

ANNEX

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; and

(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

Please complete the following table:

| Total SGEI government expenditure by legal basis (millions EUR) | | |
|--|-------|-------|
| | 2020 | 2021 |
| <i>Total compensation for Services of General Economic Interest (1+2)</i> | | |
| 1 Total compensation granted on the basis of the SGEI Decision | 38.17 | 39.86 |
| 2 Total compensation granted on the basis of the SGEI Framework | 2.69 | 2.75 |

2. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

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

- 1) Hospitals providing medical care, including, where applicable, emergency services (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
 - f) Other social services (if applicable)
- 3) Air or maritime links to islands with average annual traffic not exceeding the limit set in Art. 2(1)(d)
- 4) Airports and ports with average annual traffic not exceeding the limit set in Art. 2(1)(e)
- 5) SGEI compensation not exceeding an annual amount of EUR 15 million (Art. 2(1)(a))
 - a) Postal services
 - b) Energy supply
 - c) Waste collection
 - d) Water supply
 - e) Culture
 - f) Financial services
 - g) Other sectors (please specify)

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

| Section (for example 1, hospitals or 2b, childcare) |
|---|
| 3) Maritime links to islands with average annual traffic not exceeding the limit set in Art. 2(1)(d) |
| Clear and comprehensive description of how the respective services are organized in your Member State¹ |
| 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. |

¹ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate a detailed description of those services. **If a large number of services are entrusted in a specific sector**

Fulfilment of the public service obligation to operate the scheduled public transport of passengers and vehicles between islands and the mainland and among islands, on the following routes:

FERRY ROUTES WITH A PUBLIC SERVICE OBLIGATION

338 Lopar – Valbiska
401 **Zadar (Gaženica)** – Ist – Olib – Silba – Premuda – Mali Lošinj
433 **Zadar (Gaženica)** – Rivanj – Sestrunj – Zverinac – Molat – Ist
434 Brbinj – **Zadar (Gaženica)**
435 **Zadar (Gaženica)** – Bršanj – Rava
532 **Šibenik** – Zlarin – Obonjan – Kaprije – Žirje
602 Vis – **Split**
604/604a Lastovo – Vela Luka – **Split**
606 Drvenik Veli – Drvenik Mali – **Trogir – Split**
633 **Ploče** – Trpanj
636 Rogač – **Split**
638 Sumartin - **Makarska**
831 Suđurađ – Lopud – **Dubrovnik**
832 Sobra – Prapratno

BOAT ROUTES WITH A PUBLIC SERVICE OBLIGATION

310 Mali Lošinj – Srakane Vele – Unije – Susak
311 Ilovik – Mrtvaška – Mali Lošinj
405 Rava – Iž – **Zadar**
405a **Zadar** – Sali – Zaglav
415 Vrgada – **Pakoštane – Biograd**
501 **Brodarica** – Krapanj
505 **Vodice** – Prvić – Zlarin – **Šibenik**
612 Komiža – Biševo
614 Korčula – Orebić
807 Šipan – Lopud – Koločep – **Dubrovnik**

HIGH-SPEED BOAT ROUTES WITH A PUBLIC SERVICE OBLIGATION

9141 **Pula** – Unije – Susak – mali Lošinj – Ilovik – Silba – **Zadar**
9308 Mali Lošinj – Ilovik – Susak – Unije – Martinšćica – Cres – **Rijeka**
9309 Novalja – Rab – **Rijeka**
9401 Olib – Silba – Premuda – **Zadar**
9403 Ist – Molat – **Zadar**
9404 Brbinj – Božava – Zverinac – Sestrunj – Rivanj – **Zadar**
9405 **Zadar** – Iž – Rava
9406 **Zadar** – Sali – Zaglav – Iž
9502 Žirje – Kaprije – **Šibenik**
9601 Rogač – **Split**
9602 Vis - Hvar - Milna - **Split**
9603 Jelsa – Bol – **Split**
9604 Lastovo – Vela Luka – Hvar – **Split**
9608 Korčula – Prigradica – Hvar – **Split**

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.

| |
|---|
| <p>9807 Dubrovnik – Šipanska Luka – Sobra – Polače – Korčula – Lastovo 9808 Lastovo – Korčula – Dubrovnik</p> <p><i>* Ports on the mainland are marked in BOLD, the other ports are on islands. All these routes have had fewer than 300 000 passengers in the past two financial years.</i></p> |
| <p>Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.</p> |
| <p>The entrustment act specifying the public service obligations is a decision on the selection of the most advantageous tenderer, granting the right to operate a public transport service on the routes referred to on the basis of an open public procurement procedure, after which a public service contract is concluded.</p> |
| <p>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?</p> |
| <p>The average duration of the entrustment is 6 years. The duration of the entrustment is 10 years for 2 ferry routes, 3 years for 5 shipping routes and 12 years for only one shipping route.</p> |
| <p>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</p> |
| <p>Exclusive or special rights are assigned following a public procurement procedure for the operation of routes — award of a PSC (public service contract).</p> |
| <p>Which aid instruments have been used (direct subsidies, guarantees, etc.)?</p> |
| <p>State aid in the form of public service compensation (on routes where revenue is insufficient to cover the PSO).</p> |
| <p>Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.</p> |
| <p>The compensation mechanism is based on the cost allocation methodology, i.e. the amount of public service compensation should not exceed what is necessary to cover the net costs of fulfilling the public service obligation, including a reasonable profit.</p> |
| <p>Typical arrangements for avoiding and repaying any overcompensation.</p> |
| <p>At the end of the financial year, the shipping company submits financial accounts for each individual route, in line with the principle of separate accounts, and the contracting authority is required to perform accountancy checks so as to determine the final actual costs and revenue of the route. If the checks determine that the shipping company has been paid a higher amount of public service compensation than the final costs and revenue, the contracting authority will ask the company to repay the overcompensation for provision of the public service to the budget.</p> |
| <p>A short explanation of how the transparency requirements (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro to undertakings that also have activities</p> |

outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).

<https://agencija-zolpp.hr/wp-content/uploads/2021/04/Objava-godisnjih-iznosa-potpورا-sukladno-clanku-37.-Uredbe-NN-31-14-i-clanak-7.Odluke-2012-21-EU.pdf>

<https://agencija-zolpp.hr/wp-content/uploads/2022/04/Objava-godisnjih-iznosa-potpورا-sukladno-clanku-37.-Uredbe-NN-31-14-i-clanak-7.Odluke-2012-21-EU.pdf>

Amount of aid granted

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)

| 2020 | 2021 |
|-------|-------|
| 38.17 | 39.86 |

A: Total amount of aid granted (in millions EUR) paid by national central authorities³

| 2020 | 2021 |
|-------|-------|
| 38.17 | 39.86 |

B: Total amount of aid granted (in millions EUR) paid by regional authorities⁴

| 2020 | 2021 |
|------|------|
| | |

C: Total amount of aid granted (in millions EUR) paid by local authorities⁵

| 2020 | 2021 |
|------|------|
| | |

Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available)

| 2020 | 2021 |
|------|------|
| | |

² In accordance with Article 9(b) of the 2012 SGEI Decision.

³ If the aid amount cannot be split between central, regional and local authorities only the total amount of aid granted for all authorities should be reported.

⁴See footnote3.

⁵See footnote3.

| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ⁶ | |
|---|-------------|
| 2020 | 2021 |
| 12 | 12 |

Please also fill out the annexed summary excel file “SGEI Decision 2020 2021” with the total amounts per section for the whole Member State (not per region, local authority or municipality).

3. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

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

SGEI compensation exceeding EUR 15 million, falling outside the SGEI Decision (please specify the Commission decision approving each measure if applicable):

- i. Postal services
- ii. Energy supply
- iii. Waste collection
- iv. Water supply
- v. Air or maritime links to islands with average annual traffic above the limits set in Art. 2(1)(d)
- vi. Airports and ports with average annual traffic above the limit set in Art. 2(1)(e)
- vii. Culture
- viii. Financial services
- ix. Other sectors (please specify)

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

⁶ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

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| Section (for example iii. Waste collection or viii. Financial services) |
| v. Maritime links to islands with average annual traffic above the limits set in Art. 2(1)(d) |
| Clear and comprehensive description of how the respective services are organized in your Member State⁷ |
| 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>Fulfilment of the public service obligation to operate the scheduled public transport of passengers and vehicles between islands and the mainland and among islands, on the following routes:</p> <p>STATE-RUN FERRY ROUTES</p> <p>431 Zadar (Gaženica) — Osljak — Preko</p> <p>432 Biograd – Tkon</p> <p>632 Sućuraj – Drvenik</p> <p>635 Stari Grad - Split</p> <p>* Ports on the mainland are marked in bold, the other ports are on islands.</p> <p>STATE-RUN SHIPPING ROUTES</p> <p>409 Preko — (Ošljak) — Zadar (City port)</p> <p>* Ports on the mainland are marked in BOLD, the other ports are on islands. All these routes have had more than 300 000 passengers in the past two financial years.</p> |
| Explanation of the (typical) forms of entrustment . If standardized templates for entrustments are used for a certain sector, please attach them. |
| The entrustment act specifying the public service obligations is a decision on the selection of the most advantageous tenderer, granting the right to operate a public transport service on the routes referred to on the basis of an open public procurement procedure, after which a public service contract is concluded. |

⁷ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate 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 concrete measure.

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|--|
| 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 average duration of the entrustment is 6 years. |
| Explanation whether (typically) exclusive or special rights are assigned to the undertakings. |
| Exclusive or special rights are assigned following a public procurement procedure for the operation of routes — award of a PSC (public service contract). |
| Which aid instruments have been used (direct subsidies, guarantees, etc.)? |
| State aid in the form of public service compensation |
| 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 mechanism is based on the cost allocation methodology, i.e. the amount of public service compensation should not exceed what is necessary to cover the net costs of fulfilling the public service obligation, including a reasonable profit. |
| Typical arrangements for avoiding and repaying any overcompensation. |
| At the end of the financial year, the shipping company submits financial accounts for each individual route, in line with the principle of separate accounts, and the contracting authority is required to perform accountancy checks so as to determine the final actual costs and revenue of the route. If the checks determine that the shipping company has been paid a higher amount of public service compensation than the final costs and revenue, the contracting authority will ask the company to repay the overcompensation for provision of the public service to the budget. |
| A short explanation of how the transparency requirements (see Paragraph 60 of the 2012 SGEI Framework) are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level). |
| https://agencija-zolpp.hr/wp-content/uploads/2021/04/Objava-godisnjih-iznosa-potpورا-sukladno-clanku-38.-Uredbe-NN-31-14.pdf https://agencija-zolpp.hr/wp-content/uploads/2022/04/Objava-godisnjih-iznosa-potpورا-sukladno-clanku-38.-Uredbe-NN-31-14.pdf |

| Amount of aid granted | |
|---|-------------|
| Total amount of aid granted (in millions EUR)⁸. This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C) | |
| 2020 | 2021 |
| 2.69 | 2.75 |
| A: Total amount of aid granted (in millions EUR) paid by national central authorities⁹ | |
| 2020 | 2021 |
| 2.69 | 2.75 |
| B: Total amount of aid granted (in millions EUR) paid by regional authorities¹⁰ | |
| 2020 | 2021 |
| | |
| C: Total amount of aid granted (in millions EUR) paid by local authorities¹¹ | |
| 2020 | 2021 |
| | |
| Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available) | |
| 2020 | 2021 |
| | |
| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings)¹² | |
| 2020 | 2021 |
| 1 | 1 |

Please also fill out the annexed summary excel file “SGEI Framework 2020 2021” with the total amounts per section for the whole Member State (not per region, local authority or municipality).

⁸ In accordance with Paragraph 62(b) of the 2012 SGEI Framework.

⁹ If the aid amount cannot be split between central, regional and local authorities only the total amount of aid granted for all authorities should be reported.

¹⁰ See footnote9.

¹¹ See footnote9.

¹² The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Framework, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

4. COMPLAINTS BY THIRD PARTIES

Please provide an overview of complaints by third parties, in particular litigation before national courts, regarding measures in scope of the 2012 SGEI Decision or 2012 SGEI Framework. Please be as specific as possible in your reply and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities or the likely outcome of the court proceedings.

There have been no complaints regarding the application of the Decision and the Framework.

5. MISCELLANEOUS

a. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Decision and ask you to in particular consider the following issues:

- drawing up an entrustment act that complies with Article 4 of the SGEI Decision;
- specifying the amount of compensation in line with Article 5 of the SGEI Decision;
- determining the reasonable profit level in line with Article 5(5)-(8) of the SGEI Decision;
- regularly checking overcompensation as required by Article 6 of the SGEI Decision;

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

b. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Framework and ask you to in particular consider the following issues:

- carrying out a public consultation in line with paragraph 14 of the SGEI Framework;
- complying with public procurement rules in line with paragraph 19 of the SGEI Framework;
- determining the net avoided cost as required by paragraphs 25-27 of the SGEI Framework;

- determining the reasonable profit level in line with paragraphs 33-38 of the SGEI Framework;

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

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- c. 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 below.

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| Market disruptions in 2020 and 2021 have significantly increased the costs of maintenance, spare works and fuel, and such increases are expected to continue. The question arises of the extent to which we can change the programme for aid that was contractually agreed 3 or more years ago. |
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ANNEX

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; and*
- (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

Please complete the following table:

| Total SGEI government expenditure by legal basis (millions EUR) | | |
|--|--------------|--------------|
| | 2020 | 2021 |
| <i>Total compensation for Services of General Economic Interest (1+2)</i> | 70.12 | 59.18 |
| 1. Total compensation granted on the basis of the SGEI Decision | 25.50 | 27.31 |
| 2. Total compensation granted on the basis of the SGEI Framework | 44.62 | 31.87 |

2. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI DECISION

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

- 1) Hospitals providing medical care, including, where applicable, emergency services (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
 - f) Other social services (if applicable)
- 3) Air or maritime links to islands with average annual traffic not exceeding the limit set in Art. 2(1)(d)

4) Airports and ports with average annual traffic not exceeding the limit set in Art. 2(1)(e)

Legal basis:

Decision to keep Zračna luka Osijek d.o.o. open for public transport by air in the period 2019–2023 (adopted on 18 October 2018)

The undertaking entrusted under this Decision with the operation of an SGEI is Zračna luka Osijek d.o.o.

According to the 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.

Under this Decision, in order to keep Zračna luka Osijek d.o.o. open for public transport by air, the airport operator is required to provide basic activities 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 to remain open for public transport by air in accordance with the directives laying down the periods when the airport is open for public transport by air (which constitutes a service of general economic interest (SGEI)).

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 (SGEI).

5) SGEI compensation not exceeding an annual amount of EUR 15 million (Art. 2(1)(a))

a) Postal services

Hrvatska pošta

In accordance with 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 with the provisions of the State Aid Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 47/14 and 69/17), the provider of State aid (the Ministry of the Sea, Transport and Infrastructure) produced the entrustment act, the individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for providing a universal service from 2019 to 2023 ('individual State aid'), which was submitted to the Ministry of Finance for an opinion. In the opinion of the Ministry of Finance (class: 421-02/18-01/1, ref. No: 513-06-02-19-3, of 25 January 2019), the individual State aid is in line with the State Aid Act (ZDP) and with the State Aid Policy Guidelines and is fully in line 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.

The Postal Services Act (NN Nos 144/12, 153/13, 78/15 and 110/19) lays down the procedure for compensating the provider where the obligation to provide the universal service creates a net cost that represents an unfair financial burden for the provider. The Croatian Regulatory Authority for Network Industries (HAKOM) issues a decision determining the amount of the net cost that represents an unfair financial burden for the universal service provider, which, in accordance with Article 48(5) of the Postal Services Act, is paid from the national budget, on the basis of HAKOM's decision and in accordance with the rules on State aid. Article 49(1) of the Postal Services Act requires a universal service provider seeking compensation for an unfair financial burden to apply to HAKOM by 31 July for the preceding calendar year. Article 49(2) requires the universal service provider to submit an audit report and a calculation of the net cost incurred, which must be drawn up

in accordance with Articles 47 and 50 of the Postal Services Act. It also requires the universal service provider to submit additional justification for the net cost at HAKOM's request. Finally, Article 48(4) of the Postal Services Act requires HAKOM to issue its decision as a rule within 60 days, or at the latest within six months of the date of submission of a duly completed application as referred to in Article 49(1) of the Postal Services Act.

When determining the level of compensation for an unfair financial burden at the request of HP-Hrvatska pošta d.d. ('HP'), the HAKOM Council is required by Articles 8(1)(6) and 10(1) of the Postal Services Act to issue a decision determining the amount that represents an unfair financial burden for the universal service provider, HP (the decision is issued during the current year, for the preceding year). The universal service provider, HP, submits a request to HAKOM (during the current year) for compensation for the universal service costs that represent an unfair financial burden (during the preceding year), accompanied by the corresponding annual financial accounts and an independent auditor's report. HP's request states that its universal service obligation imposes an unfair financial burden on it by requiring it to provide services under conditions other than the usual market conditions.

The legal regulations and the Instruction (issued by the HAKOM Council) on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden of 31 August 2015 ('the Instruction') require HP to submit a calculation of the net cost of the universal service.

To examine whether the calculation submitted with HP's request is justified, HAKOM requests the opinion of an independent auditor. HAKOM holds a series of workshops with representatives of the independent auditor and HP, where all elements of the calculation are discussed, focusing in particular on the assumptions used under the commercial scenario. Based on the figures submitted and the workshops held, the independent auditor submits a final report with an independent expression of assurance of the commercial scenario and calculation of the net cost.

In line with the independent auditor's report on the net cost, HAKOM determines the final amount of the net cost of the universal service. Once the amount of the net cost of the universal service has been determined, HAKOM launches the procedure for evaluating the unfair financial burden for the universal service provider. Under the procedure, HAKOM evaluates whether the net cost of the universal service represents an unfair financial burden in accordance with point 5 of the Instruction.

HAKOM Council issued a decision (Class: UP/I-344-02/20-06/01, Ref. No: 376-06-20-09 of 28 October 2020) determining that the amount of HRK 92 845 875.00 represented an unfair financial burden for the universal service provider, HP-Hrvatska pošta d.d., in 2019, and on the basis of the decision and in accordance with the 2019–2023 individual State aid, the amount determined was paid to the universal service provider.

HAKOM Council issued a decision (Class: UP/I-344-02/21-06/01, Ref. No: 376-06-21-09 of 21 October 2021) determining that the amount of HRK 95 056 342.00 represented an unfair financial burden for the universal service provider, HP-Hrvatska pošta d.d., in 2020, and on the basis of the decision and in accordance with the 2019–2023 individual State aid, the amount determined was paid to the universal service provider.

- b) Energy supply
- c) Waste collection
- d) Water supply
- e) Culture
- f) Financial services
- g) Other sectors

DOMESTIC SCHEDULED AIR SERVICES

Legal reference

- a) Decision on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020, adopted by the Government of Croatia at its session held on 24 September 2015.
- b) Decision of 27 January 2016 on the selection of bids to operate domestic scheduled air services.
- c) Contract of 30 May 2016 with the air carrier Croatia Airlines d.d. on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020.
- d) Contract of 30 May 2016 with the air carrier Trade Air d.o.o. on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020.
- e) Decision of 17 March 2020 on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- f) Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 5 March 2021.
- g) Decision of 27 September 2021 amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- h) Contract of 18 March 2020 with Croatia Airlines d.d. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- i) Appendix No 1 of 25 September 2020 to the Contract with Croatia Airlines d.d. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- j) Appendix No 2 of 5 March 2021 to the Contract with Croatia Airlines d.d. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- k) Appendix No 3 of 27 September 2021 to the Contract with Croatia Airlines d.d. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- l) Contract of 18 March 2020 with Trade Air d.o.o. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- m) Appendix No 1 of 25 September 2020 to the Contract with Trade Air d.o.o. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- n) Appendix No 2 of 5 March 2021 to the Contract with Trade Air d.o.o. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.
- o) Appendix No 3 of 27 September 2021 to the Contract with Trade Air d.o.o. on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia.

The undertakings entrusted under the above contracts with the operation of an SGEI are: Croatia Airlines d.d. and Trade Air d.o.o.

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

Before concluding the contracts with the air carriers, in accordance with Article 30 of the Air Transport Act the Government of Croatia adopted, at its session held on 24 September 2015, the Decision on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020, in order to maintain transport connections between the regions and to further the economic and social development of Croatia. The Decision requires domestic scheduled air services to be operated on the following 10 routes:

Dubrovnik — Zagreb — Dubrovnik; Split — Zagreb — Split; Zagreb - Zadar - Pula – Zadar; Zagreb - Zagreb - Brač – Zagreb; Osijek - Dubrovnik – Osijek; Osijek - Split – Osijek; Osijek - Zagreb – Osijek; Osijek - Pula - Split - Pula – Osijek; Osijek - Rijeka – Osijek and Rijeka - Split - Dubrovnik - Split – Rijeka. After the Decision was adopted, an Invitation to tender on the operation of scheduled air services in accordance with public service obligations was published in the Official Journal of the European Union (C 366) on 5 November 2015.

Furthermore, with a view to addressing the aggravating circumstances caused by the COVID-19 epidemic, on 17 March 2020 the Minister for the Sea, Transport and Infrastructure adopted a Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia in order to achieve these aims, to maintain transport connections between the regions and to further the economic and social development of the Republic of Croatia, following which contracts were concluded with these carriers on 18 March 2020 to maintain transport connections and to ensure uninterrupted scheduled air services within the Republic of Croatia.

The scope and standard of service laid down in the Decision of 18 March 2020 is identical to the scope and standard set by the relevant public invitation to tender published in the Official Journal of the European Union on 5 November 2015 (C 366).

