

Clear and comprehensive description of how the respective services are organized in your Member State
Description of services in the respective sector defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.
<i>Provision of mandatory public service of regular public transportation of passengers and vehicles between the port of Valbiska on the island of Krk and the port of Lopar on the island of Rab, regular public transportation of passengers between the port of Komiža on the island of Vis and the island of Biševo, regular public transportation of passengers between the port of Brodarica on the mainland and the island of Krapanj.</i>
Explanation of the (typical) forms of entrustment . If standardised templates for entrustments are used for a certain sector,
<i>Entrustment act stipulating the obligations of the public service is the decision on the most economically advantageous tenderer, who is given the right to provide the public transportation services on the above mentioned lines, and pursuant to which a public service contract is signed.</i>
Average duration of the entrustment (in years) and the proportion of entrustments that are longer than 10 years (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?
<i>For these lines entrustments last for 6 years, from 2015 to 2020.</i>
Explanation whether (typically) exclusive or special rights are assigned to the undertakings.
<i>Considering that the shipowner that receives the right to provide the public transportation service is the only one who can provide this service, exclusive rights are assigned.</i>
Which aid instruments have been used (direct subsidies, guarantees, etc.)?
<i>Direct aid to shipowners for the provision of public transportation services in regular shipping services.</i>
Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.
<i>The amount of compensation for the provision of a public service may not exceed the obligatory amount necessary for covering net costs incurred when meeting the obligation of the provision of public service, including reasonable profit.</i>
Typical arrangements for avoiding and repaying any overcompensation .
<i>At the end of the business year, the shipowner submits financial statements for each shipping service under the principle of accounting segregation, and the contracting authority must carry out accounting control establishing final actual costs and revenue of a shipping service. If such accounting control establishes that the shipowner has received a higher compensation for the provision of the public service compared to the final costs and revenue, the contracting authority shall request that the shipowner repay such overcompensation for the provision of</i>

General SGEI government expenditure by functions (in millions EUR)		
	2014	2015
Compensation for Services of General Economic Interest (1+2)		0.55
(1) Compensation granted on the basis of the SGEI Decision		<u>0.55</u>
(2) Compensation granted on the basis of the SGEI Framework		

Amount of aid granted	
Total amount of aid granted (in millions EUR). This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)	
2014	2015
	EUR 0.55 million
A: Total amount of aid granted (in millions EUR) paid by national central authorities	
2014	2015
	EUR 0.55 million
B: Total amount of aid granted (in millions EUR) paid by regional authorities	
2014	2015
C: Total amount of aid granted (in millions EUR) paid by local authorities	
2014	2015
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	
2014	2015
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the	
2014	2015

HP-Hrvatska pošta d.d., Zagreb
Services of General Economic Interest: Guidance for report to be submitted following the 2012 SGEI Decision and the 2012 SGEI Framework

The reporting obligations are set out: in the Article 9 of the 2012 SGEI Decision.

Each Member State shall submit a report on the implementation of this Decision to the Commission every 2 years. The reports shall provide a detailed overview of the application of this Decision for the different categories of services referred to in Article 2(1), including:

- (a) a description of the application of this Decision to the services falling within its scope, including in-house activities;*
- (b) the total amount of aid granted in accordance with this Decision, with a breakdown by the economic sector of the beneficiaries;*
- (c) an indication of whether, for a particular type of service, the application of this Decision has given rise to difficulties or complaints by third parties;*
- (d) any other information concerning the application of this Decision required by the Commission and to be specified in due time before the report is to be submitted.*

Paragraph 62 of the 2012 SGEI Framework sets in principle identical reporting obligations for aid granted under the 2012 SGEI Framework.

Please structure your report as follows:

1. EXPENDITURE OVERVIEW

General SGEI government expenditure by functions		(in millions EUR)	
Compensation for Services of General Economic Interest (1+2)		2014	2015
		12,321,564	10,734,482
		12,321,564	10,734,482
		0	0
(1) Compensation granted on the basis of the SGEI Decision			
(2) Compensation granted on the basis of the SGEI Framework			

2. DESCRIPTION OF THE APPLICATION OF THE SGEI DECISION AND THE SGEI FRAMEWORK AND AMOUNT GRANTED

Please structure this part of your report by the following sections:

- 1) Hospitals (Art. 2(1)(b))
- 2) Social services (Art. 2(1)(c))
 - a) Health and long term care
 - b) Childcare
 - c) Access to and reintegration into the labour market
 - d) Social housing

- e) Care and social inclusion of vulnerable groups
- 3) Air or maritime links to islands with average annual traffic below the limits set in Art. 2 (1) (d))
- 4) Airports and ports with average annual traffic below the limit set in Art. 2(1)(e)
- 5) SGEI compensation not exceeding EUR 15 million (Art. (2)(1)(a))

In 2014, in accordance with the then-applicable Postal Services Act (NN Nos 144/12 and 153/13), and based on a calculation the Croatian Post and Electronic Communications Agency (hereinafter: HAKOM) issued a decision establishing the amount of net cost that represented unfair financial burden, after having received a proper request from the universal service provider, HP-Hrvatska pošta d.d., Zagreb (hereinafter: HP).

On 14 November 2014 HAKOM issued a Decision establishing unfair financial burden of the universal service provider in 2013 in the amount of HRK 94,383,177.00 (EUR 12,321,564), established a Compensation Fund and determined the contributions that replacement postal services providers must pay into the compensation fund.

Before issuing the said Decision, HAKOM requested the response of all replacement postal services providers and the universal service provider, HP, to the submitted summary of the commercial scenario and the calculation of the net cost of HP for 2013. Considering that the amounts of contributions to the compensation fund were not sufficient for settling the total obligation of financing unfair financial burden, the remaining amount was paid from the state budget, in accordance with state aid rules (Article 52 (3) of the Postal Services Act).

According to Article 4 of the Commission Decision of 20 December 2011 on the application of Article 106 (2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, and the provisions of the State Aid Act (NN No 47/14), the provider of state aid, the Ministry of Maritime Affairs, Transport and Infrastructure, issued an act of entrustment — State Aid Programme, to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service from 2014 to 2018 (hereinafter: Programme), which was submitted to the Ministry of Finance for a response. According to the opinion of the Ministry of Finance, the Programme is aligned with the Guidelines on the State Aid Policy for the period 2014 - 2016 and is completely harmonized with the Commission Decision of 20 December 2011 on the application of Article 106 (2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

In 2015, HAKOM issued the Decision of 6 October 2015 establishing that the amount of HRK 81,796,754.00 (EUR 10,734,482) represents unfair financial burden for the universal service provider — HP during 2014. The funds for the compensation of unfair financial burden after the adoption of the Act on Amendments to the Postal Services Act (NN No 78/15) are paid from the state budget of the Republic of Croatia, at the request of the universal service provider and based on the decision of the HAKOM in accordance with the rules on state aid.

For each of the items outlined above please provide information in the form of the following table:

Clear and comprehensive description of how the respective services are organized in your Member State¹
<p>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</p> <p>In accordance with the Postal Services Act (NN Nos 144/12, 153/13 and 78/15), postal services include the universal service, replacement postal services and other postal services. Article 3 of the Act stipulates that the provision of universal postal services shall be in the interest of the Republic of Croatia; consequently, universal services are considered to be services of general economic interest.</p> <p>The universal service is a set of postal services available to all users of postal services throughout the territory of the Republic of Croatia at affordable prices; the public operator must ensure the quality of the provision of the universal service set forth in the Postal Services Act through its postal network. The universal service comprises postal services in domestic and international traffic:</p> <ol style="list-style-type: none"> 1. the clearance, sorting, transport and delivery of items of correspondence up to 2 kilograms 2. the clearance, sorting, transport and delivery of parcels up to 10 kilograms 3. the clearance, sorting, transport and delivery of registered and insured postal items 4. the clearance, sorting, transport and delivery of cecograms up to 7 kilograms, free of charge 5. the sorting, transport and delivery of packages up to 20 kilograms in international incoming traffic. <p>Pursuant to the Postal Services Act, the universal service provider, HP, shall ensure to all users at least five workdays per week:</p> <ol style="list-style-type: none"> 1. one clearance of a postal item 2. one delivery of a postal item to home address or facilities of any natural or legal person. <p>However, the above stated does not have to apply in the case of special geographical or other circumstances.</p> <p>HP shall deliver every postal item in the condition in which it was received. For registered items, insured items and parcels, HP shall issue to the user a free acknowledgement of the receipt of a postal item and ask for the signature of the person to whom the postal item is delivered as a confirmation of delivery. The Postal Services Act and the Ordinance on the provision of universal service (NN No 41/13) lay down the other criteria that the universal service provider must meet.</p>

¹ If in a given sector only a small number of individual SGEIs exist in your Member State, please provide a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial. Since cases falling under the SGEI Framework will be limited in number, the Commission expects a detailed description of each specific measure.

The Ordinance on the provision of universal service lays down the criteria that the postal network of the universal service provider must meet. The postal network means a system of organization and all means which are mutually interconnected into a single technical and technological whole and used by the universal service provider for the provision of universal service in the entire territory of the Republic of Croatia.

The universal service provider shall be obliged to organize a network of postal offices in the following manner:

1. one post office operates on average on a surface of 80km² at the maximum, or that
2. one post office operates on average for a maximum of 6000 inhabitants.

The average number of inhabitants and surfaces in km² refers to the entire territory of the Republic of Croatia. The network of postal offices must consist of at least 700 regular post offices. The universal service provider shall be obliged to establish a network of access points in inhabited areas with the maximum distance between the access points being 5000 m.

In accordance with Article 40 of the Postal Services Act, HP must ensure the following:

1. in national postal traffic, delivery of 85 % of postal items of the fastest category within one workday, or 95 % within two workdays, and for all other items in national traffic 95 % within three workdays
2. in international postal traffic with the Member States of the European Union, delivery of 85 % of postal items of the fastest category within three workdays, or 97 % within five workdays, and for other countries within the deadlines laid down in the acts of the Universal Postal Union.

For postal items addressed to recipients on the islands or items cleared on the islands, these delivery terms shall be extended for one day. The final clearance term or the term for depositing postal items according to the category of transport speed of items shall be indicated in the premises of HP intended for the users of services and on the letter-box.

Every year, the universal service provider shall, in compliance with the Croatian standards, measure the quality of provision of the universal service and arrange for an independent authority to measure the quality of transport of postal items, with a view to determining the percentage of delivered items.

