS**

**A. ON THE FACTS OBTAINED FOLLOWING THE COMPLAINTS SUBMITTED**

1. On 23.11.2015, following a situation in which a complaints book was not available on 19.11.2015, between 16:00 and 16:10, at Corga (Lobão)<sup>1</sup> post office, located at Rua Vasco da Gama, no 819, Lobão, Santa Maria da Feira<sup>2</sup>, the aforementioned post office sent ANACOM the following documents:
  - a) A white sheet, with a note and initials, containing the following message: *“I have to inform you that the order was not delivered by this Office; the complaint should not even have been made here. I am attaching a copy showing how to proceed, which customer did not wish to know about”*;
  - b) The original of a complaint form, no 4473457, completed by Diana Ferreira Cardoso de Almeida, on 19.11.2015, at 16:30, stating that on that date she had received a parcel that was damaged (despite being properly wrapped and prepared so as to prevent this from happening), and that someone had to be held liable; and
  - c) One **sheet bearing the letterhead of CTT** and the title **“Post Offices”**, **“INFORMATION SHEET 23 - Complaint Books”**<sup>3</sup>, which reads as follows<sup>4</sup>:
    - **“Complaints concerning other Postal Services, not provided at the Office (e.g. CTT Distribution Service) should not be registered in the Complaint Books of the Entity/Establishment where the Post Office operates, as a result of which**

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<sup>1</sup> Situation reported to ANACOM via official letter from the GNR Lourosa Regional Office, ref. 4833/15, dated 16.12.2015, attached to which this Authority was sent the Official Report of Administrative Offence no 842/2015.

<sup>2</sup> Place where, at the time, only one post office was in operation, under the charge of Norvinda Conceição Duarte.

<sup>3</sup> Our emphasis.

<sup>4</sup> The highlighting in the following transcriptions is also ours.

- the Customer must be asked in advance by the Provider to which activity the complaint relates”.*
- *“It is incumbent upon the provider to forward to the regulator of its activity the complaints registered therein, even if regarding its activity as a Post Office, **within the deadlines defined in prevailing law.***
  - *“The originals [of the complaint forms] should be sent to the industry regulator **at the earliest opportunity”.***
  - *“In order to enable all customers **to submit potential complaints about other services outside the scope of the postal services provided by the Office, such as distribution services, for example, the Post Offices must indicate, without this information being displayed at the Office, the alternative means available to customers/the general population for making such complaints, namely:***
    - *CTT Stores*
    - *Mailbox reclamações@ctt*
    - *CTT Line: 707 262 626”.*

2. In an investigation carried out by ANACOM inspectors on 21.09.2016, at 12:38, at the of Vila Cova à Coelheira post office, municipality of Seia, an *“information sheet distributed by CTT (...) to some post offices (...) ”* was also photographed.

An analysis of the above document determined that it consisted of a **sheet bearing the letterhead of CTT** and the title **“Post Offices”, “INFORMATION SHEET 23 – Complaint Books.Doc”**<sup>5</sup>, which reads as follows:<sup>6</sup>

- *“**Complaints concerning other Postal Services, not provided at the Office (e.g. CTT Distribution Service) should not be registered in the Complaint Books of the Entity/Establishment where the Post Office operates, as a result of which the Customer must be asked in advance by the Provider to which activity the complaint relates”.***

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<sup>5</sup> Our emphasis.

<sup>6</sup> The highlighting in the following transcriptions is also ours.

- *“It is incumbent upon the provider to forward to the regulator of its activity the complaints registered therein, even if regarding its activity as a Post Office, **within the deadlines defined in prevailing law.**”*
- *“The originals [of the complaint forms] should be sent to the industry regulator **at the earliest opportunity**”.*
- *“In order to enable all customers **to submit potential complaints about other services outside the scope of the postal services provided by the Office, such as distribution services, for example, the Post Offices must indicate, without this information being displayed at the Office, the alternative means available to customers/the general population for making such complaints, namely:***
  - *CTT Stores*
  - *Mailbox reclamações@ctt*
  - *CTT Line: 707 262 626”.*

3. On 20.10.2016, at 15:40, following a situation of in which the complaint book was unavailable, which occurred at 17:00 on 19.08.2016 at the Jardim da Radial post office (Ramada)<sup>7</sup>, located at Av. Amália Rodrigues, no 10, Loja A, Ramada, Odivelas<sup>8</sup>, ANACOM inspectors visited the aforementioned post office and found, with regard to the complaint mechanisms existing there – and as stated in the due diligence report then drawn up – that:

- a) A sign was displayed, in an easily visible place, according to the template defined in Administrative Rule 1288/2005, of 15 December, as amended by Administrative Rule 896/2008, of 18 August, which indicated, in the fields intended for identification and address of the entity to which the user should make the complaint, respectively, as follows: *“ASAE - Food Safety and Economic Authority” and “Av. Conde de Valbom, 98, 1050-070 Lisbon”;*
- b) The establishment had a complaints book in use, under the template defined in that Administrative Rule, acquired on 21.12.2012, consisting of complaint forms numbered

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<sup>7</sup> Situation that ANACOM became aware of via the submission of the original complaint form no 20611335, completed by Gonçalo Manuel Vaz Esteves, on 19.08.2016, at 17:30 at the CTT post office in Odivelas.

