

## **EMERGENCY ORDINANCE**

### **ON POSTAL SERVICES**

**with the subsequent amendments and completions**

**(unofficially consolidated text including the amendments and completions brought by Law no. 238/2016 approving Government Ordinance no. 27/2016, effective as of 2 December 2016)**

Having regard to 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, published in the Official Journal of the European Communities, amended and completed by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services,

having regard to the amendments to Directive 97/67/EC upon the adoption of Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services,

considering that Romania's obligation, deriving from its capacity as a European Union Member State, to ensure the transposition of Directive 2008/6/EC into the national legislation until 31 December 2012 at the latest was not fulfilled,

since, consequently to the non-observance of the transposition term for Directive 2008/6/EC, the European Commission initiated preliminary procedures foregoing the action for failure to fulfil obligations pursuant to Article 258 of the Treaty on the Functioning of the European Union, Romania receiving from the European Commission, on 31 January 2013, a letter of formal notice concerning the case no. 2013/0069,

taking into account that a further delay in the fulfilment of the obligation may trigger in the European Commission's reasoned opinion concerning the failure to fulfil obligations incumbent on Romania as a European Union Member State, and the subsequent referral to the European Court of Justice pursuant to Article 258 of the Treaty on the Functioning of the European Union,

in keeping with the fact that Directive 2008/6/EC provided rights in favour of the users in a sufficiently concrete and detailed manner so that failure to ensure the effectiveness of

such rights, a consequence of the non-transposition in due time of the indicated directive, directly affects the interests of the postal users,

considering that, according to Article 260 paragraphs (2) and (3) of the Treaty on the Functioning of the European Union, Romania's liability for failure to fulfil the obligations to transpose Directive 2008/6/EC may be materialised in the payment of a lump sum, as well as in a penalty payment,

considering that the European Commission Communication SEC (2012) 6.106 of 31 August 2012 set for Romania the minimum lump sum of 1,740,000 euros and the special "n" factor used to calculate the penalty payments of 3.28, the penalties ranging thus between approximately 2,000 and 125,000 euros/day of delay, which, depending on the delay in transposing Directive 2008/6/EC, would have a considerable impact on the state budget,

taking into consideration that these matters concern the public interest, representing emergency and extraordinary circumstances which require immediate regulation,

on grounds of Article 115 paragraph (4) of the Romanian Constitution, republished,

the **Government of Romania** adopts this Emergency Ordinance.

## ***CHAPTER I***

### ***General provisions***

**Art.1.** – This Emergency Ordinance aims to:

a) establish the conditions for the provision of postal services and ensure the access to the universal service, with a view to stimulating a competitive environment and promoting the users' interest;

b) regulate the mechanisms for the financing of the universal service under conditions which guarantee the permanent provision of this service;

c) establish the charging principles, while observing transparency, for the services within the scope of universal service;

d) set out certain minimum quality requirements for the provision of the universal service and establish a system that ensures their observance.

**Art.2.** – For the purposes of this Emergency Ordinance, the following definitions shall apply:

1. *postal services* – services involving the clearance, sorting, transport and delivery of postal items;

2. *postal service provider* – any authorised natural person, individual enterprise, family association or any legal person whose activity consists wholly or partly in the provision of one or several postal services;

3. *postal network* – the system of organisation and resources of all kinds used by the postal service providers for the purposes in particular of:

a) the clearance of the postal items;

b) the routing and handling of the postal items from the access points to the distribution centres;

c) the distribution to the addresses shown on the items;

4. *public postal network* – the postal network used by the universal service provider designated by the regulatory authority;

5. *access points* – physical facilities, including letter boxes, provided for the public, where postal items may be deposited with the postal network;

6. *contact points* – physical facilities whereby postal items may be delivered to the addressees;

7. *clearance* – the operation of collecting postal items deposited at access points or from an address indicated by the sender;

8. *delivery* – the operation of handing in the postal items by the postal service provider;

9. *distribution* – the process from sorting to delivery of the postal items to their addressees;

10. *date of postal item submission* – date when the postal item was cleared. The provisions of Article 183 of Law no. 134/2010 on the Civil Procedure Code, republished, with the subsequent amendments and completions, shall remain valid;

11. *item of correspondence* – 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;

11<sup>1</sup>. *bulk items of correspondence* – domestic and cross-border postal items within this category sent in a minimum amount of 5,000 items within one month by the same sender or integrator, based on an agreement concluded in written form with the postal service provider;

(Point introduced on 3 September 2016 according to Article I point 3 of Government Ordinance no. 27/2016. Article 2 point 11<sup>1</sup> became effective on 1 January 2017)

12. *registered postal item* – the postal item subject to a service which consists in the provider's release of a document to the sender which would allow the provider to identify in its postal network the postal item, to certify the date of submission and, regularly, the payment of the fee;

(Point amended on 3 September 2016 according to Article I point 1 of Government Ordinance no. 27/2016)

13. *postal item* – an item addressed in the final form in which it is to be carried and delivered to the address indicated by the sender on the item itself, on its wrapping or in a distribution list. In addition to the items of correspondence, this category also includes, for example, printed matter items, «M» bags, small packages, postal parcels containing merchandise with or without commercial value and money orders on paper support. This category shall not include hybrid items;

(Point amended on 2 December 2016 according to Article I point 2 of Government Ordinance no. 27/2016, as it was modified by sole article, point 1 of Law no. 238/2016)

14. *cross-border postal item* – postal item sent from Romania to an address which is outside its territory or sent from outside Romania to an address located on its territory, and the postal item sent from outside Romania to an address outside its territory, which transits Romania;

15. *intra-Community postal item* – the cross-border postal item sent from Romania to an address found in another European Union Member State or sent from an address located in another European Union Member State to an address from Romania, and the postal item sent from one European Union Member State to another Member State, which transits Romania;

16. *postal parcel* – postal item weighing maximum 50 kg and containing merchandise with or without commercial value;

16<sup>1</sup>. *bulk postal parcels* – domestic and cross-border postal items within this category sent in an amount of minimum 50 parcels within one month by the same sender or integrator, based on an agreement concluded in written form with the postal service provider;

16<sup>2</sup>. *printed matter* – postal items, achieved by printing or by another multiplication means, which do not contain personal or individual communications; this category includes, for example, newspapers, periodicals, books, catalogues, geographical maps, musical scores;

16<sup>3</sup>. *bulk printed matter* – domestic and cross-border items within this category sent in a minimum amount of 500 items within one month by the same sender or integrator, based on an agreement concluded in written form with the postal service provider;

16<sup>4</sup>. «M» *bag* – postal item weighing maximum 30 kg and comprising printed matter and/or objects attached to or associated by another means with the printed matter items along which it is sent, respectively disks, magnetic bands, tapes, commercial samples sent by manufacturers and distributors, commercial articles which do not fall under the customs law or information materials which may not be sold, other objects that have a relation with the printed matter these accompany, addressed to the same addressee, at the same delivery address;

16<sup>5</sup>. *small package* – postal items containing merchandise with or without commercial value which may have attached documents with correspondence character, weighing up to including 2 kg and which follow the technological flow used for the items of correspondence, as provided by the Universal Postal Convention and the Letter-post Regulation;

16<sup>6</sup>. *bulk small packages* – domestic and cross-border postal items within this category sent in a minimum amount of 500 items within one month by the same sender or integrator, based on an agreement concluded in written form with the postal service provider;

(Points introduced on 3 September 2016 according to Article I point 4 of Government Ordinance no. 27/2016. Article 2 points 16<sup>1</sup>, 16<sup>3</sup> and 16<sup>6</sup> became effective on 1 January 2017)

17. *direct mail* – domestic or cross-border postal items consisting solely of advertising, marketing or publicity material, and comprising an identical message, except for the addressee's name, address and identifying number as well as other modifications which do

not alter the nature of the message, which is sent to a significant number of addressees established by the regulatory authority, to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. The following shall not be regarded as direct mail:

a) bills, invoices, financial statements and other non-identical messages;

b) the postal items combining direct mail with other items within the same wrapping;

18. *registered item* – postal service providing a flat-rate guarantee against risks of loss, theft, total or partial damage or deterioration of the registered postal item and supplying the sender, upon request and subsequently to the submission, respectively delivery of the postal item, with a proof of the submission of the postal item or of its delivery to the addressee, without the latter's written confirmation;

(Point amended on 3 September 2016 according to Article I point 5 of Government Ordinance no. 27/2016)

19. *insured item* – the postal service insuring the registered postal item up to the value declared by the sender in the event of loss, theft, total or partial damage or deterioration and providing the sender, upon request, with a proof of the handing in of the postal item;

20. *Cash-on-delivery service* – postal service consisting of the addressee's payment to the sender - by means of the postal network - of the counter-value of the merchandise that is subject to the registered postal item;

21. *Advice of delivery service* – postal service consisting of the conveyance to the sender of the postal proof of delivery of the registered postal items, confirmed in writing by the addressee;

22. *money order on paper support* – postal service consisting of the filling in of a physical form based upon which an amount of money is transferred and remitted to the addressee, without any deduction, according to the sender's indications;

23. *cecogrammes* – postal items up to including 7 kg, such as cecographic postal items submitted open, clichés with cecographic signs, sound records and records on special paper to be used by the visually impaired persons;

(Point amended on 3 September 2016 according to Article I point 5 of Government Ordinance no. 27/2016)

23<sup>1</sup>. *hybrid items* – mail items presented in a physical or electronic form by the sender (electronic mail, SMS, fax etc.), the message being processed by the service provider (decompressed, decrypted, archived etc.), and transmitted mainly electronically to the points in the provider's network located as close as possible to the final delivery addresses wherefrom the items are delivered to the addressee in physical form or in electronic form where items are submitted in physical form; the services subject to hybrid items are services related to postal services;

(Point introduced on 2 December 2016 according to Article I point 5<sup>1</sup> of Government Ordinance no. 27/2016, as it was introduced by sole article, point 2 of Law no. 238/2016)

24. *universal service provider* – the postal service provider providing one or several postal services within the scope of universal service, designated therefor by the regulatory authority;