The Ordinance on the provision of the universal service lays down the manner in which the universal service provider calls and publishes a tender for measuring the quality of provision of universal service by an independent authority, which must be in compliance with the following Croatian norms:

1. HRN EN 13850 – Measuring the duration of transport of an individual priority item from clearance to delivery
2. HRN EN 14508 – Measuring the duration of transport of an individual non-priority item from clearance to delivery and
3. HR EN 14012 – Measuring the numbers of complaints and compensations for damage.

Pursuant to the Postal Services Act, the universal service provider must deliver to HAKOM a report on the quality of provision of universal service no later than by 1 April for the previous year.

Explanation of the (typical) **forms of entrustment**. If standardised templates for entrustments are used for a certain sector, please attach them.

Provision of replacement postal services and other postal services

For the provision of replacement postal services and other postal services, a legal or natural person shall obtain a licence from the day of submitting a complete application to HAKOM. The application for the provision of postal services, which is submitted to HAKOM in writing, must contain the following:

1. the name and seat of the legal or natural person and the personal identification number
2. an excerpt from the appropriate register of legal or natural persons
3. a list of replacement and/or other postal services to be provided
4. a price list of postal services
5. the area where replacement and/or other postal services will be provided (domestic and/or international traffic)
6. the period in which the applicant intends to start providing replacement and/or other postal services.

HAKOM shall, within eight days from receiving a complete application, issue a certificate to the postal services provider certifying the submittal of a complete application for certain types of postal services. This certificate is not an administrative act.

Based on the application, HAKOM shall evaluate whether the services are replacement postal services, taking into consideration the features of the postal services included in the application, their useful purpose from the users' perspective and the price of service. If the application shows that the postal services for which the application was made are replacement postal services, HAKOM shall make a decision on the provision of replacement postal services no later than 90 days from receiving a complete application. Before making a decision HAKOM shall request the opinion of the body in charge of the protection of competition.

HAKOM's decision shall comprise the following:

1. the right to provide replacement postal services in a specified area, in accordance with the submitted application
2. information on the provider of postal services designated in the decision
3. the obligations that the replacement postal services provider must meet.

A replacement postal services provider shall immediately notify HAKOM in writing of any changes, no later than 30 days following the occurrence of such changes. A replacement postal services provider shall not be allowed to transfer the right to provide replacement postal services to another legal or natural person.

The universal service provider shall have the right to provide replacement postal services without obtaining a HAKOM decision.

Average duration of the entrustment (in years) and the proportion of entrustments that are **longer than 10 years** (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?

HP is the provider of the universal service in accordance with Article 67 (1) of the Postal Services Act; pursuant to this Act, it has the right and obligation to provide the universal service for a duration of 15 years. In accordance with the Postal Services Act, every five years HAKOM shall analyse the state of the postal services market in the Republic of Croatia in order to determine whether there are postal services providers that can ensure the provision of the universal service. If such analysis carried out by HAKOM shows the existence of postal services providers that can ensure the provision of the universal service, it shall carry out a public procurement procedure in order to determine the provider of the universal service.

Explanation whether (typically) **exclusive or special rights** are assigned to the undertakings.

No.

Which **aid instruments** have been used (direct subsidies, guarantees, etc.)?

Direct grants.

Typical **compensation mechanism** as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

According to the Postal Services Act, HP shall perform the accounting separation of the revenues and costs of the universal service, separately from the revenues and costs of replacement postal services and separately from revenues and costs of other postal services, in accordance with the type of services and products. Such accounting separation on the basis of consistently applied and objectively established principles of cost accounting also serves as a source of information for the calculation of the net cost of the universal service. In accordance with the Postal Services Act, the Instructions on Account Separation and Cost Accounting have been established and are intended for the regulation of the obligation of the universal service provider and for establishing the framework for the preparation of regulatory reports and other information that HP must regularly submit to HAKOM in order to meet its legal obligations.

Account separation that HP carries out in accordance with the above mentioned Instructions must meet the following objectives:

- establishing the actual cost of services in order to determine the appropriate prices of services covered by the universal service
- creation of foundation for determining the net cost of providing the universal service.

HP's cost accounting allocates the costs to each service, as follows:

- a) costs that can be directly attributed to a certain service or product and
- b) costs that cannot be directly attributed to a certain service or product.

Shared costs that cannot be directly allocated to a specific service or product are allocated as follows:

1. when applicable, they are distributed based on a direct analysis of accumulation of these costs
2. when direct analysis is not possible, shared cost categories are distributed based on an indirect connection with other cost categories or a group of cost categories for which direct transfer or distribution is possible, whereby

indirect connection is based on similar cost structures

3. when direct and indirect measures do not allow for direct distribution of costs, cost category is distributed on the basis of the general distribution factor, which is calculated using the coefficient of all expenditure that is directly or indirectly attributed or allocated to each service provided as the universal service, on the one side, and replacement postal services and other postal services, on the other side
4. shared costs, which are necessary for the provision of the universal service, replacement postal services and other postal services, shall be appropriately distributed when the universal service, replacement postal services and other postal services use the same sources of costs.

In 2014 the procedure of calculating the net cost and the compensation mechanism were governed by articles 48 to 52 of the Postal Services Act, in accordance with Article 7 of the Postal Services Directive and its Annex I. Article 48 (1) of the Postal Services Act stipulates that, if the obligation of providing the universal service incurs net cost which represents unfair financial burden to the universal service provider, the universal service provider shall have the right to the compensation of the established unfair financial burden.

The Ordinance on the provision of the universal service lays down the constituent parts of the calculation of net cost. The calculation of the net cost must be based on costs that may be attributed to the provision of universal service of the stipulated quality, that may be provided at a loss or in circumstances in which costs are not in compliance with the usual competition rules, as set forth in the Postal Services Act. The Ordinance also stipulates that the net cost comprises any cost necessary for the provision of the universal service and connected to that service and that it shall be calculated as the difference between the net costs with the obligation of providing the universal service and the net cost without universal service obligation.

For the purpose of calculating unfair financial burden in the postal sector, in accordance with the above mentioned Act and Ordinance, HAKOM has adopted Instructions on the Calculation and Compensation of the Net Cost of Universal Service Obligation and the Determination of Unfair Financial Burden, and HP, as the universal service provider in the Republic of Croatia, must use a cost model whose cost basis is based on historical cost accounting (HCA) and based on fully allocated costs (FAC) as the accounting methodology. The ABC (activity based costing) method is used as the cost allocation technique.

HAKOM issued a decision determining the amount of net cost, established the Compensation Fund and determined the contributions that must be paid into the fund. In 2014 funds for the compensation of net cost or unfair financial burden were paid from the Compensation Fund and the state budget of the Republic of Croatia.

The universal service provider that wishes to obtain compensation of unfair financial burden shall submit a request to HAKOM no later than by 31st July for the previous calendar year. HAKOM shall make a decision within 60 days, and no later than six months from the day it received a complete request.

For the purpose of calculating the net cost, the universal service provider that must provide universal service shall prepare an overview of its business operations with the obligation and an overview without the obligation of providing universal service, taking into account the following:

1. net cost is based only on the costs related to the provision of universal service

of the stipulated quality

2. when calculating the net cost, only the following constituent parts of the universal services are taken into account:
 - a) those for which the universal service provider suffers a loss, or
 - b) those which are incurred when the universal service provider operates under cost-related circumstances outside the framework of the regular rules of competition
3. when calculating the net cost, the fact that the universal service for special users or groups of users for which the universal service provider suffers loss or that are performed under cost-related circumstances that do not match the usual rules of competition is provided is taken into account
4. when the provision of universal service can be ensured in accordance with the stipulated quality level in more than one ways, the calculation of the net cost is performed taking into account the way that ensures the provision of the universal service of the stipulated quality at the lowest cost, although the universal service
5. provider opted for another way
the net cost of universal service for all material and non-material benefits that the universal service provider has on the basis of the performance of universal service is deducted; these benefits include the following:
 1. revenue from the universal service, as well as the revenue from services that do not constitute the universal service, that the universal service provider would not generate if it did not provide the universal service
 2. increase of value of brands due to the provision of the universal service
 3. reduction of costs of performance of other services due to synergy effects occurring from the provision of the universal service
 4. other material and non-material benefits established by HAKOM
6. the universal service provider shall have the right to an appropriate profit from providing the universal service, which allows for a degree of profitability of assets, and that it would generate without the obligation of providing the universal service.

Based on the calculation, HAKOM adopts a decision determining the amount of the net cost that represents unfair financial burden for the universal service provider. Since 2015 the funds for the compensation of unfair financial burden are paid exclusively from the state budget of the Republic of Croatia, based on the decision of the HAKOM and in accordance with the rules on state aid.

Typical arrangements for avoiding and repaying any overcompensation.

The Ministry of Maritime Affairs, Transport and Infrastructure, which is the provider of aid, ensures that the compensation granted for the provision of the universal service to HP meets the requirements set forth in the Commission Decision of 20 December 2011 on the application of Article 106 (2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, and it especially ensures that HP does not receive compensation that exceeds the amount established in accordance with Article 5 of this Decision.

Furthermore, the Ministry of Maritime Affairs, Transport and Infrastructure shall, at the written request of the European Commission, submit all required information and carry out regular checks, no later than every three years for the duration of the Programme and at the end of the period. If HP received compensation exceeding the amount stipulated in accordance with Article 5 of the Commission Decision, the Ministry of Maritime Affairs, Transport and Infrastructure shall request that HP repay the amount of overcompensation. The parameters for the calculation of the compensation shall be updated for the future.

The projected Programme contains framework amounts; the exact amount of the net cost for each year is established by a HAKOM decision following the performance of the procedure stipulated in the Postal Services Act and the Instructions on the Calculation and Compensation of the Net Cost of Universal Service and the Determination of Unfair Financial Burden.

In order to avoid distortion of competition, the compensation of unfair financial burden to HP shall in no event during the period from 2014 to 2018 exceed the amount necessary for covering the unfair financial burden, based on the actual and correct presentation of costs and revenue related to the provision of the universal service, as well as the parameters for distributing costs and revenue. Considering the fact that the compensation is calculated and paid at the end of the calendar year, based on HAKOM decision on the amount of unfair financial burden adopted based on the checks and findings of independent auditors, it is considered that overcompensation for the provision of the universal service is impossible because HAKOM calculates the compensation *ex post* (after the end of the calendar year).

