



EUROPEAN
REGULATORS GROUP
FOR POSTAL SERVICES

Report on Postal Definitions

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1 BACKGROUND

The purpose of this report is to explore the different parameters that may be used to identify the services and players in the postal sector for a future regulatory framework. Such parameters may then be useful in developing definitions flexible enough to be suitable for a consistent application in all Member States. These updated definitions would then provide a common language for assessing whether there are market failures requiring regulatory intervention.

The need of rethinking basic definitions and concepts is stated clearly by the ERGP both in the “Report on developments in the postal sector and implications for regulation”¹ and in the “ERGP Opinion on the review of the regulatory framework for postal services”². The latter also explicitly recommends to the European Commission “to set a clear scope of the postal sector”.

Hence, a future regulatory framework will need to outline clear and unequivocal definitions and concepts in order to easily determine whether specific markets and services can be considered to have a postal nature. To this end, the future regulatory framework should determine and clarify the parameters that are used to identify the services and products that fall within its scope.

The jurisprudence of European Union Court of Justice (ECJ) and National Regulatory Authorities’ (NRAs) practice in applying both current postal legislation and other relevant regulatory frameworks will also be considered.

The evaluation of the Postal Services Directive (hereafter “PSD”³) is one of the priorities of the European Commission (EC) and the approval of a report about the review is foreseen for after the last quarter of 2020. The first step of this evaluation was the public consultation to a Fitness check Roadmap held in March and April 2020, to which diverse postal stakeholders participated⁴. Chapter 2 provides an overview of recent market dynamics. The development of national and international e-commerce generates new challenges for current postal legal provisions, which have been originally conceived more for letters than for parcels.

¹ ERGP PL (18) 49 ERGP Report Developments in the postal sector and implications for regulation.

² ERGP PL I (19) 12 ERGP Opinion on the review of the regulatory framework for postal services.

³ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service.

⁴ <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11965-Report-on-the-Application-and-Evaluation-of-the-Postal-Services-Directive>



Chapter 3 presents the current relevant definitions in the different sources of postal legislation, identifying their major inconsistencies and highlighting the need to revise them in view of the recent developments of the sector.

Chapter 4 addresses the need to have a clear distinction between the postal sector and other sectors, namely the transport and the logistics sector. It also elaborates to what extent new operators arising in the context of platformisation and the collaborative economy, as well as from new delivery modes due to technological development, fall within its scope.

Chapter 5 explores the different parameters that may be used to identify services as postal services.

Chapter 6 points out the conclusions of the report and recommends what fundamental aspects should be considered in the definitions of the future regulatory framework.

This Report is a version to be submitted to Public Consultation during the Summer of 2020. The findings of the Report will be also discussed in the ERGP Stakeholders Forum on 17 September 2020. In view of the comments received during the Public Consultation and in the Stakeholders Forum, the Report will be updated and approved by ERGP in November 2020.



2 RECENT MARKET DYNAMICS

Postal markets are changing rapidly as a result of digitization of the society and postal operators have been adapting their business to this pace. The volume declines in letter mail and the substantial growth of parcels delivery, determined by digitisation and by changing consumer needs, are currently defining the trends in the postal sector.

The technological progress observed during the last years offered to the postal operators the possibility to provide postal services in a more efficient way, developing innovative modes of sorting and delivery and enabling better services for users.

E-commerce expansion is a key driver in the postal sector specifically for the parcel segment which is very dynamic: many players are entering in the market, developing new business models and creating new and innovative services oriented to users' preferences and needs.

A future regulatory framework will need to carefully consider all these trends, namely the transition from a paper-based to a more digital world. An element to be considered within the revision of the regulatory framework should therefore be the review of the postal definitions to adapt them to a digital environment and ensure they are future-proof. They should be drafted in a way that ensures their consistent application in all Member States (MS) to enhance the internal postal market, to have legal certainty, to guarantee a level playing field and to avoid competition problems.

The importance of the parcel and delivery sector has become even more evident with the Covid-19 outbreak, during which on-line purchases registered an increase all over Europe. With the shops closed and with people isolated at home, e-commerce has turned from a whim into a necessity. Once the European lockdowns are over, it is likely that the online sales and the penetration of e-commerce will remain at a higher level than before the outbreak. E-commerce and parcel delivery will be focal in future postal services and future proof postal definitions should consider this new reality.

3 CURRENT POSTAL DEFINITIONS

3.1 POSTAL SERVICE DEFINITION

Postal services are defined as “*services involving the clearance, sorting, transport and distribution of postal items*” (Article 2, paragraph 1, of the PSD).

There are no substantive differences in the transposition of this definition into national law: several MS transposed directly the definition of the PSD in their national postal laws, some other countries provided slightly different definitions or added some details. Table A. 1 of the Annex shows country’s definitions.

The main inconsistency in the transposition of the definition of postal services into national law is related with the requirement of a cumulative presence of all the four operational stages (clearance, sorting, transport and distribution) comprised in the definition of the PSD. In the majority of the cases, reading the national definitions does not allow to answer unequivocally if there is or not a cumulative requirement. Most countries indicate not to have a cumulative requirement, but one third of the countries require the cumulative provision of all four operations. Table B. 1 shows these results.

Table 1 – Implementation of the postal services definition

| Countries where postal services don’t comprise the provision of all 4 operational stages | Countries where postal services comprise the provision of all 4 operational stages |
|---|---|
| AT, BE, BG, CH**, DE, DK, EL, ES, IT, LT, LV, LU, MT, NL, PL, RS**, SE, SI, SK and UK | CY, CZ, EE, FR, HR, HU, ME, NO**, PT and RO |
| 20 | 10 |

* In Norway, subcontractors that only offers one or some of the four operational stages are not considered as a postal provider. Only those that are offering the whole delivery chain and have the responsibility for the delivery are considered as postal providers.

** CH, ME, NO, RS are not obliged to transpose the PSD to their national law.

Therefore, it can be stated that there is not a uniform transposition of the PSD into national law with regard to the definition of “postal service”, specifically concerning the cumulative nature of the postal operations set forth in that definition. However, as the Court of Justice of the European Union clarified

in C-259/16 there is nothing to preclude national legislation stating that the services must not be required in cumulation.

This inconsistency in the transposition seems to originate from the unclear set of the definition of “postal services providers” and Recital 17 of the Directive 2008/6/EC (that amended the PSD) concerning the operation of transport. In fact, if *clearance, sorting, transport and distribution* set in the definition of postal service might at first sight point to a cumulative requirement based on the conjunction “and”, the definition of postal service provider states that it is the *undertaking that provides one or more postal services*, which can be interpreted as referring to one of the set postal operations or one type of postal service. Also, recital 17 of the Directive 2008/6/EC (that amended the PSD) states that *transport alone should not be considered as a postal service*, which again could be interpreted both in line with a cumulative requirement or in line with the requirement of providing at least one of the operational stages, excluding stand-alone transport.

Furthermore, later on, this question was addressed by the Regulation (EU) 2018/644 of the European Parliament and of the Council on cross-border parcel delivery services (hereafter Regulation on cross-border parcel) and the ECJ jurisprudence has clarified the definition, at least for the provision of parcels.

The Regulation defines a “parcel delivery service provider” as an undertaking that provides one or more parcel delivery service with the exception of undertakings established in one Member State alone, that only provide domestic parcel delivery services as part of a sales contract and as part of the contract personally deliver goods that are subject of that contract to the user (Article 2, paragraph 3).

The ECJ further helped to clarify the definition of postal service providers. In the “Confetra Case”⁵, it was found that (points 34 and 41): *“In those circumstances, an undertaking must be classified as a ‘postal service provider’ within the meaning of Article 2(1a) of Directive 97/67 where it provides at least one of the services set out in Article 2(1) of the directive or the service or services thus provided relate to a postal item, although its business cannot consist merely in the provision of transport services. It follows that haulage and freight-forwarding enterprises offering, as their principal business, a service entailing the transport of postal items and, as an ancillary activity, services entailing the clearance, sorting, and distribution of postal items does not fall outside the scope of the directive. (...)”*

In the light of the foregoing considerations, the answer to the first question is that Article 2(1), (1a) and (6) of Directive 97/67 is to be interpreted as not precluding national legislation, such as that at

⁵ Judgment of the Court of 31 May 2018 in joined Cases C-259/16 and C-260/16.

issue in the main proceedings, under which haulage, freight-forwarding and express mail undertakings providing services involving the clearance, sorting, transport and distribution of postal items constitute, except where their business is limited to the transport of postal items, postal service providers within the meaning of Article 2(1a) of the directive”⁶.

Hence, the jurisprudence has provided sufficient justification to conclude that the cumulative requirement is not needed. However, this does not imply that Member States have amended national law in light of the Confetra Case.

3.2 CLEARANCE, SORTING, TRANSPORT AND DISTRIBUTION

In the PSD “clearance” is defined as *“the operation of collecting postal items by a postal service provider”*. (Article 2, point 4, of the PSD).

Most countries stated to have the same definition in their national legislation. A few countries informed about different definitions and others indicated not to have established a definition for “clearance” in their national postal laws. Table B. 1 of the Annex shows country’s definitions.

The PSD does not provide a definition for sorting and transport. Only a few countries indicate to have established definitions of “sorting” and of “transport” in their national postal laws. Table Table B. 1 of the Annex shows country’s definitions.

According to Article 2, point 5, of the PSD, “distribution” covers the process from sorting at the distribution center to delivery of postal items to their addressees.

Almost half the countries indicate to have transposed into their national postal laws the exact definition of “distribution” of the PSD. A few countries indicate to have established a different definition, adding or eliminating some elements. Table B. 1 of the Annex shows country’s definitions.

⁶ Also relevant is the Attorney-General Campos Sánchez-Bordona opinion in this process (no. 36, 37, and 40 to 45): *“(…) To my mind, what matters with regard to Directive 97/67 is not the proportion of ‘ancillary’ services in relation to transport services but the fact that an operator provides the former in addition to the latter in the context of the definition of the postal services (…)* Lastly, the interpretation I propose is borne out by the proposal for a regulation on cross-border parcel delivery services, recital 8 of which states that, ‘in line with current practice and Directive [97/67], each step in the postal chain, i.e. clearance, sorting and delivery should be considered parcel delivery services’ and that ‘transport alone that is not undertaken in conjunction with one of those steps should fall outside the scope of parcel delivery services as it can in this case be assumed that this activity is part of the transport sector’”.



3.3 POSTAL PROVIDERS

According to the PSD, a postal service provider is an undertaking that provides one or more postal services. The Regulation on cross border parcels defines the scope of operators providing parcel services as *“an undertaking that provides one or more parcel delivery services with the exception of undertakings established in one Member State alone, that only provide domestic parcel delivery services as part of a sales contract and as part of the contract personally deliver goods that are subject of that contract to the user”* (Article 2, point 3).

The ECJ in the “Confetra Case”⁷ clarifies that: *i)* postal operators do not need to provide cumulatively all the phases stated in the PSD; *ii)* courier/express operators are postal operators.⁸

The evidence shows that there is lack of harmonization in what is considered as postal provider amongst ERGP members. In some countries courier/express operators are not considered as postal operators because courier/express services are not considered postal services, as is the case for France⁹, Ireland¹⁰, the Netherlands¹¹ and Norway.

Another important aspect of the relation of the postal operator with the user, that needs to be taken into account, is the differentiation between postal operators that provide services to end users (and have the contract with them) and their sub-contractors¹².

⁷ See the ECJ Judgement - Joined Cases C-259/16 and C-260/16.

⁸ See also ECJ cases Jakelu, 15 June 2017, C-368/15, pt. 29; DHL Express (Austria), 16 November 2016, C-2/15, pt.31; DHL International, 13 October 2011, C-148/10, pt. 30 et 52).

⁹ In France *“postal services are clearance, sorting, transport and distribution of postal services in the context of regular rounds”*.

¹⁰ Decision made in 2012, following public consultation, that Express and Courier Services lack certain constituent features by which to be deemed “postal services”.

¹¹ According to Dutch Postal Act: *“the delivery of separately registered express mail on which separate agreements have been concluded between the sender and the provider concerning the period or time of ordering, about the delivery security and about the liability is not a postal service.”*

¹² There are substantial differences between postal operators and sub-contractors and the regulatory framework should distinguish and treat them according to their status.



3.4 POSTAL ITEMS

Postal item is defined in the PSD (Article 2, paragraph 6) as *“an item addressed in the final form in which it is to be carried by a postal service provider. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal parcels containing merchandise with or without commercial value.”* Hence, the PSD definition of postal item encompasses both letters and parcels. The definition of “postal item” has no clear reference to a weight or a dimension limit.

The reference to a weight limit is only mentioned in Article 3 of the PSD, which is only for postal items belonging to the universal service. More precisely, Article 3(4), paragraph 1, sets the weight limit for universal service “postal items” at 2 kg. At the same time, Article 3(4) paragraph 2, set the weight limit for universal service postal packages (parcels) at 10 kg¹³. The PSD gives also the possibility for MS to define a higher weight limit for universal service postal parcels, to any weight up to 20 kg.

The dimension is not expressly mentioned in the postal item definition. As with the weight, it is relevant within universal service rules where Article 3, paragraph 6, states that the minimum and maximum dimensions for the universal service postal items shall be those laid down in the relevant provisions adopted by the Universal Postal Union (hereafter “UPU”)¹⁴. It should be noted that the dimensions defined by UPU have an operational mindset, with a segmentation between letter-post items (containing documents or goods) and parcel-post items according to the UPU Regulations. The dimensions for letter-post items are defined by formats (P, G and E). There are three options of size

¹³ This difference in terms (postal packages vs postal parcels) appears only in the English version. Other versions such as Italian, Portuguese, French and Spanish versions use a unique term, respectively “pacco”, “encomenda”, “colis” and “colis paquete”.