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

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| Section (for example 1, hospitals or 2b, childcare) |
| 1 Maintaining transport connections between the regions (domestic scheduled air services) 2 Zračna luka Osijek 3. Postal services — Hrvatska pošta |
| Clear and comprehensive description of how the respective services are organized in your Member State¹ |
| 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>1 Maintaining transport connections between the regions (domestic scheduled air services)</p> <p>With a view to maintaining transport connections between the regions and furthering the economic and social development of Croatia, and after the invitation to tender on the operation of scheduled air services in accordance with public service obligations, published in the Official Journal of the European Union (C 366) on 5 November 2015, was conducted, contracts were concluded with the air carriers, which set out the rights and obligations of the contracting parties in connection with the operation of domestic scheduled air services as a public service and the content of the following service which air carriers are authorised to operate as an SGEI:</p> <p>The air carrier Croatia Airlines d.d. is required to operate domestic scheduled air services as a public service on the following six routes: Dubrovnik — Zagreb — Dubrovnik; Split – Zagreb – Split; Zagreb — Zadar — Pula — Zadar — Zagreb; Zagreb – Brač – Zagreb; Osijek – Dubrovnik – Osijek; Osijek – Split – Osijek.</p> <p>The air carrier Trade Air d.o.o. is required to operate domestic scheduled air services as a public service on the following four routes: Osijek – Zagreb – Osijek, Osijek – Pula –</p> |

¹ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate 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.

Split – Pula – Osijek, Osijek – Rijeka – Osijek, Rijeka – Split – Dubrovnik – Split – Rijeka.

As a result of the aggravating circumstances caused by the COVID-19 epidemic, in order to maintain continuity of transport connections, uninterrupted provision of scheduled air services within the Republic of Croatia and transport connections between the regions and to further the economic and social development of the Republic of Croatia, contracts were concluded with these carriers on 18 March 2020 to maintain continuity of transport connections and to ensure uninterrupted scheduled air services within the Republic of Croatia.

The air carriers Croatia Airlines d.d. and Trade Air d.o.o. are required to provide the service of general economic interest to the extent and at the level and standard prescribed on those air routes, in accordance with the contracts concluded.

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

In this specific case: DECISIONS

- Decision on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020, adopted by the Government of Croatia on 24 September 2015.
- Decision on preserving continuity of transport connections and ensuring uninterrupted provision of scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 17 March 2020.
- Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 25 September 2020.
- Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 5 March 2021.
- Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 27 September 2021.

(copies of these decisions are attached)

2.Zračna luka Osijek

In order to keep Zračna luka Osijek d.o.o. open for public transport by air, the airport operator must provide an SGEI 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 transport by air in accordance with directives laying down times when the airport is open for public transport by air.

The SGEI is provided by Zračna luka Osijek d.o.o. during the airport's operational period in accordance with the Order on airport operational time (NN No 31/18).

The Order lays down the times when Zračna luka Osijek d.o.o. must be open to public transport by air, including outside the indicated opening hours upon request, which must be submitted during the airport's working hours and notified through the SITA communication system 24 hours in advance (for 2019–2023 period).

a)

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

3. Postal services — Hrvatska pošta

The Postal Services Act requires the universal (postal) service to be provided as a service in the interest of Croatia, and the universal service is therefore considered to be a service of general economic interest. Article 3 of the Postal Services Act states that the provision of the universal service is in the interest of Croatia, and the users of postal services throughout the country must be provided with the universal service under the same conditions. In accordance with the Postal Services Act, postal services include the universal service, alternative postal services and other postal services.

The universal service is the group of postal services available to all users of postal services throughout Croatia at an affordable price, and the universal service provider must provide the universal service at the standard laid down in the Postal Services Act through its postal network. The universal service includes postal services in domestic and international traffic:

1. the receipt, routing, transport and delivery of items of correspondence weighing up to 2 kg;
2. the receipt, routing, transport and delivery of parcels weighing up to 10 kg;
3. the receipt, routing, transport and delivery of registered items and items with a declared value;
4. the receipt, routing, transport and delivery of items for the blind weighing up to 7 kg, free of charge;
5. the routing, transport and delivery of parcels weighing up to 20 kg in incoming international post.

The Postal Services Act requires the universal service provider, HP, to provide all users with the following services, at least 5 working days per week:

- 1 one receipt of postal items;
- 2 one delivery of postal items to the home address or business premises of all natural and legal persons.

However, the above services need not apply under certain geographical conditions or other circumstances.

HP is required to deliver all postal items in the condition in which they were received. HP is required to provide users free of charge with confirmation of receipt for registered items, items with a declared value and parcels, and to request the signature of the person to whom the postal item was delivered, as proof of delivery. The Postal Services Act and the Rules on the provision of the universal service (NN No 41/13) lay down other criteria to be met by the universal service provider.

The Rules on the provision of the universal service lay down the criteria to be met by the universal service provider's postal network. The postal network is understood to mean the organisational system and all types of resources interconnected as a single technical/technological unit which are used by the universal service provider specifically to provide the universal service throughout Croatia.

The universal service provider is required to establish a network of post offices in such a way that:

- 1 each post office covers an average area of not more than 80 km², or
- 2 each post office serves an average of not more than 6 000 inhabitants.

The average number of inhabitants and average area in km² apply to the entire territory of Croatia. The postal network must be composed of at least 700 regular post offices. The universal service provider is required to establish a network of access points in built-up areas, with a distance between access points of not more than 5 000 m.

Article 40 of the Postal Services Act requires HP to ensure that:

- 1 85% of postal items of the fastest category are delivered within one working day, and 95% within two working days, in domestic postal traffic, and that 95% of all other items in domestic traffic are delivered within three working days;

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| <p>2. 85% of postal items of the fastest category are delivered within three working days, and 97% within five working days, in international postal traffic with other EU Member States; for other countries, the maximum delivery dates are as laid down in the acts of the Universal Postal Union.</p> <p>For postal items addressed to recipients on the islands or received on the islands, the maximum delivery dates are one day longer. The final date for the receipt or posting of postal items must be indicated in the HP's offices intended for users of the service and on post boxes, broken down by category of speed for the transport of items.</p> <p>The universal service provider is required each year, in line with Croatian standards, to measure the quality of the universal service provided, and to have an independent body measure the quality of delivery of postal items in order to determine the percentage of items delivered.</p> <p>The Rules on the provision of the universal service lay down the manner in which the universal service provider issues and conducts a call for tenders for having the quality of the universal service measured by an independent body, which must be in line with the following Croatian standards:</p> <ol style="list-style-type: none"> 1. HRN EN 13850 - Measurement of the transit time of end-to-end services for single piece priority mail 2. HRN EN 14508 - Measurement of the transit time of end-to-end services for single piece non-priority mail 3. HR EN 14012 - Measuring complaints and compensation <p>The Postal Services Act requires the universal service provider to submit to HAKOM, for information, an annual report on the quality of the universal service, by 1 April for the preceding calendar year.</p> |
| <p>Explanation of the (typical) forms of entrustment. If standardized templates for entrustments are used for a certain sector, please attach them.</p> |
| <p>Maintaining transport connections between the regions (domestic scheduled air services) – Decisions;</p> <ul style="list-style-type: none"> - Decision on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020, adopted by the Government of Croatia on 24 September 2015. - Decision on preserving continuity of transport connections and ensuring uninterrupted provision of scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 17 March 2020. - Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 25 September 2020. - Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 5 March 2021. - Decision amending the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia, adopted by the Minister for the Sea, Transport and Infrastructure on 27 September 2021. <p>(copies of these decisions are attached)</p> <p>Zračna luka Osijek Decision</p> <p>The Decision of 18 October 2018 on the obligation to keep Zračna luka Osijek d.o.o. open for public transport by air in the period 2019–2023 ('the 2018 Decision'); please find a copy of the Decision attached.</p> <p>Provision of alternative and other postal services</p> <p>The right to provide alternative and other postal services is acquired by any legal or natural person from the date of submission of a duly completed application to HAKOM. The</p> |

application for the provision of postal services must be submitted to HAKOM in writing and contain the following details:

- 1 the name, registered or home address and personal identification number of the legal or natural person;
- 2 an extract from the corresponding register of legal or natural persons;
- 3 a list and description of the alternative and/or other postal services to be provided;
- 4 the cost of the postal services;
- 5 the area where the alternative and/or other postal services are to be provided (domestic and/or international traffic);
- 6 the period in which the applicant intends to start providing the alternative and/or other postal services.

Within 8 days of receipt of a duly completed application, HAKOM will issue the postal service provider with confirmation of submission of a duly completed application for certain types of postal service. The confirmation is not an administrative act.

HAKOM will examine the application to determine whether it relates to alternative postal services, taking into account the characteristics of the postal services applied for, their usefulness from the point of view of the users of postal services, and the cost of the service. If it is apparent from the application that the postal services applied for are alternative postal services, HAKOM will issue a decision on the provision of alternative postal services within 90 days of receipt of the duly completed application. Before issuing its decision, HAKOM will seek the opinion of the body responsible for safeguarding competition.

HAKOM's decision must contain the following details:

- 1 the right to provide alternative postal services in the specified area, in accordance with the application submitted;
- 2 the details of the postal service provider specified in the decision;
- 3 the obligations to be met by the alternative postal service provider.

The alternative postal service provider is required to notify HAKOM in writing of any change in the circumstances referred to in the application, without delay, but at the latest within 30 days of the change occurring. The alternative service provider is not allowed to transfer the right to provide alternative postal services to another legal or natural person.

The universal service provider is entitled to provide alternative postal services without obtaining HAKOM's prior consent.

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?

Maintaining transport connections between the regions (**domestic scheduled air services**) — the total duration of the entrustment is 7 years (from 27.3.2016 to 26.3.2022)

Zračna luka Osijek – The total duration of the entrustment is 10 years (from 1.1.2014 to 31.12.2023).

- a) Under the 2014 Decision, Zračna luka Osijek d.o.o. will provide the SGEI from 1.1.2014 to 31.12.2018.
- b) Under the 2018 Decision, Zračna luka Osijek d.o.o. will provide the SGEI from 1.1.2019 to 31.12.2023.

Hrvatska pošta

In accordance with Article 67(1) of the Postal Services Act, HP is the universal service provider and has the right and obligation to provide that service. Article 67(2) of the Postal

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| Services Act entrusts HP with the right and obligation to provide the universal service for a 15-year period (from the date of entry into force of the Act, on 1 January 2013), and HAKOM is required to carry out an analysis every five years of the state of the market for postal services, so as to determine whether there are postal service providers that can provide the universal service. If HAKOM's analysis determines that there are postal service providers that can provide the universal service, a public tender procedure will be carried out in order to determine the universal service provider. |
| Explanation whether (typically) exclusive or special rights are assigned to the undertakings. |
| No |
| Which aid instruments have been used (direct subsidies, guarantees, etc.)? |
| Direct subsidies |
| Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used. |
| <p>Maintaining transport connections between the regions (domestic scheduled air services)</p> <p>Compensation takes the form of a subsidy and represents the part of revenue lost in relation to the cost of providing the public service. It may not exceed the amount required to cover the net cost incurred and revenue generated in discharging the public service obligation, taking account of such revenue, which is retained by the air carrier, and a reasonable profit.</p> <p>The compensation paid to the air carriers Croatia Airlines d.d. and Trade Air d.o.o. for the operation of their public service between 27 March 2016 and 26 March 2022 is limited and defined in the contracts.</p> <p>The air carriers are required to submit the following to the Ministry with their written request for payment of compensation and the final accounts of the public service, for each air route under the contract: Transport effects for the accounting period; Details of the physical indicators for the form of transport operated, indicating the financial result of the public service for the accounting period; Copies of revenue and expenditure accounting books, i.e. copies of all revenue generated and all costs incurred (by type) relating to the operation of the public service, which are taken into account when calculating the financial result for the public service in the tender documentation.</p> <p>Zračna luka Osijek</p> <p>The compensation is a subsidy covering lost revenue 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.</p> <p>The compensation does not cover the reasonable profit arising from the provision of the SGEI.</p> <p>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.</p> <p>Hrvatska pošta</p> <p>The Postal Services Act requires HP to separate its accounts by separating income and expenditure generated from the universal service from income and expenditure generated from alternative postal services and from income and expenditure generated from other postal services, broken down by the type of service and product. This separation of accounts, based on the consistently applied and objectively justifiable cost accounting principles, also serves as the source for data for calculating the net cost of the universal service. In accordance with the Postal Services Act, an Instruction on the separation of accounts and cost accounting has been issued, which is intended to regulate the obligation of the universal service provider and provides a framework for the regulatory reports and</p> |

other information to be submitted by HP periodically to HAKOM as part of its legal obligations.

The separation of accounts which the Instruction requires of HP must fulfil the following objectives:

- ☐ to determine the cost of the services incurred, so that the prices for the services provided under the universal service can be determined accurately;

- ☐ to provide the basis for determining the net cost of providing the universal service.

HP's cost accounting allocates costs for each service, i.e.:

- a) the costs that can be directly attributed to a particular service or product, and
- b) common costs that cannot be directly attributed to a particular service or product.

Common costs that cannot be directly attributed to a particular service or product are allocated as follows:

1. whenever possible, they are allocated on the basis of a direct analysis of the origin of the costs themselves;

2. when a direct analysis is not possible, common cost categories are allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible, the indirect linkage being based on similar cost structures;

3. when it is not possible to allocate costs using direct or indirect measures, the cost category is allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the universal services and, on the other hand, to the alternative postal services and other postal services;

4. common costs which are necessary for the provision of the universal service, alternative postal services and other postal services will be allocated appropriately when the universal service, alternative postal services and other postal services use the same source of costs.

The procedure for calculating the net cost and the compensation mechanism are laid down in Articles 48-50 of the Postal Services Act. Article 48(1) of the Postal Services Act provides that if the obligation to provide the universal service creates a net cost that represents an unfair financial burden on the universal service provider, then the provider is entitled to compensation for the unfair financial burden determined.

The Rules on the provision of the universal service lay down the integral parts of the calculation of the net cost. They require the calculation of the net cost to be based on costs related to the provision of the universal service at the specified standard which generate a loss for the universal service provider, or under conditions where the costs are not in line with the usual rules of the market economy, as laid down in the Postal Services Act. The Rules on the provision of the universal service also provide that the net cost must include any cost related to and necessary for the provision of the universal service, and must be calculated as the difference between the net cost with an obligation to provide the universal service and the net cost without an obligation to provide the universal service.

To calculate the unfair financial burden in the postal sector, HAKOM has issued an Instruction in accordance with the Postal Services Act and the Rules on the provision of the universal service, and as universal service provider in Croatia HP is required to use a cost model whose cost base is according to the historical cost accounting (HCA) method and which is based on the fully allocated cost (FAC) accounting method. The ABC (activity-based costing) method is used as the technique for allocating costs.

A universal service provider seeking compensation for an unfair financial burden must apply to HAKOM by 31 July for the preceding calendar year. HAKOM must issue its decision as a rule within 60 days, or at the latest within 6 months of the date of submission of a duly completed application.

To calculate the net cost, the universal service provider must produce a business study with and without the obligation to provide a universal service, taking the following factors into account:

1 the net cost is based only on the costs related to provision of the universal service at the standard specified;

2 when calculating the net cost, only the following components of the universal service are taken into account:

a) those that generate a loss for the universal service provider, or

b) those that arise when the universal service provider operates under market conditions that fall outside the scope of the usual rules of the market economy;

3. when calculating the net cost, account is taken of ensuring the provision of the universal service to special users or groups of users of services generating a loss for the universal service provider or provided under cost conditions that do not correspond to the usual rules of the market economy;

4. when it is possible to provide the universal service at the specified standard using several different methods, the net cost is calculated by considering the method that ensures the provision of the universal service at the specified standard at the lowest cost, even if the universal service provider opts for a different method;

5. all tangible and intangible benefits which accrue to the universal service provider by providing the universal service are deducted from the cost of the universal service; these benefits include:

a) income generated from the universal service, as well as income from services that do not form part of the universal service and which would not have been obtained by the universal service provider without providing the universal service,

b) an increase in the value of the brand as a result of providing the universal service,

c) a reduction in the cost of providing other services as a result of synergies created by providing the universal service,

d) other tangible and intangible benefits determined by HAKOM;

6. the universal service provider is entitled to an appropriate level of profit when providing the universal service, allowing it to achieve a rate of return on resources that it could have obtained without providing the universal service.

Based on the calculation, HAKOM issues a decision determining the amount of the net cost that represents an unfair financial burden for the universal service provider. The funds for providing compensation for the unfair financial burden are paid from the national budget, on the basis of HAKOM's decision and in accordance with the rules on State aid.

Typical arrangements for avoiding and repaying any overcompensation.

Maintaining transport connections between the regions (domestic scheduled air services)

Compensation is paid to air carriers during the current month for each public service provided during the preceding month.

The air carriers are required to submit to the Ministry each month, for each public service provided, a written request for payment of compensation and the final accounts of the public service. The final beneficiary of the compensation must attach the following reports to its final accounts: transport effects for the accounting period; details of the physical indicators for the form of transport operated, indicating the financial result of the public service for the accounting period; and copies of revenue and expenditure accounting books (copies of all revenue generated and all costs incurred (by type) during the operation of the public service). The final beneficiary must also submit the documentation required for payment, which is checked before the compensation is paid and is defined in the contracts.

In addition, in accordance with the Public Internal Control System Act and the Fiscal Responsibility Act, the Ministry carries out administrative on-the-spot checks. The purpose of these administrative on-the-spot checks is to verify how the budget funds were spent, by taking a sample of spending and checking whether the underlying documentation is credible.

These checks also include samples of public service compensation paid from the Croatian state budget to the air carrier's bank account for 2020 and 2021. After these checks have been performed, an on-the-spot check report is produced.

We would point out that the reports on the on-the-spot checks performed among the air carriers in 2020 and 2021 reveal no deficiencies; in other words, there is reasonable assurance that the air carriers' obligations under the contracts for the operation of domestic scheduled air services were met, and that the Croatian state funds were spent in line with their intended purpose.

Zračna luka Osijek

Under the 2018 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 the Sea, Transport and Infrastructure carries 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).

Hrvatska pošta

As the provider of State aid, the Ministry of the Sea, Transport and Infrastructure ensures that the compensation paid to HP for provision of the universal service meets the requirements set out 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, in particular that HP does not receive compensation in excess of the amount determined in accordance with Article 5 of the Decision.

Similarly, following a written request by the Commission, the Ministry of the Sea, Transport and Infrastructure will submit all information requested and carry out regular checks at least every three years during the period of the individual State aid and at the end of that period. If HP receives compensation in excess of the amount determined in accordance with Article 5 of the Commission Decision, the Ministry of the Sea, Transport and Infrastructure will ask HP to repay the overcompensation paid. The criteria for calculating the compensation will be revised for future periods.

The amounts stated in the forecast for the individual State aid are indicative, and the exact amount of the net cost for each year is determined by decision of HAKOM following a procedure laid down in the Postal Services Act and the Instruction.

To avoid any distortion of competition, on no account may the compensation for an unfair financial burden on HP exceed, between 2019 and 2023, the amount necessary to cover the unfair financial burden, on the basis of an actual and true presentation of costs and receipts associated with the universal service, and the parameters for allocating costs and revenues. As the compensation is calculated and paid at the end of the calendar year, based on a decision by HAKOM on the amount of the unfair financial burden issued on the basis

of the findings of an independent auditor, we do not believe it is possible to overcompensate the universal service provider, because HAKOM calculates the compensation ex post (after the end of the calendar year).

Also, in the event of any change in the situation described, or if the conditions for the application of the Commission Decision cease to be met, the competent Croatian authorities are responsible for carrying out the procedure under Article 2(3) of the Commission Decision (notification of the European Commission in accordance with Article 108(3) TFEU).

A short explanation of how the **transparency requirements** (see Article 7 of the 2012 SGEI Decision) for the aid above 15 million euro to undertakings that also have activities outside the scope of the SGEI are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).

| Amount of aid granted | |
|---|--------------|
| 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) | |
| 2020. | 2021. |
| 25.51 | 27.32 |
| A: Total amount of aid granted (in millions EUR) paid by national central authorities³ | |
| 2020. | 2021. |
| 25.46 | 27.27 |
| B: Total amount of aid granted (in millions EUR) paid by regional authorities⁴ | |
| 2020. | 2021. |
| | |
| C: Total amount of aid granted (in millions EUR) paid by local authorities⁵ | |
| 2020. | 2021. |
| 0.049 | 0.049 |
| Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available) | |
| 2020. | 2021. |
| | |
| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ⁶ | |
| 2020. | 2021. |
| | |

² In accordance with Article 9(b) of the 2012 SGEI Decision.

³ If the aid amount cannot be split between central, regional and local authorities only the total amount of aid granted for all authorities should be reported.

⁴ See footnote 3.

⁵ See footnote 3.

⁶ The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Decision, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

Please also fill out the annexed summary excel file “SGEI Decision 2020 2021” with the total amounts per section for the whole Member State (not per region, local authority or municipality).

