

## **BOOK I : THE POSTAL SERVICE**

### **TITLE I : General provisions**

#### **CHAPTER I: The universal postal service and postal service obligations**

##### **Article L. 1**

For the purposes of this Code, postal services comprise clearance, sorting, transport and delivery of postal items in the course of regular rounds.

A postal item is any item to be delivered at the address indicated by the sender on the item itself or on its wrapping including in the form of coded geographical coordinates, and presented in the final form in which it is to be carried. Postal items include books, catalogues, newspapers, periodicals and postal parcels containing merchandise with or without commercial value.

An item of correspondence is a postal item not exceeding two kilograms and containing a communication in written form on a physical medium; books, catalogues, newspapers and periodicals are not items of correspondence. Direct mail forms part of items of correspondence.

The universal postal service shall contribute to social cohesion and the balanced development of the territory. It shall be provided in compliance with the principles of equality, continuity and adaptability while seeking optimum economic and social efficiency. It shall provide all users across the whole of the national territory with permanent postal services that meet established quality standards. These services shall be offered at affordable prices for all users. Prices shall be cost-oriented and provide incentive for efficient provision whilst taking into account the characteristics of the markets where they apply.

The universal postal service includes national and cross-border services for mail weighing 2 kilograms or less, parcels weighing up to 20 kilograms, recorded delivery items and declared value items.

Services relating to single postal items and provided by the universal postal service provider shall be available at the same tariff throughout metropolitan France. The tariff applying to single items of correspondence sent from or to overseas departments, Mayotte, Saint Pierre and Miquelon, Saint Barthélemy, Saint Martin, the Wallis and Futuna Islands or the French Southern and Antarctic Lands shall be the tariff in force in Metropolitan France if these items come within the first weight band. The same shall apply to single items of correspondence within the first weight band sent from metropolitan France or the above-mentioned territorial collectivities to French Polynesia or New Caledonia.

Clearance and delivery services under the universal postal service shall be provided on each working day, except in exceptional circumstances.

Deliveries shall be provided to appropriate installations at the home or premises of every natural or legal person or, by way of derogation, subject to conditions laid down by decree.

## **Article L. 2**

La Poste shall be the universal postal service provider for a period of fifteen years from 1 January 2011. At three-yearly intervals the government, after consulting the Commission for the Public Service of Postal and Electronic Communications and the Postal Services and Electronic Communications Regulatory Authority, shall report to Parliament on La Poste's performance of its universal postal service mission and the means being used to improve it.

In addition to the obligations arising out of the licence referred to in Article L.3, the provider of the universal postal service shall be subject, for such provision, to specific obligations relating to service quality and access, handling of user complaints and, for given services, compensation for failure to comply with service quality commitments. It shall keep separate accounts for its universal service activities. At the request of the Postal Services and Electronic Communications Regulatory Authority, it shall forward any accounting information or records needed to monitor compliance with its obligations.

A *Conseil d'Etat* decree, adopted after consultation of La Poste and after consulting the Postal Services and Electronic Communications Regulatory Authority and the Commission for the Public Service of Postal and Electronic Communications, shall define the particular features of the universal service that La Poste is required to provide.

This decree shall also determine the rights and duties of La Poste for its public service missions covering postal items, including the special arrangements for the press under the second paragraph of Article L.4, together with the conditions guaranteeing the neutrality and confidentiality of the services that it provides.

### **Article L. 2-1**

With bulk mailers, consolidators of mail from different customers and licence holders under Article L.3, the universal service provider may enter into contracts departing from the standard terms and conditions of universal service provision and including special tariffs for business services, in accordance with the rules set out in the fourth paragraph of Article L.1

The provider shall establish the tariffs and conditions of these services according to objective and non-discriminatory rules.

These contracts shall be disclosed to the Postal Services and Electronic Communications Regulatory Authority at its request.

## **Article L. 2-2**

A compensation fund shall be set up for the universal postal service, subject to the conditions of implementation laid down in subsections II and III. This fund shall finance net costs connected with universal service obligations

A public institution shall be responsible for the financial and accounting management of this fund. The service charges of this institution shall be charged to the fund.