25. *terminal dues* – the remuneration of the universal service provider for the distribution on Romania's territory of postal items incoming from outside Romania;

26. *sender* – the natural or legal person originating the postal item and, personally or through a third party, introducing it in the postal network;

27. *addressee* – the person to whom the postal item is addressed;

28. *user* – any natural or legal person benefitting from the provision of a postal service as a sender or an addressee;

29. *integrator* – any natural or legal person acting based upon an agreement as an intermediary between one or several senders and the postal service provider whose activity consists, wholly or partly, of generating and processing the postal items and inducting them in the postal network of a postal service provider in view of their delivery to the address indicated by the sender; these services provided by the integrator are not postal services;

30. *postage stamp* – piece of paper of value issued and put into circulation exclusively under the state's authority, as an attribute of its sovereignty, which constitutes evidence of the franking corresponding to its intrinsic value when it is displayed on a postal item in accordance with the acts of the Universal Postal Union;

31. *franking* – means of certifying the pre-payment of the postal fees through using postal stamps, self-adhesive labels or impressions obtained by printing or stamping;

32. *postal stationery* – envelopes, aerograms, post cards and any other postal wrappers with an imprinted stamp indicating that the postal service has been prepaid;

33. *special tariff* – reduced tariff, charged by the universal service provider for the services within the scope of universal service which it has the obligation to provide, set in compliance with the principles of transparency and non-discrimination;

34. *essential requirements* – general non-economic reasons which impose conditions on the supply of postal services, consisting of: confidentiality of correspondence, security of the postal network as regards the transport of dangerous goods, observance of the employment requirements, of the social security systems provided under the acts with legal power or in the administrative and regulatory provisions and/or in the collective contract negotiated between the national social partners, in line with the national and European Union's legislation and, where justified, data protection, environmental protection and territorial planning. Data protection includes personal data protection, confidentiality of information transmitted or stored and protection of privacy, in compliance with the legal provisions in force.

**Art.3.** The provisions of this Emergency Ordinance shall not apply to the following services:

- a) transport and delivery of their postal items by the senders personally;
- b) transport and delivery of the sender's own postal items via a secondary headquarters of the sender, if the items in question refer to the sender's activity and directly aim at satisfying the sender's interest linked to the respective activity;
- c) transport and delivery of the items free of charge and directly by a person empowered by the sender therefor;
- d) clearance, sorting, transport and delivery of postal items as part of a service set up for the exclusive use of the public authorities, on grounds of certain special legal provisions;
- e) transport and delivery free of charge of postal items that accompany the merchandise transported and delivered together with these;
- f) transport and delivery of unaddressed postal items.

**Art.4.** – (1) The secret of postal items is inviolable.



(2) Withholding, opening or divulging the content of the postal items shall be allowed only in the conditions and in line with the procedure provided under the law.

## **CHAPTER II**

### ***The General authorisation regime for the providers of postal services***

**Art.5.** – (1) The postal services shall be provided under the conditions of the general authorisation regime described in this chapter.

(2) The general authorisation regime is the legal regime adopted by the regulatory authority which establishes the rights and obligations of the postal service providers, allowing the provision of postal services upon the notification on the intention to carry out activities of provision of postal services, without the necessity to obtain an explicit decision from the regulatory authority.

(3) The general authorisation regime sets out obligations concerning the provision of postal services, for the purpose and to the extent necessary for guaranteeing the observance of the essential requirements.

(4) The general authorisation regime may establish specific obligations concerning the provision of postal services within the scope of universal service, for the purpose and to the extent necessary for ensuring the right of access to the universal service.

(5) The obligations under paragraphs (3) and (4) may concern, *inter alia*:

a) the provision of certain services within the scope of universal service;

b) the quality, availability and means of provision of the services offered;

c) the possible contributions owed by the postal service provider on grounds of a mechanism for the compensation of the costs incurred by the provision of postal services within the scope of universal service, where the provision of the universal service incurs a net cost which can be an unfair burden on the universal service providers;

d) the obligation to ensure the security of the network and of the postal items.

(6) The obligation under paragraph (5) letter a) may be imposed only on the postal service providers designated as universal service providers.

(7) The postal services dealing with cross-border postal items shall be provided in compliance with the obligations established by the customs legislation in force.

(8) The postal service providers shall contribute to the administrative expenses of the regulatory authority by paying a monitoring tariff as set out in Chapter X '*The monitoring tariff*' under the Government Emergency Ordinance no. 111/2011 on electronic communications, approved with amendments and completions by Law no. 140/2012.

**Art.6.** – The providers of postal services within the scope of universal services shall benefit from the right to install, maintain, replace and move postal boxes on the buildings under the public property of the state or of the territorial-administrative units, free of charge, in compliance with the legal provisions in force.

**Art.7** – (1) Within the purpose of having an official record of the providers, any person intending to provide postal services shall submit a notification with the regulatory authority. The notification shall be done by necessarily filling in the standard form established and updated by the regulatory authority.

(2) The persons ensuring only the sorting or transport of the postal items shall not submit the notification under paragraph (1).

(3) Based on the notifications received, the regulatory authority shall set up, update and publish the Public record of the postal service providers.

(4) The regulatory authority shall establish the conditions and the procedure for obtaining, amending, suspending and withdrawing the right to provide postal services under the general authorisation regime, in compliance with the principles of transparency, non-discrimination, proportionality and objectivity.

(5) The person who sent the notification according to the legal provisions shall be authorised to provide the postal services indicated in the notification, being applied the general authorisation regime accordingly.

(6) Upon request or *ex officio*, within 15 working days, the regulatory authority shall release to the person that submitted the notification according to the legal provisions a standard certificate which attests the right to provide postal services.

(Point amended on 3 September 2016 according to Article I point 6 of Government Ordinance no. 27/2016)

**CHAPTER III**  
**Universal service**

**Art.8.** – (1) The right of access to the universal service is the right to benefit from the permanent provision of postal services included within the scope of universal service at a certain quality level, at any location on Romanian territory, at affordable tariffs for all users.

(2) Any person has the right of access to the universal service.

(3) The services within the scope of universal service are as follows:

a) clearance, sorting, transport and delivery of domestic and cross-border postal items subject to items of correspondence, small packages and printed matter up to (including) 2 kg;

b) clearance, sorting, transport and delivery of domestic and cross-border postal parcels up to (including) 10 kg;

c) distribution of postal parcels up to (including) 20 kg sent from abroad to an address located on Romania's territory;

(Letters amended on 3 September 2016 according to Article I point 7 of Government Ordinance no. 27/2016. Article 8 paragraph (3) letters a) to c) became effective on 1 January 2017)

d) the service for registered items dealing with the postal items from the category under letter a);

e) the service for insured items dealing with the postal items from the categories under letters a) to c);

f) clearance, sorting, transport and delivery of domestic and cross-border cecogrammes;

g) any other postal services established under the law, if these services meet certain social or economic needs of the users which may not be satisfactorily ensured by a competitive market.

(4) The regulatory authority may raise the weight limit under paragraph (3) letter b) to maximum 20 kg.

(5) The minimum and maximum sizes of the postal items subject to the postal services for which a universal service provider was designated are those established by the provisions of the acts adopted by the Universal Postal Union.

(6) The following are not included in the scope of universal service:

a) postal order on paper support;

b) direct mail;

b<sup>1</sup>) bulk items of correspondence, bulk postal parcels, bulk printed matter, as well as bulk small packages;

b<sup>2</sup>) «M» bags;

(Letters introduced on 3 September 2016 according to Article I point 8 of Government Ordinance no. 27/2016. Article 8 paragraph (6) letters b<sup>1</sup>) and b<sup>2</sup>) became effective on 1 January 2017)

c) the postal services established by the regulatory authority, which feature additional characteristics to those foreseen by this Emergency Ordinance for the services within the scope of universal service.

**Art.9.** – (1) The Ministry for Information Society, hereinafter *MSI*, shall set out the policy and strategy for postal services, respectively universal service, in compliance with the principles of transparency, objectivity, proportionality and non-discrimination.

(2) MSI shall monitor, assess and coordinate the policies in the field of postal services, respectively universal service.

(3) Based on the policy and strategy set out according to paragraph (1), the regulatory authority shall establish and publish the conditions and the procedure to be applied to designate one or several postal service providers as universal service providers, as well as the obligations and the special conditions these providers must observe and the rights they have in the provision of the universal service. In establishing this procedure, the regulatory authority shall act in view of reducing the possible negative effects on competition, triggered by the provision of services within the scope of universal service, as well as in view of ensuring the protection of the public interest.

(4) The regulatory authority shall establish the conditions and the procedure for the designation of the universal service providers by complying with the principles of efficiency,

objectivity, transparency, proportionality and non-discrimination, while ensuring the cost efficiency for the provision of services within the scope of universal service.

(5) Any postal service provider ensuring the conditions foreseen in this Emergency Ordinance for the provision of postal services within the scope of universal service may be designated as a universal service provider for the provision of one or several services within the scope of universal service, on the entire national territory or part thereof, so as the coverage of the entire territory could be ensured, for a period sufficient as to ensure the economic viability of the services provided, but it shall not exceed 10 years.

(6) Where the regulatory authority designates several universal service providers competing on the same markets in the postal service field, establishing also a certain area where each of them are to provide the respective services, the designation conditions shall be thus established as to not create a competition disadvantage to any of the providers, while observing the principle of keeping a balance as regards the profitability of postal service provision in the respective area and the area or areas set for the other rival universal service providers and taking into account the competitive advantages each of the universal service providers benefits from.

(7) The regulatory authority shall notify to the European Commission the steps taken in order to ensure the right of access to the universal service and the identity of the designated universal service providers.

**Art.10.** – (1) The regulatory authority shall determine the conditions concerning the position of the access and contact points in the public postal network so that their density keeps account of the users' needs, as well as of the minimum quality requirements imposed on the universal service provider for the services within the scope of universal service it has the obligation to provide.