Furthermore, in the event of any changes to the described state, or the termination of

Amount of aid granted

The total amount of aid granted (in millions EUR)². This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)

2014		2015	
12,447,890		10,790,822	
A: Total amount of aid granted (in millions EUR) paid by national central authorities			
2014		2015	
State budget	6,745,343	10,734,482	
Compensation fund		0	
— replacement service	866,965		
— HP — universal service	4,709,256	0	
B: Total amount of aid granted (in millions EUR) paid by regional authorities			
2014		2015	
0		0	
C: Total amount of aid granted (in millions EUR) paid by local authorities			
2014		2015	
126,326		56,340	
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)			
2014		2015	

² According to Article 9 point (b) of the SGEI Decision and paragraph 62 (b) of the SGEI Framework. Please provide a breakdown by calendar year.

Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)	
2014	2015

3. DIFFICULTIES WITH THE APPLICATION OF THE SGEI DECISION OR SGEI FRAMEWORK

Please be as specific as possible and include, if applicable, the sector for which the difficulties are relevant.

4. COMPLAINTS BY THIRD PARTIES

Please be as specific as possible and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities.

SA.37570 (2013/CP) – Croatia

Complaint by CityEX regarding unlawful State aid in favour of HP-Hrvatska pošta d.d.

5. MISCELLANEOUS

A. (optional)

If your Member State has not granted State aid for the provision of SGEI in certain sectors, information regarding other instruments to ensure the provision of those services (direct aid to users, compensation complying with all four Altmark criteria, *de minimis* aid, etc.) could be useful. Please feel free to provide a brief description of these instruments and the areas in which they are used.

B. (optional)

Please describe in what respect the SGEI Decision and the SGEI Framework are easier to apply or more appropriate than the 2005 SGEI Decision and 2005 SGEI Framework.

C. (optional)

If you have any other comments on the application of the SGEI Decision and the SGEI Framework on issues other than the ones covered in the previous questions, please feel free to provide them within your report.



HAKOM

CLASS: UP/I-344-02/15-06/01

REF. NO: 376-06/15-8

Zagreb, 6 October 2015

In accordance with Article 8(1)(6) and Article 10(1) of the Postal Services Act (NN Nos 144/12, 153/13 and 78/15), in the procedure of determining the compensation of unfair financial burden of the universal service provider, HP-Hrvatska pošta d.d., Jurišićeva 13, 10000 Zagreb, during its meeting held on 6 October 2015 the Council of the Croatian Post and Electronic Communications Agency adopted the following

DECISION

The amount of HRK 81,796,754.00 (eighty-one million seven hundred ninety-six thousand seven hundred and fifty-four kuna) is determined as unfair financial burden of the universal service provider, HP-Hrvatska pošta d.d. during 2014.

Explanation

On 30 June 2015 the universal service provider HP-Hrvatska pošta d.d. (hereinafter: HP) submitted to the Croatian Post and Electronic Communications Agency (hereinafter: HAKOM) a request for the compensation of the costs of the universal service representing unfair financial burden during the year 2014 and attached the relevant annual financial statements and the report of an independent auditor for 2014, as well as the calculation of the actual net cost, in accordance with Article 49 (1) and (2) of the Postal Services Act (NN Nos 144/12, 153/13 and 78/15; hereinafter: PSA).

HP states that the obligation of providing the universal service represents unfair financial burden because it has the obligation to provide services under different conditions than the usual market conditions.

In its request HP described the manner of conducting business it would apply if it did not have the obligation to provide the universal service. The assumptions used in the scenario without the obligation of providing the universal service are given under the title Commercial Scenario, based on changes to the following operational parameters: (i) density of access points for the clearance of postal items; (ii) frequency of delivery of postal items and (iii) postal services free of charge for blind persons.

HP states that the commercial scenario would lead to a lower density of access points and frequency of delivery, which would lead to further changes to the area of transport, sorting and related overhead costs. These changes would influence the reduction of operational expenditure and the decrease of revenue from the universal service and other services.

Based on the revised financial statements for 2014, HP showed the influence of changes that would occur in the Commercial Scenario for expenditure and revenue.

According to the calculation of HP, in the situation without an obligation of providing the universal service, that is, in the situation of operating under market conditions, its expenditure in 2014 would have been lower by HRK 190,974,159.00. Consequently, HP's total expenditure in the Commercial Scenario would have amounted to HRK 1,310,933,977.00.

	Costs in the USO scenario	Reduction of costs in the commercial scenario	Costs in the commercial scenario	% change
Clearance (activities at the counter)	541,295,202.00	99,340,852.00	441,954,350.00	18 %
Service	430,730,192.00	60,273,872.00	370,456,320.00	14 %
Transport	54,708,384.00	18,987,963.00	35,720,421.00	35 %
Sorting	85,988,362.00	423,606.00	85,564,756.00	0.5 %
Structural activities (overhead)	306,825,681.00	11,787,121.00	295,038,550.00	4 %
Financial expenditure	54,240,346.00	-	54,240,346.00	0 %
International calculation	28,119,970.00	160,745.00	27,959,225.00	1%
Total	1,501,908,137.00	190,974,159.00	1,310,933,977.00	13%

Although the Commercial Scenario was prepared under the assumption of long-term sustainable operations, certain operational revenue of HP would have been permanently lost due to a reduction in the density of access points (including revenue from co-financing post offices) and decreased frequency of delivery in the Commercial Scenario. Based on the prepared calculation, HP's operational revenue without the obligation of providing the universal service would have been lowered by HRK 69,533,715.00. Consequently, HP's total revenue in the Commercial Scenario would have amounted to HRK 1,517,139,585.00.

Influence of the commercial scenario						
	Revenue in the USO scenario	Density of access points	Frequency of delivery	Other	Revenue in the commercial scenario	% change
Postal services	893,667,798.00	5,108,575.00	-		888,559,223.00	1%
Priority items of correspondence	10,666,150.00	181,139.00	1,078,331.00		9,406,680.00	12%
Express services	76,371,222.00	2,190,015.00	-		74,181,208.00	3%
Financial services	283,048,063.00	36,257,570.00	-		246,790,495.00	13%
Retail	76,334,755.00	17,252,155.00	-		59,082,600.00	23%
Other	246,585,309.00	7,672,832.00	-	(206,901.00)	239,119,379.00	3%
Total	1,586,673,300.00	68,662,286.00	1,078,331.00	(201,091.00)	1,517,139,585.88	4%

Furthermore, in accordance with the legislation and the Instructions on the Calculation and Compensation of the Net Cost of Universal Service and the Determination of Unfair Financial Burden (hereinafter: the Instructions), market benefits arising from the provision of the universal services were calculated at the amount of HRK 31,517,206.00. For the total value of market benefits the amount obtained through the calculation of the difference of optimized costs and decreased revenue in the Commercial Scenario was lowered. The total cost of the universal service includes the appropriate profit defined as weighted average cost of capital (WACC) to the engaged capital, calculated as the difference between the necessary investments into assets, in the situation of operating with the obligation of performing the universal service and the Commercial Scenario, in the total amount of HRK 7,363,865.00.

As a result, the difference in HP's financial results with the obligation of performing the universal service and without that obligation would amount to HRK 97,287,103.00, which is, as claimed by HP,

the amount of the net cost of the universal service for 2014.

In order to check the soundness of the calculation attached to the request of HP, HAKOM requested BDO Hrvatska d.o.o., as an independent auditor, to give an opinion on the submitted calculation. In addition to the above, between 11 September and 25 September 2015 HAKOM held a series of workshops with representatives of the independent audit company and HP, which covered specific elements of the calculation with special emphasis on the assumptions used in the Commercial Scenario, which primarily concern the density of access points, frequency of delivery, market benefits and the relevant profit.

Based on the submitted data and the workshops, on 30 September 2015 the independent auditor submitted its final opinion on the Commercial Scenario and the calculation of the net cost of HP for the year 2014. The findings from this report have been explained to HP at a meeting held with the independent auditor; HP had no additional comments.

The submitted report shows that certain elements of the calculation of the net cost of HP are not correct. More specifically, the following was established:

1. In the Commercial Scenario HP predicted that it would operate 705 post offices, implying that it would close 316 post offices. Consequently, a reduction in revenue and specific expenditure arising from the provision of the universal service was predicted. Seeing as how HP has the legal obligation to ensure the availability of the universal service via 700 offices, and based on the analysis of coverage of the territory of the Republic of Croatia, the independent auditor believes that it is necessary to correct the calculation of the net cost so as to open another 23 post offices in the Commercial Scenario.

This correction influences the calculation of the net cost as follows:

	Company's calculation	Corrected calculation	Influence on the net cost
Costs of closed post offices	88,049,756.00	81,551,109.00	(6,498,647.00)
Increase in costs of other post offices	(5,094,742.00)	(4,771,932.00)	322,810.00
Other operational costs	16,385,837.00	15,301,662.00	(1,084,175.00)
Reduction of revenue	(68,662,286.00)	(62,455,513.00)	6,206,773.00
	30,678,566.00	29,625,327.00	(1,053,239.00)

2. In the Commercial Scenario HP predicted a reduction in the frequency of delivery that would lead to the delivery of postal items in cities representing county centres and the City of Zagreb being made every other day, in the same manner as the one currently employed. In the Commercial Scenario the delivery of items in all other areas, which is currently carried out five days a week, is presented through the organization of delivery every other day (Monday, Wednesday, Friday/Tuesday, Thursday and vice versa), and the delivery in the existing areas exempt from the five-day delivery would be organized no more than once a week. The independent auditor believes that such reduction in the frequency of delivery is not reasonable from the commercial point of view and would probably lead to a significant decrease in the scope of activities. Thus, it may be reasonably assumed that, in order to retain the existing revenue, the Commercial Scenario must keep the five-day delivery in all major cities of the Republic of Croatia. This requires a correction in the necessary number of workers and vehicles, which influences the calculation of the net cost as follows:

	Calculation of HP	Corrected calculation	Influence to the net cost
Costs of personnel	50,165,262.00	43,329,423.00	(6,835,839.00)
Costs associated with the number of vehicles	1,279,031.00	1,226,040.00	(52,990.00)
Costs associated with travelled kilometres	3,171,498.00	2,875,482.00	(296,016.00)
Other delivery costs	5,658,081.00	4,793,542.00	(864,539.00)
Reduction of revenue	(1,078,331.00)	(1,064,358.00)	13,972.00
	59,195,542.00	51,160,129.00	(8,035,412.00)

3. In accordance with the previously stated points, it is necessary to correct the amount:

- (i) of savings in transport and sorting so as to lower the amount of savings from HRK 19,411,569.00 to HRK 16,505,715.00, which would lower the net cost by HRK 2,905,854.00;
- (ii) of savings in overhead costs with the intention of lowering the amount of savings from HRK 11,787,121.00 to HRK 10,874,423.00, which would lower the net cost by HRK 912,698.00
- (iii) of savings in international calculation so as to reduce the amount of savings from HRK 160,745.00 to HRK 134,062.00, which would lower the net cost by HRK 26,683.00;

Based on the above, the net cost would be reduced by HRK 3,854,235.00.