Postal service providers licensed under Article L.3 shall contribute to the compensation fund for the universal postal service. Each provider's contribution to the fund shall be calculated in proportion to the number of postal items carried within the scope of the universal service defined in the fifth paragraph of Article L.1. These providers shall keep accounts enabling the services on which the contribution is based to be identified. Any provider carrying a quantity of items of correspondence falling below a threshold set by decree shall be exempted from contributing to the fund.

The total net contributions owed to the fund by the licensed postal service providers and the total amounts due from the fund to the universal postal service provider for covering universal postal service obligations shall be determined by the Postal Services and Electronic Communications Regulatory Authority. To this end, and notwithstanding the accounting information forwarded under paragraph 6 of Article L.5-2, the authority may ask the universal service provider for any information or research in its possession enabling the additional cost of universal service provision to be assessed objectively. Contributions shall be collected by the public institution referred to in the second paragraph of this section in the same way as for turnover tax, with the securities, guarantees, rights and penalties applicable to this tax. Complaints shall be submitted, investigated and decided in the same way as for this tax

If an operator fails to pay, the Postal Services and Electronic Communications Regulatory Authority shall impose one of the penalties laid down in Article L.5-3. In the event of a further failure to pay, it may withdraw the licence. If the amounts due are not collected within a year, they shall be charged to the fund the following financial year.

II. - A *Conseil d'Etat* decree, adopted after consulting the Postal Services and Electronic Communications Regulatory Authority and the Commission for the Public Service of Postal and Electronic Communications, shall specify the methods for assessing, equalising and apportioning net costs connected with universal service obligations.

III. - A decree, adopted after a public opinion from the Postal Services and Electronic Communications Regulatory Authority regarding an application from the universal service provider which establishes, on the basis of the accounting data referred to in subparagraph (6) of Article L.5-2, that it is bearing an unfair financial burden attributable to its universal service obligations, shall determine the first year for which net contributions to the compensation fund for the universal postal service shall be collected.

## **Article L. 3**

Postal services covering domestic and cross-border items of correspondence may be offered by any postal service provider provided that it obtains a licence from the Postal Services and

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Electronic Communications Regulatory Authority under the terms of Article L.5-1. However, such a licence is not required if these services are limited to domestic correspondence and do not include delivery

### **Article L. 3-1**

Licence holders under Article L.3 shall have access, on transparent and non-discriminatory terms, under technical and pricing arrangements laid down in agreements signed to this end with the universal service provider, to the facilities owned or controlled by the latter that are essential to the pursuit of their postal activities.

These facilities shall include the postcode directory, together with a key matching codes to geographical information on roads and addresses, as well as information collected by La Poste on changes of address, a redirection service for addressee change of address, and a delivery service or option for post-office boxes in post offices.

### **Article L. 3-2**

Any provision of postal services shall be subject to the following requirements:

- a) The safety of users, staff and the service provider's equipment must be guaranteed;
- b) The confidentiality of items of correspondence and the integrity of their contents must be guaranteed;
- b bis)* The secrecy of correspondence, together with the neutrality of postal services with regard to sender identity and nature of postal items, must be guaranteed;
- c) Any personal data in the possession of the universal service provider or licence holders under Article L.3, together with the privacy of users of these services, must be protected;
- d) Technical requirements must be environment-friendly;
- e) Free, simple and transparent procedures must be set up to handle complaints, and users' interests must be respected with regard to the obligations laid down in Article L.7;
- f) Disabled access to services and facilities must be guaranteed under the terms of Article L.111-7-3 of the Construction Code;
- g) Obligations under legislation and agreements in the fields of current labour and social-security law must be respected, without prejudice to specific provisions applying to staff with civil-servant status, where appropriate;
- h) Public order and national defence requirements must be respected.

### **Article L. 3-3**

Postage stamps issued by La Poste shall bear the mark 'France'

#### **Article L. 3-4**

**repealed**

### **CHAPTER II : regulation of postal activities**

#### **Article L. 4**

The Minister for Postal Services shall prepare and implement the rules applying to postal services.

The Minister for Postal Services and the Minister of the Economy shall, after a published opinion from the Postal Services and Electronic Communications Regulatory Authority, approve the tariffs for services provided to the press in connection with public-service press transport and distribution and subject to the special arrangements provided for in this Code. The pricing structure of these services must promote pluralism, especially for general and political information.