(2) The universal service provider shall ensure, in every locality where it provides the services within the scope of universal service it has the obligation to provide, at least one clearance from each access point and at least one delivery to the indicated address, every working day, but not less than 5 days a week, except for the cases or geographic conditions considered exceptional, approved by the regulatory authority.

(3) By way of exception from the provisions of paragraph (2), the regulatory authority may decide on the delivery to take place at certain corresponding facilities, under determined conditions.

(4) The regulatory authority shall notify to the European Commission and the other national regulatory authorities from the European Union Member States the exceptional situations determined according to paragraphs (2) and (3).

(5) The regulatory authority shall set the specific delivery conditions for the postal items subject to a service within the scope of universal service.

(6) In view of ensuring the uninterrupted provision of the universal service, the designated provider has the right to create jobs and hire employees with individual labour contracts on limited duration, during the vacation times of the employees on single positions, in the localities where the provider does not have other employees with the same qualification.

(Paragraph introduced on 3 September 2016 according to Article I point 9 of Government Ordinance no. 27/2016)

**Art.11.** – In fulfilling the obligations of ensuring the services within the scope of universal service, the universal service provider shall cumulatively observe the following general requirements:

- a) guarantee the observance of the essential requirements, including the rules on the security of the public postal network it operates;
- b) offer identical services to the users found in comparable situations;
- c) offer services available to all users, without any type of discrimination, notably of political, religious or ideological order;
- d) offer services uninterruptedly, except for the cases of force majeure;
- e) ensure a continuous evolution of the services in line with the technical, economic and social requirements, as well as pursue to adjust the services to the users' requirements;
- f) ensure the access of disabled persons to the services within the scope of universal service it has the obligation to provide under equivalent conditions to those offered to the other users, in compliance with the rules adopted by the regulatory authority.

**Art.12.** – (1) The universal service provider shall regularly make available to the users, integrators and postal service providers detailed and up-to-date information on the characteristics of the services within the scope of universal service it provides, particularly information regarding the general conditions for the access to these services, as well as the tariffs and minimum quality requirements for these services.

(2) The information referred to in paragraph (1) shall be published on the universal service provider's expense, under the conditions established by the regulatory authority.

(3) The regulatory authority shall notify to the European Commission the means of making available the information under paragraph (1) to the users, integrators and postal service providers.

(4) The universal service provider shall ensure the access of users, integrators and postal service providers to the public postal network it operates, under conditions of transparency, objectivity and non-discrimination.

(5) To the extent necessary to promote economic efficiency and effective competition on the postal service market, as well as to maximize the users' benefits, while observing the principles of transparency, objectivity and non-discrimination, the regulatory authority may decide on the technical and economic conditions, including price-related, for the access of the users, integrators or postal service providers to the public postal network of the universal service provider.

(6) Where two or several universal service providers have been designated, the regulatory authority may establish the conditions in which the designated provider has access to the public postal network owned by another designated universal service provider.

**Art.13.** – (1) The universal service provider shall ensure the access of other postal service providers to the postal services within the scope of universal service which it has the obligation to provide and to the infrastructure elements of the public postal network it operates, to the extent necessary for the provision of its own postal services, under transparent, proportional and non-discriminatory conditions.

(2) The infrastructure elements of the public postal network under paragraph (1) include:

a) non-physical elements, such as: the system of postal codes, information on the change of addresses, database containing the addresses to which the postal items may be delivered;

b) physical elements, such as: delivery mail boxes, postal boxes.

(3) The designated universal service provider may deny the access of other postal service providers to the infrastructure elements of the public postal network only if the requested access substantially affects the capacity of the universal service provider to provide its own services.

(4) The technical and economic conditions for access shall be determined based on a civil contract that shall include a price representing the equitable countervalue for the services provided according to paragraph (1) or for the use of the infrastructure elements of the public postal network.

(5) Where no agreement is reached concerning the access conditions under paragraph (4), within 45 days from receiving an access request, any of the parties may notify the regulatory authority in view of establishing the conditions referred to in paragraph (4). The National Regulatory Authority for Management and Regulation in Communications, hereinafter *ANCOM*, shall, while observing the principles of transparency, objectivity and non-discrimination, establish the conditions in which the universal service provider ensures the access according to paragraph (1).

(6) The regulatory authority may establish, in compliance with the legal provisions in force, the minimum conditions to be observed when concluding any agreement on the access to the postal services within the scope of universal service which the universal service provider has the obligation to provide or to the infrastructure elements of the public postal network.

(7) The provisions of this Article do not bring prejudice to the right of any of the parties to address the competent courts, under the law.

**Art.14.** – In view of ensuring the universal service, the universal service provider shall benefit from the following rights:

a) the right to act in the international relations as universal service provider and to conclude operational agreements in such capacity;



b) the right to use specific international forms, provided in the international agreements in which Romania is a party.

#### **CHAPTER IV**

##### ***Tariff and accounting***

**Art.15.** – The tariffs charged for the provision of the postal services within the scope of universal service which the universal service provider has the obligation to provide shall be set in keeping with the economic efficiency, the ensuring of the right of access to the universal service and the development of the public postal network.

**Art. 16.** – (1) The tariffs charged by the universal service provider for the services within the scope of universal service which it has the obligation to provide shall be affordable, irrespective of the geographic location, transparent, non-discriminatory and geared to costs and shall incentivise the provision of an efficient universal service.

(2) In view of ensuring the observance of the principles under paragraph (1), the regulatory authority shall impose one or several of the following measures:

a) tariff ceilings and price caps for the tariffs of the services within the scope of universal service;

b) means of establishing or modifying certain tariffs for the services within the scope of universal service which the universal service provider has the obligation to provide, in keeping with the specific characteristics of these services;

c) setting of individual tariffs for the services within the scope of universal service.

(3) The universal service provider shall establish, respectively shall modify the tariffs for the services within the scope of universal service which it has the obligation to provide with the observance of the measures imposed by the regulatory authority in accordance with the provisions of paragraph (2).

(4) The universal service provider shall make publicly available the tariffs charged for the services within the scope of universal service which it has the obligation to provide, as well as any other changes of these tariffs, with minimum 30 days before these tariffs enter into force, under the conditions established by the regulatory authority.

(5) Upon the request of the universal service provider or *ex officio*, the regulatory authority shall examine the need to revise the measures imposed according to paragraph (2).

(6) By the date of imposing one of the measures under paragraph (2), the universal service provider shall submit to the approval of the regulatory authority any change of the tariffs charged for the services within the scope of universal service which it has the obligation to provide, under the conditions set out by the regulatory authority.

(Article amended on 3 September 2016 according to Article I point 10 of Government Ordinance no. 27/2016)

**Art.17.** – (1) The universal service provider may apply special tariffs to all users and integrators, observing the principles of transparency and non-discrimination as regards both the tariffs and the associated conditions.

(2) In setting and applying the special tariffs under paragraph (1), the following conditions shall be cumulatively met:

a) the special tariffs and the associated conditions are charged in a non-discriminatory manner among all the users and integrators employing postal services in similar conditions, and among these third parties and the own services offered by the universal service providers;

b) the special tariffs are available to both users-natural persons and users-legal persons who induct postal items in the public postal network in similar conditions;

c) the special tariffs are made publicly available under the conditions set out by the regulatory authority and at the expense of the universal service provider.

(3) In view of ensuring the compliance with the provisions of paragraph (2), the universal service provider shall submit to the approval of the regulatory authority the criteria and conditions based on which it applies special tariffs, as well as any other changes or completions to these tariffs.

**Art.18.** – The regulatory authority may impose on the universal service provider the obligation to apply a uniform tariff throughout the national territory for the services within the scope of universal service which it has the obligation to provide, without bringing prejudice to

the universal service provider's possibility to conclude individual tariff agreements with the users and the integrators, with the observance of Article 17.

**Art.19.** – (1) When concluding agreements concerning the terminal dues for the intra-Community postal items sent from one Member State of the European Union to an address on Romania's territory, the universal service provider shall observe the following principles:

a) the terminal dues shall be set in keeping with the costs linked to the processing and delivery of the cross-border postal items;

b) the level of the terminal dues shall be in line with the quality of the service;

c) the terminal dues shall be transparent and non-discriminatory.

(2) Where such agreements do not exist, the universal service provider shall observe the provisions of the international agreements in the field in which Romania is a party.

**Art.20.** – (1) The cecogrammes and other categories of postal items whose gratuity is provided by the international agreements in which Romania is a party shall not be charged by the universal service provider.

(2) Other gratuities, as well as the means of financial compensation of the universal service provider for ensuring these services may be established by government decision.

## ***CHAPTER V***

### ***Financing of universal service***

**Art.21.** – (1) From the date this Emergency Ordinance enters into force, no other special or exclusive rights on the provision of postal services may be established.

(2) Without bringing prejudice to the provisions of Article 14, any special or exclusive rights on the provision of postal services shall cease.

**Art. 22.** – (1) If the regulatory authority decides that the provision of services within the scope of universal service, under the conditions of Articles 8 to 12, results in a net cost which represents an unfair burden for the universal service providers, a mechanism for the

compensation of this net cost shall be established by government decision, from one of the following financing sources:

a) from state budget funds through the budget of the Ministry of Communications and Information Society, in compliance with the national and European legal framework in the state aid field;

b) by sharing the net cost between the postal service providers and/or users, in compliance with the national and European legal framework in the state aid field.

(Paragraph amended on 3 September 2016 according to Article I point 11 of Government Ordinance no. 27/2016)

(<sup>1</sup>) Where the net cost is shared between the postal service providers and/or users according to the provisions of paragraph (1) letter b), the services dealing with postal items which exclude them from the scope of universal service and the services that feature additional characteristics to those laid down in this Emergency Ordinance for the services within the scope of universal service, as established by the regulatory authority, shall be excluded from calculation.

(Paragraph introduced on 2 December 2016 according to Article I point 11<sup>1</sup> of Government Ordinance no. 27/2016, as it was introduced by sole article, point 3 of Law no. 238/2016)

Article 22 paragraphs (1) and (1<sup>1</sup>) will be applicable starting with the first Decision of the ANCOM president issued after the entry into force of Government Emergency Ordinance no. 27/2016, which will compensate the net cost of the universal service obligations.