3. DESCRIPTION OF THE APPLICATION OF THE 2012 SGEI FRAMEWORK

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

SGEI compensation exceeding EUR 15 million, falling outside the SGEI Decision (please specify the Commission decision approving each measure if applicable):

- i. Postal services
- ii. Energy supply
- iii. Waste collection
- iv. Water supply
- v. Air or maritime links to islands with average annual traffic above the limits set in Art. 2(1)(d)
- vi. Airports and ports with average annual traffic above the limit set in Art. 2(1)(e)
- vii. Culture
- viii. Financial services
- ix. Other sectors (ROAD SECTOR)

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

| Section (e.g. iii. Waste collection or viii. Financial services) |
|--|
| <p>IX. Other sectors – Road sector</p> <p>The ‘Istrian Y’ motorway is 145 km long and links Istria with the rest of Croatia. It extends from Umag in the north-west and Pula in the south of Istria to Matulji in the north-east of the region. The concession model covers the financing, construction and maintenance of the motorway. The concession holder is Bina Istra. Bina Istra is a limited company and concession holder of the project, which is the sole activity performed by Bina Istra.</p> <p>The shareholders in Bina Istra are Bouygues Travaux Publics (16% share), Hrvatske Autoceste d.o.o. (14.8%), Istarske Autoceste d.o.o. (2.2%) and Bina-FINCOM d.d. (67%). The shareholders in Bina-FINCOM are Bouygues (50.7%), HAC (44%), Ina Industrija Nafta d.d (5%) and G.E.A (Grenobloise d’Electronique et d’Automatismes) (0.3%).</p> |
| Clear and comprehensive description of how the respective services are organized in your Member State⁷ |
| <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> |

⁷ If in a certain sector only a small number of individual SGEIs exist in your Member State, we appreciate 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 concrete measure.

Croatia granted a concession to Bina Istra d.d. under a Concession contract for the financing, construction and maintenance of the ‘Adriatic motorway’ sections Dragonja-Pula and Kanfanar-Pazin-Matulji (First and second phase), from 25 September 1995, with six amendments to the Concession contract (the sixth and last amendment was on 4 November 2020). The concession covers the implementation of the project through the financing, construction, management and maintenance of the toll sections of the motorway that are necessary for the implementation of Phases 1A, 1B, 2A and 2B. The sixth amendment to the Contract was signed to implement Sub-phase 2B2-1 of the Project and to complete Phase 2B1. Sub-phase 2B2-1 consists, in principle, of full widening by constructing a second lane from the Vranja exit to the Učka tunnel/Kvarner portal, including a second tube of the Učka tunnel, northeast of the existing tube. The total length of this section is 8 km, 5.63 km of which is the new tube of the Učka tunnel, which will be equipped and linked to the existing tube by cross-connections, thereby ensuring compliance with Directive 2004/54/EC on minimum safety requirements for tunnels in the trans-European road network. At the same time, a new rest area will be built on the Kvarner side of the Učka tunnel. The construction of Sub-phase 2B2-1 is expected to create a host of benefits for locals and users of the motorway, including: an increased level of safety on this section of the motorway; reduced congestion; shortened journey times; environmental benefits; an upgrade of the extensive trans-European transport network (TEN-T), providing a suitable link between Istria and the rest of Croatia; improved economic and social cohesion; and significant economic benefits.

Phase 2B1 of the project represents an investment through widening to full capacity on the section Rogovići-Vranja (28 km) through the construction of a second carriageway with two lanes (width 3.5 m) and a hard shoulder (width 2.5 m). Investment in Phase 2B1 involves a large number of facilities (overpasses, underpasses and viaducts) and the Rebri rest area, which is required for safety reasons, as there are no rest areas from the Učka tunnel to Vodnjan. The construction work for Phase 2B1 started on 15 November 2018 and has progressed faster than envisaged in the schedule and rolling plan. The sub-section from Rogović to Cerovlje (approximately 11 km) was opened in early November 2021 in accordance with the rolling plan. The sub-section Cerovlje — Lupoglav (Sub-phase 2B1-2) opened at the end of July 2021, when the Rebri rest area was completed (Sub-phase 2B1-4), meaning that both sub-sections were opened almost 4 months ahead of schedule. The last sub-section Lupoglav — Vranja (Sub-phase 2B1-3) was opened at the end of September 2021. The concession holder, Bina Istra d.d., charges a fee, i.e. collects a toll from users, in accordance with Article 27 of the concession contract. The concession holder also earns revenue through secondary facilities. These secondary facilities include shops, business premises, buildings, petrol stations, restaurants, car parks, billboards, recreation parks and other facilities located on, under or linked to the toll motorway.

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

The Croatian Government granted a concession to Bina Istra d.d. through the concession contract concluded on 25 September 1995, which has been amended six times, on 18 September 1997, 27 August 1999, 25 February 2003, 25 August 2008, 5 October 2018 and 4 November 2020. The legal basis for the conclusion of Contract No 6 without having to initiate a new concession award procedure is Article 62(5)(2) and Article 62(8) of the Concessions Act. The relevant provisions of Croatian law were transposed from Article 43(1)(b) of Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014). The grantor of the concession established that the increase in the value of the concession under the proposed Contract No 6 does not exceed 50% of the value of the current concession

| |
|--|
| <p>contract. The European Commission's Directorate-General for Competition issued an opinion on 7 August 2020 confirming that Contract No 6 meets the conditions under Article 43(1)(b) of Directive 2014/23/EU. As Article 43(1)(b) of Directive 2014/23/EC is transposed by Article 62(5)(2) and Article 62(8) of the Concessions Act, all arguments put forward in the European Commission's opinion of 07 August 2020, in which DG Competition established that the conditions for the application of Article 43(1)(b) of Directive 2014/23/EU to Contract No 6 are met in this specific case, also apply to Contract No 6 and justify the application of Article 62(5)(2) and Article 62(8) of the Concessions Act to the specific case of the amendment of the current concession contract. In accordance with Article 64 of the Concessions Act, Croatia, acting through the Ministry of the Sea, Transport and Infrastructure in its capacity as grantor of the concession, before adopting a decision on Contract No 6, obtained a statement from the Ministry of Finance and the opinions of other central state administration bodies with competence in the award of the concession, and from the competent public prosecutor's office. Croatia initiated a procedure on 30 June 2020 for the notification to the European Commission of State aid under No SA.57863. After the procedure was completed, the European Commission concluded that Contract No 6 for the implementation of Sub-phase 2B2-1 of the project promotes growth and activates investment, with a limited effect on motorway users, in accordance with EU State aid and public procurement rules, and that the extension of the concession is proportionate to the amount required to finance the works necessary for the development and construction of Sub-phase 2B2-1.</p> |
| <p>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?</p> |
| <p>Contract No 6 changes the duration of the concession and amends and consolidates the concession contract, i.e. the concession expires within 18 months of the planned date of repayment of the loan for Phase 2B2-1, so by 15 June 2039.</p> |
| <p>Explanation whether (typically) exclusive or special rights are assigned to the undertakings.</p> |
| <p>Special rights are assigned to the undertaking.</p> |
| <p>Which aid instruments have been used (direct subsidies, guarantees, etc.)?</p> |
| <p>The aid instrument used is a direct subsidy.</p> |
| <p>Typical compensation mechanism as regards the respective services and whether a methodology based on cost allocation or the net avoided cost methodology is used.</p> |
| <p>Under the concession contract between Croatia and the company Bina Istra d.d., a financial contribution is paid to the company, comprising the difference between estimated toll revenue and the costs defined in the concession contract. That is because there is a difference between estimated toll revenue and the costs defined in Annex 19 to the amended contract of 4 November 2020, since the estimated toll revenue (given current traffic levels) is insufficient to cover all the costs defined within the specified duration of the concession. The amount of the financial contribution is set by the concession authority, on an annual basis, according to the approved costs and the price of the toll on the Istrian Y motorway, and is calculated using a financial model. Under the terms of the concession contract, the shareholders in Bina Istra also cover 50% of the risk of a fall in toll revenue, up to a maximum amount of EUR 10 million, until the end of the concession.</p> |

| Typical arrangements for avoiding and repaying any overcompensation. | |
|---|-------|
| <p>The financial contribution mechanism is subject to the available cash mechanism, which is used as a corrective mechanism, taking into account the actual revenue and incurred costs of Bina Istra. Essentially, if the balance between all revenue received by Bina Istra (including the financial contribution) and the sum of all costs incurred during the same year is positive, the 'available cash' generated during year 'n' will be used to reduce any payments made by the concession authority under the financial contribution during year 'n+1'. This allows the financial contribution to be reduced, so as to reflect, among other things, all cost reductions and unused amounts in the budget or higher than expected revenue. If no financial contribution is paid during year 'n+1', the available cash will be shared between Bina Istra and the concession authority, with 70% of the available cash being paid to the concession authority as a concession fee and 30% to Bina Istra, up to a maximum amount of EUR 250 000 (as at 1 January 2015).</p> <p>A short explanation of how the transparency requirements (see Paragraph 60 of the 2012 SGEI Framework) are being complied with. In your answer please also include some relevant examples of information published for this purpose (e.g. some links to websites or other references), indicate whether you have a central website on which you publish this information for all aid measures concerned in your Member State (and if so provide the link to this website), or alternatively explain if and how the publication takes place at the level granting the aid (e.g. central, regional or local level).</p> | |
| Amount of aid granted | |
| Total amount of aid granted (in millions EUR) ⁸ . This includes all aid granted in your territory, including aid granted by regional and local authorities. (A+B+C) | |
| 2020. | 2021. |
| 44.62 | 31.87 |
| A: Total amount of aid granted (in millions EUR) paid by national central authorities ⁹ | |
| 2020. | 2021. |
| 44.62 | 31.87 |
| B: Total amount of aid granted (in millions EUR) paid by regional authorities ¹⁰ | |
| 2020. | 2021. |
| 0 | 0 |
| C: Total amount of aid granted (in millions EUR) paid by local authorities ¹¹ | |
| 2020. | 2021. |
| 0 | 0 |
| Share of expenditure per aid instrument (direct subsidy, guarantees etc.) (if available) | |
| 2020. | 2021. |
| 0 | 0 |

⁸ In accordance with Paragraph 62 b) of the 2012 SGEI Framework.

⁹ If the aid amount cannot be split between central, regional and local authorities only the total amount of aid granted for all authorities should be reported.

¹⁰ See footnote 9.

¹¹ See footnote 9.

| Additional quantitative information (e.g. number of beneficiaries per sector, average aid amount, size of the undertakings) ¹² | |
|---|--------------|
| 2020. | 2021. |
| <p>The expected annual increase in the number of vehicles using the Istrian Y motorway did not fully materialise due to the COVID-19 pandemic. In 2020, owing to travel restrictions imposed both in Croatia and across the world, Bina-Istra d.d. recorded only 7.12 million transactions, compared with the 10.67 million forecast by an independent transport consultant, which represented a 33% drop in traffic. In accordance with the contractual mechanism, the risk of falling toll revenues was shared with the shareholders of Bina-Istra, who paid almost EUR 6.4 million. In 2021, 9.5 million transactions were recorded, an increase of almost 33% in relation to 2020, but this was still almost 11% fewer transactions than in the pre-pandemic year of 2019. In 2021, part of the paid-in capital was reimbursed to shareholders on the basis of their contribution, in accordance with the conditions laid down in the concession agreement.</p> | |

Please also fill out the annexed summary excel file “SGEI Framework 2020 2021” with the total amounts per section for the whole Member State (not per region, local authority or municipality).

4. COMPLAINTS BY THIRD PARTIES

Please provide an overview of complaints by third parties, in particular litigation before national courts, regarding measures in scope of the 2012 SGEI Decision or 2012 SGEI Framework. Please be as specific as possible in your reply and include the sector for which you have received the complaints, the contents of the complaints and the possible follow-up by your authorities or the likely outcome of the court proceedings.

There were no complaints by third parties during the reporting period (2020–2021).

5. MISCELLANEOUS

a. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Decision and ask you to in particular consider the following issues:

- drawing up an entrustment act that complies with Article 4 of the SGEI Decision;
- specifying the amount of compensation in line with Article 5 of the SGEI Decision;
- determining the reasonable profit level in line with Article 5(5)-(8) of the SGEI Decision;
- regularly checking overcompensation as required by Article 6 of the SGEI Decision;

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

b. We kindly invite you to indicate whether your authorities have experienced difficulties in applying the 2012 SGEI Framework and ask you to in particular consider the following issues:

- carrying out a public consultation in line with paragraph 14 of the SGEI Framework;

¹² The Commission would welcome any data that you might have on aid granted under the 2012 SGEI Framework, for example the number of beneficiaries per sector, average amount of aid, amount per aid instrument, size of the undertakings, etc. Should such other quantitative information data not be readily available in your Member State, they can of course be presented in a more aggregated and/or estimated way. In that case please indicate that estimations have been used as well as the type of aggregation made.

- complying with public procurement rules in line with para 19 of the SGEI Framework;
- determining the net avoided cost as required by paras 25-27 of the SGEI Framework;
- determining the reasonable profit level in line with paras 33-38 of the SGEI Framework;

Please be as specific as possible in your reply, include relevant examples and, if applicable, the sector for which the difficulties are (most) relevant.

- c. 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 below.

| SGEI Decision in your Member State | | Total amount for whole Member State | |
|--|--|-------------------------------------|-----------------|
| | | 2020 | 2021 |
| Article 2(1)(b) | Hospitals providing medical care, including, where applicable emergency services | | |
| Article 2(1)(c) | Health and long term care | | |
| | Childcare | | |
| | Access to and reintegration into the labour market | | |
| | Access to and reintegration into the labour market | | |
| | Social housing | | |
| | Care and social inclusion of vulnerable groups | | |
| | Other social services | | |
| Article 2(1)(d) | Air or maritime links | € 38.177.617,47 | € 39.857.939,16 |
| Article 2(1)(e) | Airports and ports | | |
| Article 2(1)(a), less then EUR 15 million per year | Postal services | | |
| | Energy | | |
| | Refuse collection | | |
| | Water supply | | |
| | Culture | | |
| | Financial services | | |
| | Other | | |

| SGEI Framework in your Member State | Total amount for whole Member State | |
|--|-------------------------------------|----------------|
| | 2020 | 2021 |
| Postal services | | |
| Energy | | |
| Refuse collection | | |
| Water supply | | |
| Air or maritime links | € 2.689.694,66 | € 2.754.426,34 |
| Airports and ports | | |
| Culture | | |
| Financial services | | |
| Other | | |

| SGEI Decision in your Member State | | Total amount for whole Member State | |
|--|---|-------------------------------------|---------|
| | | 2020 | 2021 |
| Article 2(1)(b) | Hospitals providing medical care, including, where applicable, emergency services | | |
| Article 2(1)(c) | Health and long term care | | |
| | Child care | | |
| | Access to and reintegration into the labour market | | |
| | Access to and reintegration into the labour market | | |
| | Social housing | | |
| | Care and social inclusion of vulnerable groups | | |
| | Other social services | | |
| Article 2(1)(d) | Air or maritime links | | |
| Article 2(1)(e) | Airports and ports | € 0,86 | € 0,85 |
| Article 2(1)(a), less then EUR 15 million per year | Postal services | € 12,35 | € 12,68 |
| | Energy | | |
| | Refuse collection | | |
| | Water supply | | |
| | Culture | | |
| | Financial services | | |
| | Other — (domestic scheduled air traffic) | € 12,29 | € 13,78 |

Amount (EUR million)

| SGEI Framework in your Member State | Total amount for whole Member State | |
|-------------------------------------|-------------------------------------|---------|
| | 2020 | 2021 |
| Postal services | | |
| Energy | | |
| Refuse collection | | |
| Water supply | | |
| Air or maritime links | | |
| Airports and ports | | |
| Culture | | |
| Financial services | | |
| Other | € 44,62 | € 31,87 |

REPUBLIC OF CROATIA
MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE

Pursuant to Article 95 of the Budget Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 87/08, 136/12 and 15/15), in conjunction with Article 30 of the Air Transport Act (NN Nos 69/09, 84/11, 54/13, 127/13 and 92/14), the Minister for the Sea, Transport and Infrastructure hereby issues the

DECISION

on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia

I.

The obligation to provide domestic scheduled air services is laid down on the following routes in order to maintain continuity of transport connections and uninterrupted provision of scheduled air services within the Republic of Croatia and transport connections between the regions and to further the economic and social development of the Republic of Croatia in response to the aggravating circumstances caused by the COVID-19 epidemic:

- Dubrovnik — Zagreb — Dubrovnik;
- Split – Zagreb – Zagreb;
- Zagreb – Zadar – Pula – Zagreb;
- Zagreb – Brač – Zagreb;
- Osijek – Dubrovnik – Osijek;
- Osijek – Split – Osijek;
- Osijek – Zagreb – Osijek;
- Rijeka – Split – Dubrovnik – Rijeka;
- Osijek – Pula – Split – Osijek;
- Rijeka – Zadar – Rijeka;
- Osijek – Zadar – Osijek.

II.

The provision of domestic scheduled air services on the routes listed in point I of this Decision shall constitute a public service of significance to the economic and social development of the Croatian regions.

III.

The service referred to in point I of this Decision shall be operated during the period from the expiry of the current obligation to operate domestic scheduled air services in accordance with the Decision on the obligation to operate domestic scheduled air services between 27 March 2016 and 28 March 2020, Class: 022-03/15-04/411, ref. No: 50301-05/16-15-3, which the Government of the Republic of Croatia adopted at its session on 24 September 2015, in other words from 29 March 2020 until the date of completion of the procedure for the selection of an air carrier for the provision of domestic scheduled air services by public invitation to tender, which shall be no later than 24 October 2020.

The scope and standard of service referred to in point I of this Decision shall be identical to the scope and standard laid down in the first paragraph of this point and the corresponding public invitation to tender published in the Official Journal of the European Union on 5 November 2015 (2015/C 366/3).

IV.

The airline providing the service referred to in point I of this Decision shall have the right to compensation for the services rendered.

The compensation referred to in the preceding paragraph shall comprise the income shortfall in relation to the cost of providing the service.

Funds for compensation, comprising the difference between a part of the lost earnings and the service provision cost, have been allocated from the state budget of the Republic of Croatia for 2020, while the Ministry of the Sea, Transport and Infrastructure shall earmark state budget funds as a subsidy for maintaining transport connections between the regions – domestic scheduled air services.

V.

The airlines Croatia Airlines d.d. and Trade Air d.o.o. shall be entitled to operate the service referred to in point I of this Decision within the financial and operational limits set out in the Decision referred to in the first paragraph of point III of this Decision and the public tendering procedure referred to in the second paragraph of point III of this Decision.

VI.

The airlines referred to in point V of this Decision shall be compensated for any costs incurred in complying with the standard referred to in the second paragraph of point III of this Decision which are necessary for providing the public service referred to in point I of this Decision.

The compensation of costs referred to in the preceding paragraph shall not exceed the amount required to cover the net costs incurred in the performance of each individual public service obligation, taking into account the income retained by the airline from the obligation and a reasonable profit margin.

VII.

The airlines referred to in point V of this Decision shall keep internal financial reports and income and expenditure accounts relating to the provision of domestic scheduled air services on the routes referred to in point I of this Decision separate from their other activities.

The Ministry of the Sea, Transport and Infrastructure and the airlines referred to in point V of this Decision shall lay down their mutual rights and obligations regarding the payment of compensation for the services referred to in point I of this Decision in more detail in a separate agreement.

VIII.

This Decision shall take effect on the date of its adoption.

Class: 400-02/19-03/85
Ref. No: 530-07-1-20-7
Zagreb, 17 March 2020

The Minister
Oleg Butković

| | | |
|----------------------|---------------------|-------|
| Received: | 29.10.2020 | |
| Classification code: | Organisational unit | |
| 344-01/20-01/14 | 07-2-2-2 | |
| Ref. No: | Annexes | Value |
| 383-20-2 | 0 | 0.00 |

HAKOM



Class: UP/I-344-02/20-06/01
Ref. No: 376-04-20-10
Zagreb, 28 October 2020

Republic of Croatia
Ministry of the Sea, Transport and Infrastructure
Directorate General of Civil Aviation, Electronic Communications and Post
Prisavlje 14
10 000 Zagreb

Subject: Notification of Decision for information

[Formal opening],

The Croatian Regulatory Authority for Network Industries (HAKOM) hereby sends you the Decision of its Council on the amount of the unfair financial burden in 2019 for the universal service provider HP-Hrvatska pošta d.d., Zagreb, Jurišićeva 13.

[Complimentary close],

PRESIDENT OF THE COUNCIL

Tonko Obuljen

Enclosure:

1 HAKOM Council Decision CLASS: UP/I-344-02/20-06/01, REF. NO: 376-04-20-09, of 28 October 2020

To be sent to:

- 1 Ministry of the Sea, Transport and Infrastructure, Prisavlje 14, 10001 Zagreb - for information, hand delivery
- 2 the files

HAKOM

Class: UP/I-344-02/20-06/01

Ref. No: 376-06-20-09

Zagreb, 28 October 2020

In accordance with Article 8(1)(6) and Article 10(1) of the Postal Services Act (ZPU) (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 144/12, 153/13, 78/15 and 110/19), under a procedure for determining the level of compensation for an unfair financial burden on the universal service provider launched at the request of HP-Hrvatska pošta d.d., Jurišićeva 13, Zagreb, at a meeting held on 28 October 2020 the Council of the Croatian Regulatory Authority for Network Industries adopted the following

DECISION

The amount of the unfair financial burden on universal service provider HP-Hrvatska pošta d.d., Jurišićeva 13, Zagreb, in 2019 is set at HRK 92 845 875.00 (ninety-two million, eight hundred and forty-five thousand, eight hundred and seventy-five kuna).

Grounds

On 30 June 2020 the universal service provider, HP-Hrvatska pošta d.d., Zagreb, Jurišićeva 13 (hereinafter: HP) submitted to the Croatian Regulatory Authority for Network Industries a Request for compensation for the universal service costs that represented an unfair financial burden in 2019 (hereinafter: the Request). The Request was accompanied by the revised financial accounts for 2019 and a calculation of the net cost incurred for 2019, in accordance with Article 49(1) and (2) ZPU.

HP's Request states that its universal service obligation imposes an unfair financial burden on it by requiring it to provide services under conditions other than the usual market conditions.

HP's Request describes how it would operate if it were not required to provide the universal service. The assumptions used under the scenario with no obligation to provide the universal service are shown as a commercial scenario, which is based on changes in the following operational parameters: (i) the density of access points for the receipt of postal items; (ii) the frequency of delivery of postal items, and (iii) providing postal services to the blind free of charge.