The Minister for Postal Services may request the Postal Services and Electronic Communications Regulatory Authority to institute the penalty procedure provided for in Article L.5-3.

#### **Article L. 5**

The Postal Services and Electronic Communications Regulatory Authority shall be consulted on bills and draft regulations relating to postal services.

At the request of the Minister for Postal Services it shall be involved in preparing the French position in this field and shall similarly participate, for matters within its competence, in work carried out in relevant EU and international organisations.

#### **Article L. 5-1**

The Postal Services and Electronic Communications Regulatory Authority shall be responsible for issuing the licences applied for by the providers referred to in Article L.3. Licences shall be issued for a fifteen-year period. They shall be renewable. They shall not be transferable.

The Authority can refuse a licence only through a motivated decision on grounds based on the applicant's financial, economic or technical inability to comply on a long-term basis with the obligations attaching to its postal activity and, in particular, the requirements referred to in article L.3-2, or because the applicant has been subject to one of the penalties described in Articles L.5-3, L.17, L.18 or L.19. It can cite grounds based on protection of public order, defence requirements or public security only upon a substantiated recommendation from the Minister for Postal Services.

The decision to grant a licence shall indicate the particular features of the postal services authorised, the area over which they may be provided, the procedures for handling complaints from service users in the event of loss, theft or failure to comply with service-quality standards – including cases involving more than one provider – as well as the obligations on the holder to allow supervision of its postal activity by the Postal Services and Electronic Communications Regulatory Authority.

The Postal Services and Electronic Communications Regulatory Authority shall be notified by the licence holder of any change likely to affect its operating continuity. The licence holder shall inform the Postal Services and Electronic Communications Regulatory Authority of the planned arrangements for ensuring continued handling of items of correspondence in the event of receivership or winding-up

A *Conseil d'Etat* decree shall specify the rules and conditions of application of this article and in particular service-quality standards and the terms of their supervision.

### **Article L. 5-2**

The Postal Services and Electronic Communications Regulatory Authority:

- 1) Shall ensure that the universal service provider and licence holders under Article L.3 comply with obligations arising out of the legislative and regulatory provisions pertaining to performance of the universal service and of the activities referred to in Article L.3 and with decisions taken to apply these provisions. Under the terms of Article L.5-3, it shall impose penalties for any breaches established;
- 2) Shall be informed by the universal service provider of the technical and tariff conditions under which licence holders under Article L.3 may have access to the facilities essential to pursuit of their postal activities and referred to in Article L.3-1 and, to this end, shall inspect any agreements signed under Article L.3-1;
- 3) Shall determine, after studying the proposal from La Poste or, in the absence of a proposal, on its own initiative after having notified the latter, the particular features of the multiannual tariff framework for universal service provision, being able where appropriate to draw a distinction between bulk mail and individual mail, and shall ensure compliance with this. It shall be notified by La Poste of tariffs for universal service provision before they come into effect. Within one month of the date on which these tariffs were forwarded, it shall publish an opinion. It shall take account of the competitive market situation in its decisions and opinions, especially when considering bulk mail pricing and shall here ensure the sustainability of the universal service whilst ensuring fair competition. It shall modify or suspend planned tariffs for any element of universal service provision if there has been a clear failure to respect the tariff principles applying to the universal service.
- 4) Shall ensure compliance with the quality targets for the universal service determined by order of the Minister for Postal Services under the arrangements laid down by the decree provided for in Article L.2 and shall ensure the publication and reliability of quality measurements for the corresponding services; it shall commission an independent body to produce an annual service quality study, which it shall publish

5) Shall publish an opinion on the economic aspects of the tariffs referred to in the second paragraph of Article L.4 prior to their approval by the Minister for Postal Services and the Minister of the Economy;

6) Shall, in order to implement the principles of separation and transparency of accounts, and especially to guarantee the financing conditions of the universal service, define the cost accounting principles so as to distinguish common costs connected with the universal service from those unconnected with it, establish the accounting system specifications and ensure compliance by the universal service provider with the cost-accounting obligations laid down in the decree provided for in Article L.2. To this end, within the scope of the universal service, the Authority shall inspect the audit results of the statutory auditors, confidentiality notwithstanding. It shall commission an annual audit, at the universal service provider's expense, by a competent body that it has approved and which is independent of the universal service provider, of the compliance of the universal service provider's accounts with the principles that it has laid down. It shall publish a compliance report on the universal service.