(2) The net cost of the universal service obligations shall be calculated as the difference between the net cost borne by a universal service provider as a result of fulfilling the universal service obligations and the net cost of the same postal service provider if it performed its activity without the universal service obligations.

(3) The net cost calculation shall take into account all relevant factors, including the intangible benefits and the commercial advantages the postal service provider enjoys following its designation as a universal service provider, the existence of a reasonable profit margin and incentivisation of cost efficiency.

(4) The determination of the net cost shall be based on the following:

a) elements of the services within the scope of universal service which may be provided only at loss or beyond normal commercial conditions;

b) costs determined by certain users or group of users to whom - considering the costs of provision of a certain service, the generated revenues and the tariffs charged by the universal service provider - the access to the services within the scope of universal service may only be ensured at loss or in other conditions than the normal commercial practices.

(5) The regulatory authority shall establish by the decision on the designation of the universal service provider the means for the calculation of the net cost generated by the fulfilment of the obligations to provide services within the scope of universal service, in compliance with the principles under paragraphs (2) to (4).

(6) The accounting information and any other information used in the calculation of the net cost of the provision of services within the scope of universal service shall be verified by an independent auditor, under the conditions set out by the regulatory authority. The results of the verification shall be made publicly available by the regulatory authority.

**Art.23.** – (1) In view of enforcing the provisions of Article 22 paragraph (1), within 160 days from receiving a correct and complete request for the compensation of the net cost, the regulatory authority shall communicate to the Ministry for Communications and Information Society the decision on the determined net cost upon its analysis and the Ministry for Communications and Information Society shall initiate the draft Government decision on the compensation mechanism.

(2) The Government shall decide on the use of one of the two sources for financing the net cost, in compliance with the principles of transparency, minimum breach to competition, non-discrimination and proportionality.

(3) The sharing of the net cost between the postal service providers, laid down in Article 22 paragraph (1) letter b), may be used to the extent the amount of the sums that should be collected to compensate the net cost determined according to paragraph (1) would be reasonable and would not breach the providers' economic viability, and shall not exceed the maximum limit of 0.6% of the turnover from the provision of the services established according to Article 22 paragraph (1<sup>1</sup>), registered in the year for which the net cost is compensated, turnover calculated by the regulatory authority and communicated to the

Ministry for Communications and Information Society within the timeframe provided in paragraph (1).

(4) The net cost may be shared between the users, as specified in Article 22 paragraph (1) letter b), only by maintaining accessible the tariffs for the services established according to Article 22 paragraph (1<sup>1</sup>), and the observance of this condition shall be established by the regulatory authority and communicated to the Ministry for Communications and Information Society within the timeframe provided in paragraph (1).

(5) The turnover referred to in paragraph (3) shall be calculated by taking into consideration the turnover from the provision of the services established according to Article 22 paragraph (1<sup>1</sup>), registered in the year for which the net cost is compensated, of all the postal service providers who had this capacity in the year for which the contribution is owed, capacity which subsists on the date when the turnover under paragraph (3) is calculated.

(6) In view of compensating the net cost by sharing it between the postal service providers, ANCOM shall charge from the providers of the postal services established pursuant to Article 22 paragraph (1<sup>1</sup>), with a turnover higher or equal to 500,000 lei, registered in the year for which the net cost is compensated, a contribution proportionate to the revenues generated by the provision of the services established pursuant to Article 22 paragraph (1<sup>1</sup>) during the year for which the contribution is owed.

(7) The persons that have to pay the contribution specified in paragraph (6) are those persons who had the capacity of postal service provider during the year for which the contribution is owed, capacity which subsists on the date when the contribution under paragraph (6) is determined.

(8) In view of determining the amount of the individual contributions, ANCOM shall use the information on the revenues obtained from the provision of the postal services established pursuant to Article 22 paragraph (1<sup>1</sup>), submitted to the authority by the postal service providers, in line with the procedure established by decision of the president of ANCOM.

(9) Where the providers referred to in paragraph (6) do not submit the information foreseen in paragraph (8), the entire turnover of these providers, registered in the year for which the contribution is owed, shall be taken into account when determining the individual contributions.

(10) In keeping with the provisions of paragraphs (3) to (9), the Government decision specified in Article 22 paragraph (1) letter b) shall establish the means and term for the payment of the contributions owed by the postal service providers or of the amounts collected by the postal service providers from the users, the means and term for the payment of the amounts transferred to the universal service providers for the compensation of the net cost, as well as any other elements required for the functioning of the compensation mechanism.

(11) The provisions of paragraphs (3) to (9) shall correspondingly apply in the case of the net cost sharing between the postal service providers and the users, as specified in Article 22 paragraph (1) letter b).

(12) The contributions owed by the postal service providers or the amounts collected by the postal service providers from the users for the compensation of the net cost of the provision of services within the scope of universal service, on grounds of this Article, shall represent budgetary debts assimilated to the fiscal debts and shall be administered by the regulatory authority, the provisions of Law no. 207/2015 on the Fiscal procedure code, with the subsequent amendments and completions, being applied correspondingly.

(13) Where the net cost of the provision of services within the scope of universal service was compensated, the regulatory authority shall publish an annual report on this cost and the corresponding compensation mechanism.

(Article amended on 2 December 2016 according to Article I point 12 of Government Ordinance no. 27/2016, as it was modified by sole article, point 4 of Law no. 238/2016)

Article no. 23 will be applicable starting with the first Decision of the ANCOM president issued after the entry into force of Government Emergency Ordinance no. 27/2016, which will compensate the net cost of the universal service obligations.

**Art.24.** – (1) The universal service provider shall keep separate accounts within the internal accounting system, by unitarily applying the principles on the elaboration of the separate accounts and the requirements on the elaboration and submission of the separate financial statements established by the regulatory authority.

(2) Each of the services within the scope of universal service, on the one hand, and each of the services outside the scope of universal service, on the other hand, shall be distinctly presented within the internal accounting system.

(3) The separate accounts shall ensure the allocation of costs in the following categories:

a) direct costs which include the costs which can be allocated directly to a certain service or product;

b) common costs which include the costs which cannot be allocated directly to a certain service or product.

(4) The costs under paragraph (3) letter b) shall be allocated as follows:

a) when possible, based on a direct analysis of their origin;

b) when the direct analysis of their origin is not possible, the common costs shall be allocated based on an indirect connection with other categories of costs or with a group of categories of costs for which a direct allocation or representation is possible; the indirect connection shall be based on comparable cost structures;

c) where the means of direct or indirect allocation do not exist, the cost category shall be allocated based on a share calculated by allotting all expenses assigned or distributed, directly or indirectly, on each service within the scope of universal service, on the one hand, and on other categories of postal services, on the other hand;

d) the common costs which are necessary for the provision of the services within the scope of universal service which it has the obligation to provide and for the provision of other categories of postal services shall be correspondingly allocated; the same distribution keys shall be used both for the services within the scope of universal service and for other categories of postal services.

(5) The universal service provider may use other separate accounting systems as long as these observe the provisions of paragraphs (3) and (4), only with the prior approval of the regulatory authority and by informing the European Commission.

(6) The conformity of the separate accounting system with the principles and requirements laid down in this Article shall be verified by an independent auditor, under the conditions established by the regulatory authority. The universal service provider shall publish



on annual basis the statement of this entity on the compliance with these principles and requirements.

**Art.25.** – (1) The regulatory authority shall, upon request, send to the European Commission detailed information on the separate accounting system developed by the universal service provider in the process of implementation of the obligation under Article 24.

(2) Upon the written request of the regulatory authority or of the European Commission, the universal service provider shall send them detailed accounting information resulted from the separate accounting system, these having the obligation to keep confidential the transmitted information.

**Art.26.** – Where a mechanism for the compensation of the costs triggered by the provision of the services within the scope of universal service has not been put in place, and the universal service provider does not directly or indirectly benefit from measures such as the state aid or other measures with similar effects, thus being ensured the existence of an effective competition, the regulatory authority may decide not to impose the obligation to keep separate accounts.

(Article amended on 3 September 2016 according to Article I point 13 of Government Ordinance no. 27/2016)

**Art.27.** – repealed

**Art.28.** – The regulatory authority may impose on the postal service providers which have the obligation to contribute to the compensation mechanism or to collect contributions from the users to the compensation mechanism, pursuant to Article 23, to introduce an adequate separate accounting system to ensure the functioning of this mechanism.

## ***CHAPTER VI***

### ***Users' protection***

**Art. 29.** – (1) The universal service provider shall observe in the relation with the users the rules laid down in this Article.

(2) The universal service provider shall establish and submit to the approval of the regulatory authority, within a term set by the latter, the rules applicable to the postal services within the scope of universal service which it has the obligation to provide.

(3) The regulatory authority shall analyse the rules applicable to the postal services within the scope of universal service submitted by the universal service provider within 60 days from their submission.

(4) Where it deems that the proposed rules are unsatisfactory from a technical viewpoint or from the users' protection standpoint or do not observe the legal provisions, the international agreements in which Romania is a party or the minimum compulsory rules set out pursuant to paragraph (5), the regulatory authority may request to appropriately amend these rules and the universal service provider has the obligation to operate the requested changes.

(5) The regulatory authority may establish minimum compulsory rules applicable to the postal services within the scope of universal service, in compliance with the provisions of this Emergency Ordinance, of other normative acts and of the international agreements in which Romania is a party.

**Art. 30.** – (1) The universal service provider shall observe the minimum quality requirements for the domestic and intra-Community items of correspondence within the scope of universal service which it has the obligation to provide.

(2) The universal service provider shall cumulatively observe the following requirements:

a) ensure the delivery to the addressees, within 3 working days from the submission at the access points of the intra-Community correspondence items within the scope of universal service of the fastest standard category, of 85% of these items;

b) ensure the delivery to the addressees, within 5 working days from the submission at the access points of the intra-Community correspondence items within the scope of universal service of the fastest standard category, of 97% of these items.