¹⁴ According to the UPU 2015 Statistics and Accounting Guide Convention Manual, 2018 Berne:

- Small letters (P-format items) are defined by the characteristics; Minimum dimensions: 90 x 140 mm, Maximum dimensions: 165 x 245 mm, Maximum weight: 100 g, Maximum thickness: 5 mm.
- Large letters (G-format items) or "flats" are characterized as items that cannot be classified as small letters; Minimum dimensions: 90 x 140 mm, Maximum dimensions: 165 x 305 x 381 x 245 mm, Maximum weight: 500 g, Maximum thickness: 520 mm.
- Bulky letters or small packets (e-format items) (a non-standard envelope or parcel up to 2 kg) are characterized as items classified neither as small letters nor as large letters; Minimum dimensions: 90 x 140 mm, Maximum dimensions: 900 mm length, width and depth combined, with the greatest dimension not exceeding 600 mm, Maximum weight: 2 kg (5 kg for items containing books or pamphlets).

limits for parcels¹⁵. Furthermore, in the UPU, these formats are not only defined by the dimension (minimum and maximum), but also by a maximum weight and maximum thickness. Hence, the UPU classification is rather related to formats/dimensions, while the PSD segmentation is rather content-related.

The great majority of ERGP members has directly transposed the PSD's definition of "postal item" in their national law. Some countries have added more details (for example, Romania, Spain, Latvia and Serbia explain "addressed item" more precisely)¹⁶ while others did not mention details of the definition (for example Sweden and Switzerland make no reference to books and catalogues). In a few cases, the national legislation defines a maximum weight for postal items that exceeds 20 kg up to 30 kg for the Netherlands,¹⁷ up to 40 kg for Hungary and the limit of 31.5 kg (as from the Regulation EU 2018/644 and the UPU convention) for Belgium. There are also countries that extend or differentiate the definition; for example, in Hungary and the Netherlands, the texts for blind are included in the scope of postal items. Table C. 1 of the Annex provides exhaustive information on the different definitions adopted by Member States.

As mentioned, the definition of postal items of the PSD contains three types of items: items of correspondence; other items such as books, catalogues, periodicals and newspapers and postal parcels.¹⁸

¹⁵ Article 17-204 of the UPU Parcel Post Regulations:

- 1 Parcels shall not exceed two metres for any one dimension or three metres for the sum of the length and the greatest circumference measured in a direction other than that of the length.
- 2 Designated operators which cannot accept, for any parcel or for air parcels only, the sizes prescribed under 1, may adopt instead one of the following dimensions:
- 2.1 1.50 metres for any one dimension or three metres for the sum of the length and the greatest circumference measured in a direction other than that of length.
- 2.2 1.05 metres for any one dimension or two metres for the sum of the length and the greatest circumference measured in a direction other than that of length.

¹⁶ Romania: an item addressed in the final form in which it is to be conveyed and delivered to the address indicated by the sender on the item itself, on its wrapping or in a distribution list. Spain: every item intended for dispatch to the address indicated by the sender on the object itself or on its wrapping. Latvia: An item shall be deemed addressed if the address of the recipient of the item is indicated on the item itself or on the packaging thereof. Serbia: an item addressed by the sender in such a way that the addressee can be indisputably identified, and the accuracy of the address information is the responsibility of the sender.

¹⁷ 20 kg is for domestic and outbound international parcel while 30 kg is for inbound international parcel.

¹⁸ For books, catalogues, periodicals and newspapers no substantial differences were communicated so we are not analysing specifically this type of items.

The PSD provides a specific definition of “item of correspondence”, but not a precise definition of “postal parcel”.

An “item of correspondence” (Article 2, point 7) is as *“a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Books, catalogues, newspapers and periodicals shall not be regarded as items of correspondence”*.

The definition of “items of correspondence” has been transposed in national legislation by the majority of ERGP members directly, with some exceptions: for example, in Switzerland correspondence is up to 2 kg and with a maximum thickness of 20 mm; in France, only the 2 kg limit applies; in Spain, direct mail is specified as not being part of correspondence.¹⁹ Table D. 1 of the Annex provides exhaustive information on the different definitions adopted by Member States.

According to the definition of a postal item provided by the PSD, a postal parcel contains *“merchandise with or without commercial value”*, but there is no further specific definition on top of this element (good as content).

In the PSD the postal items are mainly divided between correspondence and parcels. These items are characterised by dimensions, weight and the scope of the liability.

The Regulation on cross border parcel defines parcels as every postal item containing goods, regardless if it is a letter post item (ordinary or registered) or parcel post item.

More precisely, Recital 16 of the Regulation contains the reversible assumption that *“postal items that are over 20 millimetres thick contain goods other than items of correspondence”*. From its enacting terms (Article 2, paragraph 1), it follows that “parcel” is *“postal item containing goods, with or without commercial value, other than an item of correspondence, with a weight not exceeding 31,5 kg”*. According to Recital 16, they can be considered to fall within the sphere of postal services, *“since heavier items cannot be handled by a single average individual without mechanical aids and this activity is part of the freight transport and logistic sector”*. Therefore, the Regulation complements, insofar as cross-border parcel delivery services are concerned, the rules set out in the PSD (Recital 13) and does not alter the definition of postal item in Article 2, paragraph 6 of the PSD or national law

¹⁹ In Germany, Greece, Netherlands, Sweden and Switzerland a “letter” or “letter post item” is defined in such a way that more or less resembles the definition of item of correspondence in the PSD; in Ireland “postal packet” is defined.



definitions based thereon (Recital 14). Moreover, it confirms the weight limit previously set by the EU Commission in two decisions²⁰.

As it is a Regulation, it is directly applicable in all EU Member States with no need to be transposed in national law, so the current weight limit for parcels is 31,5 kg. The PSD and the UPU define different limits for the parcels. The PSD provides weight limits only for products belonging to the universal service. The UPU conventional manual sets the limit to 20 kg, even though it states that the exchange of parcels up to 50 kg is optional.²¹ Table E. 1 of the Annex provides exhaustive information on the different definitions of parcel adopted by MS.

3.5 POSTAL NETWORK

Postal network is mentioned in the PSD only in relation to the universal service provider. It is defined as the system of organisation and resources of all kinds used in particular for the clearance, the routing and the handling of postal items from the access point to the distribution centre and distribution to the addresses shown on items.

Although the scope of the PSD is the provision of all postal services (which involves all postal providers), the postal network definition is limited to the universal service provider. The reason for this could be that the PSD was originally directed towards the provision of universal service. In ERGP opinion this should be changed in the future, as there is no rationale to consider that a postal network is a concept exclusively referring to the universal service.

3.6 POSTAL USER

The concept of “user” is defined in Article 2, paragraph 17, of the PSD as “*any natural or legal person benefiting from postal service provision as a sender or an addressee*”. Article 2, paragraph 16, defines “sender” as a natural or legal person responsible for originating postal items. In the PSD there is no definition of addressee. The PSD definition of user has been confirmed by a judgment of the ECJ where the Court reminded that postal service users within the meaning of Article 2 paragraph 17, of the PSD

²⁰ See Case N. COMP/M.6570 – UPS / TNT Express and Case N. COMP/M.7630 – FEDEX – TNT Express.

²¹ (Article 17-203 the UPU convention, Special conditions relating to limits of weights).

are the natural or legal persons benefiting from the service as senders, but also the recipients of those services.²²

National definitions are in line with the PSD definitions.

3.7 SELF-PROVISION

According to recital 21 of the PSD, self-provision is: *“provision of postal services by the natural or legal person who is the originator of the mail, or collection and routing of these items by a third party acting solely on behalf of that person”*. The fact that the PSD does not include self-provision in the scope of universal service does not exclude it from the list of postal services. The PSD clearly indicates that self-provision is, in all respects, an activity aimed at objectively providing a postal service.

A further profile deserves consideration. In a monopoly situation, the notion of self-provision used to be subject to specific external requirements aimed at avoiding the expansion of the reserved area; conversely, nowadays the notion of self-provision is subject to requirements aimed at ensuring the competitiveness of the market.

Some requirements were the object of the judgment of the ECJ in case C-240/02.²³

Some other requirements concern, instead, the qualities that the activity must possess in order to be qualified as a self-provision. In this perspective, when an authorization regime is in place, self-provision substantiates in an exemption regime: the self-provision undertaking does not need an enabling title (authorization) therefore, in a fully liberalized market, it can operate in a more favourable condition than competing undertakings. However, the self-provision company cannot carry out activities in competition with other companies in the reference markets.²⁴ Consequently, it can be

²² Joined Cases C-4/18 and C-5/18 DIREKT express Holding AG and JUREX GmbH.

²³ In light of the purpose then pursued by the PSD, namely the liberalization of postal services, the ECJ stated that Member States did not have the power to widen, through an extensive interpretation, the services reserved to universal postal service providers pursuant to Art. 7 of the PSD. The judgment of the ECJ therefore traced a clear boundary to safeguard the so-called "right to self-production", configured as a subjective right, which could also be exercised in a legal monopoly regime for certain activities.

²⁴ In this regard, in the regulatory practice of electronic communications, a criterion used to determine whether or not self-provision should be included in the calculation of the market share held by the vertically integrated operator consists in assessing whether self-provision places competitive constraints on other market operators. As BEREC noted, *"the consideration of self-supply has the final aim of describing in the most appropriate manner the relevant competitive constraint faced by operators in the relevant market. In some cases, considering only services provided to third parties could mislead the conclusions of the analysis"*.



affirmed that the right to self-provision is not absolute as it encounters insurmountable limits in the need not to alter the structure of the market at the expense of competition.

To sum-up, if, in a monopoly regime, a restrictive interpretation is justified to avoid an inadmissible expansion of the reserved area, in a fully liberalized market competition could be distorted if the possibility of not having the authorisation is extended to situations that cannot qualify as self-provision.

In light of the above, an activity can be qualified as self-provision when the sender (including a sister or subsidiary organisation²⁵), in carrying out its productive/commercial activity, originates a postal item that is delivered to the addressee. The originator of the postal item sends it by its own means (as a result of its vertical integration) and uses a domestic in-house delivery network in order to fulfil orders of its own goods sold under a sales contract²⁶. Conversely, when delivery services are provided in a merchant market, in the same way as they are provided to a division or to subsidiary companies, they cannot be considered as self-provision but as a fulfilment service²⁷.

Self-provision is also closely related to in-house delivery networks mentioned by the Regulation on cross-border parcels (Recital 18 and also the definition of the parcel delivery service provider). Although not using the term self-provision, the notion, intended as the use of the service for own purposes, is the prerequisite for the application, and for the exemption, of the regulation for certain categories of companies. In-house delivery networks are falling in the scope of the Regulation if they are used for cross-border delivery, but not if they are used only for domestic delivery. This issue should be clarified in the future regulatory framework as self-provision through cross-border in-house delivery networks is, on the one hand, out of the scope of the PSD but, on the other hand, falls in the scope of the Regulation on cross-border parcel.

²⁵ This nuance is provided by the Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (98/C 39/02), paragraph 2.3.

²⁶ The definition of sales contract is given by the Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

²⁷ BEREC: Report of Self-supply. March 2010. BoR 10 (09).



Bulgaria, Denmark, Greece, Italy, Malta and Spain have a definition of self-provision in their postal legislations. In Spain²⁸ an interpretation of what should not be regarded as self-provision was developed, by describing the conditions which do not correspond, or do not strictly meet, the aim of the PSD, namely: *i)* the receiver must be the same person as the sender; *ii)* the services must not be provided to third parties in the course of commercial or business activity of the service provider; *iii)* the services must not be provided by the mailbag system or other similar methods.

Several countries (BG²⁹, CZ³⁰, DK, EL³¹, ES³², MT³³, NL³⁴, RO³⁵, SI³⁶) exclude explicitly self-provision services from postal services scope.

²⁸ After the Case C-240/02 (<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-240/02>), reference to the Court under Article 234 EC by the Supreme Court (Spain).

²⁹ The Bulgarian Postal legislation excludes self-provision from the scope of postal services. According to the PSA: The following are not considered postal services within meaning of this Law: 1. carrying and delivering letters, items, etc. of one's own performed by the person itself among its offices, branches or departments without using a post network; 2. carrying summonses, subpoenas, and other similar and their delivering to another person, without using a post network; 3. distribution of newspapers and periodicals that are not set out as items within meaning of § 1, item 6 of the Supplemental Provisions and/or no post network is used.

³⁰ According to the Czech Postal legislation a service similar to a postal service performed by the sender or a related entity is not postal service. From the CTU's point of view, the self-provision according to Recital 21 of the PSD "does not fall within the category of services" and as such should not be considered as providing of (postal or other) services.

³¹ According to EETT Regulations, an operator is not considered postal operator if he operates an autonomous network for providing services exclusively for his own needs without providing postal services to the public.

³² The Spanish Postal legislation stipulates that the third party providing postal services exclusively for a sole sender who acts in a self-provision system is excluded from the scope of that Postal Act and hence cannot be considered as a postal operator.

³³ In Malta the Postal Services (General) Regulations state that such services are exempt from the need for an authorisation for postal services.

³⁴ In Netherland, the transport, carried out under the responsibility of the sender, of postal items that are apparently intended to be transferred to that postal service provider at a place agreed with a postal service provider, in order for the postal items to be delivered by that postal service provider to the separate addresses.

³⁵ In Romania, the clearance, sorting, transport and delivery of the sender's own items by a branch or secondary office belonging to the sender or by a company from the same group of companies with the sender, if these items concern the sender's activity and directly pursue the satisfaction of the sender's interest, related to the respective activity is not a postal service.

³⁶ In Slovenia, the Postal Act provides that routing of an item to the addressee performed by the sender himself is excluded from the postal services.

4 SCOPE OF THE POSTAL SECTOR AND BOUNDARIES WITH OTHER SECTORS

ERGP has been underlining the need to set clear boundaries between the postal sector and adjacent sectors³⁷, as currently the boundaries between postal, transport and logistics are somewhat blurred. This implies that delivery operators could be subject to national provisions in various types of legislation (for example, postal, transport and freight law), giving rise to legal disputes.

A clear definition of the boundaries of the postal sector, besides reducing such disputes, would provide NRAs legal certainty as regards their area of responsibilities and tasks, would ensure a level playing field for all undertakings and a harmonized regulatory approach.