7) Shall take into consideration, in all its reasoned decisions and opinions, the financial equilibrium of universal service obligations, and explain its logic, especially its economic logic;

8) Shall recommend to the Minister for Postal Services, if it appears that the universal service cannot be financed by the provider of that service under fair conditions, all the measures necessary to guarantee provision of that service.

### **Article L. 5-3**

The Postal Services and Electronic Communications Regulatory Authority may, either on its own initiative or at the request of the Minister for Postal Services, of a professional organisation, of a recognised users association, of the natural or legal person concerned, of the universal postal service provider or of a licence holder under Article L.3, impose penalties under the terms of this article on the universal service provider or a licence holder under Article L.3.

This power to impose penalties shall be exercised in the following circumstances:

1) In the event of contravention by the universal service provider or a licence holder under Article L.3 of a law or regulation relating to its activity, of decisions taken to implement this law or regulation, or of the provisions of the licence enabling it to carry on this activity, the director of the Postal Services and Electronic Communications Regulatory Authority shall give it formal notice to comply within a specified period; this period cannot be less than one month except in the case of serious and repeated contravention; the Authority may publish this formal notice;

2) If the party concerned does not comply within the specified period with a decision taken pursuant to Article L.5-4 or L.5-5 or with the formal notice under subparagraph 1 above, or if it provides incomplete or erroneous information, the Postal Services and Electronic Communications Regulatory Authority may impose one of the following penalties, depending on the seriousness of the contravention:

a) For a licence holder under Article L.3:



- A warning;
- Reduction of the licence period by one year;
- Suspension of the licence for a maximum of one month;
- Withdrawal of the licence;

b) For the universal service provider or a licence holder under Article L.3 if the contravention does not constitute a criminal offence: a financial penalty the amount of which shall be proportionate to the seriousness of the contravention, the situation of the party concerned, the degree of harm and the gain derived from it, without exceeding 5% of pre-tax turnover for the last full financial year, although this ceiling shall be raised to 10% in the event of a further contravention. If there has been no previous business that can be used to calculate this ceiling, the amount of the penalty cannot exceed EUR 150 000, raised to EUR 375 000 in the event of a further contravention of the same obligation.

If the universal service provider or a licence holder under Article L.3 discloses inaccurate information, refuses to provide the information requested or obstructs the progress of investigation by civil servants or authorised officials, the Postal Services and Electronic Communications Regulatory Authority may, if a formal notice from the Authority's director had no effect, impose a financial penalty of an amount not exceeding EUR 15 000.

Penalties shall be imposed after the party concerned has received notification of the complaint and has been given an opportunity to inspect the file and make written and oral submissions.

Financial penalties shall be collected as government debt unconnected with taxes or State property.

Acts dating back more than three years cannot be referred to the Postal Services and Electronic Communications Regulatory Authority if no steps have been taken to investigate, record or punish them.

Decisions to impose penalties shall give reasons, be notified to the party concerned and be published in the *Journal officiel*. They are open to an administrative-law action before the *Conseil d'Etat* and an application for stay of proceedings submitted pursuant to Article L.521-1 of the Code of Administrative Justice.

#### **Article L. 5-4**

Either party may refer to the Postal Services and Electronic Communications Regulatory Authority a dispute concerning conclusion or performance of contracts departing from the general conditions of universal service provision for items of correspondence if this dispute concerns the rules referred to in the second paragraph of Article L.2-1. It shall deliver a ruling within four months of having given the parties an opportunity to make their submissions.



#### **Article L. 5-5**

In the event of a dispute between the universal service provider and a licence holder under Article L.3 concerning the conclusion or performance of technical or pricing terms in an agreement on access to the facilities essential to performance of postal activity described in Article L.3-1, the case may be referred to the Postal Services and Electronic Communications Regulatory Authority by either of the parties.

The Postal Services and Electronic Communications Regulatory Authority shall ensure that the technical and pricing conditions offered are transparent and non-discriminatory and do not affect proper implementation of public service missions relating to postal items. It shall deliver a ruling within four months of having given the parties an opportunity to make their submissions.