HP states that under the commercial scenario, there would be a lower density of access points and a lower frequency of delivery, which would lead to further changes in transport, routing and related overheads. According to HP, these changes would have the effect of reducing operating expenses, but also of reducing income from the universal service and other services.

Based on its revised financial accounts for 2019, HP showed the effect of the changes on income and expenditure that would arise under the commercial scenario. According to HP's calculation, in a situation with no obligation to provide the universal service, i.e. to operate under market conditions, its expenditure would have been HRK 214 765 530.00 lower in 2019. Consequently, HP's total expenditure under the commercial scenario would have been HRK 1 541 050 556.00.

| | Costs under the USO scenario | Fall in costs under the commercial scenario | Costs under the commercial scenario | % change |
|-------------------------------------|------------------------------|---|-------------------------------------|------------|
| Receipt (activities at the counter) | 489 879 686.00 | 139 076 334.00 | 350 803 351.00 | 28% |
| Delivery | 594 476 854.00 | 44 116 137.00 | 550 360 717.00 | 7% |
| Transport | 84 251 443.00 | 14 175 404.00 | 70 076 040.00 | 17% |
| Routing | 123 566 692.00 | 433 180.00 | 123 133 512.00 | 0.4% |
| Structural activities (overheads) | 388 900 383.00 | 16 790 131.00 | 372 110 252.00 | 4% |
| Financial expenditure | 21 800 878.00 | 0.00 | 21 800 878.00 | 0% |
| International accounting | 52 940 150.00 | 174 343.00 | 52 765 806.00 | 0.3% |
| Total | 1 755 816 086.00 | 214 765 530.00 | 1 541 050 556.00 | 12% |

Although the commercial scenario assumes sustainable business activity in the long term, some of HP's business income would be permanently lost due to the lower density of access points and lower frequency of delivery under the commercial scenario. According to the calculation made, HP's income were it to operate with no universal service obligation would fall by HRK 85 541 886.00. Consequently, HP's total income under the commercial scenario would have been HRK 1 830 824 554.00.

| | Income under the USO scenario | Density of access points | Frequency of delivery | Other | Income under the commercial scenario | % change |
|----------------------------------|-------------------------------|--------------------------|-----------------------|--------------------|--------------------------------------|-----------|
| Postal services | 1 082 904 570.00 | 3 566 236.00 | 0.00 | | 1 079 338 334.00 | 0% |
| Priority items of correspondence | 16 409 616.00 | 162 091.00 | 2 577 105.00 | | 13 670 420.00 | 17% |
| Express services | 156 626 941.00 | 3 334 981.00 | 0.00 | | 153 291 960.00 | 2% |
| Financial services | 250 867 660.00 | 49 594 133.00 | 0.00 | | 201 273 527.00 | 20% |
| Retail | 68 574 021.00 | 17 327 906.00 | 0.00 | | 51 246 115.00 | 25% |
| Other | 340 983 633.00 | 9 167 886.00 | 0.00 | -188 452.00 | 332 004 199.00 | 3% |
| Total | 1 916 366 441.00 | 83 153 234.00 | 2 577 105.00 | -188 452.00 | 1 830 824 554.00 | 4% |

Moreover, in accordance with the applicable legislation and HAKOM's Instruction of 31 August 2015 on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden ('the Instruction') (Class: 344-02/14-06/01, Ref. No: 376-11-15-5), HP calculated the market benefits resulting from the universal service as HRK 27 366 618.00. The amount obtained by calculating the difference between optimised costs and reduced income under the commercial scenario is deducted from this total market benefit. The total net cost of the universal service also includes "appropriate profit", defined as the fair rate of return on the capital employed (weighted average cost of capital – WACC), which is calculated as the difference between necessary investments in property where the business operates under the universal service obligation and under the commercial scenario, at a total amount of HRK 5 125 546.00.

In conclusion, the difference between HP's financial result with an obligation to provide the universal service and without such obligation would be HRK 106 982 571.00, which is, according to HP's calculation, the amount of the net cost of the universal service for 2019.

| Reference to the Instruction | | Δ Costs | Δ Income | Δ Effect |
|------------------------------|--|-----------------------|----------------------|-----------------------|
| CNCi | Density of access points | 139 076 334.00 | 83 153 234.00 | 55 923 101.00 |
| DNCi | Frequency of delivery | 44 116 137.00 | 2 577 105.00 | 41 539 033.00 |
| | Geographical coverage | 0.00 | 0.00 | 0.00 |
| STC | Transport and routing | 14 608 584.00 | 0.00 | 14 406 584.00 |
| OHC | Overheads | 16 790 131.00 | 0.00 | 16 790 131.00 |
| | International accounting | 174 343.00 | 0.00 | 174 343.00 |
| FSR | Free services for the blind | | -188 452.00 | 188 452.00 |
| | Δ Effect | 214 765 530.00 | 85 541 886.00 | 129 223 644.00 |
| MB | Market benefits | | | -27 366 618.00 |
| Profit | Appropriate profit | | | 5 125 546.00 |
| NCUS | Σ Net cost of universal service | | | 106 982 571.00 |

Verification of the submitted calculation of the net cost to HP:

To examine whether the calculation submitted with HP's Request is justified, HAKOM commissioned an external auditor, BDO Croatia d.o.o. ('BDO'), to check the amount of the calculated net cost. Between 25 August and 2 October 2020 a series of workshops was held with representatives of HAKOM, BDO and HP, where all elements of the calculation were checked, focusing in particular on the assumptions used under the commercial scenario, especially the density of access points, frequency of delivery, market benefits and appropriate profit.

Based on the figures submitted and the workshops held with representatives of HP, on 16 October 2020 BDO submitted a final report to HAKOM with an independent expression of assurance of the commercial scenario and calculation of the net cost for 2019 ('the Report').

The report found that certain elements of the calculation of the net cost should be modified. Its specific findings were as follows:

1 Savings from the change in the density of access points for the receipt of postal items

Under the commercial scenario, HP assumed it would operate with 619 post offices, including strategic post offices, i.e. that it would close 396 post offices. Consequently, it assumed a reduction in the level of income and various types of expenditure arising from provision of the universal service. Based on the cost-effectiveness analysis, and taking into account the difference between monetary and non-monetary expenditure, the size of individual post offices, their location and the coverage of the territory of the Republic of Croatia, it was necessary to correct the calculation of the net cost for 62 post offices, as follows:

| | HP's calculation | Corrected calculation | Difference |
|--|------------------|-----------------------|------------|
| Open post offices under the commercial scenario | 561 | 623 | 62 |
| Closed post offices under the commercial scenario | 396 | 334 | -62 |
| Strategic post offices under the commercial scenario | 58 | 58 | 0 |
| Total post offices | 1 015 | 1 015 | 0 |

This correction had the following effect on the calculation of the net cost:

| Description | HP's calculation | Corrected calculation | Effect on net cost |
|---|----------------------|-----------------------|----------------------|
| | HRK | HRK | HRK |
| Costs of closed post offices | 118 687 117.00 | 83 669 341.00 | -35 017 776.00 |
| Increase of costs in other post offices | -4 393 983.00 | -2 374 116.00 | 2 019 867.00 |
| Other operating costs | 24 783 200.00 | 21 720 869.00 | -3 062 331.00 |
| Fall in income | -83 153 234.00 | -55 329 052.00 | 27 824 182.00 |
| Total | 55 923 101.00 | 47 687 042.00 | -8 236 058.00 |

On the basis of the above figures, the net cost was reduced by HRK 8 236 058.00.

2. Savings resulting from changes in frequency of delivery of postal items

Under the commercial scenario, HP assumed a reduction in frequency of delivery by confining five-day-per-week postal deliveries to large towns and cities. Postal deliveries in all other regions currently organised with a five-day-per-week service are shown in the commercial scenario as being made every second day, while deliveries in regions currently exempted from the five-day regime would be made at most once per week. When the calculation was examined, it was established that, under certain headings, HP had also

included costs that were unrelated to delivery under the commercial scenario, which has the following implications for the calculation:

| | HP's calculation | Corrected calculation | Difference |
|----------------|----------------------|-----------------------|--------------------|
| Staff costs | 31 839 530.00 | 30 998 585.00 | -840 945.00 |
| Fall in income | -2 577 105.00 | -2 551 694.00 | 25 411.00 |
| TOTAL | 29 262 426.00 | 28 446 891.00 | -815 535.00 |

On the basis of the above figures, the net cost was reduced by HRK 815 535.00.

3. *Owing to changes in density of access points and frequency of delivery, the following amounts should be corrected:*

- (i) Changes in the amount of administrative cost savings — under the commercial scenario HP did not use appropriate distributive formulas for the reduction in administrative costs for groups of costs related to savings per sector of maintenance. Specifically, the same percentage reduction in the number of post offices calculated across the whole of HP was used instead of a percentage reduction in the number of post offices per group of areas. For the costs associated with the reduction in the activities of profitable centres, the appropriate distributive formula is the reduction in financial revenue by group of areas, not the reduction in the number of post offices.
- (ii) As far as the sector of international accounting and transport and sorting is concerned, it was established that the increase in the number of post offices that are open meant that the number of vehicles for initial transport had to be increased by eight light delivery vehicles.

| | HP's calculation | Corrected calculation | Difference |
|--------------------------|------------------|-----------------------|---------------|
| Overheads | 16 790 131.00 | 14 240 233.00 | -2 549 898.00 |
| International accounting | 174 343.00 | 85 458.00 | -88 885.00 |
| Transport and sorting | 14 608 584.00 | 13 014 841.00 | -1 593 743.00 |

According to the above figures, the net cost was reduced by HRK 4 232 526.00.

4 *Market benefits resulting from provision of universal service:*

Under the commercial scenario, HP assumed an improved corporate reputation and brand value accounting for 30% of total marketing costs. The increase in the number of post offices that are open, which raises the company's profile, has been factored in to the calculation base, and the calculation has been corrected as follows:

| | HP's calculation | Corrected calculation | Difference |
|---------------------------------|------------------|-----------------------|------------|
| Increased effect of advertising | 735 847.00 | 635 484.00 | 100 363.00 |

5. *Appropriate profit*

Under the Commercial scenario, HP calculated appropriate profit on a reduction in assets as a percentage corresponding to the reduction in the number of post offices. This calculation was considered to be inappropriate, and it was requested that the reduction of the calculation should be based on the most accurate value of the assets of the closed post offices, since most of the post offices that had been closed were small with relatively low-value assets. This change with an assumed WACC of 9.91% reduces the appropriate profit as follows:

| | HP's calculation | Corrected calculation | Difference |
|--------------------|------------------|-----------------------|-------------|
| Appropriate profit | 5 125 546.00 | 4 172 607.00 | -952 939.00 |

On the basis of the above-mentioned items, the initial amount claimed of HRK 106 982.571.00 is reduced by a total of HRK 14 136 696.00, resulting in a definitive amount of the unfair financial burden of HRK 92 845 875.00 as shown below:

| Reference to the Instruction | | Δ Costs | Δ Income | Δ Effect |
|------------------------------|--|-----------------------|----------------------|-----------------------|
| CNCi | Density of access points | 103 016 094.00 | 55 329 052.00 | 47 687 042.00 |
| DNCi | Frequency of delivery | 43 275 192.00 | 2 551 694.00 | 40 723 498.00 |
| | Geographical coverage | 0.00 | 0.00 | 0.00 |
| STC | Transport and routing | 13 014 841.00 | 0.00 | 13 014 841.00 |
| OHC | Overheads | 14 240 233.00 | 0.00 | 14 240 233.00 |
| | International accounting | 85 458.00 | 0.00 | 85 458.00 |
| FSR | Free services for the blind | | -188 452.00 | 188 452.00 |
| Δ Effect | | 173 631 818.00 | 57 692 294.00 | 115 939 524.00 |
| MB | Market benefits | | | -27 266 255.00 |
| Profit | Appropriate profit | | | 4 172 607.00 |
| NCUS | Σ Net cost of universal service | | | 92 845 875.00 |

Evaluation of unfair financial burden:

Once the amount of the net cost of the universal service had been determined using the procedure set out above, HAKOM launched the procedure for evaluating the unfair financial burden for the universal service provider. This procedure involved assessing whether the net cost of the universal service represented an unfair financial burden for the purposes of point 5 of the Instruction, i.e. whether:

- the net cost of the universal service consisted exclusively of demonstrable and economically acceptable costs;
- the net cost value of the universal service, calculated in line with the principles laid down in the Instruction, was positive;
- the net cost of the universal service exceeded 1% of the total costs of the universal service provider;
- the net cost of the universal service represented a significant share of the universal service provider's pre-tax profit;
- the universal service provider's EBITDA margin was at least 5% lower than the EBITDA margin of the three largest postal service providers on the market. The calculation is based on demonstrable and economically acceptable information from the documented evidence of the universal service provider and other postal service providers;
- a universal service provider that ended the year with a loss would have made a profit if it had been compensated for the net cost of the universal service.

In accordance with point 5, paragraph 3, of the Instruction, the evaluation of the unfair financial burden established the following:

- As far as the first criterion is concerned, the Report reveals that the net cost of the universal service is based on the revised regulatory financial accounts, which are derived from HP's revised annual financial accounts, and on the calculations derived from

assumptions made in line with the Instruction, which reveals that the net cost of the universal service consists exclusively of demonstrable and economically acceptable costs.

- As for the second criterion, the net cost value is considered to be positive when the intangible benefits of the universal service are lower than the net cost of the universal service provider prior to reduction for intangible benefits. The revised net cost is positive, amounting to HRK 92 845 875.00.
- As for the third criterion, according to HP's revised regulatory accounts for 2019, its total operating costs stood at HRK 1 755 816 086.29, whereas the Report shows HP's net cost for the same period as HRK 92 845 875.00. It is clear, therefore, that HP's net cost exceeds 1% of its total operating costs and amounts to 5.3%, meaning that the third criterion is met.
- As for the fourth criterion, if income from the unfair financial burden for 2018 is excluded from HP's pre-tax profit for 2019, this profit stood at HRK 66 480 162.33, whereas the Report shows HP's net cost for the same period as HRK 92 845 875.00. It is clear, therefore, that the net cost for HP represents a significant share of pre-tax profit, which means that the fourth criterion is met.
- As regards the fifth criterion, according to the revised regulatory accounts of HP for 2019 and the revised regulatory accounts of the three largest postal service providers, HP's EBITDA margin is 9.27% lower than the EBITDA margin of the three largest postal service providers on the market, and 7.18% lower than the average EBITDA margin of the three largest postal service providers on the market, thus fulfilling the fifth criterion.
- As to the sixth criterion, if income from the unfair financial burden for 2018 is excluded from total income for 2019, HP would end the financial year with pro forma profit of HRK 53 537 470.63, which means that the sixth criterion is not met.

According to the Instruction, at least four of the six criteria must be met for the full amount of the net cost to be considered as an unfair financial burden. As it was established in this procedure that five of the six criteria had been met, the unfair financial burden on HP, as universal service provider, for 2019 was calculated to be HRK 92 845 875.00.

In light of the above, it has been decided as in the operative part of this decision.

LEGAL REMEDY:

No appeal may be lodged against this decision. However, administrative proceedings may be brought before the High Administrative Court of the Republic of Croatia within 30 days of receipt.

PRESIDENT OF THE COUNCIL

Tonko Obuljen

To be sent to:

1. HP-Hrvatska pošta d.d., Jurišićeva 13, 10000 Zagreb - hand delivery
2. Ministry of the Sea, Transport and Infrastructure, Prisavlje 14, 10001 Zagreb - for information, hand delivery
3. the files

GOVERNMENT OF THE REPUBLIC OF CROATIA

Pursuant to Article 30 of the Air Transport Act (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia) Nos 69/09, 84/11, 54/13, 127/13 and 92/14) and Article 31(2) of the Act on the Government of the Republic of Croatia (NN Nos 150/11 and 119/14), the Government of the Republic of Croatia, at its session of 24 September 2015, adopted the following:

DECISION

on the obligation to provide domestic scheduled air services between 27 March 2016 and 28 March 2020

I.

With a view to maintaining transport connections between the regions and fostering the economic and social development of the Republic of Croatia, the obligation to provide domestic scheduled air services shall be established on the following air routes:

- Dubrovnik – Zagreb – Dubrovnik
- Split – Zagreb – Split
- Zagreb – Zadar – Pula – Zadar – Zagreb
- Zagreb – Brač – Zagreb
- Osijek – Dubrovnik – Osijek
- Osijek – Split – Osijek
- Osijek – Zagreb – Osijek
- Osijek – Pula – Split – Pula – Osijek
- Osijek – Rijeka – Osijek
- Rijeka – Split – Dubrovnik – Split – Rijeka.

II.

The provision of domestic scheduled air services on the routes listed in point I of this Decision shall constitute a public service of significance to the economic and social development of the Croatian regions.

III.

The service referred to in point II of this Decision shall be provided from 27 March 2016 to 28 March 2020.

The scope and criteria applicable to the provision of domestic scheduled air services on the routes referred to in point II of this Decision shall be laid down by the Ministry of the Sea, Transport and Infrastructure.

IV.

The airline providing the service referred to in point II of this Decision shall have the right to compensation for the services rendered.

The compensation referred to in the preceding paragraph shall comprise the income shortfall in relation to the cost of providing the service.

Funds for compensation, comprising the difference between a part of the lost earnings and the cost of providing the service referred to in point II of this Decision, shall be allocated from the state budget of the Republic of Croatia for a given calendar year, while the Ministry of the Sea, Transport and Infrastructure shall earmark state budget funds as a subsidy for maintaining transport connections between the regions – domestic scheduled air services.

V.

The right to provide the services referred to in point II of this Decision, be it on one or more routes, shall be granted to an airline which meets the conditions laid down in a public tender.

A public tender notice for the mandatory provision of the service referred to in point II of this Decision shall be published in the Official Journal of the European Union and/or the Croatian Official Gazette, with a deadline for submitting bids at least two months from the publication of the tender notice.

The selection of the best bidder shall be completed at least two months before the starting date for the provision of the service referred to in point II of this Decision.

The Ministry of the Sea, Transport and Infrastructure shall publish and carry out the public tender.

VI.

The airline selected in accordance with point V of this Decision shall be compensated for any costs incurred in complying with the criteria referred to in the second paragraph of point III of this Decision which are necessary for providing the service referred to in point II of this Decision.

The compensation of costs referred to in the preceding paragraph shall not exceed the amount required to cover the net costs incurred in the performance of each individual service, taking into account the income retained by the airline and a reasonable profit margin.

VII.

The airline referred to point VI of this Decision shall keep internal financial reports and income and expenditure accounts relating to the provision of the service referred to in point II of this Decision separate from its other activities.

The Ministry of the Sea, Transport and Infrastructure and the airline referred to in point VI of this Decision shall lay down their mutual rights and obligations regarding the payment of compensation for the services referred to in point II of this Decision in more detail in a separate agreement.

VIII.

This Decision shall take effect on the date of its adoption.

Class: (2-)022-03/15-04-411

Ref. No: (2-)50301-05/16-15-2

Zagreb, 24 September 2015

PRIME MINISTER

Zoran Milanović



REPUBLIC OF CROATIA

Ministry of the Sea, Transport and Infrastructure

Pursuant to Article 95 of the Budget Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 87/08, 136/12 and 15/15), the Minister for the Sea, Transport and Infrastructure hereby adopts the

DECISION

on the disbursement of budgetary funds for compensation granted to enterprises entrusted with the provision of the universal postal service

I.

This Decision approves the funds referred to in the proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023, in accordance with the opinion of the Ministry of Finance (class: 421-02/18-01/1, ref. No: 513-06-02-19-3) of 25 January 2019.

Funding of HRK 92 845 875.00 has been set aside for this purpose in the State Budget of the Republic of Croatia for 2020 and in the forecasts for 2021 and 2022 (NN Nos 117/19, 58/20 and 124/20) under Section 065, Chapter 05, source 11, Action A754032 — Compensation granted to enterprises entrusted with the provision of the universal postal service, account 3512 — Subsidies to companies in the public sector.

II.

The proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023 complies with the State Aid Act (NN Nos 47/14 and 69/17) and the Decision adopting State aid policy guidelines for 2020-2022 (NN No 123/19).

III.

The budgetary funds shall be paid to HP-Hrvatska pošta d.d. for the provision of the service of general economic interest (SGEI)-universal service in 2019.

Article 3 of the Postal Services Act (NN Nos 144/12, 153/13, 78/15 and 110/19) states that the provision of the universal service is in the interests of the Republic of Croatia and that users of postal services throughout the territory of the Republic of Croatia must be provided with the universal service under the same conditions. Under the Postal Services Act, HP-Hrvatska pošta d.d. has been entrusted with the provision of the universal service as a service of general economic interest. The Act provides for and lays down a procedure for compensation for an unfair financial burden, with the corresponding decision to be adopted by the Council of the Croatian Regulatory Agency for Network Industries (hereinafter: HAKOM). The HAKOM Council issued a decision (class: UP/I-344-02/20-06/01, ref. No: 376-06-20-09) of 28 October 2020 determining that the unfair financial burden for the

universal service provider, HP-Hrvatska pošta d.d., in 2019 amounted to **HRK 92 845 875.00**, and stating that this amount would be paid from the state budget of the Republic of Croatia.

IV.

The Ministry of the Sea, Transport and Infrastructure shall transfer the amount of **HRK 92 845 875.00** referred to in point III of this Decision into the OTP Bank d.d. account with the number HR7024070001100095484 held by HP-Hrvatska pošta d.d., after the Agreement between the Ministry of the Sea, Transport and Infrastructure and HP-Hrvatska Post d.d. has been signed.

V.