4. In the Commercial Scenario HP predicted an increased corporate reputation and the value of the brand at the level of 20 % of the total costs of marketing. Considering that, based on marketing campaigns and the significant focus of the company on the fact that, by providing the universal service, it has a privileged position of access to potential users, the independent auditor believes that the calculation of these benefits should be based on 25 % of total marketing costs. Furthermore, based on previously stated corrections, it is necessary to harmonize and increase the effect of advertising and the effect of interest due to deferred debt collection, which influences the amount of the net cost as follows:

	Calculation of the Company	Corrected	Influence to calculation
Increased advertising effect	1,461,960.00	1,406,208.00	55,752.00
Brand value	2,822,174.00	3,527,717.00	(705,543.00)
Revenue and costs from interest due to deferred debt collection	337,097.00	277,369.00	59,728.00
	4,621,230.00	5,211,293.00	(590,063.00)

5. In the Commercial Scenario HP calculated the relevant profit by calculating the relevant profit to the decrease in assets in the amount of HRK 59,578,194.00, which, with the assumed WACC of 12.36%, leads to the relevant profit in the amount of HRK 7,363,865.00. The independent auditor believes that this calculation should be corrected taking into account changes to the engaged assets due to a change in the number of offices and the frequency of delivery. Moreover, the independent auditor believes that, when calculating WACC, it is necessary to start from a non-risk rate in accordance with the yield to state bonds of a non-risk country, because adding the risk premium for Croatia in relation to the yield of Croatian state bonds doubles the effect of the risk of the country. Thus, seeing as how other calculations are based on indicators from the US market, it is necessary to apply the yield to US state bonds, which amounts to 2.92 % for 30-year bonds, to the non-risk rate. Furthermore, given that the basis of discounting is assets, it is necessary to adapt the tax-related beta to the effect of taxes in order to obtain the assets beta (the Miller formula). Based on the above, we believe that the amount of the relevant profit should be lowered from HRK 7,363,865.00 to HRK 5,397,466.00, that is, that the net cost should be lowered by HRK 1,966,399.00.

Based on these 5 points, the independent auditor believes that, instead of HRK 97,287,103.00, which is given in the attached Commercial Scenario and the calculation of the net cost for 2014, the net cost amounts to HRK 81,796,754.00, meaning that it is lower by HRK 15,490,349.00.

Based on the conducted procedure, HAKOM hereby establishes the following:

On 30 June 2015 the universal service provider, HP, submitted a request for compensation of the costs of the universal service that represent unfair financial burden during the year 2014. The request was made within the appropriate deadline and in the manner stipulated in articles 49 and 50 of PSA. The calculation of the net cost of the universal service was made in accordance with the provisions of point 4 of the Instructions. HP's request showed a calculation of the net cost in the total amount of HRK 97,287,103.00, according to the following elements:

Reference to Instructions		Δ Costs	Δ Revenue	Δ Influence
CNCi	Density of access points	99,340,852.00	68,662,286.00	30,678,566.00
DNCi	Frequency of delivery	60,273,872.00	1,078,331.00	59,195,541.00
	Geographical coverage			
STC	Transport and sorting	19,411,569.00		19,411,569.00
OHC	Overhead costs	11,787,121.00		11,787,121.00
	International calculation	160,745.00		160,745.00
FSR	Free services for blind persons		(206,901.00)	206,901.00
	Δ Influence	190,974,159.00	69,533,715.00	121,440,444.00
MB	Market benefits			(31,517,206.00)
Profit	Appropriate profit			7,363,865.00
NCUS	Σ Net cost of the universal service			97,287,103.00

In accordance with the opinion of the independent auditor on the calculation submitted by HP, HAKOM performed corrections in the following elements of the calculation:

1. density of access points,
2. frequency of delivery,
3. overhead expenses,
4. market benefits and
5. appropriate profit.

Furthermore, the total amount of net cost of the universal service of HRK 81,796,754.00 was established, according to the following elements:

Reference to the Instructions		Δ Costs	Δ Revenue	Δ Influence
CNCi	Density of access points	92,080,840.00	62,455,513.00	29,625,327.00
DNCi	Frequency of delivery	52,224,488.00	1,064,358.00	51,160,129.00
	Geographical coverage	0.00		
STC	Transport and sorting	16,505,715.00		16,505,715.00
OHC	Overhead costs	10,874,423.00		10,874,423.00
	International calculation	134,062.00		134,062.00
FSR	Free service for blind persons		(206,901.00)	206,901.00
	Δ Influence	171,819,528.00	63,312,970.00	108,506,557.00
MB	Market benefits			(32,107,269.00)
Profit	Appropriate profit			5,397,466.00
NCUS	Σ Net cost of the universal service			81,796,754.00

After determining the amount of the net cost of the universal service, HAKOM launched the procedure of estimating unfair financial burden for the universal service provider. The purpose of this procedure was to determine whether the net cost of the universal service represented unfair financial burden in accordance with point 5 of the Instructions, more precisely:

- a) whether the net cost of the universal service comprised only proven and economically acceptable costs,
- b) whether the value of the net cost of the universal service, calculated in accordance with the principles set out in the Instructions, was positive,
- c) whether the net cost of the universal service exceeded 1 % of total costs of the universal service provider,
- d) whether the net cost of the universal service for the universal service provider represented a significant share in profit before tax,
- e) whether the EBITDA margin (EBITDA = earnings before interest, taxes, depreciation, and amortization) of the universal service provider was by 5 % lower than the EBITDA margin of the three largest postal services providers in the market. The calculation is based on proven and economically acceptable information from accounting evidence of the universal service provider and other postal services providers,
- f) would the universal service provider that ended the financial year with a loss have generated profit if the net cost of the universal service was compensated.

By analysing facts, HAKOM established that 4 of the above stated criteria from point 5 (3) of the Instructions were met and that the amount of the net cost represented an amount that cannot be expected to be borne by the universal service provider (HP), meaning that all requirements for establishing that the net cost of the universal service represented unfair financial burden for the universal service provider were met.

Concerning the first criteria, the report of the independent auditor shows that the net cost of the universal service is based on revised regulatory financial statements that had been derived from revised financial statements and on calculations derived from assumptions in accordance with the Instructions, meaning that the net cost of the universal service comprised only proven and economically acceptable costs.

Concerning the second criteria, the value of the net cost is considered to be positive when non-material benefits from the provision of the universal service are lower than the amount of the net cost of the universal service provider. Regarding the second criteria from the report of the independent auditor, it is evident that non-material benefits given in the Commercial Scenario were lower than the value of the net cost of HP.

Based on HP's revised financial statements for 2014, total operational costs amount to HRK 1,501,908,137.00, while the independent auditor's report shows that HP's cost for the same period amounts to HRK 81,796,754.00. In accordance with the above, it is evident that HP's net cost exceeds 1 % of its total operational costs, thus meeting the third criteria.

Furthermore, based on HP's revised financial statements for 2014, profit before tax amounted to HRK 84,765,164, while the independent auditor's report shows that HP's cost for the same period amounts to HRK 81,796,754.00. Pursuant to the above, it is evident that the amount of the net cost for the universal service provider represents a significant share in profit before tax, thus meeting the fourth criteria.

Considering that 4 out of 6 criteria have been met, HAKOM did not deem it necessary to assess the last two criteria, because, according to the Instructions, a minimum of 4 criteria is necessary in order to consider the total amount of the net cost as unfair financial burden.

In conclusion, this procedure showed that unfair financial burden for HP as the universal service provider amounted to HRK 81,796,754.00.

Considering the above, it has been decided as in the operative part of this Decision.

LEGAL REMEDY:

This Decision may not be appealed. However, it is possible to initiate administrative proceedings before the High Administrative Court of the Republic of Croatia no later than 30 days from its receipt.

*/seal: **PRESIDENT OF THE COUNCIL** /illegible/*

Deliver to:

1. HP-Hrvatska pošta d.d., Jurišićeva 13, 10000 Zagreb - personal delivery
2. Ministry of Maritime Affairs, Transport and Infrastructure, Prisavlje 14, 10001 Zagreb - Attn, personal delivery
3. To the archives



HAKOM

CLASS: UP/I-344-02/14-06/01

REF. NO: 376-06/14-17

Zagreb, 14 November 2014

In accordance with Article 8(1)(6) and Article 10(1) of the Postal Services Act (NN Nos 144/12 and 153/13), in the procedure of determining the compensation for unfair financial burden of the universal service provider, HP-Hrvatska pošta d.d., Jurišićeva 13, 10000 Zagreb, during its meeting held on 14 November 2014 the Council of the Croatian Post and Electronic Communications Agency adopted the following

DECISION

1. It is hereby established that the amount of HRK 94,383,177.00 represents unfair financial burden of the universal service provider HP-Hrvatska pošta d.d. during 2013.
2. The Croatian Post and Electronic Communications Agency establishes a compensation fund for accepting payments of contributions of the universal service provider and provider of replacement services; to this purpose it shall open a special account at Hrvatska poštanska banka d.d.
3. It is hereby established that providers of replacement postal services must pay the following contributions to the account from point 2:
 - a) City Ex d.o.o., Zagreb, Donje Svetice 40, OIB (tax no.): 99406899243 - HRK 4,328,016.00
 - b) Lider Express d.o.o., Žrnovnica, Donje Sitno, Sv. Roka 3, OIB (tax no.): 81021464667 - HRK 9,381.00
 - c) Lider Express d.o.o., Zagreb, Supilova 7a, OIB (tax no.): 11419453690 - HRK 10,742.00
 - d) Tisak d.d., Zagreb, Slavenska avenija 11 a, OIB (tax no.): 75917721668 - HRK 96,425.00
 - e) Vuk com d.o.o., Novi Vinodolski, Ogulinska 6a, OIB (tax no.): 60452472121 - HRK 1,093.00
 - f) Weber Escal d.o.o., Hrvatski Leskovac, Zastavice 38a, OIB (tax no.): 42257427313 - HRK 179,954.00
4. The universal service provider HP-Hrvatska pošta d.d. shall not make payments to the compensation fund in accordance with Article 51(4) of the Postal Services Act because its calculated contribution is lower than the calculated compensation for obligatory performance of the universal service.
5. Economic operators that must pay contributions to the compensation fund shall pay the contributions from point 3 within 8 days from the receipt of the notice of the Croatian Post and Electronic Communications Agency on the number of the compensation fund account from point 2.
6. The universal service provider HP-Hrvatska pošta d.d. shall receive the amount from point 3 paid to the compensation fund within 8 days from the day the payments are made.

