



Draft report on the 41st CERP Plenary Meeting Monaco, 18 to 20 November 2009

List of participants

Chairmanship: Mr. U. Dammann (Germany).

CERP members: Austria, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Grand Duchy of Luxembourg, Greece, Hungary, Ireland, Latvia, Lithuania, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovak Republic, Spain, Sweden, Switzerland and the United Kingdom.

CERP observers: Ms. W.-J. Lee (UPU), Mr. K. Kiljanski and Mr. R. Pochmarski (European Commission), Mr. W. Trezek (FEDMA), Mr. B. Damiens and Mr. B. Szebeny (PostEurop)

Speakers invited: Ms. G. Jones (AMEC), Mr. David Sibbick (Mail Competition Forum), Mr. K.-R. Knuth (Quotas) and Mr. A. Dieke (WIK)

Secretariat: Ms. P. Schmitz (Germany).

Wednesday, 18 November

1 Welcome

The Chairman opened the 41st Plenary meeting of CERP in Monaco and gave the floor to a representative of the host country. Jean-Luc Delcroix, Director of La Poste Monaco, warmly welcomed the participants to the meeting in Monaco on behalf of Prince Albert and the government of Monaco.

In his welcome address he emphasized the importance of a sustainable access to the postal universal service and the necessity of affordability and good quality, especially in times of economic crisis, from the incumbent's viewpoint.

2 Approval of the Agenda

The Agenda as outlined in Document CERP PL 2009/2 Doc. 1 Rev 3 was adopted without any amendments.

3 Approval of the report on the Plenary meeting in Luxembourg on 6-8 Mai 2009

The report on the CERP Plenary meeting in Luxembourg was adopted with the written amendments from France and the United Kingdom which had been submitted to the Secretariat. No more oral amendments were presented so that the report was adopted without any further modifications.

4 Report on the Steering Group meeting on 23 September 2009

Document CERP PL 2009/2 Doc. 3 describes the new structure of CERP as it was adopted by the Athens-CERP Plenary. The question whether this new structure has proved good will be discussed under a later item of the agenda.

The next Plenary will take place in Krakow from 5th to 7th May 2010. Further venues for plenary meetings have not yet been confirmed and will also be discussed under a later agenda item.

CERP PL 2009/2 Doc. 4 was adopted without any further discussion.

5 Results of the meeting of the contact committee CERP/European Commission on 23 September 2009

The European Commission communicated under this agenda item that new studies will be accomplished. More information will be given under item 12 of the agenda. The Commission outlined the good cooperation with CERP which was of utmost importance in order to have a direct link to the postal sector.

The chair expressed the view that hopefully there will also be developments in the field of VAT.

The report was adopted without any amendments.

6 Reports of the Project Teams

PT Cost Accounting and Price Regulation

The chair of the PT, Remy Lebrun from Switzerland, briefly presented the very comprehensive report "CERP Recommendation on best practices for price regulation" which had been unanimously adopted by all members of the PT at its meeting of 1/2 October 2009. The document of about 50 pages indicates best practice solutions, taking into account the special situation in the individual member states, their degree of liberalization and the state of the art concerning regulation.

The document also concludes that a "one fits all" solution is not possible. The PT recommends publishing the document on the CERP website. The PT members are also ready to offer consultancy in the field of regulation in the context of cost accounting.

It was also proposed that the report should be sent to all regulatory authorities of the CERP member countries.

The representative of the EU Commission informed that reflections concerning cost allocation were continued on an EU-level.

The report of the PT was adopted without further discussion.

With the adoption of the report, the work of the PT is concluded for the time being. The PT members agreed to build a platform of experts that could be convened whenever necessary. Any other topic could be dealt with by email or telephone.

It was accepted by the Plenary that the PT members could act as consultants for colleagues of other regulatory authorities. This possibility is also to be published on the CERP website.

PT Universal Service and its Financing

The chairman of the PT, Lars Forslund from Sweden, explained that the last meeting of the PT took place at the same time as the joint meeting of the Policy and Application working groups in Mainz.

The work done covers the first three parts of the PT's working program, namely questions concerning public procurement, compensation funds and state aid rules.

Since Mainz, no other meeting has taken place. The PT chair therefore proposed to continue the work concerning the universal service and its financing with the following topics: The impact of universal service net costs on the market situation, on barriers to market entry and also on existing competitors of the universal service provider. Moreover, the impact on regulation and market development for the USP as well as on a level playing field has also to be taken into account.