4.1 BOUNDARIES WITH TRANSPORT

The distinction between postal services and transport services is essential to NRAs, as their powers, according to the PSD, are tied to postal services. Therefore, a natural limitation of NRAs powers is where postal services end and transport services start, so it is fundamental to clarify the boundaries of both sectors. Furthermore, the future development of the postal services and specifically of the growing segment of parcel delivery depends on further clarification of the legal regime for the postal and the transport sector.

It is also fundamental to clarify the European legal regime applicable to all delivery operators and set a clear distinction among different services, as these could be currently subject to national provisions in several types of law (postal, transport and freight law). The sector a service belongs to should be determined by the provided activity rather than by the declaration by the provider.

4.1.1 *Transport alone is not a postal service*

The PSD (recital 17) and the European jurisprudence³⁸ indicate, as has been discussed above, that postal services may consist of only one of the activities set by the PSD. The PSD states that transport alone should not be considered as a postal service. The same approach is followed by the Regulation

³⁷ See e.g. “ERGP PL (15) 28 Report on the legal regimes applicable to European domestic and cross-border e-commerce parcels delivery”; “ERGP PL (17) 37A Report on the boundaries around postal services in order to ensure NRAs clarity in the performance of their tasks”.

³⁸ Case law C-148/10 (DHL) : <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62010CJ0148>).

on cross border parcels, where it is clear that transport that is not undertaken in conjunction with one of the steps in the postal delivery chain (i.e. clearance, sorting and distribution, including pick-up services of parcels³⁹) should fall outside the scope of parcel delivery services⁴⁰.

Therefore, in theory, it is clear that if an undertaking provides only transport services, these are not postal services. Nevertheless, the PSD does not provide or refer to a definition of transport.

4.1.2 Looking for a definition of transport services

As mentioned before, neither the PSD nor the Regulation on cross border parcels provide a definition of transport services.

In the Confetra case⁴¹ the ECJ found that there is nothing to preclude national legislation providing that undertakings providing road haulage, freight forwarding services, and express mail services are to be considered postal service providers, provided that they perform postal activities (clearing, sorting and/or distribution) as defined in the PSD, irrespectively if such postal activities are carried out as ancillary or principal activities (see e.g. recital 40 and paragraph 34).

In cases C-203/18 and C-374/18, the ECJ has given some elements related to the transport of (universal) postal items⁴².

The Decision C 137/8 (2014) defines freight forwarding as *“the organisation of transportation of items (possibly including activities such as customs clearance, warehousing, ground services etc.) on behalf of customers according to their needs”*⁴³. This definition seems not to provide any clarity about the boundaries with the postal sector as the activities mentioned are not directly related with the postal activities.

³⁹ Such parcels are postal items according to art. 2.6 of PSD (amended by Directive 2008/6/EC). Hence the Parcel Delivery Service Providers as defined in art. 2.3 of the Regulation EU 2018/644 are postal operators as defined in article 2.1.a of the PSD (consolidated version).

⁴⁰ Including when it is carried out by subcontractors, either in the context of alternative business models or not, unless the undertaking concerned, or one of its subsidiaries or linked undertakings, otherwise falls within the scope of that Regulation.

⁴¹ <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-259/16>.

⁴² See in particular point 58 of the judgement of the Court of 21 November 2019.

⁴³ Case No COMP/M.3971 Deutsche Post/Exel; Notification of 17/10/2005 pursuant to Article 4 of Council Regulation No 139/2004 (paragraph 9)

The PSD primarily relates to the criterion of addressing (addressed letters and addressed parcels). Logistic services are characterized by a higher level of customization but include also an address so this is not a distinctive criterion between sectors.

Among Member States, there are only few countries where their national laws provide a specific definition for the transport activity⁴⁴.

4.1.3 *The weight limit as a criterion to distinguish postal and transport sectors*

A criterion used so far to distinguish between the postal and the transport sectors is a weight limit. However, as concluded in Chapter 3.3, there is a lack of consistency among national and European legislation referring to the weight limit and between different European legislation.

In this regard, further consistency between these provisions is important and in a future regulatory framework the weight limit should be clarified to distinguish the sectors clearly, but probably other additional criteria would be necessary.

4.2 BOUNDARIES WITH THE LOGISTICS SECTOR

Some operators that provide parcel services claim to be logistics operators and not postal operators, hence it is also necessary to distinguish between the two sectors.

The logistics sector is difficult to define, since there is no specific European legislation that regulates the sector.

According to the European Commission *“Logistics is a fundamental part of supply chain management. It consists of the organisation and management of flows of goods related to purchasing, production, warehousing, distribution and the disposal, reuse and exchange of products, as well as the provision of added value services. Enterprises often outsource their logistics activities to third party logistics providers, and it is estimated that long-term contractual relationships, contract logistics, constitute a*

⁴⁴ In Spain, the conveyance by any means of the postal items to its final distribution point. In Hungary, the operation of conveying postal items between the sorting points and the service provider’s access or delivery points. In Portugal, delivery of postal items through appropriate technical means from the point of access to the postal network to the distribution centre of the area where postal items are addressed to.

16% of total global logistics, while express/courier/parcel service are key to the e-commerce delivery business”⁴⁵.

The European Commission in a 2015 study⁴⁶ defined ‘Logistics’ *“as a set of services including the planning, organisation, management, execution and monitoring of a company’s entire material, goods and information flows (from purchasing, production and warehousing, to added value services, distribution and reverse logistics)”*.

Another definition of logistics, more related to the postal sector, can be found in the text of the UPU Convention⁴⁷: *“integrated logistics is a service that responds fully to customers’ logistical requirements and includes the phases before and after the physical transmission of goods and documents”*. Furthermore, according to the UPU, integrated logistics service *“may include the collection, receipt, processing, storage, handling, dispatch, transfer transport and physical delivery of separate or combined documents or goods.”*

In addition, the European definition of fulfilment services is closely related to the concept of logistics. The Regulation (EU) 2019/1020⁴⁸ defines ‘fulfilment service provider’ as any natural or legal person offering, in the course of commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching, without having ownership of the products involved, excluding postal services.

In view of the above definitions, one can conclude that logistics is a comprehensive concept within the supply chain management that may include services such as: *i) planning, organization, management and monitoring of flows of goods; ii) warehousing; iii) picking, packaging, addressing; iv) collection, transfer transport and distribution; v) return and exchange services; vi) other added value⁴⁹ or optional services.*

⁴⁵ For more details: https://ec.europa.eu/transport/themes/logistics-and-multimodal-transport/logistics_en

⁴⁶ For more details: https://ec.europa.eu/transport/themes/strategies/studies/strategies_en

⁴⁷ Regulated in the VIII Section of the UPU Convention Manual under the title of “Optional services”: www.upu.int/uploads/tx_sbdownloader/actInThreeVolumesManualOfConventionEn.pdf

⁴⁸ Regulation of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32019R1020>

⁴⁹ In relation to postal added value services, cf. the ECJ judgment in the so called “Confetra et al” case: (40) Accordingly, while a distinction can be made between the universal service and express mail services, on the basis of whether or not added value is provided by the service, it is clear that such a criterion for distinction is wholly irrelevant as regards the nature of the services set out in Article 2(1) of Directive 97/67. Thus, the fact

There is not an EU logistics regulatory framework but diverse regulatory frameworks per subsets of logistics services. The postal and delivery chain, the transport alone and the fulfilment activities could be embedded within the logistics set of services. Due to that, enterprises that are developing activities in some phase of the logistics chain may try to expand their portfolio of services which will increase the blurriness/overlaps between sectors. Possible examples are:

- Undertakings whose main activity is transport may deliver parcels as an ancillary activity (see Confetra et al. ECJ case);
- Undertakings whose main activity is fulfilment may have sorting and distribution facilities and deliver parcels regarding their own goods or on behalf of third parties (e.g. Amazon);
- Traditional postal operators may offer their plants for warehousing of e-retailers and provide dispatch and delivery services for those e-commerce goods⁵⁰.

In case a logistic undertaking offers one or more services related to the postal value chain (i.e. collection, sorting and distribution excluding the transport alone), that undertaking could be considered a postal operator and a delivery service provider according to the postal regulatory framework (PSD, Regulation on cross border parcel and domestic postal law) for that particular activities.

4.3 FOOD DELIVERY

Food delivery covers the supply of a wide range of products, ranging from unprepared food products to prepared meals and is experiencing a strong increase. Orders and deliveries of food within e-commerce are increasing strongly. Therefore, the issue on whether food delivery should be considered as postal services remains relevant.

This trend is indeed visible not only with express couriers, but also with some universal service providers who offer temperature-controlled services (be it cooled or heated). These services are provided by food deliverers as well as by traditional postal operators.

that such services bring, in some circumstances, added value cannot alter the fact that they are 'postal services' within the meaning of that provision.

⁵⁰ See e.g.: www.postnord.com/en/services/logistics/

There are two ways to approach food delivery from a regulatory perspective. First, as is currently the case with the PSD, there may be a focus on the operational postal process. Delivery services are tested against the definitions of the postal process. Hence, in theory, in accordance with the Confetra case, food deliverers could be described as "postal service providers" (except when their activity is limited to the transport of postal items only). As such, food delivery services can be considered as postal services, if for the operational processes the standard logistic system is used. There is no operational difference between delivery operators delivering a wide range of goods and delivery operators delivering exclusively food. This is the interpretation made in Switzerland, for example, where food deliverers are considered as postal operators as long as they fulfil all the criteria set by the postal legislation, being the content of a postal item irrelevant. Second, a distinction can be made based on the content of a package. Certain categories (e.g. prepared meals for direct consumption, perishable food) may be excluded by national specific legislation.

The ERGP members address this question in different ways. For example, in Croatia, the food delivery is excluded from the scope of the postal sector in the national law, as it stipulates that direct routing of postal items from the sender to the addressee, as is the case of food delivery platforms' business models, is not a postal service. This is also the case of Denmark, which excludes the admittance of fresh food into the postal network.

According to the Estonian Postal Act a postal item is an object or objects which is or are addressed and properly packaged, and food items are not considered addressed and properly packaged.

In Spain, when listing the types of shipments that cannot be considered postal items, there is no mention to perishable goods or food. Apart from the nature of the item, the Spanish legislation mentions looking into the wrapping and/or labelling of the object to see if is adequate to classify it as a postal item. Nevertheless, in Spain, two undertakings registered as postal operators, which deliver both traditional postal items and fresh food.

Determining the criteria for this (temperature, weight, type of food, etc) seems a difficult legal exercise and there are diverse country experiences, with some countries excluding explicitly food delivery from the scope of the postal sector, while others exclude food delivery based on other criteria, like packaging. Furthermore, other countries consider food deliverers as postal providers. Therefore, we conclude that the diversity of cases shows again that the current definitions do not clearly indicate if food delivery, as the delivery of other specific items, should be included in the scope of the sector. Considering that the market is still evolving, this issue should be further analysed for the future regulatory review.

In ERGP opinion food delivery should be considered as a postal service as long as is not merely the routing of an item from a sender to an addressee. One of the elements that should be clarified in the future regulatory framework is whether the sorting activity done digitally by the online platform could be considered as a postal activity.

4.4 PLATFORM AND DIGITAL SERVICES

In the PSD, postal services are defined as services involving the clearance, sorting, transport and distribution of postal items. This definition of a postal service encompasses two elements relevant in defining the scope of the postal sector: i) a physical element, moving physical items from location A to location B and ii) a linear value chain, decomposing sequential activities starting from the sender to the receiver. So far it remains unclear which components of integrated services fall under the PSD since the regulatory framework does not consider whether there are circumstances under which electronic components of integrated services can be seen as part of the postal service.

In the last two decades, after implementation of the PSD, the postal sector has evolved considerably due to the digitization of the economy and a gradual shift towards a more demand driven postal sector (receivers more and more determine what is being sent, driven by e-commerce). The emergence of marketplaces bringing together demand and supply in e-commerce is one of the main recent developments that is re-shaping the postal sector. Online platforms are gradually evolving from simple match-making intermediaries to full-service providers (or even gatekeepers) integrating activities along the value chain (e.g., match-making, ordering, (traditional) fulfilment, payment) and offering multiple services to senders and customers as the recipients of postal items.

These developments raise the question whether the current scope of the postal sector should be adapted in a forward-looking perspective to include online platforms and their activities, related to the transportation and handling of physical items. In that respect the following questions matter:

- Which activities of (online) platforms are potentially relevant to include in the postal sector and/or are postal services, and which not?
- Which elements are relevant to consider (in order to include activities within the scope of the postal sector)?

4.4.1 (Online) platforms in relation to the postal sector

Platforms are intermediaries that connect different groups of economic agents. In essence, platforms match and connect two groups of economic agents: sellers and buyers. In the digital economy, the combination of network effects and economies of scale have allowed platforms to achieve large-scale expansion in the past few years. Notable examples in relation to the postal sector are Uber Eats and Amazon. Some platforms provide matching and intermediation services, as well as support for transactions, and have started activities that traditionally belong to the postal sector such as delivery. From this perspective, there should be no reason to exclude platforms that engage in traditional postal activities from the postal sector as there is a physical delivery of goods.

E-retailers as postal providers?

E-retailers adopt different business models across countries adapted to the specificities of national law and market development. In some countries, e-retailers are integrated vertically in the delivery sector, hence they can be considered as a postal operator.

For example, Amazon is considered a postal operator in Italy⁵¹, Germany and Austria and it is registered as such in those countries. In Sweden, Denmark, The Netherlands, Poland and Portugal, Amazon manages the local delivery services from a hub located in a neighboring country. In case of providing sorting and delivery services, Amazon would have to register as postal operator in Slovakia and Spain.