#### **Article L. 5-6**

Decisions taken by the Postal Services and Electronic Communications Regulatory Authority pursuant to Articles L.5-4 and L.5-5 shall give reasons and specify, where appropriate, the technical and financial conditions under which services are to be provided. The Authority shall notify its decisions to the parties and publish them, subject to legally protected confidentiality.

Before taking its decision it may hear any person whose examination seems appropriate.

It may refuse discovery of documents involving professional secrecy. These documents shall then be withdrawn from the file.

A decision taken by the Postal Services and Electronic Communications Regulatory Authority is open to an action for annulment or judicial review before the Paris Court of Appeal (*cour d'appel de Paris*) to be brought within one month of its notification. Decisions may also be referred to the Paris Court of Appeal if, upon expiry of the time-limit specified in Article L.5-4 and Article L.5-5, the Postal Services and Electronic Communications Regulatory Authority has not delivered a ruling.

The appeal shall not be suspensive. However, the court may order a stay of execution of the decision if the latter is likely to entail manifestly excessive consequences or if new circumstances of exceptional seriousness have arisen since its notification.

An appeal to the highest instance lodged, if necessary, against the judgment of the appeal court shall be brought within one month of notification of this judgment.

A *Conseil d'Etat* decree shall determine the conditions of application of this article.

#### **Article L. 5-7**

The Postal Services and Electronic Communications Regulatory Authority may be called on by the universal service provider, bulk mailers, consolidators of mail from different customers

or licence holders under Article L.3 to settle a dispute between them that does not come under Articles L.5-4 and L.5-5.

#### **Article L.5-7-1**

The Postal Services and Electronic Communications Regulatory Authority shall handle postal service user complaints that it has not been possible to resolve through the procedures set up by the licensed postal service providers.

#### **Article L. 5-8**

The chairman of the Postal Services and Electronic Communications Regulatory Authority shall refer to the Competition Council any abuse of a dominant position or any anti-competitive practice which may be brought to his notice in the field of postal activities, for example when a dispute is submitted to him pursuant to Articles L.5-4 and L.5-5. When a case is referred to the Competition Council under the procedure for urgent cases, it shall deliver a decision within thirty working days of the date of the referral.

The chairman of the Postal Services and Electronic Communications Regulatory Authority may also seek advice from the Competition Council on any other matters falling within its province.

The Competition Council shall notify the Postal Services and Electronic Communications Regulatory Authority of any referral falling within the latter's field of competence and shall seek its advice on practices referred to it in the field of postal activities.

The chairman of the Postal Services and Electronic Communications Regulatory Authority shall inform the Public Prosecutor of any acts likely to constitute a criminal offence.

#### **Article L. 5-9**

As provided in this article, the Minister for Postal Services and the Postal Services and Electronic Communications Regulatory Authority may, to the extent necessary to fulfil their missions and on the basis of a reasoned decision, collect from the universal service provider and licence holders under Article L.3 any information or documents required to ensure that these parties are complying with the legislative and regulatory provisions relating to their activity, with any decisions taken to guarantee implementation of these provisions, and with the licence enabling these parties to carry on their activities.

Investigations shall be carried out by civil servants and officials of the Ministry for Postal Services and of the Postal Services and Electronic Communications Regulatory Authority authorised for this purpose by the Minister for Postal Services and sworn in according to the requirements of a *Conseil d'Etat* decree.

Investigations shall give rise to a report. A duplicate shall be sent within five days to the parties concerned.

The Minister for Postal Services or the Postal Services and Electronic Communications Regulatory Authority shall appoint, and have sworn in on the same terms as above, any person competent to provide an expert opinion where appropriate.

The civil servants and officials charged with the investigation shall have access to all necessary information held by postal service providers or parties carrying on a postal activity. They shall obtain disclosure, at their request, of invoices, accounting records and any necessary documents, make copies of them and gather all the information and evidence required to carry out their task, either through appointments or on the spot.

They may have access to all business premises, property and vehicles, excluding dwellings and parts of premises used as dwellings, used by these parties, subject to authorisation by the president of the Court of First Instance (*tribunal de grande instance*) or the judge whom he has delegated for this purpose. They may have access to these premises only between 6 a.m. and 9 p.m. or during opening hours if they are open to the public.