<sup>8</sup> Where, at the time of the inspection, a stationer’s and post office operated, under the charge of Anabela Machado Alves Ferreira Damil.

sequentially from 16819576 to 16819600<sup>9</sup>, without any complaint form having been completed;

- c) The person in charge of the establishment stated that ***“normally no complaint book is made available where the topic is related to CTT services, mostly postal distribution service (registrations), and people are referred to the Odivelas CTT store, or the customer is given the opportunity to complain in writing by email or letter”***<sup>10</sup>.
4. On 16.01.2018, at 14:45, following a situation of in which the complaint book was missing, which occurred at 09:48 on 04.08.2017 at the Sobreda post office<sup>11</sup>, located at Rua do Vale Linhoso, 6-A, Sobreda<sup>12</sup>, ANACOM inspectors visited the aforementioned post office and found, with regard to the complaint mechanisms existing there – and as stated in the due diligence report then drawn up – that:
- a) A sign was posted in a visible location stating that the establishment had a complaints book - *the complaints book applicable to local authorities (blue book)*;
- b) The establishment had a complaints book applicable to local authorities, consisting of *complaint forms numbered sequentially from 0212001 to 0212025, completed up to form no 0212022, on 02.11.2017*;
- c) The employee present during the inspection<sup>13</sup> reported that:

*“The complaints book is made available to the user whenever he or she wishes to make a complaint regarding the service provided by the post office, such as issues related to face-to-face service, waiting times and opening hours, among others.*

*(...) In the case of complaints related to **other CTT services outside the scope of postal services provided by the post offices, namely postal distribution, the user is not provided with the aforementioned complaint book used at the***

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<sup>9</sup> In the official report the number 1689600 was indicated, instead of the number 16819600, but it is accepted that the missing “1” was due to an error.

<sup>10</sup> Our emphasis.

<sup>11</sup> Situation reported to ANACOM via a complaint sent to this Authority, by email, on 04.08.2017 at 12:17 and by means of the GSEI report dated 15.09.2017.

<sup>12</sup> Place where, at the time of the inspection, the administrative services of the Merged Parishes of Charneca de Caparica and Sobreda and a post office operated.

<sup>13</sup> Employee Mónica Alexandra Louro Figueiredo, who described herself as a technical assistant of the Merged Parishes of Charneca de Caparica and Sobreda and who has been working at the post office since 1999.

***establishment** and the customer is informed of the channels available for this purpose, namely CTT stores, letter, CTT ombudsman, email address and Odivelas customer service hotline or the customer is informed that they may submit a written complaint by email or letter ” (our emphasis).*

- d) The official also clarified that the procedures described were instituted by CTT, and presented a copy of a document distributed by CTT, regarding “*Procedures for Complaints Made at Post Offices*”, extracted from **5th edition of the “Post Office Operational Procedures Manual”**, having the approval date of **08.03.2017** (our emphasis).

Attached to the aforementioned due diligence report was a sheet from the document (bearing the **letterhead of CTT**) entitled “*Post Office Operational Procedures Manual*” (in the version corresponding to the edition and approval date indicated by that employee).

The aforementioned document contains an item/chapter with the number 7 entitled: “*Procedures for Complaints Made at Post Offices*”, which reads<sup>14</sup>:

- i. Under paragraph “7.1. Complaint Books ”: “ *The Complaint Books shall be made available to Customers wishing to lodge a complaint regarding the provision of Services by Post Offices*”; “*Complaints concerning other Services (e.g. CTT Distribution Service) should not be recorded in the Complaint Books of the Entity/Establishment where the Post Office operates*”;
- ii. Under paragraph “7.2. Other Available Channels”: “*However, and in order to enable all customers to submit any complaints or information regarding other CTT services outside the scope of the postal services provided by the Office, such as CTT distribution services, the Offices must indicate the alternative means that Customers have at their disposal to submit these kinds of complaint or information requests, namely:*
- Letter;*
- CTT Ombudsman; CTT website ([www.ctt.pt](http://www.ctt.pt));*
- CTT stores;*
- Mailbox – [reclamações@ctt.pt](mailto:reclamações@ctt.pt);*
- Line CTT – 707 26 26 26 (...)*”.

