



On grounds of the provisions of Article 38 paragraphs (1), (3) and (5) of the Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002, as well as of Article 6 paragraph (2) of the Government Ordinance no.31/2002 on postal services, approved with amendments and completions by Law no.642/2002,

Having regard to the Order of the Minister of communications and Information Technology no.225/2003 for the approval of the Policy and Strategy Document regarding the implementation of universal service in the postal services sector,

## THE PRESIDENT OF THE NATIONAL REGULATORY AUTHORITY FOR COMMUNICATIONS

issues the present:

### DECISION on the conditions and the procedure of designation of universal service providers in the postal services sector

#### CHAPTER I: General Provisions

**Art.1.** – This Decision establishes the conditions and the procedure of designation of postal services providers as universal service providers, as it is defined in the Government Ordinance no.31/2002 on postal services, approved with amendments and completions by Law no.642/2002, hereinafter referred to as the *Ordinance on postal services*.

**Art.2.** – Only a provider of postal services within the scope of universal service who ensures the fulfilment of all the conditions provided in the Ordinance on postal services for the provision of postal services within the scope of universal service may be designated as universal service provider.

**Art.3.** – (1) Designation of a postal service provider as a universal service provider shall be performed by the National Regulatory Authority for Communications, hereinafter referred to as *ANRC*, upon request or *ex officio*, under the provisions of the Ordinance on postal services and of this decision.

(2) With a view to enforcing the provisions of the present decision, ANRC shall pursue the achievement of the objectives provided under Article 49 paragraph (1) of the Ordinance on postal services and shall take all the necessary measures and in order to limit the possible negative effects triggered by the provision of services within the scope of universal service on competition, as well as to ensure the protection of the end-users' interest, in compliance with the provisions of the Order of the Minister of communications and Information Technology

no.225/2003 for the approval of the Policy and Strategy Document regarding the implementation of universal service in the postal services sector.

## **CHAPTER II: Designation upon Request**

**Art.4.** – (1) A provider of postal services within the scope of universal service who wishes to be designated as a universal service provider shall send ANRC, at the headquarters or at the territorial office where the provider's headquarters belong, an application notifying this intention, in the format provided in the annex enclosed in this Decision.

(2) The term within which the postal service providers can send the application provided under paragraph (1) spans 30 days since the entry in force of this Decision.

(3) The application shall be submitted, together with the other necessary documents, personally by the applicant's representative, upon signature, or by the postal service for registered items with confirmation receipt.

**Art.5.** – (1) The application for the designation of a universal service provider shall mention the following information:

- a) the applicant's identity data;
- b) the services within the scope of universal service for which the designation is required;
- c) localities for which the designation is required;
- d) the date proposed for starting the universal service activity and the period for which the designation is required.

(2) The application for the designation as a universal service provider shall be accompanied by the following documents:

- a) ascertaining certificate issued by the Office of the Trade Registry certifying that no procedure of voluntary or judicial dissolving, as well as that no dissolving procedure following bankruptcy or judicial reorganisation has been initiated;
- b) certificates regarding the payment of the financial obligations to the state budget, to the welfare budget, to the health social insurance budget, to the special fund budgets and of any other budgetary obligations;
- c) annual financial statements for the past 3 years or for the whole period since the establishment of the company, should it be shorter than 3 years, as submitted to the territorial offices of the Ministry of Public Finance;
- d) detailed description of the means by which the applicant guarantees the compliance with the essential requirements regarding the provision of the postal services within the scope of universal service for which the designation is required;
- e) quality requirements whose fulfilment is guaranteed by the applicant, as well as a description of the technologies used and of the measures required for the fulfilment of the respective requirements;
- f) justification for the occurring losses triggered by the provision of services within the scope of universal service, as well as the measures proposed by the applicant with a view to covering the respective losses;
- g) a list of the locations of all the access points in the owned postal network, which the applicant guarantees to use with a view to providing the postal services within the scope of universal service for which the designation is required.

**Art.6.** – (1) Within 15 days since the entry in force of this Decision, the ANRC President shall establish by decision an evaluation commission with a view to analysing the applications for the designation as universal service provider.

(2) The evaluation commission provided under paragraph (1) shall consist of specialists in the electronic, technical and legal fields and shall have the following attributions:

a) checking the fulfilment of the formal conditions of the applications for the designation as a universal service provider, as provided under Article 5 paragraphs (1) and (2);

b) checking the fulfilment of the eligibility conditions and of the criteria regarding the technical and financial-economic capacity of the applicants, as provided under Articles 7-10 of the Ordinance on postal services;

c) drawing up the draft decision for the designation as a universal service provider or for rejecting the application for the designation as a universal service provider.