The Minister for Postal Services and the chairman of the Postal Services and Electronic Communications Regulatory Authority shall ensure that the information gathered pursuant to this article shall not be disclosed if it is protected as confidential under section 6 of Law No. 78-753 of 17 July 1978 laying down various measures to improve relations between the administration and the public and various administrative, social and fiscal provisions.

#### **Article L.5-9-1**

I. – Searches shall be authorised by the magistrate for custody and release at the court of first instance under the jurisdiction of which the premises to be searched are located.

The order shall contain the address of the premises to be searched, the name and the capacity of the civil servants empowered to carry out the search and seizure operations, as well as the times at which they are authorised to report to said premises.

The order shall be enforceable on the mere authority of the original written judgment, without having to serve an execution copy.

II. - Notice of the order shall be served on site, when the search is performed, to the occupant of the premises or to the occupant's representative, who shall receive a full copy thereof in return for a receipt or initialling the formal record of the search. If the occupant of the premises or the occupant's representative is absent, the order shall be notified, after the search, by registered letter with return receipt requested. Notice of the order shall be deemed to have been served on the date of receipt specified on the return receipt. If the postal notice is not received, the order shall be notified by an instrument served by a process server.

The instrument of notice shall mention when and how an application may be made for a remedy against the order that authorised the search and against the performance of the search operations. Said instrument shall also mention that a petition may be filed with the magistrate who authorised the search with a view to suspending or stopping said search.

III. - The search for and seizure of documents shall be performed under the authority and control of the magistrate for custody and release who authorised said search and seizure. The magistrate for custody and release may, if he deems it useful, visit the premises during the

operation. At any time, said magistrate may decide to suspend or stop the search. Filing a petition with the magistrate for custody and release in order to suspend or stop the search and seizure operations does not result in such operations being suspended.

IV. - Searches cannot started before 6am or after 9pm. Searches shall be performed in the presence of the occupant of the premises or of the occupant's representative, who may be assisted by the attorney of his choice. If the occupant of the premises is absent, the staff responsible for the search cannot carry out the search unless two witnesses are present who are not placed under the staff's authority.

Only the empowered staff, the occupant of the premises or the occupant's representative can consult the exhibits and documents before they are seized.

A formal record that sets out the terms and performance of the operation and that records the observations made shall be drawn up in situ by the staff empowered to perform the search. An inventory of the exhibits and documents seized shall be appended thereto if necessary. The formal record and the inventory shall be signed by the empowered staff and by the occupant of the premises or, where applicable the occupant's representative and witnesses. In the event of a refusal to sign, this shall be mentioned in the formal record.

The original counterparts of the formal record and the inventory shall be sent to the magistrate who authorised the search as soon as they are drawn up. A copy of said same documents shall be delivered or sent by registered letter with return receipt requested to the occupant of the premises or to the occupant's representative.

The formal record and the inventory shall mention when and how an application may be made for a remedy.

The exhibits seized shall be kept for the purposes of the procedure, unless a decision that cannot be appealed before the French Supreme Court by the parties orders the exhibits to be returned.

V. - The order that authorised the search may be appealed before the chief judge at the court of appeal in accordance with the rules provided for by the Civil Procedure Code. The parties are not required to be represented by an appellate attorney.

Said appeal shall be lodged in the form of a written declaration notified to the office of the court clerk by registered letter within fifteen days. Said timeframe shall start to run as from the notification of the order. Said appeal shall not suspend the execution of the order.

The office of the clerk of the court of first instance shall, without delay, send the file to the office of the appeal court clerk, where the parties may consult it.

The order handed down by the chief judge at the court of appeal may be appealed by an appeal on points of law, in accordance with the rules provided for by the Civil Procedure Code. The timeframe for filing an appeal on points of law is fifteen days.

VI. - The chief judge at the court of appeal shall have jurisdiction to rule on applications for remedies against how the search or seizure operations authorised by the magistrate for custody and release are carried out, in accordance with the rules provided for by the Civil Procedure Code. The parties are not required to be represented by an appellate attorney.

Applications for remedies must be made in the form of a written declaration that is delivered or sent to the office of the court clerk by registered letter within fifteen days. Said timeframe

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shall start to run as from the delivery or the receipt of the formal record or of the inventory mentioned in the first paragraph. Such remedies shall not suspend the execution of the search and seizure.