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<sup>14</sup> The highlighting in the following transcriptions is ours.

## **B. ON THE FACTS DETERMINED FROM INVESTIGATIONS INSTITUTED BY ANACOM**

1. On 15.03.2019, by means of the letter having the ref. no ANACOM-S004601/2019, CTT was given notice by ANACOM to send, within 2 working days, the current version of the Service Procedures Manual, the Post Office Service Procedures Manual and the Post Office Operational Procedures Manual.

By letter received by this Authority on 19.03.2019, that company promptly sent the requested procedures manuals, in digital format (CD), in a total of 5 attachments, with the following description:

Annex I: Service Procedures Manual - CTT Stores, Edition no 19, dated January 2018.

Annex I.a: Complaint handling procedure revised in September 2018, amending the Service Manual with regard to the handling of complaints and requests for information.

Annex II: Partner Manager Post Office Service Procedures Manual, Edition no 7, dated January 2019.

Annex III: Post Office Operational Procedures Manual, Edition no 6, dated March 2017.

Annex III.a: Complaint handling procedure revised in January 2019, amending the Operational Procedures Manual with regard to the handling of complaints and requests for information.

Analysing the information contained in these Manuals – in the part relating to the complaint book – the following errors were also noted in relation to them.

2. The version of the *“Post Office Operational Procedures Manual”* of 08.03.2017, submitted by CTT as Annex III (5th edition – not *“6th”* as, certainly due to error, was indicated in that letter), corresponds to the version of that Manual mentioned under I.A.4. above, which was

collected by ANACOM inspectors on 16.01.2018 at Sobreda post office – as a result of which, in its paragraph 7.1, entitled “*Complaint Books*”, it also reads that “*The Complaint Books shall be made available to Customers wishing to lodge a complaint regarding the provision of Service by the Post Office(s)*” and that “*Complaints about other Services (e.g. CTT Distribution Service) shall not be recorded in the Complaint Books of the Entity/Establishment where the Post Office operates*”.

The amendment made to the aforementioned Manual in January 2019 regarding the handling of complaints and requests for information, submitted by that company as Annex III.a, corresponds to a document beginning with the indication that this is the “*New Procedure for Office Complaints, to be included in the 7th Edition of the Operational Procedures Manual of the Offices and to be followed by all providers with immediate effect*”.

This document, under the heading: “*Handling of complaints/requests for information*”, mentions, in paragraph “*1. Complaints Book*”, the following: “*Only complaints concerning postal services provided by the Office should be registered in the Office Complaint Books, whereby the Customer should be asked in advance by the Provider which activity is to be complained about (e.g.: complaints concerning the CTT Distribution service shall not be recorded in the Office Complaint Books)*”<sup>15</sup>.

This information is followed by the following comment: “*Please be aware, however, that, should the customer insist, the Office must not refuse to make the Complaint Book available*”<sup>16</sup>.

And the following is added<sup>17</sup>: “*It is incumbent upon the provider to forward to the regulator of its activity the complaints registered therein, even if regarding its activity as a Post Office, within the deadlines defined in prevailing law (with the exception of Parish Councils that have specific rules as described under paragraph 3 below), in compliance with the following:*

- ***The Originals*** (Coloured Red) should be sent to the industry regulator at the earliest opportunity;
- ***The Duplicates*** (Coloured Blue) are given to the customers;

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<sup>15</sup> Emphasis added by the author.

<sup>16</sup> Emphasis added by the author.

<sup>17</sup> Emphasis added by the author; highlighting in the original.

- ***The Triplicates (Coloured Orange) remain in the Book.***

In turn, under the respective paragraph 2., entitled “*Complaints concerning other postal services not provided by the Office*”, it reads that, “*In order to enable all customers to submit potential complaints about other services outside the scope of the postal services provided by the Office, such as distribution services, for example, the Post Offices must indicate, without this information being displayed at the Office, the alternative means available to customers/the general population for making such complaints, (...)*”<sup>18</sup>

3. With regard to the amendment of the “*Post Office Operational Procedures Manual*” regarding the “*Handling of complaints/requests for information*” now submitted by CTT, it is noted that in paragraph 4., concerning the “*Acceptance of complaints at Post Offices located in the RIAC (Azores)*”, states that “*The Integrated Citizen Support Network (RIAC) which has Post Offices in operation shall provide the Public Administration Complaint Books (Yellow Books) to record all complaints concerning Mail Services Provided at that Office*”<sup>19</sup>.

However, the Integrated Citizen Support Network (RIAC) – a structure created by the Azores Regional Government to facilitate citizen access to the Public Administration, including, among other means of interaction with the citizen, citizens advice bureaus – gave rise to the Agency for the Modernisation and Quality of Citizen Services (known as the RIAC)<sup>20</sup>, which is a public institute acting under the supervision of the member of the Regional Government responsible for the regional public administration.