Explanation

On 30 June 2015 the universal service provider HP-Hrvatska pošta d.d. (hereinafter: HP) submitted to the Croatian Post and Electronic Communications Agency (hereinafter: HAKOM) a request for compensation of the costs of the universal service that represent unfair financial burden during the year 2013 and attached the relevant annual financial statements, the report of an independent auditor for 2013, as well as the calculation of the actual net cost, in accordance with Article 49 (1) and (2) of the Postal Services Act (NN Nos 144/12 and 153/13; hereinafter: PSA).

HP states that the obligation of providing the universal service represents unfair financial burden because it has the obligation to provide services under different conditions than the usual market conditions.

In its request HP described the manner of conducting business it would apply if it did not have the obligation to provide the universal service. The assumptions used in the scenario without the obligation of providing the universal service are given under the title Commercial Scenario, based on changes to the operational parameters: (i) density of access points for the clearance of postal items; (ii) frequency of delivery of postal items and (iii) postal services free of charge for blind persons.

HP states that changes to the density of access points and frequency of delivery would lead to further changes to the area of transport, sorting and related overhead costs. These changes would influence the reduction of operational expenditure and the decrease of revenue from the universal service and other services.

Based on the revised financial statements for 2013, HP showed the influence of changes that would occur in the Commercial Scenario for expenditure and revenue.

According to the calculation of HP, in the situation without an obligation of providing the universal service, that is, in the situation of operating under market conditions, its expenditure in 2013 would have been lower by HRK 335,301,401.00. Consequently, HP's total expenditure in the Commercial Scenario would have amounted to HRK 1,395,767,592.00.

	Costs in the USO scenario	Reduction of costs in the commercial scenario	Costs in the commercial scenario	% change
Clearance (activities at the counter)	688,102,139.00	223,624,451.00	464,477,688.00	32 %
Delivery	544,016,700.00	78,379,264.00	465,637,436.00	14 %
Transport	52,410,285.00	15,694,528.00	36,715,757.00	30 %
Sorting	113,086,179.00	509,958.00	112,576,221.00	0.5 %
Structural activities (overhead)	267,163,942.00	16,640,226.00	250,523,716.00	6 %
Financial expenses	37,978,798.00	-	37,978,798.00	0 %
International calculation	28,310,951.00	452,975.00	27,857,976.00	2%
Total	1,731,068,993.00	335,301,401.00	1,395,767,592.00	19 %

Although the Commercial Scenario was prepared under the assumption of long-term sustainable operations, certain operational revenue of HP would have been permanently lost due to reduction in the density of access points and decreased frequency of delivery in the Commercial Scenario. Based on the prepared calculation, HP's revenue in operations without the obligation of providing the universal service would have been lowered by HRK 165,120,797.00. Consequently, HP's total revenue in the Commercial Scenario would have amounted to HRK 1,598,867,160.00.

Influence of the commercial scenario						
	Revenue in the USO scenario	Density of access points	Frequency of delivery	Other	Revenue in the commercial scenario	% change
Postal services	902,752,993.00	14,058,649.00	-		888,694,344.00	2 %
Priority items of	8,305,753.00	318,359.00	733,999.00		7,253,394.00	13 %
Express services	76,459,271.00	4,728,338.00			71,730,933.00	6 %
Financial services	323,301,062.00	91,878,032.00			231,423,030.00	28 %
Retail	101,404,759.00	41,442,882.00			59,961,877.00	41 %
Other	351,764,119.00	12,161,628.00		(201,091.00)	339,803,582.00	3 %
Ukupno	1,763,987,957.00	164,587,888.00	733,999.00	(201,091.00)	1,598,867,160.00	9 %

Furthermore, in accordance with the legislation and the Instructions on the Calculation and Compensation of the Net Cost of Universal Service and the Determination of Unfair Financial Burden (hereinafter: the Instructions), which HAKOM adopted on 11 June 2014, market benefits arising from the provision of the universal services were calculated in the amount of HRK 29,432,381.00. For the total value of market benefits the amount obtained through the calculation of the difference of optimized costs and decreased revenue in the Commercial Scenario was lowered. The total cost of the universal service includes the appropriate profit defined as weighted average cost of capital (WACC) to the engaged capital, calculated as the difference between the necessary investments into assets, in the situation of operating with the obligation of performing the universal service and the Commercial Scenario, in the total amount of HRK 8,525,434.00.

As a result, the difference in HP's financial results with the obligation of performing the universal service and without that obligation would amount to HRK 149,273,656.00, which is, as claimed by HP, the amount of the net cost of the universal service for 2013.

In order to check the soundness of the calculated attached to the request of HP, HAKOM requested BDO Hrvatska d.o.o. to give an opinion. In addition to the above, between 1 October and 27 October 2014 HAKOM held a series of workshops with representatives of the independent audit company and HP, which covered specific elements of the calculation with special emphasis on the assumptions used in the Commercial Scenario, which primarily concern the density of access points, frequency of delivery, market benefits and the relevant profit.

Based on the submitted data and the workshops, on 29 October 2014 the independent auditor submitted its opinion on the Commercial Scenario and the calculation of the net cost of HP for the year 2013.

The submitted report shows that certain elements HP's calculation is not correct. More specifically, the following was established:

1. In the Commercial Scenario HP predicted that it would operate 460 post offices, implying that it would close 589 post offices. Consequently, a reduction in revenue and specific expenditure arising from the provision of the universal service was predicted. Seeing as how HP has the legal obligation to ensure the availability of the universal service via 700 regular post offices, and based on the analysis of coverage of the territory of the Republic of Croatia, the independent auditor believes that it is necessary to correct the calculation of the net cost for 301 post offices.

This correction influences the calculation of the net cost as follows:

	Company's calculation	Corrected calculation	Influence to the net cost
Costs of closed post offices	207,077,479.00	147,746,624.00	(59,330,855.00)
Increase in costs of other post offices	(12,920,235.00)	(9,608,103.00)	3,312,132.00
Other operational costs	29,467,207.00	14,801,109.00	(14,666,098.00) ₃
Reduction of revenue	(164,587,888.00)	(107,417,996.00)	57,169,892.00
	59,036,563.00	45,521,635.00	(13,514,928.00)

2. In the Commercial Scenario HP predicted a reduction in the frequency of delivery that would lead to the delivery of postal items in Zagreb, Split, Rijeka and Osijek being made every other day, in the same manner as the one currently employed. In the Commercial Scenario the delivery of items in all other areas, which is currently carried out five days a week, is presented through the organization of delivery every other day (Monday, Wednesday, Friday/Tuesday, Thursday and vice versa), and the delivery in the existing areas exempt from the five-day delivery would be organized no more than once a week. The auditor believes that such reduction of frequency of delivery is not reasonable from the commercial point of view and would probably lead to a significant decrease in the scope of activities. Thus, it may be reasonably assumed that, in order to retain the existing revenue, the Commercial Scenario must keep the five-day delivery in all major cities of the Republic of Croatia. This requires a correction in the necessary number of workers and vehicles, which influences the calculation of the net cost as follows:

	Calculation of HP	Corrected calculation	Influence to the net calculation
Costs of personnel	68,404,798.00		45,935,182.00
Costs associated with the number of vehicles	(130,804.00)		(287,945.00)
Costs associated with travelled kilometres	2,965,200.00		1,861,068.00
Other delivery costs	7,140,070.00		4,267,803.00
	78,379,264.00		51,776,109.00

3. In accordance with the previously stated points, it is necessary to correct the amount:

(i) of savings in administrative costs (overhead) with the intention of lowering the amount of savings from HRK 16,640,226.00 to HRK 12,858,483.00, which would lower the net cost by HRK 3,781,743.00;

(ii) of the profit by calculating the relevant profit to the decrease in assets in the amount of HRK 39,248,486.00, which, with the assumed WACC of 11.3% leads to a profit in the amount of HRK 4,435,079.00 or HRK 4,090,355.00 less than given in the Commercial Scenario.

Based on the above, the net cost would be reduced by HRK 7,872,098.00.

4. In the Commercial Scenario HP predicted an increased corporate reputation and the value of the brand at the level of 20 % of the total costs of marketing. The calculation included only the amount of marketing costs concerning the relevant service, not including marketing costs concerning the EVOtv service. As evident from marketing campaigns, both marketing costs concern the entire operations of HP, only emphasizing a specific activity; the calculation of these benefits should include marketing costs for the EVOtv service, which is why it is necessary to increase the total benefits of HP and decrease the net cost by the same amount of HRK 1,968,548.00.

5. When calculating the benefits that would occur in the Commercial Scenario relating to the increase of the pro rata for deducting the tax on input, HP included the entire amount of the increase of the tax on input that would occur during the adjustment period (5 years or 10 years for real estate). As this right is realized in certain years, it is considered that the amount of the benefit should be limited to the pro rata difference for 2013 and the profit for amounts that could be achieved in the Commercial Scenario through adjustment of pro rata in the remaining periods. Based on the assumed WACC, the amount of benefit would be lower, as well as the amount of net cost, by HRK 3,032,126.00.

6. During the audit of the regulatory financial statements, it was established that HP miscalculated costs of the universal service and overestimated them by HRK 8,467,951.00. Seeing as how the

Commercial Scenario predicted a decrease in the number of post offices, it is necessary to correct the amount of the net cost for a proportion of this error, which for 22.43 % of closed post offices (while taking into account the information given in points 1 and 2) in the Commercial Scenario account for HRK 1,8991624.00 less in costs. This amount would also be deducted from the net cost.

Based on these 6 points, the independent auditor believes that, instead of HRK 149,273,656.00, which is shown in the attached Commercial Scenario and the calculation of the net cost for 2013, the net cost amounts to HRK 94,383,177.00, or that it is lower by HRK 54,890,479.00.

HAKOM requested that the postal services providers that must pay contributions into the compensation fund, as well as HP, give their opinion on HP's request and the conclusions of the independent auditor.