In February 2020, the Spanish NRA (CNMC) has agreed to open a case to determine if Amazon satisfies the requirements to be considered a postal operator. The Directorate of Transport and the Postal Sector believes that there are evidences that, in its e-commerce activity, Amazon provides

⁵¹ In Italy Amazon began to organize its own delivery services to final customers through Amazon Logistics, which besides being the commercial name of a delivery service, is a business unit of Amazon Italia Transport S.r.l. (AIT), the company set up *ad hoc* by Amazon for deliveries in Italy in July 2016, which became operational the following December. AIT's activity consists in organizing and coordinating a network of local operators for parcel deliveries, acting in all respects as an express courier, with its own logo, its own organization and, above all, in direct competition with other postal operators. On 25 July 2018 Agcom sanctioned (decision 400/18/CONS) three companies of the Amazon group operating in Italy (Amazon Italia Transport, Amazon Italia Logistica and Amazon Italia Service), jointly with the parent companies operating in Luxembourg, for having carried out postal activities without the authorisation required by Legislative Decree 261/99. In compliance with Agcom's decision, the aforementioned companies have requested and obtained general authorization. Therefore they are, for all intents and purposes, postal operators subject to the regulatory, supervisory and sanctioning powers of the Authority.

services that may be considered postal services. This case will consider the characteristics of the shipments that it manages, the activities involved in said shipments, the legal relationship it maintains with freelancers who distribute its parcels and with third-party parcel delivery companies, the management of their self-service lockers, and others. The Spanish Postal Act states that postal operators must submit an affidavit that, together with the protection of fundamental rights such as the confidentiality of postal communications, includes the respect for the rules that protect the rights of workers, consumers and tax or immigration matters. In France, Amazon is not considered as a postal operator as the French legislative framework states that “postal services are the collection, sorting, routing and distribution of postal items through regular rounds”. However, Amazon Transport, under the Regulation on cross-border parcels, declared itself to ARCEP as a parcel delivery provider and communicated the data required by that Regulation.

In Annex F you can find more information about country cases.

In conclusion, it is clear that depending on the regulatory framework and on the competences of the NRAs, the same e-retailer, can be or not be considered a postal provider. As such the current regulatory framework is not clear and does not ensure a consistent application. Hence, this aspect should be considered in the future review of the postal regulatory framework.

4.4.2 *Platform intermediary activities related to delivery service*

The provision of online intermediation services is an essential feature of platforms that provide economic activities. In the platform to business (P2B) regulation⁵² the offering of online intermediation services determines whether a platform falls within the substantive ambit of the Regulation. The Regulation does not offer a precise definition of online platforms but characterizes the activities of online intermediation services. It extends its scope of application to all natural or legal persons which provide online intermediation services to business users (P2B relationships, i.e. when

⁵² Regulation (EU) 2019/1150 of the European Parliament and of the Council on promoting fairness and transparency for business users of online intermediation services (P2B Regulation).

the person offering goods or services via the intermediary of a platform is to be qualified as a professional)^{53,54}.

Platforms have evolved from simple matchmakers to providers of a broad range of services. This has spurred a debate about the nature of the services provided and to what extent platforms fall within the ambit of existing regulations⁵⁵.

The degree of control exercised by the platform over the provision of the underlying (transport) service plays a pivotal role in the characterization of the platform as the provider of the service. Three criteria have to be cumulatively fulfilled in order to establish a high level of control: determination (not only suggestion) of the price, determination of contract terms (including the obligation of users to provide a service) and ownership of assets that are essential to the provision of the service.

The European Commission has in its view on the collaborative economy suggested that the fulfilment of these criteria is an indication about the significant influence exercised by the platform over the provider of the underlying service, which can in turn indicate that the platform could be considered as providing the underlying service⁵⁶. Additionally, the Commission suggests that – depending on the service in question – the assumption of risks for performance or an employment relationship with the main provider can indicate a high level of control and influence over the provision of the underlying service⁵⁷.

⁵³ A private individual offering to share on a non-regular basis a spare room in his house or a spare seat in his car within the framework of the so-called sharing economy and not on a professional basis, does not fall within the scope of the Regulation.

⁵⁴ Therefore, professional provision of intermediation services is deemed to be relevant. It is advisable to align the position about professional service and the scope of the postal sector with the Regulation.

⁵⁵ For example, the Uber case is hotly debated about what type of service are being offered and what kind of company Uber is, if it is a transport company or just an online matchmaking vehicle.

⁵⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and social Committee and the Committee of the Regions. A European agenda for the collaborative economy, COM (2016) 356, June 2016.

⁵⁷ Courts are unequivocal in their assessment of the Uber services as being directly involved in the provision of the underlying services. In both labour law and administrative law, courts have based their arguments on the decisive control that Uber exercises over the drivers and the conditions for their participation in the platform, the cars and payment methods. As a result, Uber is considered the employer of its drivers and the addressee of administrative licensing requirements. This reasoning in national case law is well in line with EU law. The ECJ has ruled that Uber services are not services in the information society under now Directive 2015/1535, but transportation services that fall outside of the scope of the freedom of services according to Article 58(1) TFEU. As a consequence, Uber is subject to the requirements Member States impose on service providers in order to regulate their transportation sectors (i.e. licensing requirements). In its Uber judgments, the ECJ did not follow strictly the criteria proposed by the Commission. For example, it did not consider the ownership of key assets

It should be clarified to what extent new operators arising in the context of platformisation and the collaborative economy, as well as from new delivery modes due to technological development, fall within the scope of the postal sector. (Online) platforms would manifest in more professional crowdsourcing initiatives that comply with the rules tested before the courts. So far, crowdsourcing initiatives related to parcel delivery were based on a model that leverages local, (mainly) non-professional couriers to get and deliver packages. New or adapted business models would contract or employ professional couriers and operators. Many existing examples are available in the transport sector (e.g. Uber Freight) and Amazon already applies this business model in parcel delivery (e.g. Flex).

4.4.3 *Digital services*

In ERGP's opinion, the services covered by the postal framework need to entail at least a physical component, so digital services and communications provided exclusively via digital means should be excluded from postal sector. The PSD and Regulation on cross border parcels are thus not technologically neutral.

Hybrid mail is a service whereby the content of communications is electronically transmitted to the service provider, electronically processed and converted into the physical form of a letter mail item, which is printed, enveloped and then physically delivered to the addressee or the reverse. The physical delivery of remote printed items of correspondence therefore is and remains a postal service. Nevertheless, it should be considered to what extent the digital elements of forms of hybrid mail services or other digital solutions like digital mailboxes need to be included in the scope of the postal sector, as these may have an important impact on the market and on competition in the near future. For example, UPU identifies and defines 42 e-services that are classified into four groups: i) e-post and e-government; ii) e-commerce; iii) digital financial and payment solutions; iv) support services⁵⁸. UPU refers to digital postal services as services delivered by Posts to their end customers (individuals, businesses or governments) through digital channels. The Internet is the main e-service delivery channel, while other telecommunications channels (e.g. mobile phones, tablets, call centres or

(such as the car of the Uber driver) as essential for the characterization as Uber services as a significant influence over the transportation service.

⁵⁸ See Annex 1 in:

www.upu.int/uploads/tx_sbdwloader/theDigitalEconomyAndDigitalPostalActivitiesAGlobalPanoramaEn.pdf



televisions) are also considered. As these e-services are regulated under different frameworks and do not have physical component, the ERGP believes that they cannot be considered as postal services.

4.4.4 Platforms and Digital Services in the future framework

The future postal regulatory framework should be aligned with the professional nature of the provision of services in other adjacent regulations, such as the P2B Platform Regulation. On the other hand, the Regulation on cross border parcels considers among other parcel delivery service providers those arisen from the collaborative economy. Therefore, the delimitation of what a professional service is regarding postal scope should be clearly defined to avoid gaps amongst different regulatory frameworks.

As already derived from the Regulation on cross border parcels, the activities of e-commerce platforms that provide physical activities related to collection, sorting, transport and distribution fall within the scope of the postal sector.

The degree of control exercised by the e-commerce platform over the provision of the underlying (delivery) service may serve to characterize such a platform as the provider of that delivery service.

Digital services relying exclusively on electronic communications would not be postal services.

5 PARAMETERS FOR DEFINITIONS OF POSTAL CONCEPTS

The main objective of this report is to explore the different parameters that may be used to identify the services and agents of the postal sector. Such parameters may then be useful in developing the definitions, objectives and contents of a future regulatory framework, suitable for a consistent application in all MS in order to have a common language for identifying where market failure and consumer protection in that regulatory framework is needed.

The ERGP Opinion on the review of the regulatory framework lays down the baselines for addressing the issue of future-proof definitions, and their constituents, in the future postal regulation. A particular component of definitions that raises concerns is the use of a weight limit – it should be evaluated whether some functional or additional criterion regarding postal activities should be used instead (or as a complement). Also put forward as highly relevant is the question if certain outward specifications, such as dimension and packaging, for the items delivered, should be parameters in the definitions. In addition to weight and/or dimensions “parameters related to collection, sorting, transport and delivery modes, with a view to technological developments linked to e-commerce logistics”, could thus also be components of definitions. Moreover, as ERGP has concluded that the scope of the postal sector will “depend on physical items containing communications, information or goods, being processed for the purpose of their conveyance from one location to another”, other aspects/concepts that could be potential parameters in the future definitions are physical items and address (specifying conveyance from the sender to the addressee).

Another potential parameter is the content (or intended use) of a postal item, through the use of definitions such as the definition of items of correspondence (PSD) and the definition of parcel (Regulation on cross-border parcels). In light of the above, the following sections of this report will further evaluate the following parameters: weight, dimensions, operational stages (clearance, sorting, transport and delivery), physical item (as opposed to digital item), address, single piece (as opposed to bulk), commercial value and user (sender/receiver).

5.1 WEIGHT

The main benefit from a weight limit is that weight sorts out whether an item is a postal item or it belongs to the logistics/transport sector. However, as illustrated in the previous chapters, given the numerous different weight limits used in practice by various sources of legislation, currently this is not very clear-cut.

A related question is whether in the future there should also be a weight limit differentiating letter mail from parcels, as they are both in the scope of postal services, which will be discussed later in this chapter.

ERGP suggest to set the limit to 31,5 kgs, considering that:

- the Regulation on cross border parcels employs this weight limit;
- the European Commission previously used this weight in various competition cases (UPS-TNT and FedEx - TNT), based on thorough market analysis;
- there is a health / labour safety related argument to use 31,5 kg, as above this threshold you need mechanical aid to handle items and this puts different requirements for service provision and networks.

The use of a weight limit, in combination with other criteria, seems to be appropriate to demarcate postal services from transport and logistics. The exact weight limit should be further analysed considering its pros and cons, but it should be unique in order to guarantee consistency with the European texts of legislation. Such weight limit should however not bound the flexibility of using other limits in national definitions for the universal service.

5.2 DIMENSIONS

As illustrated in the previous chapters, different limits and definitions exist also for the dimensions of postal items.

The concept of dimensions (or size) has clearly an important role in postal operations. Postal operators only process items up to certain maximal sizes. Particularly large format items, which in principle cannot be handled by a single person or require additional technical means, do not qualify as postal items and have to be processed through other channels. This is why, from a regulatory standpoint, dimensions can be useful for distinguishing postal items from other logistic items. Dimension is also relevant to define prices and to distinguish letter from parcels as the Regulation on cross border parcels does. Thus, the criterion dimensions, as it lacks the feature to clearly distinguish between sectors, cannot be use alone as parameter to define postal items, but in addition to other parameters, could be useful.

5.3 OPERATIONAL STAGES

The different operational stages (clearance, sorting, transport and distribution) in postal activities are currently important components in the definition of postal services. The expectation being that the postal sector will increasingly centre on the delivery of goods, there will also be cause to determine the demarcation between transport services in general and postal services in particular. However, the clearance, transport, sorting and distribution activities could be common to both types of services, and thus cannot be used as distinguishing criteria. According to WIK-Consult, the activity that qualifies a service to be of postal nature, is the sorting activity: “a postal service should include at least one processing in a sorting centre”.⁵⁹ However, it should be considered that currently subcontractors delivering parcels at the premises (hence transporting and distributing) are often not involved in the process of sorting, still in many Member States they are considered as postal providers.

The postal network could be relevant for further distinguishing between postal and other services. Although in the PSD the definition of postal network is related only to the universal service provider, in the future it should be referred to all providers. However, it should be clear that a provider that outsources an operational stage to a subcontractor is considered as providing that operational stage (but through a subcontractor).

An important aspect to consider is that all these operational stages relate to the traditional way postal operations have been carried out and thus may not be suitable for classifying new business models as postal or not. For example, it can be argued that the postal activities nowadays actually start *before* clearance and end *after* delivery because the operational stages of data creation and handling for the shipments need to be considered.

In order to have future proof definitions, relying exclusively on the four traditional operational stages alone might not be suitable. In this sense, control of the traceability of the postal delivery (this would embrace e.g. control through some technological device such as an algorithm, application, information service etc. of the delivery route, the delivery vehicle, the rider, the postal real-time location, etc.) and return services could be included within the postal chain. According to new business models, new technologies as direct routing from collection centres to distribution centres without using sorting centres or new information service, all these aspects should be considered as elements of postal networks for future proof regulatory framework.

⁵⁹ Until the judgment of the European Court the RTR definition of a postal operator required sorting plus one of the other three operational stages.



Additionally, the definition of sorting could consider the technological innovations arisen from urban delivery networks employing riders through an algorithm (virtual sorting).

5.4 PHYSICAL ITEM

ERGP has concluded in the Opinion on the future regulatory framework that the services covered by the postal framework need to entail at least one physical component. Therefore, a potential parameter to be used in the future postal definitions is whether a physical item is handled as part of the service. Even if communication by physical documents sent by letters is decreasing in volume due to digitization, the physical component of delivery will clearly live on through the increasing parcel volumes. ERGP recognizes that, in a forward-looking perspective this trend is likely to continue. Consequently, the aspects of delivery of physical goods will become predominant in the postal sector. The ERGP conclusion on the criterion that a postal service needs to include processing physical items. UPU has specifically defined the concept 'postal electronic services' where most of the services considered are fully digital services⁶⁰. However, from the definitions it can be concluded that the use of the term 'postal' in the UPU context refers to services supplied by traditional postal companies or new digital services that substitute traditional postal services. From a future-oriented regulatory perspective such an approach will not provide enough clarity on what is postal or not, and thus ERGP concludes that physical item is an important dimension for the future EU postal definitions.