Moreover, in its paragraph 3., concerning “*Post Offices in Parish Councils*”, the referred amendment of the “*Post Office Operational Procedures Manual*”, in the part concerning “*Handling of Complaints/Requests for Information*” (now brought by CTT) mentions that “*The photocopy of the complaints accepted in the Parish Council Complaint Books must be sent to the Centralisation Bureau, together with the daily accounts and accompanied by a document explaining the situation that originated the complaint*”<sup>21</sup>.

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<sup>18</sup> Emphasis added by the author.

<sup>19</sup> Emphasis added by the author.

<sup>20</sup> By virtue of Regional Legislative Decree 42/2006/A of 31 October.

<sup>21</sup> Emphasis added by the author.



4. The version of the “*Partner Manager Post Office Service Procedures Manual*”, submitted by CTT as Annex II (7th edition, dated 08.01.2019), contains a point “VII.” entitled “*Handling complaints/requests for information*”, the contents of which correspond fully to the amendment made to the “*Post Office Operational Procedures Manual*” in January 2019 concerning the handling of complaints and requests for information (submitted by that company as Annex III.a).

## II. LEGAL FRAMEWORK

**Decree-Law 156/2005, of 15 September<sup>22</sup>**, establishes the **obligation for all establishments providing goods or services to have and make available a complaints book**, specifically, those related to postal services which, cumulatively: i) are **installed on fixed or per permanent premises, and engaged, solely or principally, habitually and professionally, in the activity** and ii) **have contact with the public**, in particular through customer service intended for the offer products and services or maintaining customer relationships<sup>23</sup>.

As for the respective availability, Article 3 (1) (b) of the aforementioned law establishes that **the supplier of goods or service provider is obliged to immediately and free of charge provide to the consumer or user the complaint book whenever this is requested**, without prejudice to compliance with the rules of the order of service provided at the commercial establishment, with respect to priority service arrangements.

Therefore, in view of the regime provided for in Decree-Law 156/2005, of 15 September, establishments providing postal services are subject to the obligation to provide, and immediately make available, a complaints book.

And, as there is an **obligation to make a complaint book available for a particular service** – in this case, the postal service – the obligation **extends to any issue related to the provision of that service about which the consumer or user wishes to complain**.

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<sup>22</sup> With the amendments introduced by Decree-Law 371/2007, of 06 November, 118/2009, of 19 May, 317/2009, of 30 October, 242/2012, of 07 November, and 74/2017, of 21 June.

<sup>23</sup> In accordance with Article 1 (2) and Article 2 (1) (a) and (b) of Decree-Law 156/2005, of 15 September, in conjunction with subdivision e) of paragraph 10 of its single Annex.

In the case of entities subcontracted by the postal service provider (which, in this case, is the universal postal service provider), this means that these third parties are required to make a complaint book available to any consumer or user who goes to the postal service establishment and wishes to complain about the postal services, regardless of whether the complaint concerns them directly or not, i.e. whether or not it relates to postal services provided at that particular office.

Additionally, the amendments introduced to Decree-Law 156/2005, of 15 September, by Decree-Law 74/2017, of 21 June, now provide, under Article 2 (7), that “(...) it is incumbent upon suppliers of goods and providers of services whose activity is subject to regulation by an industry regulator or competent market control entity to ensure compliance with the obligations provided in the present decree-law in cases where supplies of goods and the provision of services are performed, even if not exclusively or principally, at the premises of Public Administration services and bodies which have contact with the public”<sup>24</sup>.

Moreover, the version of the law prior to the publication (and entry into force) of Decree-Law 74/2017, of 21 June, provided, in the respective Article 5 (1) and (3), that upon completion of the complaint form, the supplier of the good, the provider of the services or the official of the establishment was required to detach from the complaint book the original copy which, within 10 working days, should be sent to the competent market control entity or industry regulator – with this original being accompanied by the submissions that the supplier of the goods or the provider of the services wished to make, as well as the clarifications given to the complainant as a result of the complaint.

With the new wording given to the aforementioned Article 5 (following the modifications introduced by Decree-Law 74/2017, of 21 June), after filling in the complaint form, the supplier of the goods, the provider of the services or the official of the establishment was then required to send the original copy of the complaint book page (to the relevant market control entity, to the industry regulator or to any of the entities provided for under that legal provision, as the case may be) within 15 working days (unless a separate deadline were established under special law), as well as to send the reply already sent to the consumer or user as a result of the complaint submitted – and may also provide clarifications regarding the situation subject to complaint, including information on any follow-up provided.

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<sup>24</sup> Emphasis added by the author.