(3) The minimum quality requirements on the distribution rules for the domestic correspondence items within the scope of universal service of the fastest standard category, as well as any other quality requirements for the services within the scope of universal service which the universal service provider has the obligation to provide shall be established by the regulatory authority.

(4) The minimum quality requirements on the distribution rules for the domestic correspondence items within the scope of universal service of the fastest standard category shall be thus established as to ensure the observance of the quality requirements on the distribution rules for the postal services within the scope of universal service dealing with intra-Community correspondence items, specified in paragraph (2), and shall be communicated by the regulatory authority to the European Commission.

(Paragraphs amended on 3 September 2016 according to Article I point 14 of Government Ordinance no. 27/2016)

(5) In exceptional circumstances, determined by the infrastructure of the public postal network or by special geographical conditions, the regulatory authority may establish derogations from the minimum quality requirements specified in paragraph (2), notifying immediately the European Commission in this regard.

(6) Within the meaning of this Article, the submission date is the date on which the postal item was cleared by means of the access points, if it was cleared before the last collection established for the respective access point. Where the clearance takes place after this time limit, the date of submission shall be considered the working day following the one on which the postal item is cleared by means of the access points.

**Art. 31.** – (1) The compliance with the minimum quality requirements on the distribution rules for the domestic correspondence items within the scope of universal service of the fastest standard category shall be annually assessed by an independent body, under the conditions established by the regulatory authority. The assessment report shall be annually published on the expense of the universal service provider.

(Paragraph amended on 3 September 2016 according to Article I point 15 of Government Ordinance no. 27/2016)

(2) The universal service provider shall prepare an annual report on the observance of other minimum quality requirements, set out pursuant to Article 30 paragraph (3), which is to be sent to the regulatory authority.

(3) The regulatory authority shall take all necessary measures to ensure the assessment of the compliance with the minimum quality requirements set out pursuant to Article 30, their verification and the publication of the reports specified in paragraphs (1) and (2).

(4) The evaluation of the compliance with the minimum quality requirements on the distribution rules for the intra-Community correspondence items within the scope of universal service of the fastest standard category and the publication of the assessment report shall be performed under the conditions established by the European Commission.

(Paragraph amended on 3 September 2016 according to Article I point 15 of Government Ordinance no. 27/2016)

(5) The regulatory authority may decide, *ex officio* or upon receiving a complaint or an intimation, to impose on the universal service provider the obligation to take the necessary measures in view of ensuring the observance of the minimum quality requirements.

(6) The minimum quality requirements specified in Article 30 paragraph (1) shall be published on the webpages of the universal service provider and of the regulatory authority.

**Art.32.** – (1) The postal items distributed by a postal service provider shall be correspondingly marked with the name or commercial brand of the respective provider.

(2) The direct mail shall bear a distinctive mark, so as to allow its identification as such, on the wrap of the item or on the item itself, under the conditions established by the regulatory authority.

(3) The postal service provider shall ensure the staff dealing with the clearance and distribution of the postal items bear its identification elements and shall mark all the physical installations which are part of the postal network it operates, including the mail boxes, with a distinctive sign that would ensure the identification of the respective provider.

(4) The access points used by a postal service provider shall also ensure the information of the users on the days and times when the provider collects the postal items from the respective access point.

(5) The regulatory authority may establish the conditions in which the postal service providers must fulfil the obligations specified in paragraphs (1), (3) and (4).

**Art.33.** – (1) The postal service providers shall make available to the users the general conditions on the provision of postal services. These shall comprise at least the following:

- a) the conditions of acceptance of the postal items;
- b) the quality conditions to be fulfilled by the provided postal services;
- c) the liability of the postal service provider;

d) a simple, transparent and accessible mechanism for settling the complaints submitted by the users, notably as regards the loss, theft, partial or total damage or deterioration of the postal items, as well as the non-observance of the quality of service conditions.

(2) When a postal item is accepted in the postal network, an individual agreement shall be deemed concluded between the postal service provider and the sender, under the general conditions specified in paragraph (1). Any other provisions may be established by the parties' agreement, in compliance with the legal provisions in force.

[\(2<sup>1</sup>\) The provisions of Government Ordinance no. 21/1992 on consumer protection, republished, with the subsequent amendments and completions, shall correspondingly apply to the agreement specified in paragraph \(2\).](#)

[\(Paragraph introduced on 2 December 2016 according to Article I point 15<sup>1</sup> of Government Ordinance no. 27/2016, as it was introduced by sole article, point 5 of Law no. 238/2016\)](#)

(3) The mechanism for settling the complaints specified in paragraph (1) letter d) shall foresee:

a) procedures for determining the postal service provider to be held liable where there are two or several such providers involved;

b) procedures that would allow for the fair and prompt settlement of complaints, as well as an adequate system of reimbursement or compensation.

(4) The information on the statistics of the complaints addressed to the universal service provider, as well as the way in which these have been settled shall be published together with the assessment report mentioned in Article 31 paragraph (1).

## ***CHAPTER VII***

### ***Conditions of acceptance of the postal items***

**Art.34.** – The postal service provider shall provide the services for which it was authorised, under the terms of this Ordinance, as long as the following conditions are cumulatively met:

a) both the conditions of acceptance of the postal items laid down in this Chapter and, as applicable, in the rules set out according to Article 29 and, for cross-border postal items, the conditions provided in the international agreements in which Romania is a party and the conditions of acceptance set out in the destination states are observed;

b) the clearance, sorting, transport and delivery of the postal items are possible with the staff and ordinary means the respective provider owns;

c) the clearance, sorting, transport and delivery of the postal items are not hindered by cases of force majeure, a fortuitous case or as a result of a deed of the sender or of a third party for which the postal service provider is not held liable pursuant to the law.

**Art.35.** – (1) The following shall be excluded from clearance, sorting, transport and delivery:

a) the postal items consisting of merchandise whose transport is forbidden by the legal provisions, be it for just a part of the route;

b) the postal items whose wrap has inscriptions which violate public order and public morals, as well as the postal items containing merchandise which violates public order and public morals, if submitted unwrapped or in transparent wrap;

(Letter amended on 3 September 2016 according to Article I point 16 of Government Ordinance no. 27/2016)

c) the postal items which have unremoved old labels or inscriptions.

(2) The following categories of postal items shall be admitted for clearance, sorting, transport and delivery only if, alongside the general conditions, the special conditions provided for the transport of this merchandise are also met as follows:

a) the postal items containing merchandise for which special transport conditions are set out by administrative, economic, sanitary, veterinary, phytosanitary or other similar legal requirements, under the terms foreseen by these provisions;

b) the postal items containing merchandise whose transport, loading, unloading or trans-boarding entail difficulties as regards the handling, given the means or installations of the postal service provider, under the technical and handling conditions agreed by the provider with the sender, for each case.

**Art.36.** – (1) When the nature of the merchandise subject to the postal item imposes it to be wrapped, the postal service provider shall protect this postal item according to the technical standards and rules in force. During the entire duration of the clearance, sorting, transport and delivery operations, the postal service provider shall be held liable for the total or partial loss of the sent merchandise, as well as for the damage caused to the persons, environment, installations used or other merchandise.

(2) The postal service provider shall accept the merchandise wrapped by the sender when the wrap observes the technical standards and rules in force. In this case, the sender shall be held liable for the total or partial loss, deterioration, damage caused to the persons, environment, installations used or other merchandise, due to hidden vices of the wrapping.

(3) If certain postal items require special handling and storage measures, depending on their nature, the postal service provider shall apply suggestive labels to indicate the handling and storage conditions. The postal service provider may make available to the sender typified labels. The postal service provider shall admit and use the inscriptions and labels applied by the sender when these observe the technical standards and rules in force.

## **CHAPTER VIII**

### ***Liability for the provision of postal services***

**Art.37.** – (1) The liability towards the users for the provision of postal services shall be established in accordance with the agreements concluded with the users, under the terms of this Emergency Ordinance and of the other legal provisions in force.

(2) The universal service provider shall observe in the relation with the users the provisions of the framework-agreement on the provision of the services within the scope of universal service which it has the obligation to provide.

(3) The framework-agreement mentioned in paragraph (2) shall be approved by the regulatory authority and shall be published on the expense of the universal service provider. The conditions of publication of the framework-agreement shall be established by the regulatory authority.

(4) The liability towards the users for the postal services within the scope of universal service which the universal service provider has the obligation to provide shall be established by the provisions of the framework-agreement specified in paragraph (2), in compliance with the provisions of this Emergency Ordinance and of the other legal provisions in force.

**Art.38.** – (1) In the case of total or partial loss, total or partial damage or deterioration of the postal item, the postal service provider shall hold liability for the caused damage, if these circumstances occurred in the timeframe spanning between the submission of the postal item and its delivery to the addressee.

(2) The user considering he/she was damaged, pursuant to paragraph (1), by the improper provision of the service by the postal service provider may submit with the latter a prior complaint. The prior complaint may be submitted by the sender or by the addressee.

(3) The term provided for submitting the prior complaint with the postal service provider shall be 6 months and shall flow from the date of submission of the postal item.

(4) The postal service provider shall settle the prior complaint within 3 months from its submission.



(5) The universal service provider shall keep for at least 18 months from the submission date the postal items subject to the services within the scope of universal service which it was unable to deliver.

(6) The terms mentioned in paragraphs (3) to (5) shall also apply to cross-border postal items, if the international agreements in which Romania is a party do not provide otherwise.

(7) The term for keeping the postal items in other situations than that specified in paragraph (5) shall be established by means of the agreement concluded by the postal service provider with the users, and will not be less than 9 months from the date of submission of the postal item.

**Art.39.** – (1) Where the complaint submitted with the postal service provider pursuant to Article 38 paragraph (2) was not settled satisfactorily or was not answered in the term foreseen in Article 38 paragraph (4), the respective user may submit a complaint with the regulatory authority.