On 7 November 2014 replacement postal services providers City Ex d.o.o. and Weber Escal d.o.o. submitted a joint response. They stated that they cannot give a pertinent opinion on the relevant circumstances for the calculation of the real net cost of the universal service provider in 2013 or its request for compensation of unfair financial burden without insight into the complete text of the Commercial Scenario and the calculation of the net cost for 2013. Lider Express d.o.o., Zagreb and Lider Express d.o.o., Žrnovnica gave their individual responses on 7 November 2014; they also said that, without a complete text of the Commercial Scenario and the calculation of the net cost for 2013, as well as an appropriate additional deadline, they could not give a pertinent opinion on the submitted request for compensation of unfair financial burden. In its response received on 10 November 2014, Vuk-com d.o.o. essentially states that it stopped providing postal services on 1 March 2014.

Replacement postal services providers believe that HP, as the universal postal service provider, failed to calculate the net cost of the universal service in accordance with the principles of the Instructions and the provisions of Articles 47, 48, 49 and 50 of PSA.

In conclusion, they requested the complete text of the Commercial Scenario and the calculation of the net cost for 2013 submitted as an annex to the request for compensation of unfair financial burden and to be allowed an appropriate extended deadline for giving an opinion based on the complete documentation.

In its response of 7 November 2014, HP stresses that the calculation attached to the request of 30 June 2014 was prepared in accordance with the Instructions. Furthermore, it argues that the information from the Commercial Scenario, which was marked as business secret, should not have been made available to replacement postal services providers because it contains information on HP's operations that had not been published.

Based on the conducted procedure, HAKOM establishes the following:

On 30 June 2015 the universal service provider, HP, submitted a request for compensation of the costs of the universal service that represent unfair financial burden during the year 2013. The request was submitted within the appropriate deadline and in the manner stipulated in articles 49 and 50 of PSA. The calculation of the net cost of the universal service was made in accordance with the provisions of point 4 of the Instructions.

HP's request gives a calculation of the net cost in the total amount of HRK 149,273,656.00, according to the following elements:

Reference to the Instructions		Δ Costs	Δ Revenue	Δ Influence
CNCi	Density of access points	223,624,451.00	164,587,888.00	59,036,563.00
DNCi	Frequency of delivery	78,379,264.00	733,999.00	77,645,265.00
	Geographical coverage			
STC	Transport and sorting	16,204,485.00	-	16,204,485.00
OHC	Overhead costs	16,640,226.00	-	16,640,226.00
	International calculation	452,975.00	-	452,975.00
FSR	Free service for blind persons		(201,091.00)	201,091.00
	Δ Influence	335,301,401.00	165,120,797.00	170,180,604.00
MB	Market benefits			(29,432,381.00)
Profit	Profit			8,525,434.00
NCUS	Σ Net cost of the universal service			149,273,656.00

In accordance with the opinion of the independent auditor on the calculation submitted by HP, corrections in the following elements of the calculation were performed:

1. density of access points,
2. frequency of delivery,
3. overhead expenses,
4. market benefits and
5. appropriate profit.

Also, additional corrections to the calculation of costs of the universal service from the regulatory financial statements of HP were made. A total amount of net cost of the universal service of HRK 94,383,177.00 was established, according to the following elements:

Reference to the Instructions		Δ Costs	Δ Revenue	Δ Influence
CNCi	Density of access points	152,939,631.00	107,417,996.00	45,521,635.00
DNCi	Frequency of delivery	51,776,109.00	733,999.00	51,042,109.00
	Geographical coverage			
STC	Transport and sorting	16,204,485.00	-	16,204,485.00
OHC	Overhead costs	12,858,483.00	-	12,858,483.00
	International calculation	452,975.00	-	452,975.00
FSR	Free services for blind persons		(201,091.00)	201,091.00
	Δ Influence	234,231,683.00	107,950,905.00	126,280,778.00
MB	Market benefits			(34,433,055.00)
Profit	Profit			4,435,079.00
	Auditor's correction			(1,899,624.00)
NCUS	Σ Net cost of the universal service			94,383,177.00

The purpose of this procedure was to determine whether the net cost of the universal service represented unfair financial burden in accordance with point 5 of the Instructions, more precisely:

- a) whether the net cost of the universal service comprised only proven and economically acceptable costs,
- b) whether the value of the net cost of the universal service, calculated in accordance with the principles set out in the Instructions, was positive,
- c) whether the value of the net cost of the universal service, calculated in accordance with the principles set out in the Instructions, exceeded potential operational costs of the compensation mechanism,
- d) whether the net cost of the universal service exceeded 1 % of total costs of the universal service provider,

- e) whether the net cost of the universal service for the universal service provider represented a significant share in profit before tax,
- f) whether the EBITDA margin (EBITDA = earnings before interest, taxes, depreciation, and amortization) of the universal service provider was by at least 5% lower than the EBITDA margin of the three largest postal services providers in the market. The calculation is based on proven and economically acceptable information from accounting evidence of the universal service provider and other postal services providers,
- g) would the universal service provider that ended the financial year with a loss have generated profit if the net cost of the universal service was compensated.

By analysing facts, HAKOM established that 5 of the above stated criteria from point 5 (3) of the Instructions were met and that the amount of the net cost represented an amount that cannot be expected to be borne by the universal service provider (HP), meaning that all requirements for establishing that the net cost of the universal service represented unfair financial burden for the universal service provider were met.

Concerning the first criteria, the report of the independent auditor shows that the net cost of the universal service is based on revised regulatory financial statements that had been derived from revised financial statements and on calculations derived from assumptions in accordance with the Instructions, meaning that the net cost of the universal service comprised only proven and economically acceptable costs.

Concerning the second criteria, the value of the net cost is considered to be positive when non-material benefits from the provision of the universal service are lower than the amount of the net cost of the universal service provider. In relation to the second criteria from the report of the independent auditor it is evident that non-material benefits given in the Commercial Scenario were lower than the value of the net cost of HP.

Under Article 52 of PSA, replacement postal services providers pay contributions to the compensation fund in proportion to the share of their revenue generated through the performance of the universal service and revenue from the performance of replacement postal services, so that these contributions settle the entire obligation of financing unfair burden, whereas the contribution paid by an individual entity may not exceed 5 % of its revenue generated from the performance of replacement postal services in the previous calendar year. HAKOM believes that the amount of net cost of HP significantly exceeds potential operational costs of the described compensation mechanism, which amount to HRK 6,640,952.00, which meets the third criteria.

Based on HP's revised financial statements for 2013, total operational costs amount to HRK 1,731,068,993.00, while the independent auditor's report shows that HP's cost for the same period amounts to HRK 94,383,177.00. In accordance with the above, it is evident that HP's net cost exceeds 1 % of its total operational costs, thus meeting the fourth criteria.

Furthermore, based on HP's revised financial statements for 2013, profit before tax amounted to HRK 32,918,964, while the independent auditor's report shows that HP's cost for the same period amounts to HRK 94,383,177.00. Pursuant to the above, it is evident that for HP the amount of the net cost represents a significant share in profit before tax, thus meeting the fifth criteria.

Considering that 5 out of 7 criteria have been met, HAKOM did not deem it necessary to assess the last two criteria, because, according to the Instructions, a minimum of 4 criteria is necessary in order to consider the total amount of the net cost as unfair financial burden.

In relation to received responses of the parties to the proceedings, that is, providers of replacement postal services and HP, which submitted the request, it is questionable which information in this procedure HAKOM should have submitted for response. Replacement services providers believe they were not given enough information to give a reasonable response, while HP complains that

these providers were given information constituting HP's business secret.

HAKOM underlines that in this procedure it was essential to simultaneously take into account the parties' right to give their opinion and the right to the protection of information representing business secret. In that sense, the first three chapters from the Commercial Scenario containing aggregate information based on which the calculation of the net cost and unfair financial burden and the overall assessment of the calculation given by the independent auditor were made were submitted to other participants in the procedure.

Based on this information, other parties to the procedure had sufficient elements to assess the soundness of the request, especially concerning its compliance with the Instructions and the provisions of PSA. On the other hand, based on submitted documents, participants in the procedure, that are also HP's market competitors, could not have received insight into information on HP's operations that market competitors could not obtain under normal circumstances and that they could not reproduce from publicly available sources. Consequently, HAKOM could not accept the request of the replacement postal services providers to be delivered the complete Commercial Scenario and be allowed additional time to form a response to it.

HAKOM also underlines that HP's argument that the entire document was classified as confidential cannot be accepted because that would completely prevent participation of parties to the procedure. Therefore, in this case HAKOM could meet HP's demand only to the extent in which that was absolutely necessary for the purpose of protecting business secrets.

In addition to the above, HAKOM establishes that there are no elements in responses of the parties that would affect a different solution to this case.

More specifically, in their responses replacement postal services providers only complain that HP's calculation is not in accordance with the principles of the Instructions and provisions of PSA. Considering that the detailed procedure points to a different conclusion, HAKOM considers this complaint as unfounded.

On the other hand, in its final response HAKOM states that the Commercial Scenario, and therefore the calculation of the net cost and the unfair financial burden, were made in accordance with the Instructions and provisions of PSA. However, HP neither commented or presented additional arguments that would question the final calculation of the net costs of unfair financial burden prepared by the independent auditor. Moreover, specific elements of findings of the independent auditor were clarified to HP at additional meetings with the independent auditor. Taking the above into consideration, HAKOM believes that there are no elements in the final response of HP that would lead to different outcome of this case.

In conclusion, it was established in this procedure that unfair financial burden of HP as the universal service provider amounted to HRK 94,383,177.00, which necessitates the establishment of a compensation fund in which replacement postal services providers from point 3 of the operative part hereof will pay their contributions.

In accordance with the provisions of Articles 48 and 51 of PSA; HAKOM determined the payers of contributions in the decision establishing the amount of the net cost which represents unfair financial burden. During 2013 seven replacement postal services providers provided replacement postal services in the postal services market. In relation to these providers given in point 3 of this Decision as payers of contributions into the compensation fund, it is underlined that during 2013 another two authorized providers provided replacement postal services in the postal services market, namely A1 Direkt d.o.o. and Post d.o.o. However, on 1 July 2013 A1 Direkt d.o.o. was merged with Tisak d.o.o., while on 4 April 2013 Post d.o.o. was merged with Weber Escal d.o.o., and all revenue of these merged companies was given in this Decision under information of legal successors, which took over all rights and obligations of merged companies.

In accordance with Article 52 (2) of PSA, the contribution of entities from point 3 of the operative

part of this Decision was limited to 5 % of their revenue generated from performance of replacement postal services during the previous calendar year, according to data submitted to HAKOM.