In accordance with the Plan of on-the-spot checks in 2021, the Ministry of the Sea, Transport and Infrastructure may carry out on-the-spot checks at HP-Hrvatska pošta d.d. in order to verify that the budgetary funds have been spent in line with their intended purpose. HP-Hrvatska pošta d.d. shall submit the Annual Financial Accounts for 2020 to the Ministry of the Sea, Transport and Infrastructure by 30 April 2021.

VI.

This Decision shall take effect on the day of its adoption.

Class: 344-01/20-01/14
Ref. No: 530-07-2-2-2-20-4
Zagreb, 19 November 2020

The Minister

Oleg Butković

| | | |
|----------------------|---------------------|-------|
| Received: | 21.10.2021 | |
| Classification code: | Organisational unit | |
| 344-01/21-01/12 | 07 | |
| Ref. No: | Encl. | Value |
| 383-21-1 | 0 | 0.00 |

HAKOM



Class: UP/I-344-02/21-06/01
Ref. No: 376-04-21-10
Zagreb, 21 October 2021

Republic of Croatia
Ministry of the Sea, Transport and Infrastructure
Directorate General of Civil Aviation, Electronic Communications and Post
FAO Krešo Antonović, Director
Prisavlje 14
10 000 Zagreb

Subject: Notification of Decision for information

[Formal opening],

The Croatian Regulatory Authority for Network Industries (HAKOM) hereby sends you the Decision of its Council on the amount of the unfair financial burden in 2020 for the universal service provider HP-Hrvatska pošta d.d., Zagreb, Jurišićeva 13.

[Complimentary close],

PRESIDENT OF THE COUNCIL

Tonko Obuljen

Enclosure:

1 HAKOM Council Decision (class: UP/I-344-02/21-06/01, ref. No: 376-04-21-09) of 21 October 2021

To be sent to:

1. Ministry of the Sea, Transport and Infrastructure, Prisavlje 14, 10001 Zagreb - for information, hand delivery
2. the files

Class: UP/I-344-02/21-06/01

Ref. No: 376-06-21-09

Zagreb, 21 October 2021

In accordance with Article 8(1)(6) and Article 10(1) of the Postal Services Act (ZPU) (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 144/12, 153/13, 78/15 and 110/19), under a procedure for determining the level of compensation for an unfair financial burden on the universal service provider launched at the request of HP-Hrvatska pošta d.d., Jurišićeva 13, Zagreb, at a meeting held on 21 October 2021 the Council of the Croatian Regulatory Authority for Network Industries adopted the following

DECISION

The amount of the unfair financial burden on universal service provider HP-Hrvatska pošta d.d., Jurišićeva 13, Zagreb, in 2020 is set at HRK 95 056 342.00 (ninety-five million, fifty-six thousand, three hundred and forty-two kuna).

Grounds

On 30 June 2021 the universal service provider, HP-Hrvatska pošta d.d., Zagreb, Jurišićeva 13 (hereinafter: HP) submitted to the Croatian Regulatory Authority for Network Industries a Request for compensation for the universal service costs that represented an unfair financial burden in 2020 (hereinafter: the Request). The Request was accompanied by the revised financial accounts for 2020 and a calculation of the net cost incurred for 2020, in accordance with Article 49(1) and (2) ZPU.

HP's Request states that its universal service obligation imposes an unfair financial burden on it by requiring it to provide services under conditions other than the usual market conditions.

HP's Request describes how it would operate if it were not required to provide the universal service. The assumptions used under the scenario with no obligation to provide the universal service are shown as a commercial scenario, which is based on changes in the following operational parameters: (i) the density of access points for the receipt of postal items; (ii) the frequency of delivery of postal items, and (iii) providing postal services to the blind free of charge.

HP states that under the commercial scenario, there would be a lower density of access points and a lower frequency of delivery, which would lead to further changes in transport, routing and related overheads. According to HP, these changes would have the effect of reducing operating expenses, but also of reducing income from the universal service and other services.

Based on its revised financial accounts for 2020, HP showed the effect of the changes on income and expenditure that would arise under the commercial scenario. According to HP's calculation, in a situation with no obligation to provide the universal service, i.e. to operate under market conditions, its expenditure would have been HRK 209 480 252.00 lower in 2020. Consequently, HP's total expenditure under the commercial scenario would have been HRK 1 512 629 609.00.

| | Costs under the USO scenario | Fall in costs under the commercial scenario | Costs under the commercial scenario | % change |
|-------------------------------------|------------------------------|---|-------------------------------------|------------|
| Receipt (activities at the counter) | 500 313 895.00 | 138 847 556.00 | 361 466 339.00 | 28% |
| Delivery | 525 691 527.00 | 38 527 525.00 | 487 164 002.00 | 7% |
| Transport | 81 272 384.00 | 12 993 002.00 | 68 279 382.00 | 16% |
| Routing | 137 439 746.00 | 496 215.00 | 136 943 531.00 | 0.4% |
| Structural activities (overheads) | 415 652 387.00 | 18 426 447.00 | 397 225 940.00 | 4% |
| Financial expenditure | 11 616 854.00 | 0.00 | 11 616 854.00 | 0% |
| International accounting | 50 123 070.00 | 189 508.00 | 49 933 562.00 | 0.3% |
| Total | 1 722 109 862.00 | 209 480 252.00 | 1 512 629 609.00 | 12% |

Although the commercial scenario assumes sustainable business activity in the long term, some of HP's business income would be permanently lost due to the lower density of access points and lower frequency of delivery under the commercial scenario. According to the calculation made, HP's income would fall by HRK 83 797 188.00 were it to operate with no universal service obligation. Consequently, HP's total income under the commercial scenario would have been HRK 1 681 554 565.00.

| | Income under the USO scenario | Density of access points | Frequency of delivery | Other | Income under the commercial scenario | % change |
|----------------------------------|-------------------------------|--------------------------|-----------------------|--------------------|--------------------------------------|-----------|
| Postal services | 972 822 416.00 | 3 678 099.00 | 0.00 | | 969 144 318.00 | 0% |
| Priority items of correspondence | 11 068 269.00 | 119 486.00 | 1 452 465.00 | | 9 496 318.00 | 14% |
| Express services | 171 126 130.00 | 422 022.00 | 0.00 | | 170 704 108.00 | 0% |
| Financial services | 217 672 492.00 | 51 247 053.00 | 0.00 | | 166 425 439.00 | 24% |
| Retail | 66 471 546.00 | 16 251 472.00 | 0.00 | | 50 220 074.00 | 24% |
| Other | 327 471 412.00 | 12 079 056.00 | 0.00 | -171 954.00 | 315 564 310.00 | 4% |
| Total | 1 766 632.264.00 | 83 797 188.00 | 1 452 465.00 | -171 954.00 | 1 681 554 565.00 | 5% |

Moreover, in accordance with the applicable legislation and HAKOM's Instruction of 31 August 2015 on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden ('the Instruction') (Class: 344-02/14-06/01, Ref. No: 376-11-15-5), HP calculated the market benefits resulting from the universal service as HRK 21 597 022.00. The amount obtained by calculating the difference between optimised costs and reduced income under the commercial scenario is deducted from this total market benefit. The total net cost of the universal service also includes "appropriate profit", defined as the fair rate of return on the capital employed (weighted average cost of capital – WACC), which is calculated as the difference between necessary investments in property where the business operates under the universal service obligation and under the commercial scenario, at a total amount of HRK 5 957 292.00.

In conclusion, the difference between HP's financial result with an obligation to provide the universal service and without such obligation would be HRK 108 762 823.00, which, according to HP's calculation, is the amount of the net cost of the universal service for 2020.

| Reference to the Instruction | | Δ Costs | Δ Income | Δ Effect |
|------------------------------|--|-----------------------|----------------------|-----------------------|
| CNCi | Density of access points | 138 847 556.00 | 83 797 188.00 | 55 050 368.00 |
| DNCi | Frequency of delivery | 38 527 252.00 | 1 452 465.00 | 37 075 060.00 |
| | Geographical coverage | 0.00 | 0.00 | 0.00 |
| STC | Transport and routing | 13 489 216.00 | 0.00 | 13 489 216.00 |
| OHC | Overheads | 18 426 447.00 | 0.00 | 18 426 477.00 |
| | International accounting | 189 508.00 | 0.00 | 189 508.00 |
| FSR | Free services for the blind | | -171 954.00 | 171 954.00 |
| | Δ Effect | 209 480 252.00 | 85 077 699.00 | 124 402 553.00 |
| MB | Market benefits | | | -21 597 022.00 |
| Profit | Appropriate profit | | | 5 957 292.00 |
| NCUS | Σ Net cost of universal service | | | 108 762 823.00 |

Verification of the submitted calculation of the net cost to HP:

To examine whether the calculation submitted with HP's Request is justified, HAKOM commissioned an external auditor, BDO Croatia d.o.o. ('BDO'), to verify the amount of the calculated net cost. Between 2 September and 1 October 2021 a series of workshops was held with representatives of HAKOM, BDO and HP, where all elements of the calculation were checked, focusing in particular on the assumptions used under the commercial scenario, especially the density of access points, frequency of delivery, market benefits and appropriate profit.

Based on the figures submitted and the workshops held with representatives of HP, on 12 October 2021 BDO submitted a final report to HAKOM with an independent expression of assurance of the commercial scenario and calculation of the net cost for 2020 ('the Report').

The report found that certain elements of the calculation of the net cost should be modified. Its specific findings were as follows:

1 Savings from the change in the density of access points for the receipt of postal items

Under the commercial scenario, HP assumed it would operate with 651 post offices, including strategic post offices, i.e. that it would close 364 post offices. Consequently, it assumed a reduction in the level of income and various types of expenditure arising from provision of the universal service. Based on the cost-effectiveness analysis, and taking into account the difference between monetary and non-monetary expenditure, the size of individual post offices, their location and the coverage of the territory of the Republic of Croatia, it was necessary to correct the calculation of the net cost for 19 post offices, as follows:

| | HP's calculation | Corrected calculation | Difference |
|--|------------------|-----------------------|------------|
| Open post offices under the commercial scenario | 587 | 606 | 19 |
| Closed post offices under the commercial scenario | 364 | 345 | -19 |
| Strategic post offices under the commercial scenario | 64 | 64 | 0 |
| Total post offices | 1 015 | 1 015 | 0 |

This correction had the following effect on the calculation of the net cost:

| Description | HP's calculation | Corrected calculation | Effect on net cost |
|---|----------------------|-----------------------|----------------------|
| | HRK | HRK | HRK |
| Costs of closed post offices | 117 724 298.00 | 90 651 665.00 | -27 072 633.00 |
| Increase of costs in other post offices | -3 503 894.00 | -2 367 202.00 | 1 136 692.00 |
| Other operating costs | 24 627 152.00 | 23 075 876.00 | -1 551 277.00 |
| Fall in income | -83 797 188.00 | -63 338 639.00 | 20 458 549.00 |
| Total | 55 050 368.00 | 48 021 699.00 | -7 028 668.00 |

On the basis of the above figures, the net cost was reduced by HRK 7 028 668.00.

2 Savings resulting from changes in frequency of delivery of postal items

Under the commercial scenario, HP assumed a reduction in frequency of delivery by confining five-day-per-week postal deliveries to large towns and cities. Postal deliveries in all other regions currently organised with a five-day-per-week service are shown in the commercial scenario as being made every second day, while deliveries in regions currently exempted from the five-day regime would be made at most once per week. When the calculation was examined, it was established that, under certain headings, HP had also included costs that were unrelated to delivery under the commercial scenario, which has the following implications for the calculation:

| | HP's calculation | Corrected calculation | Difference |
|--|----------------------|-----------------------|----------------------|
| Staff costs | 27 160 635.00 | 25 964 550.00 | -1 196 086.00 |
| Costs associated with the number of vehicles | 1 801 222.00 | 1 762 327.00 | -38 895.00 |
| Costs associated with the number of km travelled | 1 872 147.00 | 1 842 569.00 | -29 578.00 |
| Other delivery costs | 7 693 520.00 | 7 683 550.00 | -9 970.00 |
| Fall in income | -1 452 465.00 | -1 436 550.00 | 15 915.00 |
| | 37 075 060.00 | 35 816 445.00 | -1 258 615.00 |

On the basis of the above figures, the net cost was reduced by HRK 1 258 615.00.

3. *Owing to changes in density of access points and frequency of delivery, the following amounts should be corrected:*

- (i) Changes in the amount of administrative cost savings — under the commercial scenario HP did not use appropriate distributive formulas for the reduction in administrative costs for groups of costs related to savings per sector of maintenance. Specifically, the same percentage reduction in the number of post offices calculated across the whole of HP was used instead of a percentage reduction in the number of post offices per group of areas. For the costs associated with the reduction in the activities of profitable centres, the appropriate distributive formula is the reduction in financial revenue by group of areas, not the reduction in the number of post offices.
- (ii) As far as the sector of international accounting and transport and sorting is concerned, it was established that the increase in the number of post offices that are open meant that the number of vehicles for initial transport had to be increased by eight light delivery vehicles.

Evaluation of unfair financial burden:

Once the amount of the net cost of the universal service had been determined using the procedure set out above, HAKOM launched the procedure for evaluating the unfair financial burden for the universal service provider. This procedure involved having to assess whether the net cost of the universal service represented an unfair financial burden for the purposes of point 5 of the Instruction, i.e. whether:

- a) the net cost of the universal service consisted exclusively of demonstrable and economically acceptable costs;
- b) the net cost value of the universal service, calculated in line with the principles laid down in the Instruction, was positive;
- c) the net cost of the universal service exceeded 1% of the total costs of the universal service provider;
- d) the net cost of the universal service represented a significant share of the universal service provider's pre-tax profit;
- e) whether the universal service provider's EBITDA margin was at least 5% lower than the EBITDA margin of the three largest postal service providers on the market. The calculation is based on demonstrable and economically acceptable information from the documented evidence of the universal service provider and other postal service providers;
- f) a universal service provider that ended the year with a loss would have made a profit if it had been compensated for the net cost of the universal service.

In accordance with point 5, paragraph 3, of the Instruction, the evaluation of the unfair financial burden established the following:

- As far as the first criterion is concerned, the Report reveals that the net cost of the universal service is based on the revised regulatory financial accounts, which are derived from HP's revised annual financial accounts, and on the calculations derived from assumptions made in line with the Instruction, which reveals that the net cost of the universal service consists exclusively of demonstrable and economically acceptable costs.
- As for the second criterion, the net cost value is considered to be positive when the intangible benefits of the universal service are lower than the net cost of the universal service provider prior to reduction for intangible benefits. The revised net cost is positive, amounting to HRK 95 056 342.00.
- As for the third criterion, according to HP's revised regulatory accounts for 2020, its total operating costs stood at HRK 1 722 109 862.00, whereas the Report shows HP's net cost for the same period as HRK 95 056 342.00. It is clear, therefore, that HP's net cost exceeds 1% of its total operating costs and amounts to 5.9%, meaning that the third criterion is met.
- As for the fourth criterion, if the income from the unfair financial burden for 2019 is excluded from HP's pre-tax profit for 2020, HP would end the financial year with a loss. It is clear, therefore, that the net cost for the universal service provider represents a significant share of pre-tax profit, which means that the fourth criterion is met.
- As regards the fifth criterion, according to the revised regulatory accounts of HP for 2020 and the revised regulatory accounts of the three largest postal service providers, HP's EBITDA margin is 10.25% lower than the EBITDA margin of the three largest postal service providers on the market, and 6.91% lower than the average EBITDA margin of the three largest postal service providers on the market, thus fulfilling the fifth criterion.
- As to the sixth criterion, if the income from the unfair financial burden for 2019 is excluded from the total income for 2020, HP would end the financial year with a loss, which means that the sixth criterion is met as well.

According to the Instruction, at least four of the six criteria must be met for the full amount of the net cost to be considered as an unfair financial burden. As it was established in this procedure that all six criteria had been met, the unfair financial burden on HP, as universal service provider, was calculated to be HRK 95 056 342.00.

In light of the above, it has been decided as in the operative part of this decision.

LEGAL REMEDY:

No appeal may be lodged against this decision. However, administrative proceedings may be brought before the High Administrative Court of the Republic of Croatia within 30 days of receipt.

PRESIDENT OF THE COUNCIL

Tonko Obuljen

To be sent to:

1. HP-Hrvatska pošta d.d., Jurišićeva 13, 10000 Zagreb - hand delivery

2. Ministry of the Sea, Transport and Infrastructure, Prisavlje 14, 10001 Zagreb - for information, hand delivery
3. the files



REPUBLIC OF CROATIA
MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE

Pursuant to Article 95 of the Budget Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 87/08, 136/12 and 15/15), in conjunction with Article 30 of the Air Transport Act (NN Nos 69/09, 84/11, 54/13, 127/13 and 92/14), the Minister for the Sea, Transport and Infrastructure hereby adopts the

DECISION
amending the Decision
on maintaining transport connections and ensuring uninterrupted scheduled air services
within the Republic of Croatia

I.

In the first paragraph of point III of the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia (class: 400-02/19-03/85, ref. No: 530-07-1-20-7 of 17 March 2020 and class: 400-02/19-03/85, ref. No: 530-07-1-1-20-21 of 25 September 2020), the words ‘but no later than 27 March 2021’ shall be replaced by the words ‘but no later than 30 October 2021’.

II.

The third paragraph of point IV is replaced by the following:

‘Funds for compensation, comprising the difference between a part of the lost earnings and the service provision cost, have been allocated from the state budget of the Republic of Croatia for 2021, while the Ministry of the Sea, Transport and Infrastructure shall earmark state budget funds as a subsidy for maintaining transport connections between the regions – domestic scheduled air services.’

III.

This Decision shall take effect on the date of its adoption.

Class: 400-02/19-03/85
Ref. No: 530-07-1-1-21-31
Zagreb, 5 March 2021

MINISTER

Oleg Butković



REPUBLIC OF CROATIA
MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE

Pursuant to Article 95 of the Budget Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 87/08, 136/12 and 15/15), in conjunction with Article 30 of the Air Transport Act (NN Nos 69/09, 84/11, 54/13, 127/13 and 92/14), the Minister for the Sea, Transport and Infrastructure hereby adopts the

DECISION
amending the Decision
on maintaining transport connections and ensuring uninterrupted scheduled air services
within the Republic of Croatia

I.

In the first paragraph of point III of the Decision on maintaining transport connections and ensuring uninterrupted scheduled air services within the Republic of Croatia (class: 400-02/19-03/85, ref. No: 530-07-1-20-7 of 17 March 2020, class: 400-02/19-03/85, ref. No: 530-07-1-1-20-31 of 25 September 2020 and class: 400-02/19-03/85, ref. No: 530-07-1-1-21-31 of 5 March 2021), the words ‘but no later than 30 October 2021’ shall be replaced by the words ‘but no later than 26 March 2022’.

II.

The third paragraph of point IV is replaced by the following:

‘For 2021, funds for compensation, comprising the difference between a part of the lost earnings and the cost of providing the service, have been allocated from the state budget of the Republic of Croatia for 2021, while for 2022, funds for compensation, comprising the difference between a part of the lost earnings and the cost of providing the service, shall be allocated from the state budget of the Republic of Croatia for 2022, and the Ministry of the Sea, Transport and Infrastructure shall earmark state budget funds as a subsidy for maintaining transport connections between the regions – domestic scheduled air services compensation.’

III.

This Decision shall take effect on the date of its adoption.

Class: 400-02/19-03/85
Ref. No: 530-07-1-1-21-46
Zagreb, 27 September 2021

The Minister

Oleg Butković

| | | |
|----------------------|---------------------|-------|
| Received: | 07.02.2019 | |
| Classification code: | Organisational unit | |
| 421-01/18-01/23 | 07-2-2-2 | |
| Ref. No: | Encl. | Value |
| 513-19-5 | 0 | 0.00 |



REPUBLIC OF CROATIA
MINISTRY OF FINANCE

Class: 421-02/18-01/1
Ref. No: 513-06-02-19-3

Zagreb, 25 January 2019

MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE

FAO Mr Oleg Butković, Minister

Subject: Proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023
– *opinion*

The Ministry of Finance has received a request from the Ministry of the Sea, Transport and Infrastructure (class: 421-01/18-01/23, ref. No: 530-07-2-2-2-18-1) to issue an opinion on whether the proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023 (hereinafter ‘Proposal for individual State aid’) is compatible with the State aid rules and State aid policy guidelines of the Republic of Croatia.

The Proposal for individual State aid at issue is a continuation of the Programme of State aid to Hrvatska pošta d.d. in the form of compensation for the provision of the universal service between 2014 and 2018, which was adopted on the basis of the Postal Services Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 144/12, 153/13 and 78/15) (hereinafter ‘ZPU’), in which HP-Hrvatska pošta d.d. was designated as the provider of the universal service in Croatia until 2027. According to the ZPU, the Croatian Regulatory Authority for Network Industries (HAKOM) is obliged to carry out an analysis of the state of the market for postal services every five years. On the basis of that analysis, HAKOM has determined that, apart from Hrvatska pošta d.d., there are no operators interested in providing the universal service. This led the Ministry of the Sea, Transport and Infrastructure (hereinafter ‘the Ministry’) to draw up the said Proposal for individual State aid for the period 2019-2023 under which Hrvatska pošta d.d. is to remain the designated provider of the universal service, i.e. the beneficiary of State aid without the organisation of a public invitation to tender for the provision of universal services.

According to the Ministry, the universal service in question constitutes a **service of general economic interest**, and the compensation for the provision of the universal service (compensating Hrvatska pošta d.d. for the financial burden of providing such services) constitutes State aid, which may only be granted in accordance with the relevant State aid rules. These rules are set out 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 (OJ L 17, 11.1.2012) (hereinafter ‘Commission Decision’)**. Account must also be taken of the sectoral rules set out in the **Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (OJ 1998 C 39, p. 2)**.

The Commission Decision lays down the conditions under which State aid in the form of compensation for the operation of a service of general economic interest is not subject to the prior notification requirement referred to in Article 108(3) TFEU, as it can be deemed compatible with the internal market, i.e. with Article 106(2) TFEU.

Article 106(2) TFEU sets out the legal basis for assessing the compatibility of State aid in the area of services of general economic interest, stating that undertakings entrusted with the operation of services of general economic interest or services having the character of a revenue-producing monopoly are to be subject to the rules of the TFEU, in particular to the rules on competition. At the same time, Article 106(2) TFEU provides for an exemption from the TFEU rules in so far as the application of the competition rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to such undertakings. This exemption applies only where the development of trade is not affected to such an extent as would be contrary to the interests of the Union.

The documents submitted together with the Proposal for Individual Aid contain the essential elements which a proposal for individual State aid should contain, under the Commission Decision, and, consequently, the Ministry of Finance, in accordance with the provisions of Article 5 of the State Aid Act (NN Nos 47/14 and 69/17; hereinafter ‘ZDP’) hereby issues the following opinion on the key provisions of the Commission Decision:

- 1 Name of the aid proposal:** Proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023
- 2 Granting authority:** Ministry of the Sea, Transport and Infrastructure
- 3 Undertaking:** HP-Hrvatska pošta d.d.
- 4. Legal basis for granting the aid:** National legislation (including the ZPU) and European Union legislation including 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 L 7, 11.1.2012) and the Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (OJ 1998 C 39, p. 2) (point 1 of the Proposal for Individual State aid).

5. Amount of State aid: The planned compensation broken down by year is HRK 102 million for 2019; HRK 104.2 million for 2020; HRK 110.3 million for 2021; HRK 110.8 million for 2022 and HRK 109.9 million for 2023 (point 5.1 of the Proposal for Individual State aid).

6 Sources of funds for aid: Compensation for the beneficiary/undertaking will be provided in Croatia's state budget as a subsidy to companies in the public sector for State budget activity A754032 — Compensation granted to undertakings entrusted with the provision of the universal postal service (point 5.1 of the Proposal for Individual State aid).

7 Entrustment to undertaking: In accordance with Article 4 of the Commission Decision, operation of the service of general economic interest is to be entrusted to the undertaking concerned by way of one or more acts.

It is apparent from the documentation submitted that the ZPU is the basic act by which the operation of the service of general economic interest has been entrusted to HP-Hrvatska pošta d.d., in accordance with Article 4 of the Commission Decision.

However, since the ZPU mainly contains provisions which comply with the sectoral rules of the European Union relating to postal services, part of the subject matter of the Commission Decision relating to services of general economic interest (SGEI) was included in the Proposal for a Programme of State aid for HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service between 2019 and 2023, and can therefore be regarded as one of the acts entrusting HP-Hrvatska pošta d.d. with the operation of services of general economic interest in accordance with the Commission Decision.

In accordance with Article 4 of the Commission Decision, the acts by way of which the operation of a service of general economic interest is to be entrusted to an undertaking must include the following:

- a) **The content and duration of the public service obligations** — The right and obligation to operate the universal service for a duration of 15 years was acquired by HP-Hrvatska pošta d.d. on the date on which the ZPU entered into force, i.e. with effect from 1 January 2013.

The universal service is the group of postal services available to all users of postal services throughout Croatia at an affordable price, and the universal service provider must provide the universal service to the standard laid down in the Postal Services Act through its postal network (Articles 15, 40 and 67 ZPU and the introductory section and point of the Proposal for Individual State aid).

- b) **The undertaking and the territory concerned** — The provision of a service of general economic interest is entrusted to HP-Hrvatska pošta d.d. (Article 67 ZPU).

The provision of the universal service is in the interests of the Republic of Croatia, and the users of postal services throughout the country must be provided with the universal service under the same conditions, and that service may only be interrupted by the provider in the event of force majeure (Article 3(1) and (2) ZPU).

- c) **The nature of any exclusive or special rights** assigned to HP-Hrvatska pošta d.d. by the Ministry — in addition to the right to provide the universal service — HP-

Hrvatska pošta d.d. has been assigned a special right in connection with the issue, sale and phasing-out of postage stamps of the Republic of Croatia (Article 42 ZPU and point 3 of the Proposal for Individual State aid).

- d) **The compensation mechanism and the parameters for calculating, controlling and reviewing the compensation** — the Ministry will pay HP-Hrvatska pošta d.d. compensation for the provision of the service of general economic interest amounting to the net cost of the universal service. The compensation will be paid for each financial year over the period 2019-2023, in the form of a subsidy. The calculation of the net cost of the universal service must include only the economically justified costs directly related to the universal service, the corresponding part of the indirect costs associated with the services provided and the "appropriate profit" (point 5 of the Proposal for Individual State aid). This is consistent with Article 5 (1) of the Commission Decision, which states that the amount of compensation must not exceed what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit.

The procedure for calculating the net cost is laid down in detail in Articles 48-52 ZPU.

Under Article 47 ZPU, HP-Hrvatska pošta d.d. is obliged to separate income and expenditure generated from the universal service from income and expenditure generated from alternative postal services and from income and expenditure generated from other postal services. The purpose of such separation is to determine the unit cost to be used for the calculation of the net cost of the universal service. The method of keeping separate accounts is set out in detail in HAKOM's Instruction on the separation of accounts. A HAKOM decision determines the net cost and states whether that cost represents an unfair financial burden (Articles 47-52 ZPU and point 4 of the Proposal for Individual State aid).

For the purposes of calculating the net cost of the universal service, the universal service provider must also draw up a commercial scenario showing the way in which the operator would function were it not subject to the universal service obligation, including the calculation of the market benefits deriving from the provision of the universal service. The commercial scenario drawn up by HP-Hrvatska pošta d.d. is reviewed by HAKOM (point 5 of the Proposal for Individual State aid).

Under Article 49 ZPU, the universal service provider is obliged to submit additional justification for the net cost at HAKOM's request.

Under the current Programme of State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service between 2014 and 2018, HAKOM's Council adopted four Decisions (for services in 2014, 2015, 2016 and 2017), setting out the amounts of the unfair financial burden, and on the basis of those Decisions funds were paid to the service provider out of the Croatian state budget. Payment for the unfair financial burden in 2018 is expected to be made in 2019 (point 4 of the Proposal for Individual State aid).

The Ministry has drawn up a forecast of costs for 2019-2023, with the specific amounts being set out in point 5 of this opinion, on the basis of the parameters used to calculate the net cost in previous years in accordance with the above-mentioned rules.

- e) **The arrangements for avoiding and recovering any overcompensation** – under point 6 of the Proposal for Individual State aid, the compensation for the unfair

financial burden in 2019-2023 will not exceed the amount required to cover the minimum financial burden calculated and determined by the procedure set out in points 4 and 5 of that Proposal on the basis of an actual and true presentation of costs and revenue associated with the universal service and the parameters for allocating costs and revenue.

As the compensation is calculated and paid after the end of the calendar year, on the basis of HAKOM's decision on the amount of the unfair financial burden, with that decision being adopted on the basis of verification and the findings of independent auditors, the Ministry considers that there can be no overcompensation for the provision of the universal service.

The Ministry undertakes to ensure that the compensation granted for the provision of the universal service meets the requirements set out in the Commission Decision. Similarly, following a written request by the Commission, the Ministry will submit all information requested and carry out regular checks at least every three years for the duration of the Programme and at the end of that period.

If HP-Hrvatska pošta d.d. receives an amount of compensation exceeding the amount calculated in accordance with Article 5 of the Commission Decision, the Ministry will demand that the overcompensation be recovered.

- f) Reference to the Commission Decision** — The introduction to, and paragraphs 6 and 7 of, the Proposal for Individual State aid indicate that compensation is being granted to HP-Hrvatska pošta d.d. in accordance with the Commission Decision.

8 Availability of information: The Ministry will publish the text of this Proposal on its website.

Furthermore, the Ministry will keep all the necessary information for a period of at least 10 years after the end of the application of the Proposal for Individual State aid in order to be able to demonstrate at any time that the compensation has been granted in accordance with the Commission Decision (point 7 of the Proposal for Individual State aid).

9 Reports — Under point 7 of the Proposal for Individual State aid, the Ministry is to provide the Ministry of Finance with data on the State aid granted in accordance with the ZDP and the Rules on the submission of State aid proposals and data on State aid, de minimis aid and the Register of State aid and de minimis aid.

Under point 6 of the Proposal for Individual State aid, the Ministry also undertakes to supply all requested data to the European Commission.

In view of the above, the Ministry of Finance considers that the Proposal for Individual aid that has been submitted is in accordance with the provisions of the Commission Decision.

[Complimentary close],

MINISTRY OF FINANCE

Zdravko Marić

REPUBLIC OF CROATIA
Ministry of the Sea, Transport and Infrastructure

CLASS: 344-01/21-01/12
REF. NO: 530-07-2-2-2-21-3
Zagreb, 16 November 2021

Pursuant to Article 95 of the Budget Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 87/08, 136/12 and 15/15), the Minister for the Sea, Transport and Infrastructure hereby issues a

DECISION
on the disbursement of budgetary resources for compensation to undertakings entrusted with the provision of the universal postal service

I.

This Decision makes available the resources referred to in the proposal for individual State aid to HP (Hrvatska pošta d.d.) in the form of compensation for the provision of a universal service for the period between 2019 and 2023, in accordance with the opinion of the Ministry of Finance (class: 421-02/18-01/1; ref. no: 513-06-02-19-3) of 25 January 2019.

Funding for this purpose was provided for in the State budget of the Republic of Croatia for 2021 and in estimates for 2022 and 2023 (NN Nos 135/20, 69/21 and 122/21) under Division 065, Heading 05, source 11, Activity A754032 – Compensation to undertakings entrusted with the provision of the universal postal service, account 3512 – Subsidies to public sector undertakings, in the amount of HRK 95 056 342.00.

II.

The proposal for individual State aid to HP (Hrvatska pošta d.d.) in the form of compensation for the provision of a universal service for the period between 2019 and 2023 is consistent with the State Aid Act (NN Nos 47/14 and 69/17) and the Decision on the adoption of State aid policy guidelines for the period 2021-2023 (NN No 148/20).

III.

Budgetary resources shall be disbursed for the provision of a service of general economic interest (SGEI) – a universal service – in 2020 to HP (Hrvatska pošta d.d.). Article 3 of the Postal Services Act (NN, Nos 144/12, 153/13, 78/15 and 110/19) states that the provision of a universal service is in the interests of the Republic of Croatia and that users of postal services throughout the Republic of Croatia must be provided with the universal service under equal terms and conditions.

Under the Postal Services Act, HP (Hrvatska pošta d.d.) is entrusted with the provision of a universal service as a service of general economic interest. The Act provides for and prescribes a procedure for compensation for an unfair financial burden, and the Decision is adopted by the Council of the Croatian Regulatory Authority for Network Industries (hereinafter 'HAKOM'). The HAKOM Council issued a Decision (Class: UP/I- 344-02/21-06/01, Ref. No: 376-06-21-09) on 21 October 2021, establishing that the unfair financial burden on the

provider of the universal service, HP (Hrvatska pošta d.d.), in 2020 amounted to **HRK 95 056 342.00**, and stating that this amount would be paid from the Croatian State budget.

IV.

The Ministry of the Sea, Transport and Infrastructure shall transfer the amount referred to in point III of this Decision to HP (Hrvatska pošta d.d.) to account HR7024070001100095484 at OTP Bank d.d. following signature of an Agreement between the Ministry of the Sea, Transport and Infrastructure and HP (Hrvatska pošta d.d.).

V.

The Ministry of the Sea, Transport and Infrastructure may, in accordance with the 2022 Plan for on-the-spot checks, carry out on-the-spot checks at HP (Hrvatska pošta d.d.) to verify whether budgetary resources have been disbursed in line with their intended purpose. HP (Hrvatska pošta d.d.) shall provide an annual financial report for the year 2021 to the Ministry of the Sea, Transport and Infrastructure by 30 April 2022.

VI.

This Decision shall enter into force on the date of its adoption.

(signed)

Oleg Butković

The Minister

REPUBLIC OF CROATIA
MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE

CLASS: 343-03/18-01/41
REF. NO: 530-07-1-1-2-18-5
Zagreb, 18 October 2018

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, 127/13 and 92/14), the Minister for the Sea, Transport and Infrastructure hereby issues a

DECISION
to keep Zračna luka Osijek d.o.o. open for public air transport in the period 2019–2023

I.

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 2019–2023 during the airport's operational periods as laid down in the Order on airport operational time for the purpose of public air transport (NN No 31/18).

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 the Sea, Transport and Infrastructure shall pay Zračna luka Osijek d.o.o. 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 the Sea, Transport and

Infrastructure.

The compensation shall cover all direct variable and fixed costs, a proportionate share of the common overheads incurred in the provision of the service referred to in 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 L 7, 11.1.2012, p. 289).

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 2019–2023 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 – VAT
 - (b) ground handling revenue – non-taxable
- revenue from secondary activity
- other operating revenue
 - (a) other revenue
 - (b) revenue from transfers from the State budget for the costs of keeping the airport open
- financial revenue

Total expenditure:

- expenditure from primary activity
 - (a) material and raw material costs and write-off of small inventory
 - (b) energy and fuel costs
 - (c) costs of routine maintenance and external services
 - (d) depreciation
 - (e) gross salary costs and salary contributions
 - (f) workers compensation costs
 - (g) other operating costs
- revenue from secondary activity

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:

- HRK 6 500 000.00 for 2019;
- HRK 6 450 000.00 for 2020;
- HRK 6 400 000.00 for 2021;
- HRK 6 350 000.00 for 2022; and
- HRK 6 300 000.00 for 2023.

VII.

The Ministry of the Sea, 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 I 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 the Sea, 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).

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 2023) and, on the basis of this analysis, the Ministry of the Sea, Transport and Infrastructure shall examine the option of continuing to subsidise the operations of Zračna luka Osijek d.o.o.

The Ministry of the Sea, Transport and Infrastructure shall keep all documents relating to the funds granted under this Decision throughout the granting period (2019–2023) and for a minimum of 10 years after the granting period (until the end of 2033).

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 state budget of the Republic of Croatia for each calendar year.

IX.

The Ministry of the Sea, 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 the Sea, Transport and Infrastructure shall submit to the European Commission, via the Ministry of Finance, 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 2019. It shall not be published in the Official Gazette (*Narodne novine*).

The Minister

(signed)

Oleg Butković

Pursuant to Article 4 of the State Aid Act (*Narodne novine* (NN; Official Gazette of the Republic of Croatia) Nos 47/12, 14/13 and 69/17)

the Ministry of the Sea, Transport and Infrastructure has adopted a

PROPOSAL FOR

INDIVIDUAL STATE AID TO HP-HRVATSKA POŠTA d.d. IN THE FORM OF COMPENSATION FOR THE PROVISION OF A UNIVERSAL SERVICE FOR THE PERIOD FROM 2019 TO 2023

Introduction

The Ministry of the Sea, Transport and Infrastructure (hereinafter: the Ministry) is the authority granting State aid under the State aid scheme to HP-Hrvatska pošta d.d. in the form of compensation for the provision of a universal service between 2014 and 2018 (hereinafter: the Scheme), in accordance with the opinion of the Ministry of Finance, class: 302-01/14-01/106, ref. No: 513-06-2-14-6 of 22 December 2014.

The purpose of the State aid scheme is to fulfil the obligation to provide all users of postal services with a service of general economic interest, i.e. a universal service, under the same conditions throughout Croatia.

Given that the Scheme was adopted for the period 2014–2018 (with the last possible payment, for 2018, being made in 2019), and taking into account that HP-Hrvatska pošta d.d., in accordance with Article 67 of the Postal Services Act (NN Nos 144/12, 153/13 and 78/15) has been designated as the provider of the universal service in Croatia until the end of 2027 and has the legal right and obligation to provide the universal service, and given that the Croatian Regulatory Authority for Network Industries (HAKOM) established that there are no other operators interested in providing the universal service, the plan is to continue the current Scheme. Having regard to Article 2 of the State Aid Act (NN Nos 47/14 and 69/17), and as provided for in Article 9(1) of the State Aid Act, the Ministry hereby submits a proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period from 2019 to 2023.

The proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023 (hereinafter: the Proposal) complies with the State Aid Act and the Decision adopting State aid policy guidelines for 2018-2020 (NN No 2/18).

The postal services sector – in other words, the provision of the universal service – in Member States of the European Union, including in the Republic of Croatia, was liberalised gradually over a number of years, with the process being completed in 2012. However, the importance of postal services for society (citizens, undertakings, state and judicial authorities, etc.) or, more precisely, the purpose and objectives of providing those services and the obligations imposed by States on the providers of those services, qualify them to be services of general economic interest. To enable fulfilment of the tasks assigned to them, there is also often a need for financial participation by the State to cover part of the costs incurred.

The Treaty on the Functioning of the European Union (TFEU) contains provisions allowing Member States to co-finance the provision of services of general economic interest, including postal services that are universal in character, in line with the principles and under the conditions that enable them to fulfil their objectives. This would allow Member States to cover some or all of the specific costs resulting from the public service obligation, meaning that compensation for an unfair financial burden constitutes State aid under Article 107(1) TFEU.

According to the judgment of the European Court of Justice in the Altmark case, compensation for the provision of a service of general economic interest would not constitute State aid within the meaning of Article 107 TFEU if all of the following criteria were met:

- 1) the undertaking that receives the compensation must be entrusted with a public service obligation and that obligation must be clearly defined;
- 2) the parameters based on which the compensation is calculated must have been established in advance in an objective and transparent manner;
- 3) the compensation must not exceed what is necessary to cover the costs (in whole or in part) incurred in providing the public service, including the relevant revenue and a reasonable profit; and
- 4) the undertaking entrusted with the provision of a public service must have been selected following a public procurement procedure or, failing that, the amount of compensation needed must be determined on the basis of an analysis of the costs that would have been

incurred by an undertaking engaged in a market operation or an undertaking which is well run and has the necessary resources to provide those services.

HP-Hrvatska pošta d.d. (hereinafter: HP), being the undertaking entrusted, under the Postal Services Act, with the provision of the universal service as a service of general public interest, fulfilled the first three criteria. The fourth criterion for the State's co-financing for the provision of the service, as laid down in the Act, could not be applied, primarily because HP was not selected for the provision of the universal service through a public procurement procedure. At the same time, it is objectively not possible to reliably determine whether the undertaking operates according to the principles of a 'well-run undertaking', i.e. in line with the criteria defined by the European Court of Justice and the European Commission in their decisions. The Ministry therefore concludes that not all four of the criteria set out in the CJEU's judgment in the Altmark case are met, which would exclude the existence of State aid when awarding compensation for an unfair financial burden for the provision of a universal service, meaning that compensation for an unfair financial burden constitutes State aid under Article 107(1) TFEU.

Consequently, compensation for the provision of a universal service in order to compensate for the unfair financial burden on HP, as the sole provider of the universal service in Croatia under the Postal Services Act, constitutes State aid which can only be granted in accordance with State aid rules.

Commission Decision of 20 December 2011 on the application of Article 106(2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest lays down the conditions under which State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest is to be considered compatible with the internal market and exempt from the notification requirement laid down in Article 108(3) TFEU.

In accordance with the above Commission Decision of 20 December 2011 on the application of Article 106(2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (hereinafter: Commission Decision), this Proposal sets out precisely the conditions to be met by HP in relation to the universal service obligation entrusted to it. Irrespective of the specific universal

service provider, these conditions are also laid down in the Postal Services Act and other implementing regulations. This Proposal also provides a forecast for the next period 2019-2023.

The Proposal contains the following:

1. definition, content and duration of the universal service obligation;
2. description of the activities and operations carried out by HP, which is entrusted with the provision of a universal service;
3. description of all rights and obligations granted to HP under the Postal Services Act;
4. description of the net cost calculation mechanism and the parameters for calculating, controlling and reviewing the compensation for an unfair financial burden;
5. calculation of the compensation, based on the prescribed parameters;
6. arrangements for avoiding and recovering any overcompensation;
7. reference to the provisions of the Commission Decision.

Legal basis for granting State aid

National legislation:

- Postal Services Act (NN Nos 144/12, 153/13 and 78/15);
- Rules on the provision of a universal service (NN No 41/13);
- Instruction of 27 March 2013 on the separation of accounts and cost accounting, and the amended Instruction of 7 May 2014, adopted on the basis of a Decision of the Croatian Post and Electronic Communications Agency (hereinafter: ‘Instruction on the separation of accounts’), source: <https://www.hakom.hr>
- Instruction of 31 August 2015 on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden (class 344-02/14-06/01, ref. No 376-11-15-5), adopted by the Council of the Croatian Regulatory Agency for Network Industries, source: <https://www.hakom.hr>
- State Aid Act (NN Nos 47/12, 14/13 and 69/17);
- Decision on adopting State aid policy guidelines for 2018-2020 (NN No 2/18).

EU legislation

- Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (OJ C 39/1998);

- 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 L 7/2012; hereinafter: Commission Decision);
- Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service (OJ L 15, 21.1.1998);
- Directive 2002/39/EC of the European Parliament and the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (OJ L 176, 5.7.2002);
- Directive 2008/6/EC of the European Parliament and the Council of 20 February 2008 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (OJ L 52, 27.2.2008);
- Commission Directive 2006/111/EC on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (OJ L 318/2006; hereinafter: Transparency Directive).

Universal service provider — State aid beneficiary

In accordance with the Postal Services Act, HAKOM designates the universal service provider on the basis of an analysis of the state of the postal services market in Croatia every five years. If it considers, on the basis of the market analysis, that at least two providers can ensure the provision of the universal service, the provider is designated by way of a public tender. If this is not the case, i.e. if HAKOM considers on the basis of the above analysis that only one postal service provider can provide the universal service, then the decision on the provider is taken without a public tender.

Under Article 67 of the Postal Services Act, HP has been designated as a universal service provider in Croatia and has the right and obligation to provide the universal service for a period of 15 years (until 31 December 2027), in accordance with the Postal Services Act, the Rules on the provision of a universal service (NN No 41/13) (hereinafter: Rules) and other acts of the national regulatory authority, as well as the Decision on awarding compensation where State aid is granted in the form of compensation for an unfair financial burden.

1. DEFINITION, CONTENT AND DURATION OF THE UNIVERSAL SERVICE OBLIGATION

In accordance with the Postal Services Act, postal services include the universal service, alternative postal services and other postal services. Article 3 of the Postal Services Act states that the provision of a universal service is in the interest of Croatia, and the universal service is therefore considered to be a service of general economic interest.

The universal service is the group of postal services available to all users of postal services throughout Croatia at an affordable price, and the universal service provider must provide the universal service at the standard laid down in the Postal Services Act through its postal network. The universal service includes postal services in domestic and international traffic:

- the receipt, routing, transport and delivery of items of correspondence weighing up to 2 kg;
- the receipt, routing, transport and delivery of parcels weighing up to 10 kg;
- the receipt, routing, transport and delivery of registered items and items with a declared value;
- the receipt, routing, transport and delivery of items for the visually impaired, weighing up to 7 kg, free of charge;
- the routing, transport and delivery of parcels weighing up to 20 kg in incoming international post.

Alternative postal services are:

- the receipt, routing, transport and delivery of items of correspondence weighing up to 2 kg;
- the receipt, routing, transport and delivery of parcels weighing up to 10 kg;
- the receipt, routing, transport and delivery of registered items and items with a declared value, which can deviate from the universal service requirements, such as the obligation of daily delivery or the provision of services throughout the country, but which, from the point of view of users, can be considered as services within the scope of the universal service, as they are alternative to the universal service to a sufficient degree.

Where a universal service provider concludes a written contract with users of postal services, such as consolidators and bulk mailers, which send a large number of items under the universal scope by way of derogation from the universal service requirement, the services referred to in that contract are not regarded as a universal service.

Other postal services are services of receipt, routing, transport and delivery of postal items in internal and international traffic which are not covered by the universal service or alternative postal services.

The conditions for providing postal services are regulated not only by the Postal Services Act and the Rules but also by the general conditions laid down by each individual postal service provider.

Depending on the type of service to which the conditions relate, HP has laid down:

- general conditions for the provision of a universal service;
- general conditions for alternative postal services; and
- general conditions for the provision of other postal services.

As the general conditions are primarily intended to familiarise customers with the services provided by HP, there are also guidelines on the provision of postal services for the staff of HP to follow in the course of their work.

2. DESCRIPTION OF THE ACTIVITIES AND OPERATIONS CARRIED OUT BY HP, WHICH IS ENTRUSTED WITH THE PROVISION OF A UNIVERSAL SERVICE THROUGHOUT CROATIA

HP is a joint-stock company owned by the Republic of Croatia, which was created following the division of the public undertaking *Hrvatska pošta i telekomunikacije* [Croatian Post and Telecommunications] into two joint-stock companies, in accordance with the Act on the division of *Hrvatska pošta i telekomunikacije* into *Hrvatska pošta* and *Hrvatske telekomunikacije* (NN No 101/98). HP has been operational since 1 January 1999. The share capital is HRK 952 636 100, consisting of cash payments and real estate contributions, divided into 9 526 361 shares with a nominal value of HRK 100. HP employed 9 825 workers as at 31 December 2017.

HP is registered to carry out a number of operations, including the following in particular: postal services, payment transactions, other financial brokerage services, currency exchange, issue and

sale of postal securities, forms, packaging, publications, editions and the like, manufacture and sale of postal equipment and accessories, telegraph services, international shipping, retail trade, press distribution, trade in tobacco products, etc.

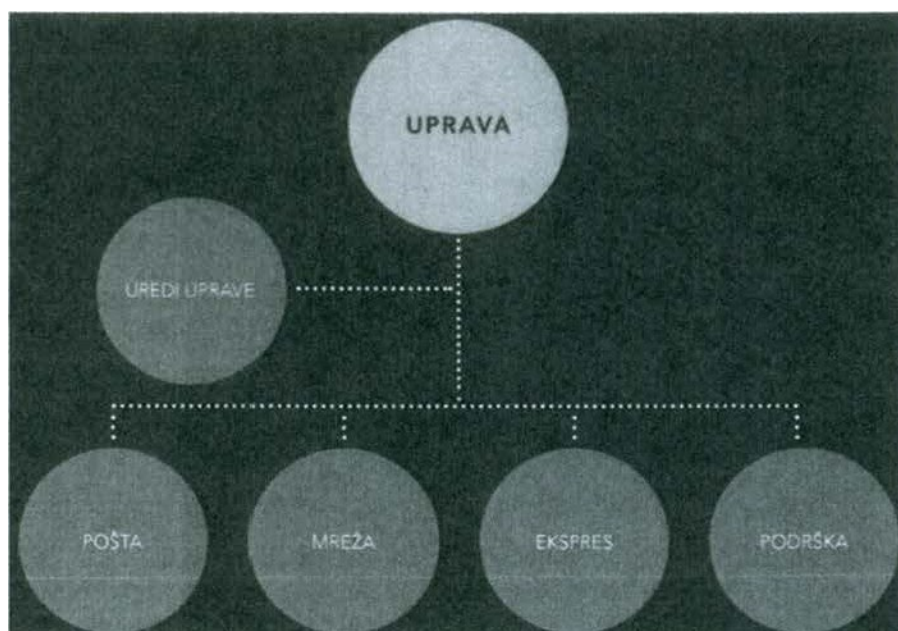
HP is governed by the Management Board, the Supervisory Board and the General Assembly. The Management Board consists of up to five members, one of whom is the chairperson of the Board. The Supervisory Board appoints and dismisses the chairperson and the members. Their term of office is 4 years.

The Supervisory Board has seven members, five of whom are appointed by the General Assembly and two are appointed as employees' representatives – and removed – in accordance with the Labour Act.

The General Assembly consists of the company's shareholders and decides on any amendments to the statutes, any changes to the business name, registered office or scope, its annual financial statements and use of profits, any increase/decrease in the company's share capital, the election and dismissal of the members of the Supervisory Board, etc.

Acts of the Management Board established the organisation of HP

The divisional structure of HP constitutes one of the biggest restructurings of companies in Croatia. HP is split into four divisions: the Post, Network and Express Divisions are organised at regional level, while the Support Division is centralised for cost-efficiency reasons. There are also administrative offices. This new structure has improved business communication, and the organisational structure is nowadays based on a user-focused approach as well as on clear powers and responsibilities. The policy of divisional organisation led to the reporting line being shortened, thus speeding up the decision-making process within the company.



| ADMINISTRATION | | | |
|------------------------|---------|---------|---------|
| ADMINISTRATIVE OFFICES | | | |
| POST | NETWORK | EXPRESS | SUPPORT |

The **Post Division**, the largest of the four divisions, is responsible for the transport, sorting and delivery of postal items. The Post Division continuously works to increase revenue from the core business, respond to customers' needs, introduce value-added services and increase cost-efficiency. It employs 45.38% of all HP staff.

The **Network Division** manages the largest and most widespread sales network in Croatia. Post offices are located in more than 840 places, giving HP an additional competitive advantage as regards its positioning in the market of current providers of postal, financial, insurance, telecommunications and retail services and products. It employs 34.27% of all HP staff.

The **Express Division** is in charge of the express delivery service, both in terms of volume of items and quality of the service, covering the entire territory of Croatia. It employs 9.54% of all HP staff.

The **Support Division**, the only centralised division, is in charge of real estate and IT-infrastructure management, accounting, as well as the maintenance and modernisation of post offices. It employs 5.61% of all HP staff.

Financial results of HP's operations for 2017

| In HRK (thousands) | 2017 |
|--|-------------|
| Total revenue | 1 662 993 |
| Total expenditure | 1 576 483 |
| Profit before tax | 86 510 |
| Profit before tax, without revenue from the net cost | 7 744 |

3. DESCRIPTION OF ALL RIGHTS AND OBLIGATIONS GRANTED TO HP UNDER THE POSTAL SERVICES ACT

Universal service

The Postal Services Act requires the universal service provider, HP, to provide all users with the following services, at least 5 working days per week:

1. one receipt of postal items;
2. one delivery of postal items to the home address or business premises of all natural and legal persons, but does not have to be applied under certain geographical conditions or other circumstances.

HP is required to deliver all postal items in the condition in which they were received. HP is required to provide users, free of charge, with confirmation of receipt for registered items, items with a declared value and parcels, and to request the signature of the person to whom the postal item was delivered, as proof of delivery.

The Postal Services Act and the Rules lay down any other criteria to be met by the universal service provider.

Postal network

The Rules lay down the criteria to be met by the universal service provider's postal network. The postal network is understood to mean the organisational system and all types of resources interconnected as a single technical/technological unit which are used by the universal service provider specifically to provide the universal service throughout Croatia.

The elements of the postal network are access points, postal centres and other elements ensuring the provision of postal services. Access points of the postal network are:

- post offices;
- postal centres;
- self-service departments;
- postboxes and collective letter boxes; and
- other devices and equipment intended for the receipt of postal items.

The universal service provider is required to establish, maintain and develop a postal network in such a way as to ensure the provision of the universal service throughout Croatia in the manner prescribed by the Postal Services Act and the Rules.

The universal service provider is required to establish a network of post offices in such a way that:

1. each post office covers an average area of not more than 80 km²,
- or
2. each post office serves an average of not more than 6 000 inhabitants.

The average number of inhabitants and average area in km² referred to in paragraph 1(2) of this Article apply to the entire territory of Croatia. The postal network must be composed of at least 700 regular post offices. The universal service provider is required to establish a network of access points in built-up areas, with a distance between access points of not more than 5 000 m.

–Post offices may be:

- (i) regular
- (ii) seasonal
- (iii) contractual
- (iv) mobile
- (v) for customs clearance.

Out of a total of 1 016 post offices operating as at 31 December 2017:

1. 275 were in urban areas;
2. 390 were in rural areas;
3. 351 were in areas of special state concern or on islands.

HP may close or relocate a post office on condition that it provides users of postal services with a quality standard of postal services in accordance with the Rules.

Where there is a reduced need for postal services, HP may restructure a regular post office, on condition that it provides universal service users with a quality standard of service and a minimum number of regular offices. More specifically:

- a) a regular post office into a seasonal office; and
- b) a regular post office into a mobile post office.

- Postal centres

Postal centres are the places where the operations of receipt and routing of postal items are carried out. HP is required to set up at least one alternative office to act as an intermediary, collect and dispatch postal items in international traffic.

- Self-service departments

The self-service department is an element of the postal network, in which the universal service provider performs postal services through self-service machines.

- Postboxes and collective letter boxes

HP is required to install postboxes for the receipt of correspondence to ensure access to postal services at times when and in places where other elements of the postal network are not available to users. HP is required to ensure that each postbox is emptied at least once every working day, except in areas where, in accordance with the Postal Services Act and the Rules, no daily deliveries are carried out.

Quality of the universal service provided

Article 40 of the Postal Services Act requires HP to ensure that:

1. 85% of postal items of the fastest category are delivered within one working day, and 95% within two working days, in domestic postal traffic, and that 95% of all other items in domestic traffic are delivered within three working days;

2. 85% of postal items of the fastest category are delivered within three working days, and 97% within five working days, in international postal traffic with other EU Member States; for other countries, the maximum delivery periods are as laid down in the acts of the Universal Postal Union.

For postal items addressed to recipients on the islands or received on the islands, the maximum delivery periods are one day longer.

The deadline for the receipt or posting of postal items must be indicated in the HP's offices intended for users of the service and on postboxes, broken down by category of speed for the transport of items.

The universal service provider is required each year, in line with Croatian standards, to measure the quality of the universal service provided, and to have an independent body measure the quality of delivery of postal items in order to determine the percentage of items delivered.

The Rules lay down the manner in which the universal service provider issues and conducts a call for tenders for having the quality of the universal service measured by an independent body, which must be in line with the following Croatian standards:

1. HRN EN 13850 - Measurement of the transit time of end-to-end services for single piece priority mail;
2. HRN EN 14508 - Measurement of the transit time of end-to-end services for single piece non-priority mail
3. HR EN 14012 - Measuring complaints and compensation

The Postal Services Act requires the universal service provider to submit to HAKOM, for information, an annual report on the quality of the universal service, by 1 April for the preceding calendar year.

HRN EN 13850 and HR 14508 measurement results for 2017

| LETTER | Standard % | | Quality achieved on time (%) |
|--------------|------------|-----|------------------------------|
| Priority | D+1 | 85% | 85.40% |
| Priority | D+2 | 95% | 98.00% |
| Non-priority | D+3 | 95% | 95.39% |

Delivery

The delivery of postal items to the home address or premises of any natural or legal person, as part of the universal service obligation, is carried out by HP every working day, except in the cases provided for in the Rules. The requirement to deliver items as prescribed by the Rules does not apply to the universal service provider in exceptional cases only:

- where such delivery poses a danger to the worker or to the material resources of the universal service provider;
- where there is no letter box at the address or premises, or where the letter box is not placed in the appropriate place;
- where the recipient's address indicated on the postal item is non-existent or not inhabited.

In addition to the above cases, the universal service provider may, in exceptional cases, arrange for delivery to the home address or to the premises of a natural or legal person, in such a way that delivery does not take place every working day, for a maximum of 10% of the total number of households in Croatia, as per the results of the population census. The exception may only concern:

- places with fewer than 1 000 inhabitants and islands with fewer than 500 inhabitants;
- households to which there is no adequate road access for the universal service provider's worker;
- households located in hilly or mountainous areas with extremely difficult access conditions;
- households for which the delivery of ordinary letters and notifications of arrival of postal items takes place via collective letter boxes.

Opening hours

HP determines the opening hours of post offices for users of postal services on the basis of the criteria set out in more detail in Article 18 of the Rules, namely:

- a) the needs of users of postal services;
- b) the prescribed quality criteria for the provision of a universal service;

- c) specific conditions.

HP decides on the opening hours of the post offices on the basis of the above criteria specified in Articles 19 and 20 of the Rules. HP is required to notify the Working Time Decision to HAKOM at least 15 days before its application and publish it on its website.

Universal service prices

HP sets the universal service prices, in compliance with the following conditions laid down in the Postal Services Act:

1. prices must be the same for the same type of services relating to items of correspondence for all users of postal services throughout Croatia;
2. prices must be affordable and cost-oriented and must encourage the effective provision of the universal service; and
3. prices must be transparent and non-discriminatory.

Users who send a large number of postal items may receive a discount on condition that account is taken of the costs, as set in the price list for the universal service, and that the discount is applied in the same way to all service users that send postal items under similar conditions. Discounts do not affect the increase in net cost.

Issue of postage stamps

A special right was granted to HP under the Postal Services Act.

Article 42(1) of the Postal Services Act states that HP is to issue, sell and withdraw postage stamps. The same Article also states that a separate set of rules will provide further details on the conditions and procedure for issuing and using postage stamps, the cases in which postage stamps are considered invalid, the establishment, scope and operation of the Committee for the selection of patterns and graphic designs for Croatian postage stamps, the establishment of a programme for the issuing of postage stamps, as well as other matters relating to postage stamps.

4. DESCRIPTION OF THE NET COST COMPENSATION MECHANISM AND THE PARAMETERS FOR CALCULATING, CONTROLLING AND REVIEWING THE COMPENSATION FOR AN UNFAIR FINANCIAL BURDEN

HP is the universal postal service provider in the Republic of Croatia pursuant to Article 67 of the Postal Services Act, which granted HP the right and the obligation to provide the universal service for a period of 15 years, through a mechanism for reviewing the conditions for the provision of the universal service every 5 years.

Separation of accounts

Article 47 of the Postal Services Act requires HP to separate its accounts by separating revenue and expenditure generated from the universal service from revenue and expenditure generated from alternative postal services and from revenue and expenditure generated from other postal services, broken down by the type of service and product. The purpose of such separation is to determine the unit cost to be used for the calculation of the net cost of the universal service.

According to the separation of accounts, costs are allocated as follows:

1. the costs directly attributable to a particular service or product are attributed to that service or product;
2. common costs that are not directly attributable to a given service/product are, where possible, allocated on the basis of a direct analysis of the origin of each cost; where no direct analysis is possible, certain cost categories are allocated on the basis of an indirect linkage to other cost categories or groups for which a direct assignment or allocation is possible. If this is not possible, the cost categories are allocated on the basis of cost-allocation factors.

In accordance with the Postal Services Act, the method of keeping separate accounts is set out in detail in HAKOM's 'Instruction on the separation of accounts'.

The purpose of introducing the obligation of separate cost accounting is to ensure equal and transparent criteria that foster competitiveness, which HP should apply when allocating costs to the services it provides. In this respect, the 'Instruction on the separation of accounts' defines the framework for the preparation of regulatory reports and other information that HP is required to provide periodically to HAKOM as part of its legal obligations, in particular taking into account the costs that can be directly attributed to a particular service or product (direct costs) and the costs that cannot be directly attributed to a particular service or product (indirect costs).

Article 47 of the Postal Services Act, which refers to the obligation to keep separate accounts, requires HP to separate its accounts by separating revenue and expenditure generated from the universal service from revenue and expenditure generated from alternative postal services and from revenue and expenditure generated from other postal services, broken down by the type of service and product.

The purpose of the ‘Instruction on the separation of accounts’ is to regulate the universal service provider’s obligation to keep separate accounts in accordance with the Postal Services Act. HP’s separation of accounts, as per the Instruction, must fulfil the following objectives:

- to determine the actual cost of the provision of services, so that the prices for the services provided under the universal service can be determined accurately;
- to provide the basis for determining the net cost of providing the universal service.

HP’s cost accounting allocates costs for each service, i.e.:

- a) the costs that can be directly attributed to a particular service or product, and
- b) common costs that cannot be directly attributed to a particular service or product.

Common costs that cannot be directly attributed to a particular service or product are allocated as follows:

- (i) whenever possible, they are allocated on the basis of a direct analysis of the origin of the costs themselves;
- (ii) when a direct analysis is not possible, they are allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage is based on similar cost structures;
- (iii) when it is not possible to allocate costs using direct or indirect measures, the cost category is allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the universal services and, on the other hand, to the alternative postal services and other postal services;

- (iv) common costs which are necessary for the provision of the universal service, alternative postal services and other postal services will be allocated appropriately when the universal service, alternative postal services and other postal services use the same source of costs;
- (v) common costs are allocated by applying the method of Equi-Proportional Mark-Up (EPMU).

Determining the net cost

The procedure for calculating the net cost is laid down in detail in Articles 48-52 of the Postal Services Act, which are in line with Article 7 of the Postal Directive and Annex I thereto. Article 48(1) of the Postal Services Act provides that if the universal service obligation generates a net cost that represents an unfair financial burden, the universal service provider is entitled to compensation for the unfair financial burden determined.

The Rules lay down the components of the net cost calculation. The calculation of the net cost must therefore be based on the costs which are associated with the provision of the universal service at the specified standard and which generate a loss for the universal service provider, or under conditions where the costs are not in line with the usual rules of the market economy, as laid down in the Postal Services Act.

The components of the net cost calculation, as laid down in the Rules, may be:

1. the obligation to maintain a certain density of access points for the receipt of postal items. If the universal service provider were not required to maintain the postal network throughout Croatia, it could reduce the network of access points in certain unprofitable areas;
2. the obligation to maintain a certain frequency of delivery of postal items. If the universal service provider were not required to deliver postal items each working day from Monday to Friday, it could reduce the frequency of delivery of postal items;
3. the obligation to maintain the delivery of postal items throughout Croatia. If the universal service provider were not required to maintain the delivery of postal items throughout Croatia, it would not carry out the delivery of postal items in certain unprofitable areas.

The Rules also provide that the net cost must include any cost that is associated with and necessary for the provision of the universal service, and must be calculated as the difference between the net cost with an obligation to provide the universal service and the net cost without an obligation to provide the universal service, which is also laid down in the Postal Services Act.

For the calculation of the unfair financial burden in the postal sector in accordance with the Postal Services Act and the Rules, the HAKOM Council issued an ‘Instruction on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden’.

Since the methodology for calculating the net cost is described in Annex I to the Postal Directive, the Instruction uses the PC method for calculating the unfair financial burden, in accordance with Annex I to the Postal Directive. A study by Frontier Economics for the European Commission, on the experiences of universal service providers and national regulatory agencies in calculating the net cost, showed that the following three main methods were used to calculate the net cost of the universal service:

- the Deficit Approach method (DA method), based on the accounting separation of costs;
- the Net Avoided Cost method (NAC method);
- the Profitability Cost method (PC method).

The competent regulatory authorities and universal service providers in other countries have so far used all of the above methods.

The choice of the appropriate method depends on a number of factors, including the purpose for which the calculation is undertaken in the first place, i.e. financing, strategy or impact on the universal service provider, and also on the relevant market circumstances and the regulatory arrangements in an individual EU Member State. The consultants recommended the PC method as the most appropriate method, for the following reasons:

- it can fully capture the complexity of the commercial scenario. This method does not limit itself to the status quo; it allows modelling of the full range of possible changes that a service provider could undertake if it operated without a universal service obligation. The PC method can reflect not only the potential withdrawal of certain

products from the universal service, but can also cover the effects of removing or softening specific elements of the universal service obligation;

- it can take into account any changes resulting from the modification of the universal service obligation. This includes direct effects on demand, costs and market shares arising from changes in universal service obligations;
- the method is better than the other two methods in terms of efficiency considerations, which is important as the calculation of the net cost should not include the cost of inefficient provision of services;
- this is an already established methodology that has been applied in Europe, in some cases in the context of the universal service provider's application for compensation for an unfair financial burden. The PC method is applied in practice in Denmark, Norway, Great Britain, Slovakia, the Netherlands, Finland and Portugal;
- it is in line with the Postal Directive and the Postal Services Act, while the other two methods have significant shortcomings in that regard.

The PC method is also recommended because it is fully in line with the Croatian and EU legislation, as can be seen from the conditions and parameters laid down for the calculation of the net cost in Article 50 of the Postal Services Act and from Annex I to the Postal Directive. On the other hand, the other two methods do not fully correspond to those rules; they therefore represent a possible regulatory and market risk in the future for the universal service provider, the providers of other postal services and for Croatia.

Furthermore, the document adopted by the European Regulators Group for Postal Services (ERGP) in August 2012 entitled 'Net Cost Calculation and Evaluation of a Reference Scenario', in a chapter that deals with the commercial (reference) scenario, envisages three different methods that can be used. One of the envisaged methods is the PC method used by HP in its commercial scenario.

The PC method does not fully follow all paragraphs of Article 5 of the Commission Decision, so the method of defining the reasonable profit referred to in Article 5(6) is not applicable. The use of alternative methods of calculating reasonable profit is set out in paragraph 8 of the same Article. In accordance with paragraph 8 and the PC calculation methodology, the weighted average cost of capital (WACC) was used as a measure of the expected level of profit in the postal sector. A detailed description of how the WACC is calculated is set out in the document 'Commercial scenario for calculating the net cost'.

A HAKOM decision determines the amount of the net cost and whether the amount determined represents an unfair financial burden. To calculate the net cost, the universal service provider must produce a business study both with and without the obligation to provide a universal service, taking the following factors into account:

1. the net cost is based only on the costs related to provision of the universal service at the standard specified;
2. when calculating the net cost, only the following components of the universal service are taken into account:
 - those that generate a loss for the universal service provider, or
 - those that arise when the universal service provider operates under market conditions that fall outside the scope of the usual rules of the market economy;
3. when calculating the net cost, account is taken of ensuring the provision of the universal service to special users or groups of users of services generating a loss for the universal service provider or provided under cost conditions that do not correspond to the usual rules of the market economy;
4. when it is possible to provide the universal service at the specified standard using several different methods, the net cost is calculated by considering the method that ensures the provision of the universal service at the specified standard at the lowest cost, even if the universal service provider opts for a different method;
5. all tangible and intangible benefits which accrue to the universal service provider by providing the universal service are deducted from the cost of the universal service; these benefits include:
 - revenue generated from the universal service, as well as revenue from services that do not form part of the universal service and which would not have been obtained by the universal service provider without providing the universal service,
 - an increase in the value of the brand as a result of providing the universal service,
 - a reduction in the cost of providing other services as a result of synergies created by providing the universal service,

- other tangible and intangible benefits determined by HAKOM;
- 6. the universal service provider is entitled to an appropriate level of profit when providing the universal service, allowing it to achieve a rate of return on resources that it could have obtained without providing the universal service.

The payments so far (under the applicable Scheme) have been made as follows:

- HP submitted a request on 30 June 2015. HAKOM Council issued a decision (class: UP/1-344-02/15-06/01, ref. No: 376-06/15-8 of 6 October 2015) determining that the amount of HRK 81 796 754.00 represented the unfair financial burden for the universal service provider (HP in 2014), and the amount determined was paid to the universal service provider from the national budget under the decision and the Scheme.
- HP submitted a request on 1 July 2016. HAKOM Council issued a decision (class: UP/1-344-02/16-06/01, ref. No: 376-06/16-7 of 11 October 2016) determining that the amount of HRK 79 062 286.00 represented the unfair financial burden for the universal service provider (HP in 2015), and the amount determined was paid to the universal service provider from the national budget under the decision and the Scheme.
- HP submitted a request on 30 June 2017. HAKOM Council issued a decision (class: UP/1-344-02/17-06/02, ref. No: 376-06/17-5 of 23 October 2017) determining that the amount of HRK 78 766 289.00 represented the unfair financial burden for the universal service provider (HP in 2016) and the amount determined was paid to the universal service provider from the national budget under the decision and the Scheme.
- HP submitted a request on 27 June 2018. HAKOM Council issued a decision (class: UP/1-344-02/18-06/01, ref. No: 376-06/18-10 of 23 November 2018) determining that the amount of HRK 79 797 020.00 represented the unfair financial burden for the universal service provider (HP in 2017) and the amount determined was paid to the universal service provider from the national budget under the decision and the Scheme.

Under the applicable Scheme for the period 2014-2018, the last possible payment would be in 2019 for an unfair financial burden in 2018.

Funding for this purpose has been set aside under the 2019 national budget and in the forecasts for 2020 and 2021 (NN No 113/18) under Section 065 — Ministry of the Sea, Transport and Infrastructure, Chapter 05, source 11, Action A754032 – Compensation granted to undertakings

entrusted with the provision of the universal postal service, account 3512 – Subsidies to companies in the public sector:

2019: 78 893 000

Since, in accordance with the mechanism and parameters for calculating the net cost, i.e. compensation for the unfair financial burden, the calculated compensation does not exceed EUR 15 million per year, this state aid does not need to be reported to the European Commission in accordance with Article 108(3) TFEU.

5. CALCULATION OF THE COMPENSATION, BASED ON THE PRESCRIBED PARAMETERS

The procedure leading to the determination of compensation for the unfair financial burden on HP in previous years was carried out in accordance with the sectoral legislative framework and State aid rules, aligned with European Union law.

Article 5(1) of the Commission Decision states that ‘the amount of compensation shall not exceed what is necessary to cover the net cost incurred in discharging the public service obligations, including a reasonable profit’.

The compensation was determined following HAKOM’s decision on the calculation of the net cost and on the existence of an unfair financial burden, as described above. The methodology for calculating the net cost of the universal service obligation and the corresponding calculation, as explained above, are based on the PC methodology provided for in both the Commission Decision and the Postal Directive. Article 5(2) of the Commission Decision determines how the net cost of a service of general economic interest is to be calculated, in accordance with the recommendations set out in Annex I to the Postal Directive. HAKOM’s ‘Instruction on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden’ provides that the net cost of the universal service is calculated as the difference between the net cost where the universal service provider operates under a universal service obligation and the net cost that the universal service provider would have incurred if there had not been an universal service obligation. In the review process, the calculation of HP’s net cost was found to have been correctly applied.

For the years 2014, 2015, 2016 and 2017, HP determined the unfair financial burden in the provision of the universal service according to the methodology relating to

the business study conducted with and without the obligation to provide a universal service (commercial scenario) as required by Article 50 of the Postal Services Act and Article 5(2) of the Commission Decision.

In order for HP to be able to determine the unfair financial burden associated with the provision of the universal service, it was necessary to establish separate accounts, since HP also carries out activities, other than the provision of the universal service, which cannot be classified as services of general economic interest. HAKOM's 'Instruction on the separation of accounts' set out the methodology to be used by HP for keeping separate accounts for the provision of the universal service from other commercial activities.

The calculation of the net cost of the universal service must include only the economically justified costs directly related to the universal service, the corresponding part of the indirect costs associated with the services provided and the appropriate profit.

In accordance with the regulatory provisions and the 'Instruction on the calculation of and compensation for the net cost', HP prepared a Report with a view to describing how it would operate if it did not have a universal service obligation. The assumptions used under the scenario with no universal service obligation are shown as a commercial scenario. The market benefits resulting from the provision of the universal service were also calculated.

The commercial scenario produced by HP and revised by HAKOM represents the business of HP where there is no universal service obligation, i.e. provides for the possibility to calculate the net cost of the universal service, taking into account the following parameters:

- a) changes in the density of access points for the receipt of postal items;
- b) changes in the frequency of delivery of postal items;
- c) changes in the geographical coverage of the delivery network;
- d) free-of-charge postal services for the blind;
- e) other services and changes in the conditions for providing services that would not be available or that would be available under different conditions if there were no universal service obligation.

HP created a commercial scenario, i.e. a study on the calculation of the net cost of the universal service, taking into account the following parameters:

- a) changes in the density of access points for the receipt of postal items;
- b) changes in the frequency of delivery of postal items;
- c) free-of-charge postal services for the blind;
- d) other services and changes in the conditions for providing services that would not be available or that would be available under different conditions if there were no universal service obligation.

Regarding the element of calculating the change in the geographic coverage of the delivery network, under current conditions, it is unlikely that HP would reduce the geographic coverage of the delivery network in a commercial scenario. It is considered that HP's competitive advantage as a national operator would be lost and that the potential loss of revenue would outweigh any cost reduction on this basis. As a result, changes in the geographical coverage of delivery were not considered as an element of the net cost calculation.

5.1. FORECASTS FOR THE PERIOD 2019-2023

Applying the same parameters as those used to calculate the net cost in previous years, and on the basis of the 'Instruction on the calculation of and compensation for the net cost' and the forecasts for HP's operations, the following forecast was made for the net cost for the period 2019-2023:

2019

**Reference to
the Instruction**

| | | Δ Costs | Δ Revenue | Δ Effect |
|-------------|--------------------------------|--------------------|------------------|--------------------|
| CNCi | Density of access points | 93 555 540 | 34 766 991 | 58 788 548 |
| DNCi | Frequency of delivery | 32 799 262 | 1 426 140 | 31 373 122 |
| | Geographical coverage | - | - | - |
| STC | Transport and routing | 21 310 421 | - | 21 310 421 |
| OHC | Administrative costs | 12 328 703 | - | 12 328 703 |
| | International accounting | 25 332 | - | 25 332 |
| FSR | Free services for the blind | | (188 809) | 188 809 |
| | Δ Effect | 160 019 258 | 36.004322 | 124 014 935 |
| MB | Market benefits | | | (26 492 771) |
| Profit | Appropriate profit | | | 4 435 079 |
| NCUS | Σ Net cost of universal | | | 101 957 243 |

| service | | | | |
|-------------------------------------|--|--------------------|-------------------|--------------------|
| 2020 | | | | |
| Reference to the Instruction | | Δ Costs | Δ Revenue | Δ Effect |
| CNCi | Density of access points | 94 000 584 | 34 931 379 | 59 069 204 |
| DNCi | Frequency of delivery | 32 955 289 | 1 440 401 | 31 514 887 |
| | Geographical coverage | - | - | - |
| STC | Transport and routing | 21 411 795 | - | 21 411 795 |
| OHC | Administrative costs | 12 387 351 | - | 12 387 351 |
| | International accounting | 25 452 | - | 25 452 |
| FSR | Free services for the blind | | (194 899) | 194 899 |
| | Δ Effect | 160 780 470 | 36 176 881 | 124 603 589 |
| MB | Market benefits | | | (24 815 923) |
| Profit | Appropriate profit | | | 4 435 079 |
| NCUS | Σ Net cost of universal service | | | 104 222 744 |

| | | | | |
|-------------------------------------|--|-------------------|-------------------|--------------------|
| 2021 | | | | |
| Reference to the Instruction | | Δ Costs | Δ Revenue | Δ Effect |
| CNCi | Density of access points | 97 222 520 | 35 127 705 | 62 094 815 |
| DNCi | Frequency of delivery | 34 084 854 | 1 454 805 | 32 630 049 |
| | Geographical coverage | - | - | - |
| STC | Transport and routing | 22 145 699 - | | 22 145 699 |
| OHC | Administrative costs | 12 811 936 - | | 12 811 936 |
| | International accounting | 26 325 - | | 26 325 |
| FSR | Free services for the blind | | (200 990) | 200 990 |
| | Δ Effect | 166.291334 | 36 381 321 | 129 909 813 |
| MB | Market benefits | | | (24 070 800) |
| Profit | Appropriate profit | | | 4 435 079 |
| NCUS | Σ Net cost of universal service | | | 110 274 092 |

| | | | | |
|-------------------------------------|--------------------------|----------------|------------------|-----------------|
| 2022 | | | | |
| Reference to the Instruction | | Δ Costs | Δ Revenue | Δ Effect |
| CNCi | Density of access points | 98 241 242 | 35 249 959 | 62 991 283 |
| DNCi | Frequency of delivery | 34.083233 | 1.469353 | 32 613 880 |
| | Geographical coverage | - | - | - |

| | | | | |
|-------------|--|--------------------|-------------------|--------------------|
| STC | Transport and routing | 22 144 646 - | | 22 144 646 |
| OHC | Administrative costs | 12 811 327 - | | 12 811 327 |
| | International accounting | 27 709 - | | 27 709 |
| FSR | Free services for the blind | | (207 081) | 207 081 |
| | Δ Effect | 167 308 156 | 36 512 231 | 130 795 925 |
| MB | Market benefits | | | (24.445200) |
| Profit | Appropriate profit | | | 4 435 079 |
| NCUS | Σ Net cost of universal service | | | 110 785 803 |

2023

Reference

to

the

Instructio

| n | | Δ Costs | Δ Revenue | Δ Effect |
|-------------|--|--------------------|-------------------|--------------------|
| CNCi | Density of access points | 96 754 955 | 35 383 258 | 61 371 697 |
| DNCi | Frequency of delivery | 33 567 589 | 1 484 047 | 32 083 542 |
| | Geographical coverage | - | - | - |
| STC | Transport and routing | 21 809 620 | - | 21 809 620 |
| OHC | Administrative costs | 12 617 505 | - | 12 617 505 |
| | International accounting | 27 290 | - | 27 290 |
| FSR | Free services for the blind | | (213 171) | 213 171 |
| | Δ Effect | 164 776 958 | 36 654 133 | 128 122 825 |
| MB | Market benefits | | | (22 652 356) |
| Profit | Appropriate profit | | | 4 435 079 |
| NCUS | Σ Net cost of universal service | | | 109 905 547 |

Funding for this purpose has been set aside under the 2019 national budget and in the forecasts for 2020 and 2021 (NN No 113/18) under Section 065 — Ministry of the Sea, Transport and Infrastructure, Chapter 05, source 1, Action A754032 – Compensation granted to undertakings entrusted with the provision of the universal postal service, account 3512 – Subsidies to companies in the public sector:

2020: 79 000 000

2021: 79 000 000.

6. ARRANGEMENTS FOR AVOIDING AND RECOVERING ANY OVERCOMPENSATION

The annual amount of compensation for the provision of the universal service, based on data from previous years of the applicable Scheme, was less than HRK 82 million, broken down by year as follows:

2015: HRK 81 796 754.00 (Note: annual amount for 2014 paid in 2015);

2016: HRK 79 062 286.00 (Note: annual amount for 2015 paid in 2016);

2017: HRK 78 766 289.00 (Note: annual amount for 2016 paid in 2017);

2018: HRK 79 797 020.00 (Note: annual amount for 2017 paid in 2018).

This represents an amount that is less than EUR 15 million, which complies with Article 2(1)(a) of the Commission Decision, according to which the Commission Decision applies to compensation not exceeding EUR 15 million for the provision of services of general economic interest.

The Ministry will ensure that the compensation granted to HP for the provision of the universal service meets the conditions laid down in the Commission Decision, and in particular that HP does not receive compensation in excess of the amount determined in accordance with Article 5.

Similarly, following a written request by the Commission, the Ministry will submit all information requested and carry out regular checks at least every three years for the duration of the Proposal and at the end of that period. If HP receives compensation in excess of the amount determined in accordance with Article 5 of the Commission Decision, the Ministry will ask HP

to repay the overcompensation paid. The parameters for the calculation of the compensation will be redefined for future periods.

The amounts shown in point 5.1 (Forecasts) of this Proposal are indicative, and the exact amount of the net cost for each year will be determined by decision of HAKOM following the procedure laid down in the Postal Services Act, the Rules and the ‘Instruction on the calculation of and compensation for the net cost’.

To avoid any distortion of competition, on no account may the compensation for an unfair financial burden on HP exceed, between 2019 and 2023, the amount necessary to cover the minimum financial burden, calculated and determined in accordance with the procedure referred to above, on the basis of an actual and true presentation of costs and revenue associated with the universal service, and also on the basis of the parameters for allocating costs and revenue. As the compensation is calculated and paid at the end of the calendar year, based on a decision by HAKOM on the amount of the unfair financial burden issued on the basis of the findings of an independent auditor, we do not believe it is possible to overcompensate the universal service provider, because HAKOM calculates the compensation ex post (after the end of the calendar year).

7. REFERENCE TO THE PROVISIONS OF THE DECISION

If, during the period of entrustment of the universal service to HP, the conditions for the application of the Commission Decision cease to be met, for example if the annual amount of aid exceeds EUR 15 million or the duration of the entrustment is extended for longer than 10 years, the Commission must be informed of the State aid in order to submit its comments in accordance with Article 108(3) TFEU and Article 8 of the State Aid Act.

Transparency and access to information

The Ministry will publish on its website the text of the ‘Proposal for individual State aid to HP-Hrvatska pošta d.d. in the form of compensation for the provision of the universal service for the period 2019-2023’.

The Ministry will also keep all the necessary information for a period of at least 10 years after the end of the application of the ‘Proposal for individual State aid’ in order to be able to

demonstrate at any time that the compensation has been granted in accordance with the Commission Decision.

Compliance with the transparency criterion stems from the fact that all the conditions and criteria are contained in legislative and regulatory acts published regularly in the official gazette and are also available on the internet. Moreover, prior to the adoption of all those acts (the Postal Services Act, the ‘Rules on the provision of universal service’, the ‘Instruction on the separation of accounts’ and the ‘Instruction on the calculation of and compensation for the net cost’), all interested parties were able to submit their comments, remarks and suggestions on the proposed acts.

Prior to the adoption of all acts on the unfair financial burden which fall within the remit of this Ministry and HAKOM, public consultations were held in which all interested parties had the opportunity to comment on the proposed acts, as follows:

- On 1 January 2013 the Postal Services Act entered into force. The draft proposal was prepared by the Ministry of Maritime Affairs, Transport and Infrastructure in cooperation with HAKOM and was subject to a public consultation from 20 June to 9 July 2012. Most postal service providers took part in the public consultation. A final draft proposal was prepared after all the comments had been received and analysed. It was submitted for comments to DG MARKT and was brought into line with its recommendations. With the adoption of the Postal Services Act by the Croatian Parliament and its entry into force on 1 January 2013, the formal conditions for the complete liberalisation of the postal services market were established. HP was appointed as the universal service provider. A legislative framework was created, providing for compensation for the unfair financial burden of the universal service obligation.
- On 4 April 2013, the Rules entered into force as an implementing regulation of the Postal Services Act, which were adopted by HAKOM by virtue of the power conferred on it by Article 15(6) of the Postal Services Act. Prior to the adoption of the proposal for the Rules, a public consultation was held in February and March 2013, during which all interested parties submitted their comments.
- On 27 March 2013, HAKOM adopted a decision, an integral part of which is also the ‘Instruction on the separation of accounts and cost accounting’. The Instruction was drawn up in cooperation with our Ministry and the Spanish Regulatory Authority (CNMC), which was a partner in the IPA project at HAKOM. Prior to the adoption of

the Decision and the Instruction, a public consultation took place and the call was published on HAKOM's website.

- On 31 August 2015, in order to further implement the provisions of the Postal Services Act that are associated with the net cost of the universal service, HAKOM issued the 'Instruction on the calculation of and compensation for the net cost of the universal service and an evaluation of the unfair financial burden'. As part of the preparation of the proposal for the Instruction, a public consultation was carried out on HAKOM's website, in which all interested parties submitted their comments.

Reporting

The Ministry is to provide the Ministry of Finance with data on the State aid granted in accordance with the State Aid Act and the 'Rules on the submission of State aid proposals and data on State aid, de minimis aid and the Register of State aid and de minimis aid' (NN No 125/17).

Class: 421-01/18-01/23

Ref. No: 530-07-2-2-2-19-4

Zagreb, 17 January 2019

Oleg Butković, Minister

[signed and stamped]

REPUBLIC OF CROATIA
MINISTRY OF THE SEA, TRANSPORT AND INFRASTRUCTURE

Pursuant to Article 95 of the Budget Act (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia, Nos 87/08, 136/12 and 15/15), in conjunction with Article 30 of the Air Transport Act (NN Nos 69/09, 84/11, 54/13, 127/13 and 92/14), the Minister for the Sea, Transport and Infrastructure hereby issues a

DECISION
amending
the Decision on preservation of the continuity of transport connectivity and the
uninterrupted provision of regular scheduled air services in the Republic of Croatia

I.

In point III, paragraph 1 of the Decision on preservation of the continuity of transport connectivity and the uninterrupted provision of regular scheduled air services in the Republic of Croatia (Class: 400- 02/19-03/85, Ref. No: 530-07-1-20-7) of 17 March 2020, the words ‘but no later than 24 October 2020’ shall be replaced by the words ‘but no later than 27 March 2021’.

II.

In point IV, paragraph 3 is replaced by the following:

‘For 2020, funds for compensation, comprising the difference between a part of the lost earnings and the service provision cost, shall be allocated from the State budget of the Republic of Croatia for 2020, whereas for 2021, funds for compensation, comprising the difference between a part of the lost earnings and the service provision cost, shall be allocated from the State budget of the Republic of Croatia for 2021, and the Ministry of the Sea, Transport and Infrastructure shall earmark funds from the State budget as a subsidy for maintaining transport connections between the regions – domestic scheduled air services.’⁴⁴

III.

This Decision shall enter into force on the date of its adoption.

Class: 400-02/19-03/85
Ref. No: 530-07-1-1-20-21
Zagreb, 25 September 2020

The Minister

(signed)

Oleg Butković