An appeal may be lodged against orders handed down by the chief judge at the court of appeal in the form of an appeal on points of law before the Supreme Court, in accordance with the rules provided for by the Civil Procedure Code. The timeframe for filing an appeal on points of law is fifteen days.

VII. - This article shall be reproduced in the instrument that notifies the order of the magistrate for custody and release who authorised the search.

### **Article L. 5-10**

In order to be able to deliver postal items, the universal service provider and licence holders under Article L.3 shall have access on the same terms, set out in a *Conseil d'Etat* decree after consultation of the Postal Services and Electronic Communications Regulatory Authority, to private letter boxes.

## **CHAPTER III: Exceptions to the inviolability and secrecy of correspondence**

### **Article L. 6**

The universal service provider and licence holders under Article L.3 shall notify to tax administration and to judicial authorities which so request in relation to criminal matters, of changes of address of which they are aware.

### **Article L. 6-1**

As specified in Article 66 of the Customs Code, La Poste is authorised to submit to customs inspection, mail subject to an import ban, liable to duties or taxes collected by the customs service or subject to entry restrictions or formalities, under the conditions laid down by the Universal Postal Union conventions and agreements.

La Poste is also authorised to submit to customs inspection mail subject to an export ban, liable to duties or taxes collected by the customs service or subject to exit restrictions or formalities.

Customs officers shall have access to permanent or mobile post offices, including sorting rooms communicating directly with the outside, in order to search, in the presence of post office agents, sealed or unsealed mail of an internal or external origin, with the exception of mail in transit, which contains or appears to contain the objects referred to in this Article. In no event may the secrecy of correspondence be breached.

## Chapter IV: Scheme of liability for postal services

### Article L. 7

Postal service providers within the meaning of Article L.1 shall be liable under the terms of Articles 1134 *et seq.* and Articles 1382 *et seq.* of the Civil Code for any loss or damage occurring during provision of service.

However, this liability shall take into account the particular features of the items and the postage paid according to the provisions of a *Conseil d'Etat* decree which shall establish maximum amounts of compensation.

### Article L. 8

For direct injury caused by delay in delivery of a postal item, postal service providers within the meaning of Article L.1 shall be held liable under the terms of Articles 1134 *et seq.* and 1382 *et seq.* of the Civil Code if the provider has entered into a commitment regarding the delivery time of this postal item.

“However, this liability shall take into account the particular features of the items and the postage paid according to the provisions of a *Conseil d'Etat* decree which shall establish maximum amounts of compensation.”

### Article L.9

Through marking, labelling, displaying or any other appropriate visual method, postal service providers shall give users of postal items information on tariffs, any limitations on contractual liability, the one-year period during which all claims are admissible, and special conditions of sale, in accordance with procedures laid down by order of the Minister of the Economy and the Minister for Postal Services after consultation of the National Consumer Council (*Conseil national de la consommation*).”

## CHAPTER V : prescription

### Article L. 10

Vicarious liability actions for damage, loss or delays brought under Articles L.7 and L.8 shall be barred by limitation one year from the day after the date on which the item was posted.”

## **TITLE II : Penal provisions**

### **Article L. 17**

A fine of €50,000 shall be imposed for transporting items of correspondence in breach of Article L.3 or a decision to suspend the licence granted under that same article.

### **Article L. 18**

Natural persons guilty of the offence laid down in Article L.17 shall incur the following additional penalties:

- a) Prohibition, for a maximum period of one year, from exercising the professional or social activity in the course of which or on the occasion of which the offence was committed;
- b) Confiscation of the thing which was used or intended for the commission of the offence or the thing which is its product, except for articles subject to restitution, as provided for in Article 131-21 of the Penal Code;
- c) Closure, for a maximum period of one year, of the establishment, or one or more of the establishments, of the enterprise that was used to commit the offences in question;
- d) Display or dissemination of the decision delivered, as provided for in Article 131-35 of the Penal Code.

### **Article L. 19**

Legal persons may be found criminally liable for the offences laid down in Article L.17 as provided for in Article 121-2 of the Penal Code and shall be subject to a fine under the terms of Article 131-38 of this Code.

Persons guilty of the offence laid down in Article L.17 shall incur the additional penalties referred to in subparagraphs (2), (3), (4), (5), (8) and (9) of Article 131-39 of the Penal Code; the prohibition referred to in subparagraph (2) of this article shall cover the activity in the course of which or on the occasion of which the offence was committed.