Hence, the contributions of entities from point 3 of the operative part of this Decision were calculated in accordance with Article 52 of PSA, pursuant to which shares are calculated according to the total revenue, which is the sum of revenue from the performance of replacement postal services and revenue from the performance of the universal service, which amounts to a total of HRK 854,277,031.00, as follows:

- a) During 2013 City Ex d.o.o., Zagreb, Donje Svetice 40, OIB (tax no.) 99406899243 generated a revenue of HRK 86,560,321.00 from the performance of replacement postal services, which represents 10.13 % of the total revenue, which would yield a contribution of HRK 9,563,453.84. However, pursuant to Article 52 (2) of PSA, according to which the amount of contribution that a replacement postal services provider must pay may not exceed 5 % of revenue generated from the performance of replacement postal services during the previous calendar year, City Ex d.o.o. must pay HRK 4,328,016.00.
- b) During 2013 Lider Express d.o.o., Žrnovnica, Donje Sitno, Sv. Roka 3, OIB (tax no.): 81021464667 generated a revenue of HRK 187,624.00 from the performance of replacement postal services, which represents 0.02 % of the total revenue, which would yield a contribution of HRK 20,729.28. However, pursuant to Article 52 (2) of PSA, according to which the amount of contribution that a replacement postal services provider must pay may not exceed 5 % of revenue generated from the performance of replacement postal services during the previous calendar year, Lider Express d.o.o. must pay HRK 9,381.00;
- c) During 2013 Lider Express d.o.o., Zagreb, Supilova 7a, OIB (tax no.): 11419453690 generated a revenue of HRK 214,845.00 from the performance of replacement postal services, which represents 0.03 % of the total revenue, which would yield a contribution of HRK 23,736.74. However, pursuant to Article 52 (2) of PSA, according to which the amount of contribution that a replacement postal services provider must pay may not exceed 5 % of revenue generated from the performance of replacement postal services during the previous calendar year, Lider Express d.o.o. must pay HRK 10,742.00;
- d) During 2013 Tisak d.d., Zagreb, Slavenska avenija 11 a, OIB (tax no.): 75917721668 generated a revenue of HRK 1,928,502.00 from the performance of replacement postal services, which represents 0.23 % of the total revenue, which would yield a contribution of HRK 213,066.92. However, pursuant to Article 52 (2) of PSA, according to which the amount of contribution that a replacement postal services provider must pay may not exceed 5 % of revenue generated from the performance of replacement postal services during the previous calendar year, Tisak d.d. must pay HRK 96,425.00;
- e) During 2013 Vuk com d.o.o., Novi Vinodolski, Ogulinska 6a, OIB (tax no.): 60452472121 generated a revenue of HRK 21,850.00 from the performance of replacement postal services, which represents 0.0025 % of the total revenue, which would yield a contribution of HRK 2,414.10. However, pursuant to Article 52(2) of PSA, according to which the amount of contribution that a replacement postal services provider must pay may not exceed 5 % of revenue generated from the performance of replacement postal services during the previous calendar year, Vuk com d.o.o. must pay HRK 1,093.00;
- f) During 2013 Weber Escal d.o.o., Hrvatski Leskovac, Zastavice 38a, OIB (tax no.): 42257427313 generated a revenue of HRK 3,599,073.00 from the performance of replacement postal services, which represents 0.42 % of the total revenue, which would yield a contribution of HRK 397,636.75. However, pursuant to Article 52(2) of PSA, according to which the amount of contribution that a replacement postal services provider must pay may not exceed 5 % of revenue generated from the performance of replacement postal

services during the previous calendar year, Weber Escal d.o.o. must pay HRK 179,954.00.

According to Article 51 (4) of PSA, the universal service provider whose calculated contribution for the compensation fund is lower than the calculated compensation for obligatory performance of the universal service shall not pay contributions to the compensation fund and shall receive a compensation equal to the difference between the calculated compensation and the calculated contribution. Given that the contribution that HP should pay to the fund is lower than the calculated compensation for mandatory performance of the universal service, this was established in point 4 of the operative part of the Decision, while the payment from the compensation fund to HP was ordered in point 6 of the operative part hereof.

Considering the above, it has been decided as in the operative part of this Decision.

LEGAL REMEDY:

This Decision may not be appealed. However, it is possible to initiate administrative proceedings before the High Administrative Court of the Republic of Croatia no later than 30 days from its receipt.

*/seal: **PRESIDENT OF THE COUNCIL**/*

Deliver to:

1. HP-Hrvatska pošta d.d., Jurišićeva 13, 10000 Zagreb — personal delivery
2. City Ex d.o.o., Donje Svetice 40, 10000 Zagreb – personal delivery
3. Lider Express d.o.o., Sv. Roka 3, Donje Sitno, 21251 Žrnovnica – UP, personal delivery
4. Lider Express d.o.o., Supilova 7a, 10000 Zagreb – personal delivery
5. Tisak d.d., Slavonska avenija 11a, 10000 Zagreb – personal delivery
6. Vuk com d.o.o., Ogulinska 6a, 51250 Novi Vinodolski – UP, personal delivery
7. Weber Escal d.o.o., Zastavice 38a, 10251 Hrvatski Leskovac – personal delivery
8. Ministry of Maritime Affairs, Transport and Infrastructure, Prisavlje 14, 10001 Zagreb – Attn, personal delivery
9. To the archives

Zračna luka Osijek d.o.o.
Services of General Economic Interest (SGEI): Guidance for report
to be submitted following the 2012 SGEI Decision and the
2012 SGEI Framework

The reporting obligations are set out: in the Article 9 of the 2012 SGEI Decision.

Each Member State shall submit a report on the implementation of this Decision to the Commission every 2 years. The reports shall provide a detailed overview of the application of this Decision for the different categories of services referred to in Article 2 (1), including:

- (a) a description of the application of this Decision to the services falling within its scope, including in-house activities;*
- (b) the total amount of aid granted in accordance with this Decision, with a breakdown by the economic sector of the beneficiaries;*
- (c) an indication of whether, for a particular type of service, the application of this Decision has given rise to difficulties or complaints by third parties;*
- (d) any other information concerning the application of this Decision required by the Commission and to be specified in due time before the report is to be submitted.*

Paragraph 62 of the 2012 SGEI Framework sets in principle identical reporting obligations for aid granted under the 2012 SGEI Framework.

Please structure your report as follows:

1. EXPENDITURE OVERVIEW

General SGEI government expenditure by functions	(in millions EUR)	
	2014	2015
Compensation for Services of General Economic Interest (1+2)		
(1) Compensation granted on the basis of the SGEI Decision	0.431	0.425
(2) Compensation granted on the basis of the SGEI Framework	0.431	0.425
	0.00	0.00

(1 EUR=7.65 HRK)

2. DESCRIPTION OF THE APPLICATION OF THE SGEI DECISION AND THE SGEI FRAMEWORK AND AMOUNT GRANTED

Please structure this part of your report by the following sections:

- 1) Hospitals (Art. 2 (1) (b))
- 2) Social services (Art. 2 (1) I)
 - a) Health and long term care
 - b) Childcare
 - c) Access to and reintegration into the labour market
 - d) Social housing
 - e) Care and social inclusion of vulnerable groups

- 3) Air or maritime links to islands with average annual traffic below the limits set in Art. 2(1) (d))
- 4) Airports and ports with average annual traffic below the limit set in Art. 2(1)I
- 5) SGEI compensation not exceeding EUR 15 million (Art. (2)(1) (a))

Decision to keep Zračna luka Osijek d.o.o. open for public air transport in the period 2014 — 2018.

The undertaking tasked under this Decision with the provision of a service of general economic interest is Zračna luka Osijek d.o.o.

The Airports Act (Official Gazette Nos 19/98 and 14/11) lays down the ownership structure of Zračna luka Osijek d.o.o., and partners enjoy rights and obligations in proportion to their ownership shares: Republic of Croatia 55 %, Osijek-Baranja County 20 % and City of Osijek 25 %. The share capital of Zračna luka Osijek d.o.o. is HRK 26 208 000.00 (cca: EUR 3,426 million).

According to NACE classification (rev. 2), the economic activity of the state aid beneficiary is: 5223 – Service activities incidental to air transportation

The business activities of Zračna luka Osijek d.o.o. comprise primary and secondary activities.

The primary activities of Zračna luka Osijek d.o.o. comprise all activities relating to aircraft ground handling, aircraft parking, passenger services, goods handling and activities aimed at providing scheduled and charter routes in domestic and international transport.

The secondary activities of Zračna luka Osijek d.o.o. comprise activities aimed at providing end users with comprehensive services and include car rental, accommodation and food services, leasing of office and advertising space, duty-free sales, etc.

For each of the items outlined above please provide information in the form of the following table:

Clear and comprehensive description of how the respective services are organized in your Member State¹
<p>Explanation of what kind of services in the respective sector have been defined as SGEI in your Member State. Please list the contents of the services entrusted as SGEI as clearly as possible.</p> <p>Decision to keep Zračna luka Osijek d.o.o. In order to keep Zračna luka Osijek d.o.o. open for public air transport, the airport operator must provide a SGEI comprising a series of technical and technological tasks and operations required for</p>

¹ If in a given sector only a small number of individual SGEIs exist in your Member State, please provide a detailed description of those services. If a large number of services are entrusted in a specific sector in your Member State (for example because the competence lies with regional or local authorities), individual details of the entrustments would be disproportionate, but a clear and concise general description of the way the sector is organised including the common features of the individual entrustments remains crucial. Since cases falling under the SGEI Framework will be limited in number, the Commission expects a detailed description of each specific measure.

The safe provision of air transport involving aircraft, passengers, luggage, goods, items and post, and remain open for public air transport in accordance with directives laying down times when the airport is open for public air transport.

Zračna luka Osijek d.o.o. will provide the SGEI during the airport's operational period as laid down in the Directive on airport operational time (NN No 133/2013), according to which the airport must be open from 27 October 2013 to 29 March 2014, 06:30–12:00 and 17:00–18:00 on Mondays, Wednesdays and Thursdays, and 08:00–15:00 on Tuesdays and Fridays. Under this Directive, Zračna luka Osijek d.o.o. must also be open outside the indicated opening hours upon request, which must be submitted during the working hours and notified through the SITA communication system 24 hours in advance.

All other activities of Zračna luka Osijek d.o.o., including the secondary activities, are not considered as SGEIs.

Explanation of the (typical) **forms of entrustment**. If standardised templates for entrustments are used for a certain sector,

Entrustments in the form of a Decision.