5.5 CONTENT

The content parameter should also be analysed considering if there is still need to distinguish between letters (documents) and parcels (goods) and whether the distinction should explicitly be included in the postal definitions. The question is particularly relevant as traditional correspondence services are often used to deliver physical goods (packets, in case their dimension and weight allows it) that are purchased on-line.

⁶⁰ The UPU document "The digital economy and digital postal activities – a global panorama" (2019) gives a definition of the "digital postal services" (p.49): "*services delivered by Posts to their end customers (individuals, businesses or governments) through digital channels. The Internet is the main e-service delivery channel, while other telecommunications channels (e.g. mobile phones, tablets, call centres or televisions) are also considered.*" *The e-services are classified into four groups: e-post and e-government, e-finance and payments solutions, e-commerce and support services. The physical elements of the electronic services (delivery, logistics) are excluded.*"

Moreover, it should be considered if some types of contents should be excluded or not from the scope of postal sector (e.g. food).

In view of the need to ensure a forward-looking, future proof and fit for purpose regulation of the sector, letters and parcels could be considered in their interrelated context. In this regard, WIK-Consult, for example, maintains that distinguishing between items of correspondence and other postal items is no longer relevant, as the market is fully opened and there is, for example, no longer any reserved areas for items of correspondence and generally, what defines a postal item is not its content. In a forward-looking perspective, ERGP also considers (as stated in the ERGP Opinion) that there is no rationale for having separate regulatory services for letters (documents) and parcels (goods), although there are differences in the segments in terms of competition which in turn should clarify the different scope of the regulation required to protect consumers and address market failures. This does not mean that within the regulatory framework different provisions could not apply depending on the nature of the service.

The distinction between letters and parcels might still be relevant from an operational point of view, namely for international transactions where content matters as postal items containing goods are subject to custom rules while items of correspondence are not. Moreover, correspondence is subject to confidentiality rules that do not apply to goods.

Standardization progresses by CEN and UPU regarding labelling of postal items ensuring a proper identification of the content of the packages might also be considered to ensure future-proof postal definitions⁶¹.

5.6 ADDRESS

As concluded by ERGP, any postal service provision has the objective to deliver physical items at a specified address or location. The existence of a specified address is thus a potential qualifying criterion for postal services. Given technological developments, an address must not necessarily be in a traditional written format (recipient, street address, postal code, city, country) but could possibly be

⁶¹ See e.g.: <https://www.cen.eu/news/brief-news/Pages/NEWS-2019-033.aspx>
<http://www.upu.int/en/activities/customs/key-documents.html>

represented by a barcode, a QR code or even entering a code (at pick-up point or parcel lockers), which the recipient would receive on his mobile phone or in an email.

However, also items handled by transport services can have an address, and consequently, the address parameter, by itself, cannot be the only criterion to distinguish between postal services and transport services.

To conclude, the existence of an address is a key qualifying parameter for the definitions, but as a unique criterion is not suitable for distinguishing between postal and transport.

5.7 COMMERCIAL VALUE

The Regulation on cross-border parcel delivery services stresses that both goods with as well as without commercial value can be conveyed by parcel delivery services.

Introducing commercial value as a parameter for definitions regarding postal services could theoretically be used as a criterion to distinguish between e.g. e-commerce delivery and delivery of privately/personally sent memorabilia and the like in order to distinguish between parcels and letters containing goods. However, being difficult to implement it can hardly be used as a key parameter for the definitions.

5.8 USERS

The new regulatory framework should reflect the shift of the postal services from a “sender-oriented service” to an “addressee-oriented service”.

The rights conferred on postal service users pursuant to the PSD include already in principle addressees. The European consumer protection schemes does not always prevent certain phenomena that are specific to the postal sector. Article 19 of the PSD imposes a complaint procedure for all users. Moreover, the UPU allows in principle the addressee to receive compensation from the postal service provider delivering the item. Within the framework of e-commerce, generally, it is the e-retailer who concludes a contract with the postal service provider, whereas it is often the addressee who has a ground for complaint. Consumers are confronted with limitations of the extra-contractual liability of the postal service provider, particularly in the event of a late delivery of a postal item, damage, loss or theft of a postal item. Directive 2011/83 of 25 October 2011 on consumer rights provides that consumers exclusively contract with the e-retailer and that the transfer of ownership happens when the parcel is delivered. Pursuant to that provision, the e-retailer is encouraged to conclude its delivery

contracts with undertakings operating on a contractual basis and which are not obliged to grant additional rights to the addressee pursuant to the postal regulation.

Furthermore, in case of complaint, a number of postal operators systematically refer the addressee to the sender, as these operators judge that they only have a contractual obligation to the sender⁶².

Given the triangular nature of delivery services in the context of e-commerce (e-retailer, postal operator, buyer), clear rules should be adopted in terms of consumer protection. Specific rights should be granted to addressees who should also have the right to receive information, submit a complaint and, when justified, receive compensation for damage suffered. The quality of service requirements (frequency and modalities of delivery) should also take account of the shift from a sender-centered service to an addressee-centered offer.

It is recommended thus to strengthen the concept of postal service user as a sender and as an addressee. The concept of “recipient/addressee” should also be clarified in order to develop the rights the addressee could benefit from. This definition should define who are the sender and the addressee in the case of returning parcels.

⁶² Directive 2019/2161 “omnibus” of 27 November 2019, imposes on “online marketplaces” to inform consumers concerning the trader responsible for ensuring the consumer rights related to the contract (right of withdrawal or legal guarantee). A WIK study (“Draft Results of the Study on Postal User Needs/Evaluation of the PSD”, Brussels, 17.09.2019) highlights that this lack of protection of the addressee hampers the efficiency of complaint procedures, along with the lack of mandatory reimbursement rules and clear complaint handling standards.

6 CONCLUSIONS

The analysis carried out in the previous chapters shows that some of the current PSD definitions need to be updated in order to reflect the new market reality: the postal sector is not anymore centered on the universal service provision and on the activities of the universal service provider, but is rather highly influenced by digitization. These updated definitions would then provide a common language for assessing whether there are market failures requiring regulatory intervention.

In the last few years litigations related to incomplete and inconsistent postal definitions increased. Therefore, to prevent additional legal disputes, it would be fundamental to have consistent, harmonized and future-proof definitions in the European postal framework. Moreover, ERGP considers that a clear scope of the postal sector should be set.

The analysis of the current definitions revealed discrepancies in the transposition of the PSD into national laws and inconsistencies between various pieces of legislation, which do not ensure a harmonized regulatory approach among countries. The PSD definitions do not clearly indicate when a service is a postal service, which have implications on market definition and access regime.

The main inconsistency in the transposition of the definition of postal services is related to the cumulative requirement of the four operational stages (clearance, sorting, transport and distribution) comprised in the definition of the PSD. One third of the countries require the cumulative provision of all four operations, while others do not. The Confetra Case and the Regulation on cross-border parcels addressed this issue. The conclusion is that the cumulative requirement is not needed.

The current definition of a postal item in the PSD entails various aspects that require further clarification. It includes items of correspondence and other items such as books, catalogues, periodicals and newspapers and postal parcels, but only provides a specific definition of “item of correspondence”. Furthermore, it has no specific reference to a weight or a dimension limit, as the reference to these parameters is only given for postal items belonging to the universal service.

During the last few years, experiences in various Member States, new regulations and court cases decisions have challenged conventional views on the scope of the postal sector. Boundaries between postal services, on the one hand, and transport, logistics and online intermediation services offered through platforms, on the other hand, have become more blurred. Therefore, it is not always clear which sector framework applies for these services. The future definitions should be multi-dimensional, taking into account a combination of the various parameters.

There is not an EU logistics regulatory framework but diverse regulatory frameworks per subsets of logistics services. The postal and delivery chain, transport alone and fulfilment activities could be embedded within the logistics set of services.

In case a logistic undertaking offers one or more services related to the postal value chain (i.e. collection, sorting and distribution excluding the transport alone), that undertaking should be considered a postal operator or a delivery service provider according to the postal regulatory framework for those particular activities.

The emergence of marketplaces bringing together demand and supply in e-commerce is one of the main recent developments that is shaping the postal sector. Online platforms are gradually evolving from simple match-making intermediaries to full-service providers integrating activities along the value chain and offering multiple services to senders and customers as the recipients of postal items. ERGP considers that there is no reason to exclude platforms that engage in traditional postal activities from the postal sector.

It should be clarified to what extent new operators arising in the context of platformisation and new delivery modes due to technological development, fall within the scope of the postal sector. New or adapted business models would contract professional couriers and operators. Many existing examples are available in the transport sector (e.g. Uber Freight) and Amazon already applies this business model in parcel delivery (e.g. Flex). In theory, looking into the Confetra case, e-retailers or food deliverers could be described as "postal service providers", except when their activity is limited to the transport of postal items. There is no operational difference, for example, between delivery operators delivering a wide range of goods and delivery operators delivering exclusively food, even though there are limitations regarding the items that are processed. Therefore, in the future ERGP should study the consequences of reviewing the concepts of postal service and postal item, in particular its implications regarding a possibly wider postal sector (e.g. classification of e-retailers as a postal provider) in terms of possible regulatory implications.

The future postal regulatory framework should be aligned with the professional nature of the provision of services in other adjacent regulations, such as the P2B Regulation. On the other hand, the Regulation on cross border parcel considers among other parcel delivery service providers those arisen from the collaborative economy. Therefore, the delimitation of what a professional service is regarding postal scope should be clearly defined to avoid gaps amongst different regulatory frameworks.



ERGP continues to consider that the scope of the postal market will depend on physical items containing communications, information or goods, being processed for the purpose of their conveyance from one location to another. ERGP considers that digital services relying exclusively on electronic communications would not be considered postal services.

One of the main objectives of the Report is the analysis of the parameters for the future definitions, the weight limit and certain outward specifications, such as dimension, parameters related to collection, sorting, transport and delivery modes.

ERGP considers that the weight limit is one of the criteria to distinguish between the postal and the transport sectors. As there is a lack of consistency among national and European legislation referring to the specific weight limit, it should be defined a unique weight limit in all sources of legislation. ERGP considers that the 31,5 kg weight limit, jointly with other parameters, could be suitable to demarcate the postal sector.

The concept of dimensions has clearly an important role in postal operations. Postal operators only process items up to certain maximal dimensions. This is why, from a regulatory standpoint, dimensions can be useful for distinguishing postal items from other logistic items.

The different operational stages in postal activities are currently important components in the definition of postal services. However, being common to other sectors (transport and logistics) cannot be used as a distinguishing criterion. Moreover, with the technological development, the four traditional operational stages alone might not be suitable.

The parameter “content” should be analysed considering if there is still need to distinguish between letters (documents) and parcels (goods). In a forward-looking perspective, ERGP also considers (as stated in the ERGP Opinion) that there is no rationale for having separate regulatory services for letters (documents) and parcels (goods), although there are differences in the segments in terms of competition which in turn should clarify the different scope of the regulation required to protect consumers and address market failures. This does not mean that within the regulatory framework different provisions could not apply depending on the nature of the service.

The existence of a specified address (not necessarily in a written format) is an important parameter to qualify postal items. However, also items handled by transport services can have an address, and consequently, the address parameter, cannot be the only criterion to distinguish between postal services and transport services.

The new regulatory framework should reflect the shift of the postal markets from a “sender-oriented service” to an “addressee-oriented service”. ERGP recommends to strengthen the concept of postal



service user as a sender and as an addressee. The concept of “recipient/addressee” should also be clarified in order to develop the rights the addressee could benefit from. This definition should define who are the sender and the addressee in the case of returning parcels.

To conclude, the weight limit, the address, the physical component and the operational stages seem the more relevant parameters to be used, in combination, in the future postal definitions. ERGP recommends to use the insights related to these different parameters in a multi-dimensional way in order to have future-proof definitions and ensure their consistent application in all members to enhance the internal postal market, to have legal certainty, to guarantee a level playing field and to avoid competition problems.