### III. ANALYSIS OF THE FACTS

#### A. ANALYSIS OF FACTS OBTAINED FOLLOWING COMPLAINTS SUBMITTED (PARAGRAPH I.A. ABOVE)

The exercise of an activity by any entity (especially, if it is exercise on a professional basis) presupposes that those in charge are aware of the rules governing that activity and its exact scope, in particular as regards the obligations to which they are subject.

However, where the provision of postal services at post offices is carried out by third parties that CTT subcontracts to provide them, such third parties act by following very specific instructions given by that company regarding the various aspects of the provision of services, which tends to result in compliance with any guidance given by that company, namely regarding the provision of a complaints book, being understood as obligatory.

As such, while the obligation to make a complaints book available at postal service establishments extends to any issue related to such services, it is accepted that post office managers, even if they are aware of the obligation to immediately provide such a book – which, moreover, is made clear by CTT – may be convinced, given the information provided by that company, that they do not have to make a complaint book available in situations involving postal services not provided at those establishments.

And even if CTT, by mentioning (in Information Sheets and in the “Post Office Operational Procedures Manual”, 5th edition, approved on 08.03.2017 – referred to in paragraph I.A. above) *“other postal services, not provided at the office”*, only refers to services that are never provided at the offices – a possibility cogitated by the fact that the *“CTT Distribution Service”* has been given as an example (even if such services are not effectively excluded from the obligation to provide the complaint book) – the fact is that it is not obvious that this is so, much less for entities that certainly do not have comprehensive knowledge of the services provided by CTT, and whether or not they can be provided at the offices.

As results from the foregoing, the information contained on the sheet bearing the CTT letterhead and the title *“Post Offices”, “INFORMATION SHEET 23 – Complaint Books”*, according to which *“Complaints concerning other Postal Services, not provided at the Office*

(e.g. CTT Distribution Service) should not be registered in the Complaint Books of the Entity/Establishment where the Post Office operates, as a result of which the Customer must be asked in advance by the Provider to which activity the complaint relates”, does not provide a correct interpretation of the obligation provided under Article 3 (1) (b) of Decree-Law 156/2005, of 15 September.

The same is true of the information contained on the page of the “*Post Office Operational Procedures Manual*” (5th edition, with approval date of 08.03.2017), since it provides:

- that “*The Complaint Books shall be made available to Customers wishing to complain about the Service provided by Post Office(s)*” and that “*Complaints about other Services (e.g. CTT Distribution Service) shall not be registered in the Complaint Books of the Entity/Establishment where the Post Office operates*” (see its paragraph “*7.1. Complaint Books*”); and
- that, “*in order to enable all customers to submit any complaints or information regarding other CTT services outside the scope of the postal services provided by the Office, such as CTT distribution services, the Offices must indicate the alternative means that Customers have at their disposal to submit these kinds of complaint or information requests (...)*” (see the respective paragraph “*7.2. Other Available Channels*”).

It should be added that, even in relation to situations in which complaints are filed in the Complaint Books provided for under Decree-Law 156/2005, of 15 September, the aforementioned Information Sheets are unclear – and may mislead the entities operating the post offices – as to the time frame available for such entities to send the original complaint forms to the appropriate regulator, since, although they begin by stating that they should be sent “*within the deadlines defined in prevailing law*” (without indicating the specific deadline provided in law), they also state (on the same page) that such submission should take place “*at the earliest opportunity*”.

## **B. ANALYSIS OF THE FACTS DETERMINED FROM INVESTIGATIONS INSTITUTED BY ANACOM (PARAGRAPH I.B. ABOVE)**

As already mentioned, the legal obligation for providers of services to make a complaint book available extends to any issue related to the provision of a given service, and any partners of

the provider of that service (or entities subcontracted to provide the service, even if partially) must make available a complaint book at their establishment to all consumers or users who go there to complain about the service in question, regardless of whether or not the complaint directly concerns them.

This means that, in the case of post offices operating at establishments pertaining to third-parties that CTT subcontracts to provide its services, such entities are required to make available the compulsory complaint book at the establishment where the post office operates (whether or not this activity – the provision of postal services – is exercised exclusively, and even if, at the establishment, a different main activity is carried out) for the registration of any complaint related to postal services, even if it concerns a service not provided at that office (either because it was not provided in that specific case, or because it is a type of service that is not provided at that office, or at the offices in general).