(2) The complaint submitted with the regulatory authority shall be accompanied by the proof of fulfilling the procedure of prior complaint.

(3) The provisions of this Chapter do not bring prejudice to the right of any of the parties to address the competent Courts, under the law.

**Art.40** – (1) In all cases, the term for filing the complaint or for taking legal action shall be 1 year.

(2) The prescription term under paragraph (1) shall flow from the date of submission of the postal item.

(3) The legal action may be taken irrespective of whether a complaint with the same object was submitted or not with the regulatory authority.

**Art.41.** – (1) The sender shall be entitled to a proper compensation for the prejudice caused by the loss, theft, total or partial damage or deterioration of the item, as indicated in Article 42. The indirect damage and the unachieved benefits shall not be compensated.

(2) The sender may waive the compensation right in favour of the addressee.

**Art.42.** – (1) The postal service providers shall be liable for the domestic postal items as follows:

a) in case of loss, theft or total damage:

1. with the whole declared value, for a postal item subject to an insured service, including if the respective postal item is subject or not to the cash-on-delivery service;

2. with the value of the reimbursement, for a postal item subject to a cash-on-delivery service without a declared value;

3. with the amount representing 10 times the tariff of the service, for the postal items which are not subject to an insured service or to an cash-on-delivery service;

(Letter amended on 3 September 2016 according to Article I point 17 of Government Ordinance no. 27/2016)

b) in case of loss or partial damage or deterioration:

1. with the declared value for the missing, damaged or deteriorated part, inscribed in the inventory note, for the postal items submitted open which are subject to an insured service;

2. with the corresponding share of the weight missing from the declared value, for the postal items submitted closed which are subject to an insured service;

3. with the amount representing 10 times the tariff of the service, in case of partial loss, partial damage or deterioration of the postal items which are not subject to an insured service.

c) In the case of an item subject to a cash on delivery service, the postal service provider shall owe the entire value of the reimbursement for the case where it did not reimburse to the sender its whole value or the corresponding difference up to its whole value, if the reimbursement was partially cashed in from the addressee.

(Letter introduced on 3 September 2016 according to Article I point 18 of Government Ordinance no. 27/2016)

(2) The legal default interest, which flows from the moment the prior complaint is filed or, as the case may be, from the moment the legal action is taken, irrespective of which of these happens first, shall be added to the amounts specified in paragraph (1) letters a) and b).

(3) The total loss of the content shall equal the loss of the postal item.

(4) Where the sender declared a value smaller than the actual one, the compensation shall amount to the declared value.

(5) Besides the compensations specified in paragraph (1) letter a), the fees cashed in at the submission of the postal item shall also be refunded.

(6) Where the activities representing additional characteristics to the postal services, nominated by the sender through express indications, have not been provided, exclusively the fees cashed in additionally to the fee applicable for the standard postal service shall be refunded.

(7) Where the proof of handing in the registered postal item, confirmed in writing by the addressee, has been lost, the postal service provider shall prepare and make available to the sender a duplicate of the proof of the handing in.

**Art.43.** – The postal service provider shall be exonerated from all responsibility in the following cases:

a) the damage was caused as a result of the sender's or addressee's deed;

b) the user does not have installed a mailbox which would allow to hand in the postal item or this does not ensure the security of the postal items or, as applicable, does not have ensured a service for receiving the postal items;

c) the item was received without objections by the addressee, except for the complaints referring to the loss, theft, deterioration or total or partial damage of the content of the postal item;

d) the damage was caused by a force majeure case or by a fortuitous case; in this situation, the paid fees - except for the insurance fee - shall be refunded to the sender.

**Art.44.** – (1) For the service of money order on paper support, the postal service provider shall owe the entire amount paid at the access point.

(2) The postal service providers shall bear responsibility for the amounts sent by means of the service of money order on paper support until these amounts are paid.

(3) The provisions of Article 42 paragraph (2) shall correspondingly apply.

(4) The amounts whose payment or reimbursement was not claimed by those rightfully entitled to claim them, within 6 months from their submission, shall definitely remain in the possession of the postal service providers.

**Art.45.** – (1) The postal items shall be in the sender's property until their delivery to the addressee.

(2) The postal items that could not be delivered to their addressees nor to their senders shall become property of the postal service provider at the expiry of the keeping term set according to Article 38 paragraphs (5) or (7), as the case may be.

**Art.46.** – The postal service provider shall be liable for the cross-border postal items in accordance with the provisions of the international agreements in which Romania is a party. Where there are no international agreements, the provisions of this Chapter shall apply.

**Art.47.** – The parties may set in an agreement the provisions concerning the aggravation of the postal provider's liability foreseen in this Chapter.

## ***CHAPTER VIII<sup>1</sup>***

### ***Issuance and sale of the postage stamps and postal stationery***

**Art.47<sup>1</sup>.** – (1) The postage stamps and the postal stationery are a manifestation of the state's sovereignty and shall be issued and put into circulation only under the state's authority.

(2) The Commercial Company "Romfilatelia" – S.A., a legal person of public interest, shall issue, put into circulation, withdraw, distribute and sell the postage stamps and postal stationery.

(3) The Philatelic Commission, a structure without legal personality, with attributions of approval and consultancy in the field of postage stamps and postal stationery, shall be set up under the coordination of MSI.

(4) The structure, attributions and functioning of the Philatelic Commission shall be established by Government decision within 90 days from the entry into force of the law approving this Emergency Ordinance.

(5) MSI is the central public administration body which exercises the rights of state control over the legal person issuing the postage stamps and postal stationery specified in paragraph (2).

**Art.47<sup>2</sup>.** – (1) The provisions of Article 47<sup>1</sup> paragraph (2) shall be enforced in compliance with the international agreements in the field in which Romania is a party.

(2) The conditions of issuance, printing, putting into circulation, withdrawal and sale of the postage stamps and postal stationery shall be established in compliance with the legal provisions and the international agreements in which Romania is a party.

(3) The plans on the issuance of the postage stamps and postal stationery shall be established annually by the Ministry of Communications and Information Society, at the proposal of the legal person of public interest specified in Article 47<sup>1</sup> paragraph (2) and with the approval of the Philatelic Commission.

(Paragraphs amended on 3 September 2016 according to Article I point 19 of Government Ordinance no. 27/2016)

## ***CHAPTER IX***

### ***The regulatory authority***

**Art.48.** – (1) For the purposes concerning the enforcement of this Emergency Ordinance, the attributions of the regulatory authority shall be fulfilled by ANCOM.

(2) In exercising the attributions foreseen in this Emergency Ordinance, ANCOM shall mainly pursue the following objectives:

- a) ensure the right of access to the universal service;
- b) promote the users' interest, notably that of the disabled users, users with chronic diseases, elderly users, users on small incomes or living in remote, rural or low-density areas;
- c) promote the economic efficiency of the postal service providers;

d) ensure the economic sustainability of the activities carried by the postal service providers.

(3) ANCOM shall also be empowered to:

a) adopt the regulations and impose the obligations and the conditions required to ensure the enforcement of this Emergency Ordinance;

b) ensure the monitoring of the compliance with the provisions of this Emergency Ordinance, with the measures taken in view of its enforcement, as well as with the rights and obligations of the postal service providers.

**Art.49.** – (1) In exercising the attributions laid down in Article 48 paragraph (3) letter (a), ANCOM shall observe the consultation procedure set in this Article every time the measures it intends to adopt are of such nature as to cause a significant impact on the postal service market.

(2) ANCOM shall publish the text submitted to consultation on its website, specifying as well: the date of publication of the document, the deadline for submitting the comments and the estimated date on which it intends to adopt the measure subject to consultation. All the interested persons who requested to include their electronic mail address on the ANCOM correspondence list shall be informed on the launch of the consultation on the date the document is published at the latest.

(3) From the date the text subject to consultation is published on its website, ANCOM shall allow at least 30 days for the submission of comments, in writing, by any interested person. Where it is necessary to adopt urgent measures, ANCOM shall provide a term from 10 to 30 days for the submission of comments.

(4) At the latest on the date the draft decision adopting the measure is published on its website, ANCOM shall also publish a synopsis of the comments received where it shall express its position in relation to these comments.

**Art.50.** – (1) ANCOM may request in writing from the postal service providers, from other persons carrying activities in fields related to the postal service market or from users-legal persons any information required in view of exercising the attributions set out in this Emergency Ordinance, including financial information or information concerning the provision

of services within the scope of universal service, observing, if applicable, the confidentiality of the received information.

(Paragraph amended on 2 December 2016 according to Article I point 19<sup>1</sup> of Government Ordinance no. 27/2016, as it was introduced by sole article point 6 of Law no. 238/2016)

(2) The information shall be requested upon reasoned motivation and its amount and nature shall be proportionate to the purpose for which it was requested.

(3) ANCOM may impose on the postal service providers the obligation to periodically send certain categories of information, in view of preparing statistical reports on the provision of postal services or of related services.

(4) The information requested pursuant to paragraph (1) or established pursuant to paragraph (3) shall be provided within the timeframes and at the level of detail set out by ANCOM.

(5) ANCOM shall provide to the European Commission, upon its reasoned request, all the information necessary in view of exercising its attributions. The nature and amount of the information shall be proportionate to the purpose for which it was requested.

(6) ANCOM shall transmit to the national regulatory authorities in the field of postal services from other Member States of the European Union the information these requested in a reasoned manner, in view of fulfilling the attributions provided by the legislation of the European Union.

(7) If the information submitted pursuant to paragraphs (5) or (6) are deemed confidential, in accordance with the national and European Union legislation on confidentiality, ANCOM shall notify the European Commission and the national regulatory authorities on the confidential nature of the transmitted information, in view of its observance.

(8) ANCOM shall observe the confidentiality of the information received from the national regulatory authorities from other Member States of the European Union, where it is notified on the existence of the confidential nature.

**Art.51.** – ANCOM shall cooperate with regulatory authorities in the postal field from abroad, including based on agreements of collaboration and exchange of information, in view of fulfilling the attributions incumbent on it pursuant to this Emergency Ordinance, as well as

of facilitating the exercise by these authorities of the attributions incumbent on them pursuant to the applicable national legislation.