ANNEXES

ANNEX A

Table A. 1 – Postal service definition

| Country | | Postal service definition |
|---------|----------------|--|
| AT | Austria | Same definition as the Postal Service Directive |
| BE | Belgium | Same definition as the PSD and self-provision is expressly excluded, namely: "Postal services": services involving the clearance, sorting, transport and delivery of postal items, except for the provision of postal services by the natural or legal person who is the originator of the mail." "services postaux" : "des services qui consistent en la levée, le tri, l'acheminement et la distribution des envois postaux, exceptée la prestation de services postaux par la personne physique ou morale qui est à l'origine de l'envoi du courrier" |
| BG | Bulgaria | Postal services include accepting, carrying and delivery of items |
| CH | Switzerland | Same definition as the Postal Service Directive |
| CY | Cyprus | Same definition as the Postal Service Directive |
| CZ | Czech Republic | A postal service is an activity which generally includes the clearance, sorting and transport of a postal item across the postal network and is performed in order to deliver a postal item to a recipient. The following are not postal services: - the transport of postal items, if performed by a person who has not also performed the clearance, sorting or delivery of such postal items, - a service similar to a postal service, performed by the sender or a related entity is not postal service. |
| DE | Germany | Postal services as defined by this Act shall mean the following services provided on a profit-oriented basis: a) the conveyance of letter post items; b) the conveyance of addressed parcels weighing not more than 20 kgs each; c) the conveyance of books, catalogues, newspapers or magazines, insofar as such conveyance is effected by companies providing postal services according to a) or b) above. |
| DK | Denmark | Postal service is defined as "commercial collection, commercial sorting or commercial distribution of addressed items up to 20 kg including items to and from abroad". |
| EE | Estonia | Postal service means the forwarding of addressed postal items as an economic activity. Forwarding means a process which includes the clearance, sorting, transport and delivery of postal items to the addressee. Postal service does not mean the delivery of written communications and other items in the person's own name or for the purpose of the person's own economic activities |
| EL | Greece | According to our postal service regulations the Postal services provider undertakes the provision of postal service to the user, signs the initial contract and invoices the user. Any other company that is involved in the provision of the particular postal service may be considered part of the network of the postal operator and does not need to obtain a license/authorization. If a business has set up a standalone network for the service, exclusively, of its own needs without providing commercial services to public, it does not need to obtain an individual license or a general authorization. |

| Country | | Postal service definition |
|---------|-----------------|---|
| ES | Spain | Any of the services considered in PSD, but including 2 additional steps: collection ('recogida') and delivery ('entrega'). The Postal Act (Law 43/2010) just lists those services, but does not define them. The definitions of the steps are developed in the article 14 of the Spanish Postal Regulation (consolidated version of Royal Decree 1829/1999). That Regulation adds 2 additional steps: routing ('curso') and handling ('tratamiento'). Collection refers there to the collection of postal items from the post boxes. Delivery refers to the final delivery in the postal address indicated in the postal items, with the exceptions foreseen in the Spanish Postal Regulation |
| FI | Finland | |
| FR | France | Postal services shall mean the clearance, sorting, transport and delivery of postal items in the context of regular rounds |
| FYROM | North Macedonia | |
| HR | Croatia | A service including any handling of postal items by the postal services provider, in particular clearance, sorting, transport and delivery of postal items in domestic or international postal traffic. Postal services shall not include self-delivery of postal items, transportation as individual service and clearance, transport and delivery of postal items directly from the sender to the addressee at individual request, without routing, in such a manner that one employee of the service provider carries out all of the above-mentioned activities (courier service). |
| HU | Hungary | Same definition as the Postal Service Directive |
| IE | Ireland | "Postal services" means services involving the clearance, sorting, transport and distribution of postal packets |
| IS | Iceland | |
| IT | Italy | Same definition as the Postal Service Directive |
| LT | Lithuania | Postal service shall mean the clearance, sorting, transport and delivery of postal items |
| LU | Luxembourg | Same definition as the Postal Service Directive (services postaux – des services qui consistent en la levée, le tri, l'acheminement et la distribution des envois postaux) Administrative court decision clarified that those services are not to be considered to be cumulative in order to be defined as a PS (http://www.ja.etat.lu/30001-35000/34304.pdf) |
| LV | Latvia | Activities of commercial nature, which are related to conveyance of postal items to an addressee and include one or more of the following activities - collection, sorting, transport and delivery of postal items. Carriage of postal items as a separate service which is not directly related to collection and delivery shall not be regarded a postal service |
| ME | Montenegro | |
| MT | Malta | "Postal services" means services involving the clearance, sorting, transport and distribution of postal articles, provided that the provision of a service of transport alone shall not be considered as a postal service |
| NL | The Netherlands | A postal service is defined as one or more of the operations that are performed commercially to deliver postal items. The transport of separately registered express mail on which separate agreements have been concluded between the sender and the transport company concerning the period or time of ordering, about the delivery security and about the liability is not a postal service. |

| Country | | Postal service definition |
|---------|--------------------|---|
| NO | Norway | Services to the public on regular basis, clearance, sorting, transportation and distribution of postal items for payment. The provider of postal service can use subcontractors ⁶³ to fulfil the postal service. Only the one that is offering the whole delivery chain and has the responsibility towards the sender and addressee is considered a postal provider. |
| PL | Poland | Same definition as the Postal Service Directive |
| PT | Portugal | Same definition as the Postal Service Directive |
| RO | Romania | Service involving the clearance, sorting, transport and delivery of postal items (delivery = the postal service provider's conveyance of the postal items to the addressee) |
| RS | Serbia | Postal service is a service that includes any handling of postal service providers with postal items involving the clearance, sorting, transport and delivery of postal items in domestic and international postal transport. Postal service does not cover transport of postal items as a stand-alone service |
| SE | Sweden | "Clearance, sorting, transport and distribution of postal items for a charge". However, there is also a second concept postal operations which means "regular clearance, sorting, transport and distribution of letters for a charge". A license is required to conduct postal operations |
| SI | Slovenia | Same definition as the Postal Service Directive |
| SK | Slovakia | Same definition as the PSD. Postal services mean services provided for the purposes of delivery of postal items, specifically clearance and distribution of postal items. Postal service does not mean: a) production of a postal item, if the produced postal item is not distributed by a person who has produced it, or if the produced postal item is handed over by the person who has produced it, on behalf of the sender, to the postal company that will clear it. b) transport of postal items, if the postal items are transported by a person who will not clear, sort or deliver these postal items; and c) self-delivery. |
| UK | The United Kingdom | |
| TR | Turkey | Postal services that cover acceptance, collection, processing, shipment, distribution and delivery of postal items are provided by the service providers operating in line with the provisions of this Law |

⁶³ In Norway, subcontractors that only offer some of the four stages are not considered postal providers. Only providers that offer the whole delivery chain and have the responsibility for the delivery are considered as postal providers. Postal providers can use subcontractors to fulfil the postal delivery task. A key element of the assessment is, therefore, which player has the relationship with the customer and thus naturally is covered by provisions such as liability etc. Postal providers are always responsible for fulfilment of the legal provisions of the entire chain even if they use subcontractor(s).



ANNEX B

Table B. 1 – Postal operations

| Country | | Clearance | Sorting | Transport | Distribution |
|---------|----------------|--|---|---|--|
| AT | Austria | Same definition as the PSD | Not defined | Not defined | Same definition as the PSD |
| BE | Belgium | Same definition as the PSD | Not defined | Not defined | Same definition as the PSD |
| BG | Bulgaria | Same definition as the PSD | Not defined | Not defined | Same definition as the PSD |
| CH | Switzerland | Not defined | Not defined | Not defined | Delivery of postal items to their addressees. No reference to distribution center |
| CY | Cyprus | Same definition as the Postal Service Directive | Not defined | Not defined | Same definition as the Postal Service Directive |
| CZ | Czech Republic | A postal clearance shall be understood to be the receipt of a postal item by the provider for the provision of a postal service | Not defined | Not defined | Not defined. Delivery shall be understood to be the release of a postal item by the provider to the recipient |
| DE | Germany | Not defined | Not defined | Not defined | Not defined |
| DK | Denmark | Not defined | Not defined | Not defined | Not defined |
| EE | Estonia | Clearance network means a set of equipment and facilities which a postal service provider uses for the collection of postal items from access points | Not defined | Not defined | A postal item is deemed to be delivered if the postal item has been issued to the addressee in a post office, personally or through a post box |
| EL | Greece | Same definition as in PSD: “Clearance: the operation of collecting postal items by a postal service provider” | Sorting center: Distinctive business space, where the sorting procedures take place and postal items are forwarded to the next Sorting Center or to the, in charge of distribution, postal store. | Not defined | Same definition as in PSD: “distribution: the process from sorting at the distribution centre to delivery of postal items to their addressees” |
| ES | Spain | Essentially the same as in PSD, but specifying that the postal operator will perform the integral postal process and will be responsible according to the terms of the Spanish Postal Regulation | It includes the set of operations whose purpose is the ordering of the postal items, attending to the criteria of postal operations | The conveyance by any means of the postal items to its final distribution point | Any operation performed in the destination facilities of the postal operator where the postal item has been transported prior to the final delivery to its addressee |



| Country | | Clearance | Sorting | Transport | Distribution |
|---------|-----------------|--|--|---|--|
| FI | Finland | | | | |
| FR | France | Not defined | Not defined | Not defined | Not defined |
| FYROM | North Macedonia | | | | |
| HR | Croatia | Operation of collecting postal items for the purpose of their delivery to the addressee; Postal items may be received by means of access points or at the sender's address via the workers of the postal service provider, in the manner set out in the provisions of this Act and general conditions of the postal services providers | Procedure whereby the received postal items are sorted according to the address of the recipient of the item for the purpose of further transport; | Transport of postal items: preparation for the transport and transport of individual or grouped postal items, and other procedures related to the transport of postal items from the point of clearance to the place of delivery; | Delivery of postal items: the delivery of postal items to the addressee or another authorised person at the recipient's address, by means of a house mailbox or in the business premises of the postal service provider; |
| HU | Hungary | Same definition as the Postal Service Directive | The preparation of deposited and collected postal items for transport or delivery | The operation of conveying postal items between the sorting points and the service provider's access or delivery points | Same definition as the Postal Service Directive |
| IE | Ireland | "Clearance" means the operation of collecting postal packets by a postal service provider for transmission, | Not defined | Not defined | "Distribution" means the process from sorting of postal packets at the distribution centre to delivery of postal |

| Country | | Clearance | Sorting | Transport | Distribution |
|---------|-----------------|---|---|--|--|
| | | including to places outside the State | | | packets to their addressees |
| IS | Iceland | | | | |
| IT | Italy | Same definition as the Postal Service Directive | Not defined | Not defined | Same definition as the Postal Service Directive |
| LT | Lithuania | Clearance shall mean the actions of a postal service provider resulting in receipt of postal items in the postal network | Sorting shall mean the totality of actions performed in respect of postal items from the receipt thereof at the sorting venue to the submission of the items for transportation or delivery – sorting according to different criteria of delivery | Not defined | Delivery shall mean the totality of actions performed from sorting of postal items to handing in of them to addressees through the postal network, including the handing in person with acknowledgement of receipt |
| LU | Luxembourg | Same definition as the Postal Service Directive (levée – l'opération consistant pour un prestataire de services postaux à collecter les envois postaux) | Not defined | Not defined | Same definition as the Postal Service Directive. Distribution - le processus allant du tri au centre de distribution jusqu'à la remise des envois postaux aux destinataires |
| LV | Latvia | The collection of postal items from the sender's point of delivery and in another location if the postal operator provides this possibility | Sorting of collected mail by the characteristics specified by the postal operator, preparing them for further delivery to the addressees | Not defined | Delivery of postal items from the last mail-sorting location to the addressee. |
| ME | Montenegro | | | | |
| MT | Malta | Same definition as the Postal Service Directive | Not defined | Refer to definition of 'postal services' | Same definition as the Postal Service Directive |
| NL | The Netherlands | Not defined (but seen in line with PSD) | Not defined | Not defined (but not considered as a postal service) | Not defined |
| NO | Norway | Not defined | Not defined | Not defined | Not defined |
| PL | Poland | Same definition as the Postal Service Directive | Not defined | Not defined | Same definition as the Postal Service Directive |
| PT | Portugal | Set of operations related to the deposit of postal items with a postal network, namely their collection by postal service providers | Set of operations related to the deposit of postal items with a postal network, namely their collection by postal service providers | Delivery of postal items through appropriate technical means from the point of access to the postal network to the distribution centre of the area where postal items are addressed to | Set of operations from the sorting at the distribution centre of the area where such items are addressed to, to the actual delivery of postal, either natural or legal persons |

| Country | | Clearance | Sorting | Transport | Distribution |
|---------|----------|---|---|--|--|
| RO | Romania | The operation of collecting postal items made either through the access points or from an address indicated by the sender | Not defined | Not defined | The process from sorting the postal items to their delivery to the addressee |
| RS | Serbia | Clearance of postal items is the procedure of receiving postal items for delivery to the addressee Items may be received at the access points of the operator or at the sender's address through employees of the postal operator, in the manner prescribed by the provisions of this Law and the general conditions of postal operators | Sorting of postal items is a technologically harmonized and optimized procedure for processing of postal items in the clearance and shipment phase according to the delivery destinations | Transport of postal items includes the procedure of preparation for transport and transport of individual or grouped postal items, as well as other procedures related to the transport of postal items from the place of clearance to the place of delivery | Distribution is the process from sorting at the distribution centre to delivery of postal items to their addresses |
| SI | Slovenia | Clearance shall mean the operation by which the postal service provider collects postal items to deliver them. | Not defined | Not defined | Same definition as the Postal Service Directive |
| SK | Slovakia | Clearance of a postal item means the acceptance of a postal item by a postal enterprise from a sender or person posting the postal item, including the acceptance through an access or contact point of the postal network. If the sender or the person posting a postal item provides data in documentary or electronic form for the purposes of processing and production of a postal item on the basis of such data, the postal item is cleared at the moment of its production on the basis of such data, providing it is produced by a postal company. | Not defined | Not defined | Same definition as the PSD. |



| Country | | Clearance | Sorting | Transport | Distribution |
|---------|--------------------|--------------------------------|-------------|-------------|--------------|
| SE | Sweden | Same as EU Regulation 2018/644 | Not defined | Not defined | Not defined |
| UK | The United Kingdom | | | | |
| | Turkey | | | | |