Specifically: Decision to keep Zračna luka Osijek d.o.o. open for public air transport in the period 2014 — 2018 of 16 April 2014 (hereinafter: Decision); please find a copy of the Decision enclosed.

Average duration of the entrustment (in years) and the proportion of entrustments that are **longer than 10 years** (in %) per sector. Specify in which sectors SGEI were entrusted with a duration exceeding 10 years and explain how this duration is justified?

The duration of the entrustment is five years.

Under the Decision, Zračna luka Osijek d.o.o. will provide the SGEI from 2014 to 2018.

Explanation whether (typically) **exclusive or special rights** are assigned to the undertakings.

Which **aid instruments** have been used (direct subsidies, guarantees, etc.)?

The aid instrument is a direct subsidy

Typical **compensation mechanism** as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.

The compensation is a subsidy covering lost earnings in relation to expenses. The compensation covers all direct variable and fixed costs as well as a proportionate share of common overheads incurred in the provision of the SGEI.

The compensation does not cover the reasonable profit arising from the provision of the SGEI.

The calculation of the compensation, i.e. the difference between expenditure and revenue, is based on all revenue (including revenue from the primary and secondary activities and extraordinary and financial revenue) but only on direct

expenses incurred in the provision of the services of general economic interest and a corresponding share of expenses that are common to both services of general economic interest and other services.

Typical arrangements for avoiding and **repaying any overcompensation**.

Under the Decision, Zračna luka Osijek d.o.o. may not be granted other forms of state aid, irrespective of the provider (national, regional or local level), without obtaining a prior opinion from the competent body. In order to avoid overcompensation, the Ministry of Maritime Affairs, Transport and Infrastructure shall carry out regular inspections. If these reveal that de minimis aid has been granted (irrespective of administrative level), the Ministry will reduce the compensation by the amounts of any de minimis aid granted to Zračna luka Osijek d.o.o. under Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 297).

Amount of aid granted

The total amount of aid granted (in millions EUR)². This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C)

2014	2015
0.431	0.425
A: Total amount of aid granted (in millions EUR) paid by national central authorities	
2014	2015
0.431	0.425
B: Total amount of aid granted (in millions EUR) paid by regional authorities.	
2014	2015
0.00	0.00
C: Total amount of aid granted (in millions EUR) paid by local authorities.	
2014	2015
0.00	0.00
Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)	
2014	2015
Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount,	
2014	2015

² According to Article 9 point (b) of the SGEI Decision and paragraph 62 (b) of the SGEI Framework. Please provide a breakdown by calendar year.

3. DIFFICULTIES WITH THE APPLICATION OF THE SGEI DECISION OR SGEI FRAMEWORK

Please be as specific as possible and include, if applicable, the sector for which the difficulties are relevant.

4. COMPLAINTS BY THIRD PARTIES

Please be as specific as possible and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities.

THERE HAVE BEEN NO COMPLAINTS BY THIRD PARTIES

5. MISCELLANEOUS

A. (optional)

If your Member State **has not** granted State aid for the provision of SGEI in certain sectors, information regarding other instruments to ensure the provision of those services (direct aid to users, compensation complying with all four Altmark criteria, *de minimis* aid, etc.) could be useful. Please feel free to provide a brief description of these instruments and the areas in which they are used.

B. (optional)

Please describe in what respect the SGEI Decision and the SGEI Framework are easier to apply or more appropriate than the 2005 SGEI Decision and 2005 SGEI Framework.

C. (optional)

If you have any other comments on the application of the SGEI Decision and the SGEI Framework on issues other than the ones covered in the previous questions, please feel free to provide them within your report.

**THE REPUBLIC OF CROATIA
MINISTRY OF MARITIME AFFAIRS,
TRANSPORT AND INFRASTRUCTURE**

Pursuant to Article 41a of the Air Transport Act (Narodne Novine (NN; Official Gazette of the Republic of Croatia) Nos 69/09, 84/11, 54/13 and 27/13), the Minister for Maritime Affairs, Transport and Infrastructure hereby issues a

**D E C I S I O N
to keep Zračna luka Osijek d.o.o open for public air transport in
the period 2014 — 2018**

I.

In order to keep Zračna luka Osijek d.o.o. open for public air transport, the airport operator shall be obliged to provide a service comprising a series of technical and technological tasks and operations required for the safe provision of air transport involving aircraft, passengers, luggage, goods, items and post, and remain open for public air transport in accordance with the directives laying down the periods when the airport is open for public air transport.

II.

The service referred to in point I of this Decision is a service of general economic interest.

III.

The airport operator shall perform the service referred to in point I of this Decision in the period 2014–2018, during the airport's operational periods as laid down in the Directive on airport operational time for the purpose of public air transport (NN Nos 133/2013).

IV.

This Decision does not apply to any other services provided by Zračna luka Osijek d.o.o., including secondary activities such as storage, lease of office space, road transport, accommodation and food services, land and car park leasing, agency services, etc., which are not considered services of general economic interest.

V.

Since Zračna luka Osijek d.o.o. cannot cover all its expenses resulting from the provision of services of general economic interest, the Ministry of Maritime Affairs, Transport and Infrastructure shall pay Zračna luka Osijek d.o.o. for the provision of services from point 1 of this Decision a compensation for the earnings lost compared with expenses.

The compensation shall be paid for each business year in the period laid down in point III of this Decision as a subsidy from the annual budget of the Ministry of Maritime Affairs, Transport and Infrastructure.

The compensation covers all direct variable and fixed costs as well as a proportionate share of common overheads incurred in the provision of the service from point I of this Decision, and a proportionate share of the overheads common to both the services of general economic interest and other services.

The compensation shall not cover reasonable profit arising from the provision of the services referred to in point I of this Decision.

The compensation to Zračna luka Osijek d.o.o. shall be granted in accordance with the Commission Decision of 20 December 2011 on the application of Article 106 (2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L7, 11.1.2012, p. 289 (hereinafter: the Commission Decision)).

VI.

The criteria according to which the compensation referred to in point I of this Decision is calculated, monitored and inspected shall be laid down for the period 2014 to 2018 and shall, as a minimum, include:

A forecast of annual revenue and expenses broken down by category of the services of general economic interest referred to in point I of this Decision.

An outline of anticipated annual revenue and expenses shall be based on the forecast of annual revenue and expenses and shall be broken down as follows:

Total revenue:

- revenue from primary activity
 - a) ground handling revenue
 - b) service revenue
 - c) revenue from ground handling and servicing of cargo aircraft (foreign)
 - d) service revenue (GW fee)
 - e) other revenue
- revenue from secondary activity
- extraordinary revenue
- financial revenue

Total expenditure:

- expenditure from primary activity
 - a) material and raw material costs
 - b) energy and fuel costs
 - c) write-off of small inventory
 - d) current maintenance costs
 - e) depreciation
 - I) utilities
 - g) gross salary costs
 - h) workers' compensation costs
 - i) costs of intellectual and health services
 - j) costs of other services
 - k) banking and transaction fees
 - l) insurance premiums
 - m) taxes and contributions attached to other public charges not dependent on result
 - n) other operating costs
- revenue from secondary activity
- extraordinary expenses and revaluation adjustment
- financial revenue

Profit before tax

Loss before tax

The calculation of compensation for the provision of the service referred to in point I of this Decision, which corresponds to the difference between expenses and revenue, shall be based on all revenue (including revenue from main and secondary activities and extraordinary and financial revenue) but only on direct expenses incurred in the provision of the services of general economic interest and a corresponding share of expenses that are common to both services of general economic interest and other services.

The compensation per year shall be:

for 2014	3,300
for 2015	3,250
for 2016	3,200
for 2017	3 150
for 2018	3 100

The Ministry of Maritime Affairs, Transport and Infrastructure shall monitor and inspect the compensation paid at the end of each year or on the basis of an ad hoc decision if so required.

The amount of compensation shall not exceed the amount required to cover the costs of Zračna luka Osijek d.o.o. incurred in provision of the services referred to in point 1 of this Decision, having regard to the revenue generated respectively by these services.

The compensation may not be used for other purposes (set out in point IV of this Decision) since this would render it illegal state aid.

In order to avoid overcompensation, the Ministry of Maritime Affairs, Transport and Infrastructure shall carry out regular inspections and shall repay to the state budget of the Republic of Croatia any amounts constituting overcompensation; in this case the calculation criteria shall be revised for future periods. In the light of inspections aimed at preventing overcompensation, Zračna luka Osijek d.o.o. may not be granted other forms of state aid, irrespective of provider (national, regional or local), without obtaining a prior opinion from the Croatian Competition Agency.

The compensation for the provision of the service referred to in point I of this Decision shall be reduced by the amounts of any de minimis aid granted to Zračna luka Osijek d.o.o. under Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 297).

Where the amount of overcompensation does not exceed 10 % of the average annual compensation, it may be carried over, if justified, to the next financial year, in which case the amount receivable by Zračna luka Osijek d.o.o. for the following year shall be reduced by the amount carried over.

The funds granted under this Decision shall be analysed at the end of the granting period (last quarter of 2018) and, on the basis of this analysis, the Ministry of Maritime Affairs, Transport and Infrastructure shall examine the option of continuing to subsidise the operations of Zračna luka Osijek d.o.o.

The Ministry of Maritime Affairs, Transport and Infrastructure shall examine the option of continuing to subsidise the operations of Zračna luka Osijek d.o.o.

The Ministry of Maritime Affairs, Transport and Infrastructure shall keep all documents relating to the funds granted under this Decision throughout the granting period from 2014 to 2018 and for a minimum of ten years after the granting period (until the end of 2028).

VIII.

Funds for the compensation of the part of lost earnings in relation to the expenses of providing the service referred to in point I of this Decision shall be allocated from the annual budget of the Republic of Croatia for each calendar year.

IX.

The Ministry of Maritime Affairs, Transport and Infrastructure shall set aside budget funds for the compensation referred to in point VIII of this Decision as 'subsidy to an undertaking for the provision of an activity financed from the state budget A570333 – Ensuring traffic safety standards in Croatian airports'.

X.

Zračna luka Osijek d.o.o. shall keep the internal financial reports and accounts of income and expenditure relating to the provision of the service referred to in point I of this Decision separate from its other activities.

XI.

Every two years the Ministry of Maritime Affairs, Transport and Infrastructure shall submit to the European Commission, via the Croatian Competition Agency, a report on the implementation of this Decision in accordance with Article 9 of the Commission Decision.

XII.

This Decision shall enter into force on the date of its adoption, and shall apply as of 1 January 2014. It shall not be published in the Official Gazette (Narodne Novine).

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Zagreb, 16 April 2014