## **CHAPTER X**

### ***The sanctions regime and procedural provisions***

**Art.52.** – (1) The following deeds shall be deemed contraventions if they are not committed in such way as to be considered crimes according to the criminal law:

1. the submission of the following categories of postal items:

a) postal items consisting of merchandise which, by its nature or by the way it is wrapped, may cause damage to the persons, environment, installations used or another merchandise;

b) postal items whose wrap has inscriptions which violate public order or public morals, as well as the postal items containing merchandise which violates public order or public morals if submitted unwrapped or in transparent wrap;

(Letter amended on 3 September 2016 according to Article I point 20 of Government Ordinance no. 27/2016. Article 52 paragraph (1) point 1 letter b) became effective on 30 September 2017)

c) postal items consisting of merchandise whose transport is forbidden by the legal provisions, be it for just a part of the route;

d) postal items containing merchandise for which special transport conditions are set out by administrative, economic, sanitary, veterinary, phytosanitary or other similar legal provisions, with the breach of the mandatory conditions foreseen by these provisions;

2. the introduction in the postal items with low tariff of postal items for which higher tariffs are set or tariffs whose sum exceeds the tariff of the item in which they were introduced;

3. the franking of the postal items with stamps cut off from used postal stationery or by any other fraudulent means;

4. preventing the installation of mailboxes or of physical installations representing access or contact points;



5. the unauthorized opening of mailboxes or of physical installations representing access or contact points;

6. the positioning close to or on the surface of an object of any signs, inscriptions, brands, labels or any other identification means which can generate the risk of confusion with the mailboxes or with the physical installations representing access or contact points;

7. the introduction in the mailboxes or in the physical installations representing access or contact points of merchandise, materials or substances which can cause destruction, deterioration, injuries, damage to the persons, environment, installations used or to another merchandise;

(Points amended on 3 September 2016 according to Article I point 21 of Government Ordinance no. 27/2016. Article 52 paragraph (1) points 4 - 7 became effective on 30 September 2017)

8. the use of signs, inscriptions, brands, labels, stamps or any other means of identification which can cause the risk of confusion with those used by another postal service provider.

(2) The following deeds shall be deemed contraventions if not committed in such conditions as to be considered crimes according to the criminal law:

1. the breach by the postal service providers of the rights granted to the universal service provider pursuant to Article 14;

2. the universal service provider's failure to observe the conditions set out by ANCOM pursuant to Article 10 paragraph (1) or Article 10 paragraph (3), as well as the breach of the obligations under Article 10 paragraph (2);

3. the universal service provider's breach of the obligations specified in Articles 11, 12 paragraphs (1), (2) and (4) or Article 13 paragraphs (1) and (3), as well as the non-observance of the principles and conditions set out by ANCOM pursuant to Article 12 paragraphs (5) and (6) and Article 13 paragraphs (5) and (6);

4. the provision or offering of postal services by persons who are not authorised to provide postal services within the meaning of this Emergency Ordinance;

5. the provision or offering by the postal service providers of other postal services than those for which they were granted the provision right;

6. the postal service providers' non-observance of the obligations incumbent on them under the general authorisation regime;

7. the universal service provider's non-observance of the obligations laid down in Article 16 paragraphs (3) and (4);

(Point amended on 3 September 2016 according to Article I point 22 of Government Ordinance no. 27/2016. Article 52 paragraph (2) point 7 became effective on 30 September 2017)

7<sup>1</sup>. the universal service provider's non-observance of the obligation to submit any change of tariffs to the approval of the regulatory authority, in accordance with the provisions of Article 16 paragraph (6);

(Point introduced on 3 September 2016 according to Article I point 23 of Government Ordinance no. 27/2016. Article 52 paragraph (2) point 7<sup>1</sup> became effective on 30 September 2017)

8. the universal service provider's charging of special tariffs, with the non-observance of the provisions under Article 17;

9. the universal service provider's non-observance of the obligation set out in accordance with Article 18;

10. the universal service provider's charging of terminal rates with the non-observance of the provisions under Article 19;

11. the universal service provider's charging of the postal items for which it must ensure gratuity pursuant to Article 20;

12. the universal service provider's failure to observe the obligation to keep separate accounts under the conditions foreseen in Article 24;

13. **repealed**;

14. the postal service providers' failure to observe the obligation imposed pursuant to Article 28;

15. the universal service provider's failure to observe the rules applicable to the postal services within the scope of universal service set out according to Article 29;

16. the universal service provider's failure to observe the obligation specified in Article 30 paragraph (1) on the minimum quality requirements foreseen in Article 30 paragraph (2) or those set out according to Article 30 paragraph (3);

(Point amended on 3 September 2016 according to Article I point 22 of Government Ordinance no. 27/2016. Article 52 paragraph (2) point 16 became effective on 30 September 2017)

17. the universal service provider's failure to observe the obligations imposed pursuant to Article 31;

18. the postal service providers' failure to observe the obligations set out in Article 32 paragraphs (1) to (4), Article 33 paragraphs (1), (3) and (4) or Article 34, as well as the non-observance of the conditions established by ANCOM pursuant to Article 32 paragraph (5);

19. the universal service provider's failure to observe the provisions of the framework-agreement specified in Article 37 paragraph (2);

20. the postal service providers' failure to observe the term for settling the prior complaint specified in Article 38 paragraph (4);

21. the non-observance of the minimum term for keeping the items specified in Article 38 paragraphs (5) and (6) or set out pursuant to Article 38 paragraph (7);

22. the postal service provider's failure to observe the obligation under Article 42 paragraph (7);

23. the non-observance of the issuance plans of postage stamps and postal stationery or of the conditions of their issuance, printing, putting into circulation, withdrawal or sale.

**Art.53.** – (1) The contraventions specified in Article 52 shall be sanctioned as follows:

1. in the case of natural persons:

a) by fine from 500 lei to 2,000 lei, for committing the contraventions referred to in Article 52 paragraph (1);

b) by fine from 1,000 lei to 5,000 lei, for committing the contravention mentioned in Article 52 paragraph (2) indent 4.

2. in the case of legal persons, authorised natural persons, individual enterprises and family associations:

a) by fine from 500 lei to 5,000 lei, for committing the contraventions referred to in Article 52 paragraph (1) and Article 52 paragraph (2) indents 18 and 20 to 22;

b) by fine from 1,000 lei to 100,000 lei, for committing the contraventions specified in Article 52 paragraph (2) indents 3, 11, 15, 19 and 23;

c) by fine from 5,000 lei to up to 2% of the turnover, for committing the contraventions specified in Article 52 paragraph (2) indents 1, 2, 4 to 10, 12, 14, 16 and 17.

(2) The turnover is that provided in the last annual financial statement reported by the economic operator.

(3) For the authorised natural persons, individual enterprises and family associations, the total gross revenues obtained by the respective economic operators shall correspond to the turnover specified in paragraph (1) indent 2 letter c).

**Art.54.** – (1) The control of the compliance with the provisions of this Emergency Ordinance shall be ensured as follows:

a) by ANCOM, which shall act via its specialised staff purposefully empowered therefor, hereinafter referred to as *control staff* or, as applicable, by the Ministry of Internal Affairs, which shall act via its police officers or agents, officers and sub-officers within the Romanian Gendarmerie, as well as the customs police officers for the deeds assessed in the specific competence area;

b) by MSI, which shall act via its staff purposefully empowered therefor.

(2) In exercising the specific attributions, the control staff may undertake control actions, including unannounced ones, under the law, within which it may request and receive from the persons who possess or have the obligation to possess, on the spot or at an established term, any information or documents necessary to carry out the control, mentioning the legal grounds therefor and the purpose of the request, to take copies of any registers, financial-accounting and commercial documents or any other documents, in compliance with the legal provisions in force.

(3) The result of the control actions undertaken by the control staff shall be written down in a control note, except for the cases referred to in Article 55.

(4) Upon the request of ANCOM, in the hypothesis there could be an opposition to the control action, in view of identifying the natural persons, the law enforcement officers shall accompany and shall ensure the necessary support to the control staff for exercising, under the law, the control attributions foreseen in this Emergency Ordinance.

**Art.55.** – (1) The assessment and enforcement of the sanctions for the contraventions specified in Article 52 paragraph (1) shall be made by the control staff or, as applicable, by the staff within the Ministry of Internal Affairs mentioned in Article 54 paragraph (1), in the minute on the assessment of the contravention and enforcement of sanction.

(2) The contraventions specified in Article 52 paragraph (2) indents 1, 2, 4 to 6 and 15 to 22 shall be assessed by the control staff in the minute on the assessment of the contravention and enforcement of sanction, and the sanction shall be enforced by the President of ANCOM by written resolution on the minute on the assessment of the contravention and enforcement of sanction.

(3) The contravention specified in Article 52 paragraph (2) indent 23 shall be assessed and the sanction shall be enforced by the MSI staff purposefully empowered therefor, by means of the minute on the assessment of the contravention and enforcement of sanction.

**Art. 55<sup>1</sup>.** – (1) By way of derogation from the provisions of Article 15 paragraph (1) of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, the contraventions mentioned in Article 52 paragraph (2) indents 3, 7 to 12 and 14 shall be assessed and sanctioned by decision of the ANCOM President.

(2) If, within a control action, the non-observance of one of the legal provisions whose breach is deemed contravention under Article 52 paragraph (2) indents 3, 7 to 12 and 14 is assessed, the respective person shall be granted a maximum 5-day term from the communication of the assessed contravention to formulate objections regarding the committed breach.

(3) The decision under paragraph (1) shall comprise the following elements: the contravener's identification data, the date when the contravention was committed, the description of the contraventional deed and of the circumstances which can be considered at the individualization of the sanction, the indication of the legal ground based on which the contravention is assessed and sanctioned, the possible objections formulated by the contravener pursuant to paragraph (2), the main sanction and the possible complementary sanctions enforced, the term and means of payment of the fine, the term for challenging the decision and the court competent to settle the action.

(4) By way of derogation from Article 13 paragraph (1) of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, the enforcement of the sanction pursuant to paragraph (1) shall be prescribed within one year from the committance of the deed. In the case of the breaches continuing in time or of those committed in consideration of the same resolution, by several actions or non-actions, at different time intervals, the prescription shall begin to flow from the assessment date or from the date of cessation of the last committed act or deed, if this moment happens before the assessment.

(5) The decision under paragraph (1) shall be communicated to the contravener and may be challenged in contentious administrative under the conditions of Article 12 paragraph (5) of the Government Emergency Ordinance no. 22/2009 on the establishment of the National Authority for Management and Regulation in Communications, approved by Law no. 113/2010, with the subsequent amendments and completions.

(6) The term within which the contravener has the obligation to pay the fine shall, by derogation from the provisions of Article 28 paragraph (1) of the Government Ordinance no. 2/2001, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, be 30 days from the communication date of the decision under paragraph (1) and shall be expressly provided in its content. Together with the decision, the contravener shall also be communicated the notice of payment which contains the mention on the obligation to pay the fine within the term provided in the decision on the assessment of contravention and enforcement of sanction.

(7) The decision under paragraph (1), which is not challenged within the legal term, as well as the definitive court decision settling the action in contentious administrative formulated against it shall be executory, without any other formality. The action in contentious administrative under the conditions of paragraph (5) shall suspend the execution only with regard to the payment of the fine until the court delivers a final decision.

(8) The amounts obtained from the fines enforced pursuant to the provisions of this Article shall be considered revenues to the state budget. The execution shall be done under the conditions set out by the legal provisions on forced execution of fiscal debts. In view of executing the sanction, ANCOM shall communicate *ex officio* to the specialised bodies of the

National Fiscal Administration Agency the decision under paragraph (1), after the expiry of the term provided therein or after the delivery of the final decision by the court which settled the action in contentious administrative.

**Art.56.** – (1) Where a contravention is found pursuant to Articles 55 or 55<sup>1</sup>, ANCOM may take the necessary measures to ensure the ending of the breach and the remediation of the situation. The measures shall be adequate and proportionate to the committed breach and shall foresee a term within which the provider is to ensure the observance of the respective measures.

(2) The measures under paragraph (1) shall be established together with the enforcement of the sanction as follows:

(a) for the contraventions assessed in accordance with Article 55 paragraph (1) thesis I, by the control staff in the minute on the assessment of the contravention and enforcement of the sanction;

b) for the contraventions assessed in accordance with Article 55 paragraph (2), by the ANCOM president – by written resolution on the minute on the assessment of the contravention and enforcement of the sanction;

c) for the contraventions assessed in accordance with Article 55<sup>1</sup>, by the ANCOM president, by decision.

**Art.57.** – (1) ANCOM may obligate the postal service providers, other persons carrying activities in fields related to the postal service market or users-legal persons to pay administrative fines ranging between 100 lei and 15,000 lei for each day of delay to determine them to:

(Introductory part amended on 2 December 2016 according to Article I point 23<sup>1</sup> of Government Ordinance no. 27/2016, as it was introduced by sole article point 7 of Law 238/2016)

a) provide accurately and comprehensively the information requested from them pursuant to the provisions of Article 25 paragraph (2), Article 50 paragraph (1) or Article 54 paragraph (2), as well as the information established in line with Article 50 paragraph (3);

b) submit themselves to the control mentioned in Article 54 paragraphs (1) and (2);

c) comply with the measures imposed according to Article 56.

(Letter introduced on 3 September 2016 according to Article I point 24 of Government Ordinance no. 27/2016)

(2) The sanction under paragraph (1) shall be enforced by decision of the ANCOM president and shall produce effects from the communication date.

(3) The amounts resulted from cashing in the administrative fines set out in paragraph (1) shall be correspondingly applied the provisions of Article 14 paragraph (2) of the Government Emergency Ordinance no. 22/2009 on the establishment of the National Authority for Management and Regulation in Communications, approved by Law no. 113/2010, with the subsequent amendments and completions.

**Art.58.** – (1) Account taken of the degree of social danger of the committed deed, the circumstances in which the deed was committed, the way and means of its committance, the purpose pursued and the consequence produced, the ANCOM president may establish, by decision, to suspend or withdraw the right to provide postal services, in the following situations:

a) the postal service providers' breach of the rights awarded to the universal service provider, on grounds of the provisions of Article 14;

b) the universal service provider's non-observance of the conditions set out by ANCOM pursuant to Article 10 paragraph (1) or Article 10 paragraph (3) or breach of the obligations under Article 10 paragraph (2);

c) the postal service providers' non-observance of the obligations incumbent on them under the general authorisation regime;

d) the universal service provider's breach of the obligations set out in Article 16 paragraphs (2) and (3), as well as the non-observance of the means set out by ANCOM under Article 16 paragraph (4);

e) the universal service provider's charging of special tariffs, with the non-observance of the provisions under Article 17;

f) the universal service provider's non-observance of the obligation set out under Article 18;



g) the universal service provider's charging of terminal rates, with the non-observance of the provisions under Article 19;

h) the universal service provider's non-observance of the obligation to keep separate accounts under the conditions set out in Article 24;

i) the failure to submit the information requested according to Article 25 paragraph (2), Article 50 paragraph (1) or Article 54 paragraph (2), as well as the information set out pursuant to Article 50 paragraph (3);

j) the postal service providers' non-observance of the obligation imposed in accordance with the provisions of Article 28;

k) the universal service provider's non-observance of the minimum quality requirements set out according to Article 30 paragraphs (1) to (3);

l) the universal service provider's non-observance of the obligations imposed pursuant to Article 31.

m) in the case of a postal service provider's provision or offering of other services than those for which it was awarded the provision right;

(Letter introduced on 3 September 2016 according to Article I point 25 of Government Ordinance no. 27/2016)

(2) Where the right to provide postal services was withdrawn, the provider shall not be able to gain the right to provide postal services for a period of 3 years from the enforcement of the sanction.

(Paragraph introduced on 3 September 2016 according to Article I point 26 of Government Ordinance no. 27/2016)

(3) If, within 45 days from the due date, the postal service provider does not pay the monitoring tariff provided in Article 5 paragraph (8) or the contribution and/or the amounts collected for the compensation of the net cost of the services within the scope of universal service, specified in Article 23, as well as their accessories, ANCOM, as applicable, may suspend or withdraw the respective provider's right to provide postal services based on the general authorisation regime.

(4) For the postal service provider's failure to submit the documents foreseen in Article 130 paragraph (1) of the Government Emergency Ordinance no. 111/2011, approved with amendments and completions by Law no. 140/2012, by the 10<sup>th</sup> of September of the year for

which the monitoring tariff is owed, ANCOM may suspend or withdraw the respective provider's right to provide postal services based on the general authorisation regime.

(5) The goods intended for, used for or resulted from crimes or contraventions may be seized only under the law.

**Art.59.** – The provisions under Article 52 concerning the contraventions shall be completed with the provisions of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions.

## ***CHAPTER XI***

### ***Final and transitory provisions***

**Art.60.** – (1) MSI is the central public administration body which organises and oversees the fulfilment of the obligations incumbent on Romania from the Universal Postal Union acts and from other international legal instruments in the postal field in which Romania is a party.

(2) MSI shall represent the Romanian postal administration in the relation with all the international organizations.

(3) MSI may delegate the fulfilment of the attributions referred to in paragraphs (1) and (2) to other legal persons.

(4) MSI is the central public administration body which elaborates the policy in the field of postage stamps and postal stationery.

### **Art.61. - repealed**

**Art.61<sup>1</sup>.** – In exceptional circumstances such as: siege, emergency state, disasters or calamities, MSI, in collaboration with the Ministry of National Defence and with the other institutions in the national defence system, may dispose the temporary reorganization, restriction or suspension of the postal services, making this decision public.

**Art.62.** – The Government Ordinance no. 31/2002 on postal services, published in the Romanian Official Journal, Part I, no. 87 of 1 February 2002, approved with amendments and completions by Law no. 642/2002, with the subsequent amendments and completions, shall be amended as follows:

**1. The title of the Ordinance shall be amended and shall read as follows:**

**„O R D I N A N C E  
on the stamp conservatory”**

**2. Article 1 shall be repealed.**

**3. Under Article 2, the introductory part and the letters a) to m) and o) to v) shall be repealed.**

**4. Articles 3 to 10 shall be repealed.**

**5. Under Article 11, the introductory part and the letters c) to g) shall be repealed.**

**6. Articles 12 to 14, 15, 16 and 18 shall be repealed.**

**7. Under Article 22, paragraphs (1), (2) and (4) to (6) shall be repealed.**

**8. Articles 23, 24, 25 to 32, 34 and 37 to 39 shall be repealed.**

**9. Articles 40, 41, 42 and 43 shall be repealed.**

**10. Articles 44, 45, 47 to 50, 52 and 53 shall be repealed.**

**11. Under Article 54, paragraph (1) shall be repealed.**

**12. Articles 55 to 57 shall be repealed.**

**13. Under Article 58, indents 1 to 19, 20 and 20<sup>1</sup> shall be repealed.**

**14. Under Article 59, letter a) of paragraph (1) and paragraphs (2) and (4) shall be repealed.**

**15. Article 60 shall be repealed.**

**16. Under Article 61, paragraphs (1), (3), (4) and (6) shall be repealed.**

**17. Articles 62, 65, 66 and 67 to 69 shall be repealed.**

**Art.63.** – This Emergency Ordinance shall enter into force within 10 days from its publication in the Romanian Official Journal, Part I.

\*

This Emergency Ordinance transposes the provisions of:

- 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, published in the Official Journal of the European Communities, series L no. 15 of 21 January 1998, amended and completed by:

– Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services, published in the Official Journal of the European Communities, series L no. 176 of 5 July 2002;

– Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, published in the Official Journal of the European Communities, series L no. 52 of 27 February 2008.

**Bucharest, 6 March 2013**

**No. 13**