ANNEX C

Table C. 1 – Postal item definition

| Country | | Postal item definition |
|---------|----------------|---|
| AT | Austria | Same as PSD Upper weight limit for postal parcels (both express and non-express) is 31.5 kg. This weight limit is a "regulatory", historical definition. |
| BE | Belgium | Same as PSD and the definition has been adapted to meet the requirements of article 2.1) of Regulation EU 2018/644, as the maximum weight is 31.5 kg |
| BG | Bulgaria | Same as PSD. Upper weight limits are 2 kg for item of correspondence, small packages up to 2 kg, 5 kg for printed matters, 20 kg for internal and international postal parcels (the limit for weight when referring to items from other countries may be also higher); items for partially sighted people up to 7 kg. |
| CH | Switzerland | Same as PSD, but no refence to books and catalogues. Weight limits are 30 kg for parcels (both express and non-express) and 2kg for letter |
| CY | Cyprus | Same as PSD. Unaddressed mails until 2 kg are included. Upper weight limit for postal parcels (both express and non-express) is 20 kg |
| CZ | Czech Republic | A postal item, which includes parcels, is an addressed item in the final form that has to be delivered by the postal provider. No refence to books and catalogues. No definition of direct mail. No weight limits for postal parcels |
| DE | Germany | Postal services as defined by the Postal Act are services provided on a profit-oriented basis: a) the conveyance of letter post items; b) the conveyance of addressed parcels weighing not more than 20 kg each; or c) the conveyance of books, catalogues, newspapers or magazines, insofar as such conveyance is made by companies providing postal services according to a) or b) above |
| DK | Denmark | No legal definition, but in practice the same definition as in Sweden. Upper weight limits are 20 kg for parcels and for books, 2 kg for items of correspondence and for other printed objects such as periodicals, newspaper and catalogues. Express mails are not included |
| EE | Estonia | Postal items are addressed and might be: correspondence, parcels, periodicals No weight limit is provided. |
| EL | Greece | Item with recipient's address, shipped, under its final form, in a closed packaging. |
| ES | Spain | Article 3.2 Spanish Postal Act: every item intended for dispatch to the address indicated by the sender on the object itself or on its wrapping, once presented in the definitive manner in which it should be cleared and distributed. In addition to items of correspondence, such items shall include direct advertisements, books, catalogues, newspapers, periodicals and postal parcels which contain merchandise with or without commercial value, irrespective of weight. No weight limit is specified. The maximum and minimum dimensions of the postal items shall be those established by the relevant provisions adopted by the Universal Postal Union. |

| Country | | Postal item definition |
|---------|-----------------|--|
| | | Unaddressed mails are not included within the scope of the Postal Act (art. 4) |
| FI | Finland | |
| FR | France | An item addressed in the final form in which it is to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. In addition to items of correspondence, such items also include for instance books, catalogues, newspapers, periodicals and postal parcels containing merchandise with or without commercial value. No weight limit provided for printed objects (e.g. books, catalogues, newspapers, periodical) and postal parcels. Express mails are not included |
| FYROM | North Macedonia | |
| HR | Croatia | Any addressed postal item in its final form in which it is to be delivered by the postal service provider. Postal items include items of correspondence, parcels, registered mail, insured items, cecograms, direct mail and printed matter. No weight limit. |
| HU | Hungary | A postal item is an item that must be addressed and with a maximum weight of 40 kg. Such items may include items of correspondence, official documents, postal parcels, books, catalogues or press products, as well as any other content not excluded from the postal service by the government decree. Express mails are not included |
| IE | Ireland | “postal packet” is an addressed item, in its final form, in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post; Upper weight limits are 2 kg for packet delivered inside the State; 5 kg for packet containing books delivered outside the State; 20 kg for parcels delivered into the State (domestic and deliver outside the State universal postal service 10kg). Express mails are not included. |
| IS | Iceland | Upper weight limits for parcels are 20 kg. |
| IT | Italy | same as PSD Weight limits for parcels are 30 kg for parcels Unaddressed mail is included |
| LT | Lithuania | Postal item shall mean an addressed and ready to be sent item, including items of correspondence, postal parcels, items containing books, catalogues, newspapers and other periodicals, which is to be delivered by a postal service provider. Neither primary nor secondary legislation set the upper weight limits for "Item of correspondence". Based on UPU regulations, LT interprets that "item of correspondence" could weight up to 5 kg. Weight limit for parcels is 50 kg for parcel |
| LU | Luxembourg | Same as PSD but no weight limit is specified |
| LV | Latvia | An addressed item in the final form in which it is delivered to an addressee by the postal operator. The size and weight of an item shall not exceed the limit value laid down in this Law and other laws and regulations. An item shall be deemed addressed if the address of the recipient of the item is indicated on the item itself or on the packaging thereof. Postal items are addressed and might be: correspondence, parcels, periodicals No weight limit is provided. Upper weight limit for postal parcels (both express and non-express) is 20 kg. |

| Country | | Postal item definition |
|---------|-----------------|---|
| ME | Montenegro | |
| MT | Malta | Same as PSD. Upper weight limit for postal parcels (both express and non-express) is 20 kg |
| NL | The Netherlands | Same as PSD. Upper weight limit for postal parcels is 30 kg A postal item is a letter or another designated addressed item as defined in an administrative order. In the administrative order these other items are: a. a domestic and outbound international parcel with a weight until 20 kg and inbound international parcel with a weight until 30 kg b. a physical item with text for the blind / blinded people c. a newspaper or a magazine |
| NO | Norway | An addressed item up to 20 kg. Letters, newspapers, periodicals and all other items up to 2 kg can be defined as a postal letter item. |
| PL | Poland | Same as PSD. Upper weight limit for postal parcels (both express and non-express) is 20 kg. The limit only applies to non-express parcel; there is no legal definition of an express postal parcel; there is only definition of a "courier item" that includes both letters and parcels. No weight limit specified for "form", which is a postal item with written or graphic information, copied by printing or similar techniques, presented on paper or other material used in printing, including books, catalogues, newspapers or periodicals; (there are no separate definitions of "books", "catalogues", "newspapers" and "periodicals"). Unaddressed mail are included |
| PT | Portugal | An item addressed in the final form, which observes the physical and technical specifications that allows it to be sorted by a postal network as well as delivered at the address indicated on the object itself or on its wrapping, namely, correspondence, books, catalogues, newspapers and other periodicals, and postal parcel |
| RO | Romania | An item addressed in the final form in which it is to be conveyed and delivered to the address indicated by the sender on the item itself, on its wrapping or in a distribution list. In addition to items of correspondence, such items also include, for instance, printed matter items, "M" bags, small packets, postal parcels containing merchandise with or without commercial value, and postal money orders. In this category is not included the hybrid mail. Upper weight limit for postal parcels (both express and non-express) is 50 kg. No weight limit provided for items of correspondence and for printed objects (e.g. books, catalogues, newspapers, periodical) |
| RS | Serbia | An item addressed by the sender in such a way that the addressee can be indisputably identified, and the accuracy of the address information is the responsibility of the sender. In addition to items of correspondence, such items also include books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without designated value; Upper weight limit for postal parcels (non-express) is 31.5 kg. Express mails are not included |
| SE | Sweden | An addressed mail item weighing at most 20 kg and which is deposited in the final form in which it shall be transported by a postal services provider. |

| Country | | Postal item definition |
|---------|--------------------|---|
| | | Printed objects such as books, catalogues, newspapers, periodical are considered postal items only if contained in an envelope or other kind of wrapping, featuring a postal address |
| SI | Slovenia | Same as PSD. National postal law does not provide any weight limits for postal items in general but only for the postal items within USO as these obligations are stipulated by PSD. |
| SK | Slovakia | Same as PSD. A postal item is a written communication or other item that is to be delivered to the addressee and that is designated by the address of the addressee. The final form of a postal item, in which the postal item is cleared and distributed by a postal company, shall be determined by the postal company in the postal terms and conditions. The minimum and maximum dimensions of postal items are determined by the rules for the international postal service. Postal items are: a) letter items, in particular items of correspondence, direct mail or items for the blind, b) parcels, c) periodical postal items or d) postal money orders. Upper weight limit for postal parcels (both express and non-express) is 50 kg. Upper weight limit for universal service parcels is 10 kg (inclusive). Upper weight limit for postal parcels are 10 kg for non-express ones and 50 kg for express ones. |
| UK | The United Kingdom | Definition of parcel considered: "Parcel" means an addressed postal item which can, according to normal operating assumptions, be lifted by a single average individual without mechanical aids and which is not a letter or a large letter. This should not include items weighing more than 31.5kg. "Express and secured services" are considered to involve the conveyance of postal packets and any incidental services of collecting, sorting and delivering those postal packets which have at least one of the following features: i. a guarantee for delivery by a certain time or date; ii. a facility enabling the sender and the recipient to monitor the progress of a postal packet through the postal operator's network, including confirmation of delivery. Upper weight limit for postal parcels (both express and non-express) is 31.5kg. No definition for printed objects (e.g. catalogues, newspapers, etc.) |
| TR | Turkey | i) Postal item: means any item of correspondence and book, catalogues, newspapers and periodicals, delivered to the address specified on the item according to the type of item, as well as any parcel containing goods whether with commercial value or not; ii) Postal parcel or cargo: any good or merchandise with a maximum weight of 30 kilograms sent via service providers and does not contain correspondence. |

ANNEX D

Table D. 1 – Item of correspondence definition

| Country | | Item of correspondence definition |
|---------|-----------------|--|
| AT | Austria | Same as PSD. Direct mail is an item of correspondence only if addressed to a specific addressee |
| BE | Belgium | Same as PSD |
| BG | Bulgaria | Same as PSD. Printed matters shall not be treated as items of correspondence |
| CH | Switzerland | Definition only about letter mail. Letter: a postal item with a thickness below 2 cm and weighing up to 2 kg |
| CY | Cyprus | Same as PSD |
| CZ | Czech Republic | A communication in written form on a paper intended for a specific individual |
| DE | Germany | Letter post items shall mean addressed communications in written. Catalogues and publications appearing on a recurrent basis, such as newspapers and magazines, shall not be considered within written communications. Also communications not addressed to an individual by name but bearing solely a collective indication of place of residence or business shall not be deemed addressed |
| DK | Denmark | No legal definition |
| EE | Estonia | An item of correspondence means an object or objects which is or are addressed and properly packaged and deposited with a postal service provider for forwarding. For example, letters, publications and small packages are items of correspondence |
| EL | Greece | Letter: a postal item that includes an item of correspondence or, for instance, books, catalogues, newspapers, periodicals, with an upper weight limit of 2 kilograms and indicative upper dimensions of 400 x 300 x 20 mm. |
| ES | Spain | Same as PSD, but 'direct mail' is regarded as item of correspondence |
| FI | Finland | |
| FR | France | An item of correspondence is a postal item that does not exceed the weight limit of 2 kg and is a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Books, catalogues, newspapers and periodicals shall not be regarded as items of correspondence |
| FYROM | North Macedonia | |
| HR | Croatia | A communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. |
| HU | Hungary | No definition |
| IE | Ireland | |
| IS | Iceland | |
| IT | Italy | Same as PSD |
| LT | Lithuania | Item of correspondence is a postal item consisting of a notice written on any physical medium, including small packages, to be dispatched and delivered at the address of the |

| Country | | Item of correspondence definition |
|---------|--------------------|---|
| | | addressee indicated therein. Books, catalogues, newspapers and other periodicals shall not be considered items of correspondence |
| LU | Luxembourg | Same as PSD |
| LV | Latvia | A postal item in the form, weight, format or size addressed by the postal operator which sends written communications, documents, printed materials or detailed items to the addressee |
| ME | Montenegro | |
| MT | Malta | Same as PSD |
| NL | The Netherlands | Same as PSD |
| NO | Norway | No legal definition |
| PL | Poland | Same as PSD |
| PT | Portugal | An item of correspondence consists on a communication in written form on any kind of physical medium, including direct mail |
| RO | Romania | Same as PSD |
| RS | Serbia | Items of correspondence is a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Books, catalogues, newspapers and periodicals shall not be regarded as items of correspondence; letter-post item is a postal item that includes correspondence, printed matter, merchandise and others |
| SE | Sweden | No formal definition of correspondence. However, a letter is defined as "an addressed mail item that is enclosed in an envelope or other wrapping weighing at most 2 kg together with view-cards, postcards and similar mail items" |
| SI | Slovenia | Same as PSD |
| SK | Slovakia | Same as PSD |
| UK | The United Kingdom | |
| TR | Turkey | Any type of postal item, including telegraph, that is written on any type of physical means except for book, catalogues, newspaper and periodicals or prepared as electronic message and required to be shipped and delivered to the address written by the sender |

ANNEX E

Table E. 1 – Parcel definition

| Country | | Parcel definition |
|---------|----------------|---|
| AT | Austria | Upper weight limit for postal parcels (both express and non-express) is 31.5 kg |
| BE | Belgium | Upper weight limit for postal parcels (both express and non-express) is 31.5 kg |
| BG | Bulgaria | Same as PSD. Upper weight limits are 2 kg for item of correspondence, small packages up to 2 kg, 5 kg for printed matters, 20 kg for internal and international postal parcels (the limit for weight when referring to items from other countries may be also higher); items for partially sighted people up to 7 kg. |
| CH | Switzerland | Parcel: a postal item thicker than 2 cm and weighing up to 30 kg. When the weight criteria alone does not allow a proper market delimitation with other transport services, the regulator also considers the dimensions of an item on a case-by-case basis, thereby excluding large items which are usually not processed by postal services providers. |
| CY | Cyprus | Upper weight limit for postal parcels (both express and non-express) is 20 kg |
| CZ | Czech Republic | Not defined; no weight limits for postal parcels |
| DE | Germany | Not defined |
| DK | Denmark | No legal definition in postal law. However, Regulation EU 2018/644 applies to parcel delivery services. Upper weight limits are 20 kg for parcels. |
| EE | Estonia | A postal parcel means an object or objects which is or are addressed and properly packaged and deposited with a postal service provider for forwarding |
| EL | Greece | Parcel: a postal item with or without commercial value, the dimensions of which exceed the dimensions of a letter. Parcels that weight less than 2 kg may be considered as small parcels/packages. Weigh limits are 20 kg for non-express parcels. No weight limits for express parcels |
| ES | Spain | Spanish Postal Act defines parcels as in the PSD (i.e. they are postal items) but it does not include any weight limit. On the other hand, article 13.2.C of the Spanish Postal Regulation (www.boe.es/buscar/act.php?id=BOE-A-1999-24919) defines Postal Parcels as those shipments containing any object, product or matter, with or without commercial value, whose circulation through the postal network is not forbidden and any shipment that, including direct mail, books, catalogues, periodicals, fulfills the remaining requisites established in this Regulation for its admission under this mode. When these shipments contain objects of personal and current nature, this circumstance will be expressed on its cover. The lots or groups of letters or any other class of current and personal correspondence will not constitute postal parcels. |
| FI | Finland | |
| FR | France | Postal parcels: parcels which are collected, sorted, transported and delivered through regular delivery rounds. No weight limits are provided |