(3) The evaluation commission may request the participants to submit any documents, additional information or explanations, as required for solving the applications, also indicating the term within which these documents shall be submitted.

**Art.7.** – analysing the applications for the designation as a universal service provider, the evaluation commission shall consider the following:

a) coverage degree of the national territory guaranteed by the applicants, including the density of the access points in the public postal networks;

b) previous experience in providing the services within the scope of universal service or of other postal services;

c) the data presented regarding the turnover, the profit, the status of the patrimony and the number of employees;

d) the capacity of ensuring an even level of tariffs for the services within the scope of universal service over the whole national territory;

e) other relevant information presented by the applicants.

**Art.8.** – (1) The solving term of the applications for the designation as a universal service provider is of 120 days since the entry in force of this Decision.

(2) ANRC shall launch the draft decision of designation as a universal service provider or of rejection of the application for the designation as a universal service provider, as the case may be, for the consultation procedure provided under Article 50 of the Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002, so that the term provided in paragraph (1) should be observed.

(3) If, according to the provisions of Article 6 paragraph (3), an applicant is further required documents, additional information or explanations, the term provided under paragraph (1) shall be suspended until the reception of the documents or until the expiry of the submitting term established by the evaluation commission.

### **CHAPTER III: Designation ex officio**

**Art.9.** – (1) ANRC shall be able to designate ex officio a provider of postal services within the scope of universal service as a universal service provider in the following situations:

a) if no applicant submitted an application for the designation as a universal service provider within the term provided under Article 4 paragraph (2);

b) if no one of the applicants who submitted an application for the designation as a universal service provider within the term provided under Article 4 paragraph (2) has been designated as a universal service provider following the procedure provided in Chapter II;

c) if, following the procedure provided in Chapter II, no provider has been designated as universal service providers for all the services within the scope of universal service over the whole national territory.

(2) Designation ex officio shall be performed by the ANRC President's Decision, elaborated based on the proposals of the evaluation commission provided under Article 6 and shall be launched for the consultation procedure provided under Article 50 of the Government Emergency Ordinance no.79/2002, approved with amendments and completions by Law no.591/2002.

(3) The proposals of the evaluation commission shall mention the person proposed to be designated as a universal service provider for which ex officio designation is required, as well as the other data to be included in the designation.

#### **CHAPTER IV: The Decision of Designation as a Universal Service Provider**

**Art.10.** – (1) The Decision of designation as a universal service provider grants the universal service provider specific rights and obligations, in addition to those granted by the individual licence.

(2) The Decision of designation as a universal service provider shall include the following information, as the case may be:

a) the services for which the universal service provider has been designated;

b) the period for which the universal service provider has been designated, not exceeding the expiry date of the individual licence issued for the universal service provider;

c) the priority right for leasing the necessary space with a view to performing the activity of transport of the postal items and of the Post-Office orders;

d) the priority right for the transportation of postal items and of Post-Office orders by the companies, the national companies and the national administrations having the object of activity in the field of public transportation by road, by railway, by sea or river, or by air, as well as the right of priority access in the means of transportation owned or administered by the respective entity;

e) the right of priority access to customs points and to customs offices;

f) the right to install, maintain, replace and remove, cost-free, postal packages in/on the immovables which are property of state or of its territorial administrative bodies;

g) the right to function in international relationships as a universal service provider and to conclude operational agreements under this quality, as well as to use the specific international forms, provided in the international agreements in which Romania is a party;

h) the right to issue stamps and postage effects;

i) the rights from which a universal service provider benefits with a view to covering the losses triggered by the provision of services for which it has been designated, either as a compensation mechanism, or as reserved rights;

j) the obligation to ensure at least one collection from each access point and at least one delivery to the address of each natural person and to the headquarters of each legal person, every working day, not less than 5 days a week, excepting the cases or the

geographical conditions deemed exceptional by ANRC, in each locality where it provides the services within the scope of universal service which it has the obligation to provide;

k) the obligations of observing the essential requirements, of non-discrimination, of continuously providing the services for which it was designated and of development;

l) the obligation of publishing the information on the characteristics of the services for which it was designated;

m) the obligation to ensure access to the network for all the users, under transparency, objectivity and non-discrimination procedures, as well as the obligation to ensure access to the network for other postal service providers;

n) obligations related to submitting ANRC for approval the tariffs charged for the services for which it was designated, as well as to publish these tariffs;

o) obligations related to keeping separate accounts;

p) obligations regarding the regulations on the postal services for which it was designated;

q) the quality standards which the universal service provider has the obligation to observe;

r) obligations related to submitting ANRC for approval the frame-agreement, based on which the universal service provider operates in relationship with the users;

s) obligations related to submitting ANRC for approval the postal code;

t) other relevant rights and obligations regarding the provision of postal services for which it was designated.