### **Article L. 20**

I. - In addition to senior law-enforcement officers and members of the police acting in accordance with the Code of Criminal Procedure, the civil servants and officials referred to in Article L 5-9 may investigate and report the offences set out in this Title.

To investigate and report offences, the civil servants and officials referred to in Article L.5-9 may have access to business premises, property and vehicles, request disclosure of any business documents and make copies of them, and gather any information or evidence, either



through appointments or on the spot. These civil servants and officials may have access to the premises only between 6 a.m. and 9 p.m. or during opening hours if they are open to the public.

II. - The civil servants and officials referred to in Article L.5-9 may make the searches described in this article and may seize equipment and documents only with court authorisation issued by order of the president of the Court of First Instance (*tribunal de grande instance*) with jurisdiction over the district in which the equipment is located, or by a judge delegated by him.

If the sites are located in the districts of several courts and action must be taken simultaneously in each of them, a single order may be issued by one of the presidents with jurisdiction.

The judge shall satisfy himself that the application for authorisation submitted to him is well-founded and contains all the items of information justifying a search.

Search and seizure shall be carried out under the authority and supervision of the authorising judge. The judge shall appoint one or more senior law-enforcement officers to be present at these operations and keep him informed of their progress. He may visit the premises during the search, which he can decide to stop or suspend at any time. If the search occurs outside the territorial jurisdiction of this Court of First Instance, he shall delegate powers to the president of the Court of First Instance in the district in which the search is being made to exercise this supervision.

At the time of the search the order shall be served verbally and on the spot to the occupier of the premises or his representative, who shall receive a full copy of it against acknowledgement of receipt or signature in the margin of the report. In the absence of the occupier of the premises or his representative, the order shall be served by recorded delivery after the search. Service is deemed to have occurred on the date of receipt shown on the acknowledgement of delivery.

The order shall be open to an appeal solely to the highest instance in accordance with the rules laid down in the Code of Criminal Procedure. This appeal shall not be suspensive.

III. – The search shall be carried out in the presence of the occupier of the premises or his representative. If this is not possible, the senior law-enforcement officer shall ask for two witnesses chosen outside the persons coming under his authority or that of the postal administration.

Only the investigators, the occupier of the premises or his representative and the senior law-enforcement officer may inspect documents and evidence before their seizure.

Inventories and the placing of official seals shall be carried out pursuant to Article 56 of the Code of Criminal Procedure. The originals of the report and the inventory shall be sent to the judge who ordered the search. However, postal items whose custody does not appear necessary to discovery of the truth shall be returned, after having been entered in the inventory, to the universal service provider, which shall deliver them.

This document has no legal value

The conduct of searches or seizures may form the subject of an appeal, within two months of notification of the order authorising them, to the judge who issued the order.

The judge shall rule on this appeal by an order which is open to an appeal only to the highest instance according to the rules laid down in the Code of Criminal Procedure. The latter appeal shall not be suspensive.

#### **Article L. 26**

Any person who makes a fraudulent declaration of value which is greater than the true value of items contained in a letter shall be liable to imprisonment for a term of one year and a fine of EUR 3 750.

#### **Article L. 28**

For the purpose of implementing the provisions of this Book, the Minister for Postal Services or his representative may file pleadings before the criminal courts and develop them orally at the hearing.

#### **Article L. 29**

The placing inside mail of counterfeit items or of materials or objects prohibited under the Universal Postal Convention shall be punished by a fine of EUR 15 000.

Natural persons guilty of the above-mentioned offence shall incur the additional penalties referred to in subparagraphs (a) and (b) of Article L.18.

Legal persons guilty of the above-mentioned offence shall incur the additional penalties referred to in subparagraphs (8) and (9) of Article 131-39 of the Penal Code.

#### **Article L. 30**

If the customs and excise services so request, the universal service provider and licence holders under Article L.3 shall require an addressee to open items of correspondence from any place of origin that are presumed to contain items subject to internal formalities regarding movement or liable to customs duties or subject to a prohibition.

#### **Article L. 31**

Excepting the cases laid down by international agreements, it is prohibited to place opium, morphine, cocaine or other narcotic drugs inside mail, under the penalties laid down by Article L. 627 of the Public Health Code.