| Country | | Parcel definition |
|---------|-----------------|---|
| FYROM | North Macedonia | |
| HR | Croatia | Any postal item that contains goods and articles. |
| HU | Hungary | Parcel is a registered postal item containing goods with or without commercial value. Upper weight limit is 40 kg. |
| IE | Ireland | Upper weight limits for inbound parcels are 20 kg (domestic and outbound universal postal service parcel upper weight limit 10kg). |
| IS | Iceland | Upper weight limits for parcels are 20 kg. |
| IT | Italy | Upper weight limits for parcels are 30 kg. |
| LT | Lithuania | Postal parcel shall mean a postal item of up to 50 kg containing an article (articles) or merchandise with or without commercial value. |
| LU | Luxembourg | |
| LV | Latvia | Postal parcel is a postal item, in which goods and items with or without commercial value are sent. |
| ME | Montenegro | |
| MT | Malta | A postal article which is not an item of correspondence, the weight of which does not exceed 20 kg and the dimensions fall within the limits laid down by the Universal Postal Union. |
| NL | The Netherlands | Postal parcel is defined as an addressed postal item that contains contents, not being letters. Weight limit, domestic and outbound: ≤ 20kg; inbound: ≤ 30kg |
| NO | Norway | No legal definition. Upper weight limit for postal parcels is 20 kg |
| PL | Poland | Postal parcel: a recorded postal item other than a letter item, weighing up to 20,000 g and dimensions: a) of which none may exceed 2000 mm or b) which may not exceed 3000 mm for the sum of length and the largest perimeter measured in a different direction than length. Upper weight limit for postal parcels (both express and non-express) is 20 kg. The limit only applies to non-express parcel; there is no legal definition of an express postal parcel; there is only definition of a "courier item" that includes both letters and parcels. |
| PT | Portugal | A postal parcel is a package containing merchandise or objects with or without commercial value |
| RO | Romania | Postal item weighing up to 31.5 kg, containing goods with or without commercial value. Upper weight limit for postal parcels (both express and non-express) is 50 kg |
| RS | Serbia | Parcel is a registered postal item, with or without designated value, packed in the prescribed manner, containing merchandise and other items with a description of the contents and weight on the wrapping or the accompanying document; Upper weight limit for postal parcels (non-express) is 31.5 kg |
| SE | Sweden | No formal definition in postal law. However, Regulation EU 2018/644 applies to parcel delivery service, which means that the 31,5 kg limit is applicable. |
| SI | Slovenia | National postal law does not provide definition or weight limit for parcels in general but only for the parcels within the USO as these obligations are stipulated by PSD. |
| SK | Slovakia | Upper weight limit for postal parcels (both express and non-express) is 50 kg. |



| Country | | Parcel definition |
|---------|--------------------|--|
| UK | The United Kingdom | Parcel: an addressed postal item which can, according to normal operating assumptions, be lifted by a single average individual without mechanical aids and which is not a letter or a large letter. This should not include items weighing more than 31.5kg |
| | Turkey | Postal parcel is any type of material with maximum weight of 30 kg that is sent via service providers and does not contain letters |

ANNEX F – CHAPTER BOUNDARIES

Table F. 2 – Regulatory background for self- provision

| |
|---|
| 1.- National legislations (summary), Postal Service Directive and UPU definitions |
| - The Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (98/C 39/02), paragraph 2.3. |
| - Recital 18 of the Regulation (EU) 2018/644 of the European Parliament and of the Council of 18 April 2018 on cross-border parcel delivery services would reflect the self-provision exemption. |
| - Recital 21 of the Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service considers 'Self-provision' as the provision of postal services by the natural or legal person who is the originator of the mail, or collection and routing of these items by a third party acting solely on behalf of that person. Those services would be excluded from the scope of postal services. |
| 2.- Case C-240/02, Reference to the Court under Article 234 EC by the Tribunal Supremo (Spain) |
| 3.- BEREC: Report on Self supply. March 2010. BoR 10 (09) |

Table F. 2 – Boundaries with Transport

| Countries | Case studies of differentiating the transport in the postal sector |
|-------------|---|
| Latvia | The transport of postal items as a separate service which is not directly related to collection and supply shall not be regarded as a postal service |
| Malta | If the transport is related to the postal items, this alone is considered part of a postal service. (postal operator" means any person authorised to supply one or more postal services and includes any person who carries on within or outside Malta any business or activity relating to postal services including any services that are ancillary to postal services) |
| Netherlands | The transport of separately registered express mail on which separate agreements have been concluded between the sender and the transport company concerning the period or time of ordering, about the delivery security and about the liability is not a postal service. The Dutch Postal Act excludes the following activities as being postal services: the transport, carried out under the responsibility of the sender, of postal items that are apparently intended to be transferred to that postal service provider at a place agreed with a postal service provider, in order for the postal items to be delivered by that postal service provider to the separate addresses. |
| Spain | The collection or delivery of goods shipments consisting on a reduced number of packages that can be easily manipulated by a person with the only help of the machines and tools carried in its vehicle falls within the scope of the transport sector. In Spain, the delimitation between traditional postal services and value-added services has been well established in the postal legislation. However, the same cannot be said with the differentiation between postal shipments and shipments subject exclusively to the transport legislation. The LOTT considers 'ancillary and complementary activities of the transport' those developed by the transport agencies, the forwarders, the logistics operators, the stockists- |



| | |
|-------------|---|
| | <p>distributors, the passenger transport stations and the transport and logistics centres for road or multimodal transport.</p> <p>Regarding such activities, the LOTT establishes the agencies of full and part load and allows, with domestic coverage, mediation in the transport of part load (parcels), as any transport company could perform any type of load with the itinerary or frequency it deems convenient.</p> <p>The following activities are opposed to the ancillary and complementary activities of transport: the regular passenger transport, the discretionary public transport of goods and passengers as well as different specific types of transport (taxi, tourist, sanitary, funerary, and dangerous and perishable goods transport).</p> <p>The LCTT identifies as typical features of the parcel services (for the purpose of the transport legislation) or similar ones the collection or delivery of goods shipments consisting on a reduced number of packages that can be easily manipulated by a person with the only help of the machines and tools carried in its vehicle.</p> <p>Additionally, the LCTT indicates that the material unit of the differentiated load of the goods via land transport are the packages, with independence of their volume, dimensions and content. The consignment or shipments are those merchandises that the shipper delivers simultaneously to the carrier for its transport and delivery to a unique addressee, from a unique place of loading to a unique destination point.</p> <p>Based on the previous considerations, and considering that the courier, parcel, logistics and transport providers all operate with goods, one can well conclude from all the definitions previously exposed and their evolution along the time (the most recently ones given by Regulation EU 2018/644) when a parcel has the postal nature regardless of the nature of the undertaking performing its transport. Basically, the principle of legislative specialty prevails. Regarding compensations and insurances, the Spanish Postal Act states that the users contracting courier or parcel delivery services will have the right, except in case of force majeure, to receive a compensation from the postal operators in case of loss, theft, destruction or damage of the registered postal items or with added-value (i.e. insured), through the payment of a predetermined amount by the postal operator, in the first case, and a proportional amount to the declared one by the sender, in the second case.</p> <p>On the other hand, the Spanish land transport legislation recognizes the different types and limits to the compensation by the carrier to the shipper contracting the transport service.</p> |
| Switzerland | The transport of items to the same address together with other items, which are not considered to be postal because of their format or weight, is not in the scope of postal service. |

Table F. 3 – Platforms and Digital Services

| Countries | Experience |
|-----------|---|
| Malta | When purchasing items online from retailers overseas, consumers may be in a position to avail themselves of an alternative delivery service - referred to as Postal Article Forwarding Services (PAFS). Such services, which have emerged from the significant growth in e-commerce and changing consumer purchasing habits, are distinct from conventional end-to- |

| | |
|-------|---|
| | <p>end cross-border postal services and work by introducing a third party to the postal delivery chain. Such services are also referred to as ‘Parcel’ or ‘Packet’ Forwarding Services as these services have emerged mainly to cater for the delivery of goods purchased online from foreign retailers, other than an item of correspondence⁶⁴. Those undertakings providing PAFS are requested to provide a general authorisation notified to the Maltese NRA (MCA) to solely provide postal services outside the scope of the universal postal service. The delivery of an item by a PAFS provider, as agreed with the customer, may take place either by a postal service by means of an independent postal operator, or by the PAFS provider itself. A PAFS provider may also provide various different value-added services (such as repacking and consolidating multiple parcels/packets into one shipment, modes of delivery, payment methods for delivery, tracking, etc.). A PAFS typically involves three phases: (i) the receiving phase, (ii) the transport phase, and (iii) the release phase.</p> |
| Spain | <p>The article 22.4 of the Spanish Postal Act considers the possibility of administrative notifications by the designated operator delivered by electronic channels: "The actions of the universal service provider shall be presumed to be true and reliable in the distribution, delivery and receipt or the refusal or impossibility of delivery of official notifications, either physical or electronic, from administrative and judicial bodies and without prejudice to the implementation, to the different scenarios of notification, of the provisions of Act 30/1992, of 26 November, on the Legal Framework for Public Administrations and the Common Administrative Procedure".</p> |

Table G. 4 – Experience with e-retailers/on-line platforms

| Countries | Experience |
|-----------|---|
| Austria | <p>Amazon has one huge warehouse and delivers parcels (mainly with subcontractors - the subcontractors are also considered as postal service providers) in the area of Vienna. Amazon is considered as a postal service provider. Amazon also pays a financial contribution for the regulation and delivers the requested parcel figures.</p> |
| Cyprus | <p>There is no self-delivery by Amazon yet. Delivery for Amazon is done through authorized postal providers. Currently no e-retailer is an authorized postal provider. All e-retailers use authorized postal providers.</p> |
| Denmark | <p>The Danish NRA would consider some of the company’s activities to be postal services if Amazon were established in Denmark.</p> |
| Estonia | <p>E-retailers are not considered postal providers because postal service does not mean the delivery of written communications and other items in the person's own name or for the purpose of the person's own economic activities. Usually e-retailers use postal providers to deliver their goods.</p> |
| France | <p>Amazon, Amazon Logistics or Amazon transport are not considered postal operators, like express operators such as UPS, as the French legislative framework states that “postal services are the collection, sorting, routing and distribution of postal items through regular rounds. However as other operators that were not considered Postal Operators, Amazon transport declared itself to Arcep under the cross-border regulation framework a parcel delivery provider and communicated the data required by the EU Regulation.</p> |

⁶⁴ www.mca.org.mt/sites/default/files/PAFS - Decision Notice 7 February 2019.pdf

| | |
|-----------------|---|
| Germany | Amazon is using capacities of other parcel operators but also has established its own delivery network in Germany. The undertaking is registered as a postal provider. |
| Ireland | There is no self-delivery by Amazon yet. Irish consumers largely use the UK website of Amazon, how an Amazon parcel is delivered in Ireland is by commercial arrangement. Currently, no e-retailer is an authorised postal service provider ⁶⁵ . |
| Italy | Amazon is considered a postal provider as it manages and oversees a network of delivery subcontractors. |
| Lithuania | Amazon does not provide services in Lithuania yet. Other e-retailers usually are not considered as postal operators. |
| Malta | The distribution of postal items originating from Amazon is currently carried out by a local postal operator. An e-retailer providing itself elements of the postal value chain in Malta would be considered a postal operator. |
| Norway | Amazon is not considered a postal provider in Norway. Amazon is not established in Norway and there has therefore not been taken any formal decision. |
| Poland | As regards Amazon (and other e-retailers) basically they are not regarded as postal operators as they are not yet well established in the country. There is only one small company - P2G that is in the postal register (it is a broker company). The situation may change as soon as Amazon physically settles in Poland. As reported by the media probably this year, Amazon will enter Poland and open an e-shop here (apart from e-commerce logistics centres). Until now, Polish buyers could shop on the German-language Amazon.de website. Amazon is currently "conducting very advanced talks on cooperation with Poczta Polska". Poczta Polska would deal with shipments from the Polish version of Amazon.com in Poland and Ukraine. The final talks on this matter are to take place in April 2020. |
| The Netherlands | Amazon is not yet physically active. Amazon has a Dutch office and recently opened a Dutch website (Amazon.nl) but customers buying at Amazon to date use mostly the German version of the website (Amazon.de) and shipment starts off from e-fulfilment centres in Germany (near the border) and is being carried out by postal service providers. |
| Slovakia | Amazon has operated a shared service centre which opened in 2011. It also has launched its first reverse logistics centre in 2017 to serve customers across the European Union. Currently, Amazon does not provide any postal services according to the Slovak postal law and therefore is not considered to be postal service provider. If an e-retailer/logistic company starts to provide one of the postal services, it is obliged to be registered as postal company. |
| Spain | In February 2020, the Spanish NRA (CNMC) has agreed to open a case to determine if Amazon satisfies the requirements to be considered a postal operator (STP/DTSP/006/20). The Directorate of Transport and the Postal Sector believes that there are indications that, in its e-commerce activity, Amazon provides services that may be considered postal services. This case will consider the characteristics of the shipments that it manages, the activities involved in said shipments, the legal relationship it maintains with freelancers who distribute its parcels and with third-party parcel delivery companies, the management of their self-service lockers, and others. Law 3/2013, which created the CNMC, specifies that this institution is responsible for overseeing and ensuring the proper operation of the postal market. Likewise, the Spanish Postal Act states that postal operators must submit an affidavit that, together with the protection of fundamental rights such as the confidentiality of postal |

⁶⁵www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/



| | |
|---------------|---|
| | <p>communications, includes respect for the rules that protect the rights of workers and users and for regulations involving tax or immigration matters. However, the opening of this case does not prejudge the final result. Once the agreement to initiate the case is reported, a maximum period of three months begins for the CNMC to investigate and resolve the case.</p> |
| <p>Sweden</p> | <p>Amazon (or other platforms) has so far not actively entered the Swedish market but are planning to set up server hall(s) in the coming years. Swedish customers are so far redirected to the German Amazon site, and there are no particular delivery services for the Swedish territory. However, if/when they enter the market, the Swedish NRA (PTS) would most likely consider them as a provider of postal services (but not needing a license for their delivery operations, as this is restricted to providers of letter mail services under the current Swedish postal act).</p> |