## CHAPTER V: Special Provisions

**Art.11.** – (1) The universal service provider designated under the conditions and according to the procedure regulated by this Decision may submit ANRC an application with a view to amending certain conditions established by the decision of designation after one year since the date of starting activity as a universal service provider.

(2) Under exceptional situations, the providers could submit the application before the expiry of the term provided under paragraph (1).

(3) The application shall mention the reasons why the universal service provider requests the amendment of the conditions provided in the designation decision and shall be accompanied by the justifying documents.

(4) Within 10 days since the reception of such an application, the ANRC President shall designate by decision an evaluation commission consisting of the specialists provided under Article 6 paragraph (2).

(5) The application shall be solved by the ANRC President's Decision within 60 days since registration.

(6) The provisions of Article 6 paragraph (3) and of Article 8 paragraph (3) shall be enforced correspondingly.

**Art.12.** – The quality of universal service provider may be withdrawn by the ANRC President's Decision, should the universal service provider breach, repeatedly and significantly, the obligations, conditions, standards, regulations, procedures and terms provided by the designation decision.

**Art.13.** – (1) The quality of universal service provider shall cease in the following situations:

- a) upon the dissolving of the universal service provider;
- b) following the initiation of the procedure of judicial reorganisation and of bankruptcy against the universal service provider, under the provisions of Law no.64/1995, republished, with amendments and completions;
- c) upon the expiry of the period for which it was designated;
- d) following the withdrawal of this quality by ANRC under the conditions provided in Article 12.

(2) Within 15 days since the cessation of the quality of universal service provider, ANRC shall publish on its Internet page and in at least one daily newspaper with large circulation the date on which a new 30 days term begins for the providers of postal services within the scope of universal service to submit the application provided under Article 4 paragraph (1), with a view to designating another universal service provider for the respective services and areas. In this situation, the designation conditions and the phases of the designation procedure provided by this decision shall be enforced correspondingly.

**Art.14.** – This decision shall be published in the Official Journal of Romania, Part I.

**PRESIDENT,  
ION SMEEIANU**

Bucharest, November 27, 2003  
Nr.1351/EN

**Annex**

**APPLICATION  
for designation as a universal service provider**

**A. Data required for the identification of and the efficient communication with the applicant:**

<b>Applicant's name:</b> <input type="text"/>					
<b>Applicant's headquarters:</b>					
Street:	No.	Bl.	Ent.	Ap.	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Locality:			Postal code:		
<input type="text"/>			<input type="text"/>		
County / District:		Telephone:	Fax:		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
E-mail:			Internet page:		
<input type="text"/>			<input type="text"/>		
<b>The applicant is registered with the Trade Registry:</b>					
County/Municipality:		Number:	Of:		
<input type="text"/>		<input type="text"/>	<input type="text"/>		
Fiscal code:		Unique code of registration:			
<input type="text"/>		<input type="text"/>			
<b>Contact person:</b>					
Surname:			First Name:		
<input type="text"/>			<input type="text"/>		
Personal identification number:					
<input type="text"/>					
Street:		No.	Bl.	Ent.	Ap.
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>





certificates regarding the payment of the financial obligations to the state budget, to the welfare budget, to the health social insurance budget, to the special fund budgets and of any other budgetary obligations;

annual financial statements for the past 3 years or for the whole period since the establishment of the company, should it be shorter than 3 years, as submitted to the territorial offices of the Ministry of Public Finance;

detailed description of the means by which the applicant guarantees the compliance with the essential requirements regarding the provision of the postal services within the scope of universal service for which the designation is required;

quality requirements whose fulfilment is guaranteed by the applicant, as well as a description of the technologies used and of the measures required for the fulfilment of the respective requirements;

justification for the occurring losses triggered by the provision of services within the scope of universal service, as well as the measures proposed by the applicant with a view to covering the respective losses;

a list of the locations of all the access points in the owned postal network, which the applicant guarantees to use with a view to providing the postal services within the scope of universal service for which the designation is required.

**F. The undersigned, ....., in my capacity as the legal representative of the applicant, I hereby declare on my own account, being fully aware of the provisions under art.292 of the Penal Code regarding false statements, that all data and information mentioned in the present request and the attached documents are correct and complete.**

Date of filling in:

The seal of the requester:

The signature of the legal representative of the applicant: