



EUROPEAN  
REGULATORS GROUP  
FOR POSTAL SERVICES

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## Regulators' experience with the EU cross-border parcel regulation

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# Regulators' experience with the EU cross-border parcel regulation



- 2020 ERGP Report on the evaluation of cross-border parcel delivery services (ERGP PL II (20) 24)
- On request of the EC for technical assistance concerning Art. 11 lit. a to c of the Cross-border parcel Regulation (CBPR)
- Art. 11 lit. c: “the extent to which national regulatory authorities have had difficulties applying this Regulation”
- Experience with the 2020 round of implementation collected by a questionnaire with open questions
- Answers by 26 NRAs

# Regulators' experience with the EU cross-border parcel regulation

- Art. 4(3) – experience with the annual data collection
- Art. 5 – experience with the tariff data collection
- Art. 6 – experience with tariff assessment
- Outlook on the ERGP Implementation Report 2021

# Art. 4(3) – collection process



- No general problems with the (timely) submission of data by PDSPs
- 5 NRAs reported opposition of PDSPs to submit data, but these were usually single cases
- 11 NRAs reported difficulties with the PDSPs meeting the deadline (30 June)

# Art. 4(3) – Volumes and turnover

- 9 NRAs reported that the PDSPs had difficulties in understanding the definitions:
  - 3 of them reported general difficulties because of missing or unclear definitions, while the other were problems with specific definitions.
- 6 NRAs reported difficulties of the PDSPs with the split-up of statistical data acc. to the definitions, as the data was not available in the foreseen granularity (e.g. items thicker than 2 cm).

# Art. 4(3) – Employment data

- 8 NRAs reported that the PDSPs had difficulties to provide the employment data as requested
- Main difficulties:
  - Concepts of the employment status and the calculation methods
  - Granularity of information is too detailed
- NRAs are usually not specialised in labour issues

# Art. 4(3) – Data regarding subcontractors



- 9 NRAs report that PDSPs had difficulties to provide data regarding subcontractors:
  - Requested data is not available
  - Provision is burdensome, especially for PDSPs with a larger number of subcontractors

# Art. 4(3) – Publication of statistical data



- 9 NRAs had published or had announced to publish the aggregated statistical data, 2 NRAs had not decided yet, while 15 NRAs stated that they would not publish it.
- In the 2019 exercise, NRAs gave the following reasons for not publishing the aggregated statistical data:
  - Time schedules for the publication of statistical data on national level
  - Inconsistency with the statistical data collected previously on national level that lead to a break in the series
  - Data is used for market monitoring, market analysis or similar

# Art. 4(3) – Conclusions

- No general problems with the definitions for most NRAs
- Some issues have to be seen in the context of inconsistencies with obligations from the PSD and/or national legislation
- Most NRAs do not see a need for a new guidance
- Recommendation to analyse further the difficulties if they are persistent, but also the relevance of such difficulties for the implementation of the Regulation

# Art. 5 – PARCEL application of the EC



- The EC has developed a (non-mandatory) tool for the submission of tariffs by the PDSPs to the NRAs and subsequently by the NRAs to the EC (PARCEL app).
- 21 NRAs used the PARCEL app to collect the tariffs of the PDSPs, while 5 used their own tool.
- 17 NRAs reported technical difficulties with the PARCEL app (for the NRAs or PDSPs), this being the most frequently experienced difficulty.

# Art. 5 – Tariff data collection process



- 8 NRAs reported difficulties with the timely submission of tariffs by PDSPs, 3 of them explaining this was due to technical issues with the PARCEL app.
- 4 NRAs faced opposition of PDSPs to submit the data. 2 of them stated that some PDSPs did not send the required data, but at that time the NRA did not have sanctioning powers.

# Art. 5 – Tariff data

- Main difficulties for NRAs and PDSPs:
  - Clarity of definitions of the Annex (8 NRAs)
  - Verification of tariffs by NRAs (7 NRAs) - voluntary, as recital 24 states the responsibility of the PDSPs for the accuracy of the tariff information
  - Choosing the categories of the Annex, e.g. due to blurring lines between product characteristics (6 NRAs)
  - Calculation of tariffs, e.g. in case of volumetric tariffs or flexible tariff components, like fuel surcharges varying during the year (5 NRAs)

# Art. 6 – General procedure



- Two-step procedure: identification of tariffs necessary to assess (acc. to Art. 6(1)) and tariff assessment (acc. to Art. 6(2) and 6(3))
- Only those NRAs have to do an assessment that have identified tariffs
- Identification of tariffs should be based on Art. 5 data
- Recital 25 foresees the possibility of applying an objective pre-assessment filter mechanism
- In its Guidance, the EC recommends a ranking filter adjusted by purchasing power parity (PPP), with the 25% of the highest tariffs of each category being identified. The application of this mechanism is not mandatory: Regulation leaves it to the discretion of the NRAs.

# Art. 6(1) – Identification of tariffs



- Generally no problems were mentioned as a – possible – pre-assessment filter mechanism is provided by the EC.

# Art. 6 – Overview of tariff assessments

		NRAs		Total number of NRAs	
2019	Conducted assessment	Found unreasonably high tariffs	BE <sup>1</sup> , CZ, EE, HU, LT	5	18
		Did not find unreasonably high tariffs	BG, ES, GR, HR, IE, IT, LU, LV, MT, NL, PT, RO, SE	13	
	Did not conduct assessment (no tariff was identified in the pre-assessment)		AT, CY, DK, FR, PL, SI, SK, UK	8	
2020	Conducted assessment	Found unreasonably high tariffs	CZ, EE, HU, IE, LT	5	17
		Did not find unreasonably high tariffs	BE, BG, ES, GR, IT, LU, LV, MT, NL, PT, RO, SE	12	
	Did not conduct assessment (no tariff was identified in the pre-assessment)		AT, CY, DK, FR, HR, PL, SI, SK	8	

1: Potentially unreasonably high in case of Belgium

# Art. 6 – Assessment process

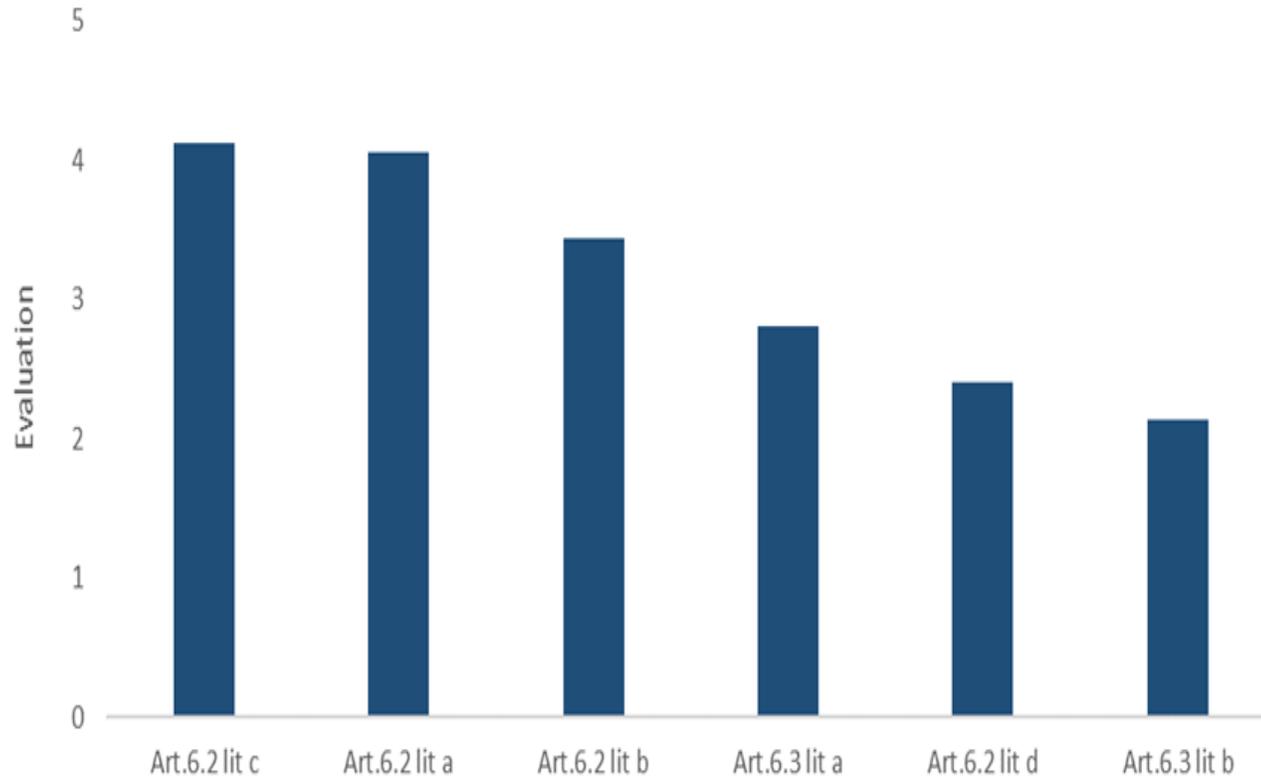


- Technical difficulties, especially the downloadability of the dataset
- Difficulties with the timeline (30 June): as identification of tariffs shall be on the basis of Art. 5, the NRAs can start the assessment only after publication of data by the EC (by 31 March), leaving only 3 months for the assessment. It was even less in 2019, when the data and filter were provided only in May.
- If data has to be requested from the USP, 30 days is foreseen for the answer, leaving less time for the assessment based on that information.
- 8 NRAs of those that have conducted an assessment stated that there was not enough time for a proper assessment.

# Art. 6(2)/6(3) – Elements of tariff assessment

Art. 6(2) lit a	The domestic and any other relevant tariffs of the comparable parcel delivery services in the originating Member State and in the destination Member State
Art. 6(2) lit b	Any application of a uniform tariff to two or more Member States
Art. 6(2) lit c	Bilateral volumes, specific transportation or handling costs, other relevant costs and service quality standards
Art. 6(2) lit d	The likely impact of the applicable cross-border tariffs on individual users and SMEs including those situated in remote or sparsely populated areas, and on individual users with disabilities or with reduced mobility, where possible without imposing a disproportionate burden
Art. 6(3) lit a	Tariffs are subject to a specific price regulation under national legislation
Art. 6(3) lit b	Abuses of dominant market position established in accordance with relevant applicable law

# Art. 6(2)/6(3) – Ranking of elements



Based on an average evaluation by NRAs that conducted a tariff assessment, to provide an overview of the relevance of the elements. A scale of 1 to 5 was used, where 1 means “not useful” and 5 means “very useful”.

This does not constitute a formal evaluation of the relevance of each element, but should instead be considered as indicative only, since these observations may result not only from a strict evaluation of the relevance of each element but also from the difficulty in obtaining information to be able to use it in the assessment.

# Art. 6(2) lit. a and lit. b

- Most NRAs that provided information did not find difficulties in applying these elements: 13 out of 17 NRAs for lit. a and 14 out of 15 for lit. b.
- Main difficulties:
  - Comparability of tariff data in the EC's database (not enough information is provided to assess if the tariffs applied by PDSPs in other countries was comparable, i.e. with similar characteristics, with the one being analysed)
  - Resource-intensive

# Art. 6(2) lit. c



- Most NRAs that provided information did not find difficulties in applying this element: 11 out of 15 NRAs
- Main difficulty: The necessary data is not available with enough details, e.g. concerning service quality standards, or because of the application of different methodologies by USP and NRA.

# Art. 6(2) lit. d

- Only 4 NRAs did find difficulties in applying this element
- However, it can be assumed that several NRAs did not apply this element in their assessments: in the 2019 exercise, only 3 NRAs considered it.
- Main difficulties are the lack of relevant data available without imposing a disproportionate burden on NRAs and a lack of guidance regarding its application.

# Art. 6(3)

- Application is not mandatory
- No difficulties were reported. However, it can be assumed that several NRAs did not apply these elements.
- As for Art. 6(3) lit. a, most NRAs took into account the conclusion of previous tariff assessments, even though the concepts of the PSD and the CBPR are different.
- In the 2019 exercise, only 3 NRAs considered Art. 6(3) lit. b in their assessment.

# Art. 6 - Discrepancies between PSD and CBPR



- Some NRAs mentioned that the framework is overlapping and not consistent
- Some NRAs mentioned that the concepts in Art. 12 PSD and Art. 6 CBPR are likely to provide different results, given that Art. 12 PSD allows for some flexibility on the application, and generally an analysis of individual tariffs is not requested, while the CBPR focuses on the assessment of individual tariffs.
- Tariffs which are compliant with the PSD (considered to be affordable) can be assessed as unreasonably high acc. to Art. 6 CBPR (or the other way round).

# Art. 6 - Conclusions



- Technical difficulties (downloadability of the data, more functionalities in the PARCEL app) could be improved by purely technical measures.
- Difficulties with the timeline, considering the complexity of the process and the need to request further information from the USP.
- Difficulties related to data availability and comparability could have a large impact. As tariff comparison is considered the second most important element, but data comparability is seen as a main difficulty, ensuring a valid and cohesive database is crucial both for tariff identification and assessment.

# Outlook on ERGP's work on the CBPR in 2021



- Based on the difficulties identified in the previous report
  - Art 4: Analysis of difficulties and usage of the data by NRAs
  - Art. 5: Analysis of difficulties, suggestions to improve the data comparability and transparency in the tariff database both for end-users, the tariff identification and NRAs doing a tariff assessment
  - Art. 6: Template for NRAs
- Report on the Implementation of the CBPR will be adopted at ERGP Plenary II (26<sup>th</sup> November) and subsequently published

*Thank  
you*