

Decision on request submitted by CTT, pursuant to article 6 of the *Convénio de Qualidade* (Quality Convention) of the universal postal service of 10 July 2008, to discount records related to non-priority and priority mail affected by the general strike of 14 November 2012, for purposes of calculating the QSI defined in the Quality Convention

1. The *Convénio de Qualidade* (Quality Convention) of the universal postal service, agreed on 10 July 2008 between ICP - Autoridade Nacional de Comunicações (ICP-ANACOM) and CTT - Correios de Portugal, SA (CTT), provisionally in force under article 7 of article 57 of Law no. 17/2012 of 26 April, establishes, on an annual basis, the parameters and minimum levels of quality of the universal postal service which CTT undertakes to provide¹.
2. In article 6, paragraph 1 of the *Convénio de Qualidade* (Quality Convention), it is established that "should any force majeure or phenomenon situation take place, the instigation and evolution of which are clearly outside the control of CTT, and have an impact on the quality of service provided by CTT, the latter may request, for the purpose of calculation of the quality of service indicators (QSI) [...], the discounting of records for the concerned periods of time and geographic flows."
3. Paragraph 2 of the same article states that the force majeure or phenomenon situations mentioned in paragraph 1 "shall be deemed to mean unpredictable or insurmountable natural events and/or facts attributable to third parties, that are triggered, evolve, or the effects of which occur regardless of CTT's will and ability to control, such as war, subversion, epidemics, cyclones, earthquakes, fire, lightning, floods, general strikes and any other similar events that may impair normal conditions of clearance, sorting, transport and distribution of postal items."
4. The request to discount records must be presented by CTT, on a reasoned basis, within a maximum period of 60 (working) days following the date of the occurrence, in accordance with paragraph 4 of article 6.

¹ See <http://www.anacom.pt/render.jsp?categoryId=191422>.

5. The decision whether or not to consider any request made by CTT falls, under paragraph 5 of the same article 6, to ICP-ANACOM, and is to be notified to CTT within 30 (working) days from the date on which the request is received; in the event that the request is denied, the respective decision is to be duly reasoned. Irrespective of whether a request to discount records is presented, CTT remains bound to find the best alternatives during periods in which any situations referred to in paragraphs 1 and 2 of article 6 occur.
6. It is well known, given widespread reporting, that there was a general strike of workers on 14 November 2012, which, according to the media, saw participation by CTT employees.
7. CTT, by letter dated 14.01.2013, reported that on 14.11.2012 there was a general strike called by the general CGTP trade union; the strike saw participation by trade unions representing CTT employees, resulting in a staff stoppage which had overall participation of 25.9 percent at CTT, with higher levels of participation in the operational services of mail sorting and transportation (39.8 percent) and distribution (40.4 percent). This hampered the normal functioning of the postal network nationally.
8. In its letter, CTT reported that, in order to minimize the expected impact of this strike on the postal service, the company developed a plan for the days preceding and following the general strike to strengthen operating activities. This plan consisted of: (i) the intensification of sorting operations on the days preceding and following the strike, to the increase amount of mail sorted automatically, (ii) bringing forward and immediately increasing transport links on the day preceding the strike and in the days following, with implementation of a contingency plan on the day of the strike, in order to ensure operation of connections with the greatest impact in terms of quality of service, (iii) increasing distribution in the days prior to the general strike, in order to accelerate delivery of items accepted over this period.
9. According to CTT, and notwithstanding implementation of the measures put in place and their maintenance in the days following the strike, the strike occurring on 14.11.2012 caused delays in the routing and delivery of postal items, which affected the accomplishment of quality of service during November 2012.