A first report on these topics will be presented in spring. The timetable for the next plenary meeting in Krakow will however be respected.

The UPU representative, Ms Won-ja Lee, indicated that the PT chair presented first findings during the last POC meeting. UPU very much appreciates the CERP studies and would like to be informed on the results of this PT.

PT Consumer Issues

The chairman of the PT, Tobias Katzschmann from Germany, underlined the importance of consumer issues for customers in all CERP member countries.

The report aims to support the universal service provider in this field. It can serve as a feedback instrument for the operator. In addition, it reflects the legal necessities arising from the third EU Directive.

This report constitutes a first step and thus a first evaluation of the existing means in the different member countries. It is not yet a best practice.

As the role of regulatory authorities differs across the various member countries, decisions in the field of customer relations have not yet been taken everywhere. This first report thus is an inventory.

As a next step, the PT will draw up a questionnaire asking for the legal framework for customer relations in the different member countries, for practical experiences with this framework and experiences with customer issues.

The next PT meeting will take place in March 2010 in Lisbon, at the same time as the PT Policy.

The CERP chairman concluded that this work was indeed a first step and that with regard to the third Directive consumer issues had to be studied in more detail.

The report of the PT was adopted without any further discussion.

PT Statistics

PT Statistics, chaired by Catherine Gallet-Rybak from France, did not meet during the last cycle. The work was done by email.

The specifications of the Directive concerning statistics mainly apply to countries that have no stipulations in this field. The implementation of the ideas expressed in the Directive is to be monitored by the NRAs.

The "Draft Guidelines on how NRAs could apply Article 22a of the 3rd Postal Directive", which the PT drafted by email, was approved.

The representative of the EU Commission underlined that the Eurostat statistics for 2007 have been published on the website. Eurostat statistics are not in competition to the statistics

asked for by the EU, but they complete each other. The presentation of these statistics has to be done in a coherent manner.

PT NRA

The chairman of the PT NRA, Mathew Myers from the United Kingdom, presented phase 4 of the NRA Report. Comments were made by Greece and Hungary.

The chairman of the PT underlined that in the past six years very precious work was done. But this work only concerns the member countries represented in the PT. Indeed the situation in the participating countries and even more in the not participating countries is very different. So there is quite a need for creative thinking in order to find a common approach in the different fields of regulation. This is true for instance for the licensing and the access regimes. The operations environment, which is subject to fact based modifications, should also be analysed again.

The future task of the PT thus should be to compile all missing information. On the basis of this information, thoughts for a common EU wide approach could be developed.

The report was adopted with the modifications of Greece and Hungary.

The Netherlands asked about the meaning of point 15 of the report, which mentions “greater power and independency for NRAs”.

The Chairman explained that this is connected to the conclusions on page 13 where the report expresses the need for support of NRAs so that competition develops efficiently.

The EU underlined the importance of the role of ministries and NRAs and the necessity that NRAs be consistent with Articles 9 and 11a of the Directive. This condition was crucial for the implementation of the Postal Directive.

The amendments to the report proposed by Greece and by Hungary were considered. The report was adopted with these amendments.

PT Sustainable Development

The chairman of the PT, Jean-Luc Dutordoit from Belgium, emphasized that the document presented was more the result of an enquiry than a report. He stressed, however, that 24 of the 40 CERP member countries had participated, which witnesses a very good participation. Not every question was answered in detail, but many comments touching on the content of the questions asked had been received.

The results of the enquiry show that there is a very big interest in questions of sustainable development, that everybody feels concerned, but that the ministries or NRAs responsible for postal affairs are usually not competent for environmental questions. Another aspect is that, in economically difficult times, cost-efficiency seems to be of greater importance than sustainable development.

PostEurop gave some important hints. It was essential to do measurements in order to find out where activity is necessary and possible. It could also be of importance to analyse the role of paper in the postal traffic.

With respect to the future work of the PT it was important to consider what would be the impact of a sustainable development on postal operators and the postal industry as a whole. Having this in mind and following a proposal from Norway, the chairman proposed to see which aspects of sustainable development might be linked to the Third Postal Directive.

The chairman invited the members of the PT to give feedback on this proposal and to propose also a list of priorities for future activities. Information and contributions from observers and other organisations were welcome. It would be helpful to develop best practices in this field, too, if possible.

PT Market Supervision

The chairman of the PT, Joost Callaert from Belgium, presented the "CERP Quality of Service Report 2008" and the report on the last meetings of the PT.