Thus, the information contained in the updated version of the “*Post Office Operational Procedures Manual*”, resulting from the amendment introduced in January 2019<sup>25</sup>, under which in the document “*New Procedure for Office Complaints, to be included in the 7th Edition of the Operational Procedures Manual of the Offices and to be followed by all providers with immediate effect*”, with the title “*Handling of complaints/requests for information*” it reads:

- in its paragraph 1. entitled “*Complaint Books*”, “Only complaints concerning postal services provided by the Office should be registered in the Office Complaint Books, whereby the Customer should be asked in advance by the Provider which activity is to be complained about (e.g.: complaints concerning the CTT Distribution service shall not be recorded in the Office Complaint Books)”<sup>26</sup>, it still fails to correctly interpret the obligation laid down under Article 3 (1) (b) of Decree-Law 156/2005, of 15 September; and
- in its paragraph 2., entitled “*Complaints concerning other postal services not provided by the Office*”, that, “In order to enable all customers to submit potential complaints about other services outside the scope of the postal services provided by the Office, such as distribution services, for example, the Post Offices must indicate, without this information

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<sup>25</sup> Annex III.a sent by CTT.

<sup>26</sup> Emphasis added by the author.

being displayed at the Office, the alternative means available to customers/the general population for making such complaints (...)<sup>27</sup>.

even though its wording has changed (compared to the previous version), it still fails to correctly interpret the obligation laid down under Article 3 (1) (b) of Decree Law 156/2005, of 15 September.

It is understood that the fact that the first of these pieces of information is followed by the comment “Please be aware, however, that, should the customer insist, the Office must not refuse to make the Complaint Books available”<sup>28</sup>, it is concluded that this additional clarification does not in any way alter the inaccuracy of the information provided by the company, since compliance with the obligation to make complaint books available implies that such disclosure is immediate, i.e. that the complaint book must be made available as soon as the customer requests it, and not at a later time (and cannot depend on the complainant insisting on its respective presentation).

Following the changes to the complaint books system introduced by Decree-Law 74/2017, of 21 June, it is incumbent upon the suppliers of goods and the providers of services whose activity is subject to regulation by an industry regulator, or competent market control entity, to ensure compliance with the obligations provided for in that Decree-Law, in cases where there is a supply of goods or provision of services, even if not exclusively, or principally, at the premises of the Public Administration services and bodies which have contact with the public.

As such, in the case of post offices located in the RIAC (as explained above), as the provision of postal services is involved (an activity that is subject to regulation by ANACOM, as regulator of the communications industry) at sites providing (Regional) Public Administration services which have contact with the public, it is incumbent upon CTT, as provider of those services, to ensure the existence of a complaints book. This book cannot but be the complaint book referred to in Decree-Law 156/2005, of 15 September, and not the Public Administration Complaint Books, as was the case before the amendment introduced by Decree-Law 74/2017, of 21 June.

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<sup>27</sup> Emphasis added by the author.

<sup>28</sup> Emphasis added by the author.

Thus, the information contained in the “*Post Office Operational Procedures Manual*” regarding the “*Handling of complaints/requests for information*” now submitted by CTT – under paragraph 4., entitled “*Acceptance of complaints at Post Offices located in the RIAC (Azores)*”, reads that “*The Integrated Citizen Support Network (RIAC) which has Post Offices in operation shall provide the Public Administration Complaints Books (Yellow Books) to record all complaints concerning Mail Services Provided at that Office*” – also fails to correctly interpret the obligation laid down under Article 2 (7) of Decree Law 156/2005, of 15 September.

As mentioned in relation to the post offices installed in the RIAC, also in the case of the post offices installed in the Parish Councils, it follows from the current complaints book system that it is CTT, as the entity providing those services, that should ensure the existence of a complaint book relating to the postal services provided there. Once again, these books cannot but be the complaint books referred to in Decree-Law 156/2005, of 15 September, and not the Public Administration Complaint Books usually available at the Parish Councils, as was the case before the amendment introduced by Decree-Law 74/2017, of 21 June.

It should be noted that, as is apparent from the wording of Article 2 (7) of Decree-Law 156/2005, of 15 September, in cases where postal services are provided at sites of Public Administration services and bodies that have contact with the public, CTT must ensure the fulfilment of all obligations established in that law – which involves, not only the existence and provision of the Complaints Book provided under that law, but also the other rules arising therefrom.

As mentioned above, in the text of the document containing the amendments to the “*Post Office Operational Procedures Manual*” introduced in January 2019 (Annex III.a submitted by CTT), it states:

- under paragraph 1.: that “*It is incumbent upon the provider to forward to the regulator of its activity the complaints registered therein, even if regarding its activity as a Post Office, within the deadlines defined in prevailing law (with the exception of Parish Councils that have specific rules as described under paragraph 3 below), in compliance with the following:*

  - ***The Originals*** (Coloured Red) should be sent to the industry regulator at the earliest opportunity;

- **The Duplicates** (Coloured Blue) are given to the customers;
  - **The Triplicates** (Coloured Orange) remain in the Book.”
- under paragraph 3.: that “*The photocopy of the complaints accepted in the Parish Council Complaint Books must be sent to the Centralisation Bureau, together with the daily accounts and accompanied by a document explaining the situation that originated the complaint*”.