10. CTT also reported that given the transit time of the various services, the biggest impact on quality was seen in terms of priority mail / *correio azul*, as well as, albeit to a lesser extent, non-priority mail.
11. Invoking the nature and causes of the exceptional situation occurring on 14.11.2012 due to reasons whose instigation and effects were beyond the control of the company, CTT submitted a request to ANACOM pursuant to and for the purposes of Article 6 of the *Convénio de Qualidade* (Quality Convention); in this request, CTT requested that, in calculating the QSI in respect of November 2012, records be discounted as covering the sending of priority mail and non-priority mail, on the following routes and in the following periods:
- i) *correio normal* (non-priority mail) sent from 9 to 14 November (inclusive) on all national routes;
 - ii) *correio azul* (priority mail) sent on 13 and 14 November on Mainland routes;
 - iii) *correio azul* (priority mail) sent from 12 to 14 November (inclusive) on routes between the Mainland, the Azores and Madeira.
12. Given the standard of the service of:
- a) *correio normal* (non-priority mail) - delivery within 3 working days following acceptance - the strike may affect non-priority mail sent between 9 and 14 November;
 - b) *correio azul* (priority mail) on Mainland routes - delivery 1 working day following acceptance - may affect priority mail sent between 13 and 14 November in the Mainland;
 - c) *correio azul* (priority mail) on Mainland-Azores-Madeira routes - delivery within 2 working days following acceptance - the strike may affect priority mail sent between 12 and 14 November on routes between the mainland, the Azores and Madeira.
13. The facts, as claimed by CTT, constitute a situation of force majeure, comprising a general strike as foreseen under paragraph 2 of article 6 of the *Convénio de*

Qualidade, triggered, evolving and having effects regardless of CTT's will and ability to control, impairing normal conditions of clearance, sorting, transport and distribution of *correio normal* (non-priority mail) and *correio azul* (priority mail) postal items on all national routes.

14. Therefore, considering:

- i) the information communicated by CTT, by letter dated 14.01.2013;
- ii) the provisions of paragraphs 1 and 2 (as referred to above) of article 6 of the *Convénio de Qualidade* (Quality Convention);
- iii) that on 14.11.2012, a general strike took place in Portugal;
- iv) that the stoppage caused by the general strike affected the sending of non-priority and priority mail in November 2012, causing delays in the distribution of mail, which affected the accomplishment of quality of service:
 - with respect to *correio normal* (non-priority mail) sent on 9 to 14 November (inclusive), on national routes;
 - with respect to *correio azul* (priority mail) sent on 13 and 14 November, on Mainland Routes;
 - with respect to *correio azul* (priority mail) sent on 12 to 14 November (inclusive), on routes between the Mainland, the Azores and Madeira;
- v) that the facts, as claimed by CTT, constitute a situation of force majeure, comprising a general strike as foreseen under paragraph 2 of article 6 of the *Convénio de Qualidade* (Quality Convention), triggered, evolving and having effects regardless of CTT's will and ability to control, impairing normal conditions of clearance, sorting, transport and distribution of non-priority mail and priority mail;
- vi) that, in accordance with article 10 of the *Convénio de Qualidade* (Quality Convention), CTT shall send to ICP-ANACOM quarterly reports, by the end of the month following the end of the quarter, which reports shall show the

evolution of QSI values accomplished, and shall enable the monitoring of these values,

the Management Board of ICP-ANACOM, in exercise of the assignments conferred by points b), d), h) and n) of paragraph 1 of article 6 and point b) of article 26, all of its Statutes, as approved by Decree-Law no. 309/2001 of 7 December, and pursuant to paragraph 5 of article 6 of the *Convénio de Qualidade* (Quality Convention) governing the Universal Postal Service of 10 July 2008, as amended by on 10 September 2010, determines:

1. To allow the discount of records regarding the sending of *correio normal* (non-priority mail) and *correio azul* (priority mail) directly affected by the general strike of 14.11.2012, which relates to non-priority and priority mail, on the following routes and in the following periods:
 - i) *correio normal* (non-priority mail) sent from 9 to 14 November (inclusive) on all national routes;
 - ii) *correio azul* (priority mail) sent on 13 and 14 November on Mainland routes;
 - iii) *correio azul* (priority mail) sent from 12 to 14 November (inclusive) on routes between the Mainland, Azores and Madeira;
2. To order CTT that it send to ICP-ANACOM, within not more than fifteen working days:
 - i) The QSI values obtained in 4th quarter of 2012 with and without the discounting of the records in question;
 - ii) the annual QSI values reported for 2012, obtained with and without the discounting of records allowed by this decision and ICP-ANACOM decision of 5 July 2012, relating to the discounting of records following the general strike of 22 March 2012²;

² See <http://www.anacom.pt/render.jsp?contentId=1132082>.

- iii) a copy of the database used to calculate the annual values defined in the *Convênio de Qualidade* (Quality Convention), with and without the records discounted in 2012.