The "CERP Quality of Service Report 2008" is the first kind of such a report, describing the actual results of quality of service measurements in CERP member countries and the consequences.

Both reports have been adopted without any further discussion.

PT Policy

The chairman of the PT, Egil Thorstensen from Norway, said that, for different reasons, no substantial progress had been made. During the last meeting of the PT two main presentations on recent developments had been given, one by the EU Commission and the other by the IB of the UPU.

It was agreed, however, that the different issues of regulatory relevance on a liberalized market should be looked at in greater detail. For example, the terminal dues question will be analyzed more intensively. The PT intends moreover to do a survey of customs regulation in the EU. Beyond that, a subgroup will be created which is to develop CERP ideas and documents so that the European voice could be manifested better and possibly gain more weight on UPU level. The other CERP PTs will also be involved in this procedure in an adequate manner.

Mr. Botond Szebeny, PostEurop's Secretary General, requested a clarification of a sentence in the PT Policy's report which says that CERP needs to take on more actively its status as a UPU's restricted union, but this study could also provide some reflection on the existence of a postal operators association (PostEurop) that is also a restricted union of the UPU and their interests may be contradictory to their countries'. The PT Policy Chair explained, that this phrase is used to initiate the discussion how to act in the UPU as an intergovernmental organization where the strong influence of public operators is still felt and how countries should proceed accordingly.

The mandate and the working plan of the PT still have to be defined. The next meeting will take place in Lisbon next spring, in conjunction with the PT Consumer Relations.

The report was adopted without any amendments.

PT Universal Service

The chairman of the PT, Piotr Lukomski from Poland, presented the document "CERP Implementation Guide Universal Service". Some amendments to the document were presented in Doc 15. During the discussion, several points were mentioned which were attributable to the national definition of the universal service or the tariff regulation, however.

Norway asked for clarification concerning the use of a table taken out of a WIK's study and the ambiguity of the term "*bulk mail*". Norway wondered if the countries that responded that, yes, the "*bulk mail*" is part of the universal service in their countries, were interpreting the concept as merely the delivery of large quantities of postal items or if there was, indeed, in these countries a regulation obliging the postal operator to provide this service and discounts when it comes to large amounts.

The WIK representative, Mr. Alex Dieke, explained then that this table Norway was referring to, was the answer to a very clear and very direct question – "Does your country require the postal operator to provide bulk mail services and force it to make price discounts?" – and invited countries to contact WIK if the results of this particular table and study in general were not precisely reflecting their reality.

Sweden shared Norway's concerns and suggested the inclusion of a note in this table, explaining that the different responses between the European countries may derive from different interpretations of the question, giving rise to such results in this table. Sweden's suggestion was accepted by the PT US Chair.

A revised version of the implementation guide is attached to this report. The document was adopted with the relevant amendments.

7 Reports of the Working Groups

The chairman of the Working Group Policy declared that, since the last Plenary, there had not been enough time to hold a working group meeting, neither for the policy nor for the application group. Both groups agreed by e-mail not to have a meeting and coordinated an "*ad-hoc*" procedure via e-mail to approve all the PTs reports. There were no fundamental objections to this approach.

8 Adoption of the Reports

Since there was no working group meeting, no reports had to be adopted. Until now, CERP has only adopted reports, guidelines and best practices. However, papers requiring a more mandatory application have also been produced. For this reason the adoption of "Common Positions" could be foreseen in the future. Such common positions could prove vital for the upcoming CERP orientation.

Thursday 19 November

9 Forum "Duties and responsibilities of NRAs in a liberalized postal market"

The discussion started with the question why regulation is still necessary. The participants came to the conclusion that regulation will be needed as long as there is no unrestricted competition.

Regarding the question as to how regulators should ensure universal service, there was agreement that a "one-fits-all" solution does not exist, but that there was an overall obligation to regularly evaluate the market developments, to consider the scope of universal service really needed, and to adopt the necessary measures.

The discussion finally approached the question as to how regulators should cooperate in the future in order to guarantee the most efficient way of implementing the 3rd Postal Directive.

An mp3 record of the forum discussion can be downloaded from the CERP website.

10 Reorganization of CERP

In document CERP PL 2009/2 Doc 14, the chairman presented options intended to prepare CERP for future challenges and to change the CERP structure in order to achieve greater efficiency.

UK in principle supported the proposal and confirmed that the CERP structure could be improved, suggesting that the topic of resources and cooperation with the EU should be added to the proposal.