Thus, the information contained in that document regarding the post offices located in Parish Councils also misinterprets the obligation provided for in Article 2 (7) of Decree-Law 156/2005, of 15 September, not only because the book to be made available for postal service complaints has to be the book provided for in this law (and not the “*Parish Council Complaint Books*”), but also because, in these cases, the rules concerning the intended use of the originals, duplicates and triplicates of the complaint forms provided for in that law must be followed.

It should be added that the references to the deadline for compliance with the obligation to send the original complaint forms contained in this Manual, being made in different ways and without indicating the specific deadline to be complied with, are not sufficiently informative, and may create confusion among the entities that operate the post offices.

Regarding the version of the “*Partner Manager Post Office Service Procedures Manual*”, submitted by CTT as Annex II (7th edition, dated 08.01.2019), as it presents a paragraph “*VII. Handling of complaints/requests for Information*”, the content of which fully corresponds to that of the amendment made, in January 2019, to the “*Post Office Operational Procedures Manual*” as regards the handling of complaints and requests for information (submitted by that company as Annex III.a), the considerations made in relation to that Manual are fully reproduced herein.

#### **IV. PRIOR HEARING PROCEDURE**

By determination dated 04 April 2019, ANACOM’s Management Board approved the draft decision (hereinafter “SPD”) concerning the determination to correct the information disclosed by CTT, regarding the obligation to make complaint books available at establishments providing postal services.



Through the official letter having the ref. no ANACOM-S006394/2019, of 05 April, CTT was given notice to comment on the aforementioned SPD, pursuant to and for the purposes provided for in Articles 121 and 122 of the Administrative Proceeding Code.

CTT promptly issued its opinion on 23 April 2019, generally assuming a position against the SPD approved by said determination.

The arguments put forward by CTT in its response are analysed in the corresponding prior hearing report, which forms an integral part of this decision.

In view of the arguments presented by CTT, ANACOM considered that there were no reasons to change the substance of the proposed decision, except for the deadline for implementation of the determinations provided for in paragraph 1 of the respective decision, which it understood (on the grounds set forth in that report) should be changed to 45 working days.

## **V.DECISION**

Pursuant to Article 8 (1) (h) of ANACOM's Charter, as approved by Decree-Law 39/2015, of 16 March, one of the duties of this Authority, as Regulator, is to protect the rights and interests of consumers and other end-users.

Article 9 (1) (k) of said Charter provides that, in the performance of its duties, it is incumbent upon this Authority, in particular, to consider grievances or complaints from consumers and other end-users that it becomes aware of in the exercise of its duties and, **where these concern non-compliance with provisions, the observance of which is subject to its supervision, to issue recommendations or order the adoption of corrective measures.**

And paragraph 2 (b) of the same provision provides that ANACOM, in the exercise of its powers, shall **issue orders, instructions and determinations and make recommendations.**

In the context of the administrative procedure leading to the issuance of a determination by ANACOM, interested parties have the right to be heard at a prior hearing on the draft decision that this Authority intends to adopt, pursuant to Article 121 of the Administrative Proceeding

Code (APC), and must be notified to give their opinion within a period of not less than ten working days, pursuant to Article 122 of the same Code.

Therefore, whereas:

- a) the entities subcontracted by CTT for the provision of postal services at the post offices are bound to fulfil the obligation to immediately make available the complaint books provided for in Article 3 (1) (b) of Decree-Law 156/2005, of 15 September;
- b) this obligation implies that the complaint books necessarily existing at the establishment shall be made available to any consumer or user requesting them in order to make a complaint concerning the provision of postal services, regardless of whether or not it relates to a service provided at that office;
- c) postal services are carried out at post offices in a very particular way, whereby the entities subcontracted by CTT to provide them act in accordance with very specific instructions given by that company regarding the various aspects of the provision of the service;
- d) under such circumstances, any guidance given by CTT, namely regarding the provision of the complaint books, is especially valued by those in charge of those establishments, and tends to be followed in their duties as postal service providers;
- e) CTT provides an Information Sheet to the post offices containing information on the procedures to be followed by the service providers with regard to the complaints book, which includes the observation that complaints concerning services not provided at the office should not be recorded in the complaint books existing at the establishment where it operates;
- f) its Post Office Operational Procedures Manual (version dated 08.03.2017) contains the same information and also the (prior) observation that the complaint books should (only) be made available to customers wishing to file a complaint concerning the service provided by the post office;