Norway also supported the proposal, stating that a lot of activities fall within the responsibility of the regulators anyway. CEPT was an intergovernmental institution, however, so that the participation of ministries would also be necessary in the future. The Norwegian representative also stressed that UPU will be an important topic in the future and proposed to merge the working groups Policy and Application. In total, the document still has to be improved.

The Netherlands also supported the document in principle. If it was the aim to adopt only common positions, however, these would be more difficult to support by the different member countries than guidelines or reports. The creation of a group comprising only NRAs was questioned. Such a construct was not foreseen within the intergovernmental institution CEPT, of which CERP was a part.

The Chairman stressed that the questionnaire on the future CERP structure should not have too open questions otherwise there may be the risk of the evaluation of the answers and the finding of the outcome becoming too difficult. Portugal later agreed to this point of view under the AOB agenda item.

11 Recent Developments in UPU

The representative of the UPU, Ms Won-ja Lee, gave a presentation about recent and future developments in the UPU.

Different remarks were made and questions asked by the CERP members. The relevant topics of interest to the member states are the following:

- The future role of Restricted Unions (CEPT/CERP),
- the financial implications of the decisions concerning the reclassification of certain UPU member countries with respect to terminal dues,
- the reform of the Union, especially the possibility of participation of several designated operators from one country and the role of regulators, and
- the first Forum on Postal Regulation, which took place during the CA session on November 12th, 2009, being this the first time that the UPU Member Countries' regulators were formally invited to present their points of view and share their experiences.

12 European Regulatory matters

The representative of the EU, Mr. Robert Pochmarski, gave a presentation about the current developments in the EU.

He informed the meeting that there will be a high-level conference in Valencia (Spain) from 29-30 April 2010.

Moreover he indicated that consumer protection will be a very important topic for the future. There was also a short discussion on the question whether Article 11a of the Directive covers e-substitution or applies only to the postal infrastructure.

Friday, 20 November

13 Forum "Is there a need for Quality Measurement in a liberalized market?"

In the course of this discussion the view was expressed that quality of service comprises a subjective part, namely customer satisfaction, and an objective part, i.e. measurement. If a measurement were implemented, it should be standardized so that the customer would be able to compare the results achieved. For the sake of regulation, measurements should not be part of regulation .

Different aspects concerning the relevance of measurements for incumbents and new operators and for business and private customers were addressed.

An mp3 record of the forum discussion can be downloaded from the CERP website.

14 Exchange of information

Finland: A decision was taken by the regulator concerning the prices of the universal service. These prices had been the subject of an ex-post analysis this year and the year before, performed on an economic basis. It appeared that 25% of the allocated costs did not come from costs for regulated prices. So in October 2009 the decision was published that the prices of the universal service are not cost oriented and thus are in disagreement with the Postal Act. As a reaction the postal operator pointed out the consequences for the distribution of newspapers whose price is not regulated. The market share in this field seems to be 70 %. The publishers of newspapers now participate very actively in the discussion. The decision concerning the price regulation will probably be published in English on the website in December 2009.

Switzerland: A new draft of the Postal Act is currently elaborated. With effect from 1 July 2009, the monopoly weight threshold sank from 100 gr. to 50 gr. From the same date, VAT (7.6%) is applied to all postal services, also to services under the monopoly, according to the so called "droit d'option" (the right of a body liable for tax to opt for VAT on services exempted from taxation).

Denmark: The national operators of Sweden and Denmark have merged. Sweden and Denmark thus decided that a MoU will be signed by both regulators of Sweden and Denmark in order to formalize their cooperation. There will be two meetings a year of both organizations; most of the work will be done by telephone and by e-mail.

Lithuania: The transposition of the third EU Directive has been deferred to 2013. An amendment to the postal law has been proposed to that effect.

15 Program of Plenaries

So far the CERP Secretariat can announce only one Plenary per year for the following years:

2010: Poland

2011: Ireland

2012: Cyprus.

The Polish representative gave an impressive presentation of the venue of the next CERP Plenary meeting that will take place in Krakow from 5th to 7th May 2010.

The Chairman thus proposed, if no Country offers to host the autumn 2010 Plenary until then, to have it in Germany with a basic program - no social event and no forum, serving mainly to deal with the upcoming work, the adoption of the reports and the institution of the election committee.

16 AOB

The Chairman thanked the host for the great hospitality and the fantastic organization with the unforgettable opera on the national holiday.

8 February 2010

P. Schmitz
CERP Secretariat

U. DAMMANN
CERP Chairman