- g) The Procedures Manual referred to in the preceding subdivision also indicates that, for the submission of any complaints concerning other CTT services outside the scope of postal services provided by the office – such as CTT distribution services – the offices should indicate the alternative means available to customers for making such complaints;
- h) the version of the “*Post Office Operational Procedures Manual*” amended in January 2019, the part “*Handling of complaints/requests for information*” contains the same kind of observations (although with some editorial changes, which in no way change their meaning);
- i) this information does not correctly interpret the obligation under Article 3 (1) (b) of Decree-Law 156/2005, of 15 September, and may lead to situations of non-compliance with the aforementioned law by the entities in charge of the establishments where the post offices operate;
- j) CTT is required to comply with the obligation provided for in Article 2 (7) of Decree-Law 156/2005, of 15 September, introduced by Decree-Law 74/2017, of 21 June;
- k) this obligation implies that, in the case of the provision of postal services in Public Administration services and bodies that have contact with the public, CTT ensures compliance with the obligations provided for in Decree-Law 156/2005, of 15 September – namely, as to the existence of the complaint books provided for in that law and the intended use of the originals, duplicates and triples of the complaint forms – at the post offices that operate there;
- l) the version of the Post Office Operational Procedures Manual amended in January 2019 contains the observation that the RIAC that has post offices in operation shall make available Public Administration Complaint Books to record all complaints concerning the postal services provided there;
- m) the RIAC being a Public Administration (Regional) service that has contact with the public, this information fails to correctly interpret the obligation laid down in Article 2 (7) of Decree-Law 156/2005, of 15 September;

- n) paragraph 1 of the January 2019 version of the Post Office Operational Procedures Manual exempts offices operating in Parish Councils from complying with the rules concerning the intended use of the originals, duplicates and triplicates of complaint forms and, in point 3., alludes to complaints accepted in Parish Council Complaint Books – which reflects an incorrect interpretation of the obligation established in Article 2 (7) of Decree-Law 156/2005, of 15 September;
- o) the Partner Manager Post Office Service Procedures Manual (version dated 08.01.2019) presents a paragraph concerning the handling of complaints/requests for information, the contents of which correspond fully to the 2019 version of the Post Office Operational Procedures Manual, raising the same concerns;
- p) in the Information Notices and in the Procedures Manuals mentioned in this document, references to the deadline for compliance with the obligation to submit the original complaint forms, being made in different ways and without indicating the specific deadline to be complied with, are not sufficiently informative, and may cause confusion among the entities that operate the post offices;

And, as it is important to stop the disclosure, by CTT, of inaccurate or unclear information concerning the obligations set out in the complaint book system, in particular in conjunction with the entities it subcontracts to provide post office services – and which may lead to situations of non-compliance with Article 2 (7), Article 3 (1) (b) and Article 5, all of Decree-Law 156/2005, of 15 September;

**Pursuant to Article 8 (1) (h), Article 9 (1) (k) and (2) (b) and Article 26 (1) (b), all of ANACOM's Charter, as approved by Decree-Law 39/2015, of 16 March, as well as in Article 11 (1) (j) of Decree-Law 156/2005, of 15 September<sup>29</sup>, in conjunction with paragraph 10 (e) of its single Annex and Article 37 (1) (f), Article 41 (1) and 45 (3) (a), all of Law 17/2012, of 26 April<sup>30</sup>, the Management Board determines the following:**

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<sup>29</sup> With the amendments introduced by Decree Laws 371/2007, of 06 November, 118/2009, of 19 May, 317/2009, of 30 October 242/2012, of 07 November, and 74/2017, of 21 June.

<sup>30</sup> With the changes introduced by Decree-Law 160/2013, of 19 November and by Law 16/2014, of 04 April.

1. Orders CTT – Correios de Portugal, SA, within 45 working days from the date of notification of the final decision, to correct the information in question, adapting it to the exact scope of Decree-Law 156/2005, of 15 September (in its current wording), in all materials through which it is made available, namely, in the Information Sheet distributed to post offices, the Post Office Operational Procedures Manual and the Partner Manager Post Office Service Procedures Manual, clarifying, in those informative materials that:
  - i. whenever customers go to the post office and wish to lodge complaints concerning postal services, whether or not they are provided at that establishment, the complaint book shall be made available by that post office;
  - ii. in cases where postal services are provided, even if not exclusively or principally, at the premises of Public Administration services and bodies that have contact with the public, CTT shall ensure the existence of the complaints book provided for in the Decree-Law 156/2005, of 15 September, as well as the other obligations established therein.
2. Orders CTT – Correios de Portugal, SA, within 5 working days of expiry of the period referred to in the preceding paragraph, to send to ANACOM evidence that the information in question has been corrected, as defined in that paragraph.
3. Recommends that, in the materials referred to in paragraph 1 above, the time limit for sending the originals of complaint forms should be specified.

Lisbon, 25 July 2019.