

Force Majeure GMSQLUG

GMSQLUG members are encouraged to use the common procedure for submitting claims of force majeure. Additionally, in case of such a force majeure request for the purpose of requesting adjustments of the quality of service results for terminal dues purposes, the rules provided in the GMSQLUG Rules of Procedure article 16 and those in the GMSQLUG User Manual, Module 4, section 2.6 (see below), must be followed.

The submission of requests for force majeure shall be made within 30 days since the end of the force majeure event. Participants in other pay-for-performance programs (parcels and/ or EMS) should be aware of the shorter deadlines applying for these products. Besides using the common procedure through the application forms on this website, a full request, including the supporting information from an external source, should be sent to the GMSQLUG Secretariat, Mr. Altamir Linhares (altamir.linhares@upu.int) and Mr. Paul Schoorl (paul.schoorl@upu.int). The Secretariat is available for guidance to improve the quality of the request to be submitted for review.

The text provided below is an extract of the GMSQLUG User Manual.

2.6 Specific cases and instances of force majeure

2.6.1 Force majeure

Force majeure is an event beyond the control of man or against the law or a situation of war. The force majeure situation or its effects prevent the DO from delivering mail on time. Some examples are:

- War, whether declared or not, civil war, riots and revolutions, acts of piracy, acts of sabotage.
- Natural disasters, such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning.
- Explosions, fires, destruction of machines, of factories, and of any kind of installations.
- Acts of authority, whether lawful or unlawful.

The deduction may be granted if the affected DO can demonstrate that:

- The failure was due to an event beyond its control; and
- It took all reasonable steps to prevent disruption of service caused by the event, or that no such steps were available

Lack of authorizations, licences or approvals necessary for conducting postal business or delivery operations will not be counted as force majeure.

2.6.2 General rules on instances of force majeure

- 1 The duration of any force majeure or the force majeure effects has to be at least 72 hours to qualify for deduction requests for both the DO where the event takes place and for other DOs affected by the event.
- 2 Any request for deduction of test items has to be submitted to the GMSQLUG Secretary. The Secretary will forward the request to the VRC, copy to the measurement system provider, within one month from the end of the event. If a force majeure situation continues beyond 31

December of a year, any request concerning the period until 31 December has to be submitted by 15 January of the following year at the latest. Any request for deduction of test items has to be signed by the GMSQLUG member of the DO submitting the request.

- 3 For all force majeure events, the DO requesting for deduction has to provide information which supports its case and enables the other countries to make a fair judgment based on the assessment of the entire situation.
- 4 In addition, the following applies:
 - The level of information provided should be appropriate for the case in question. This will depend on factors such as the availability of objective information, the severity of the case, the impact on the quality result, the level of international media coverage and the already existing level of knowledge on this case among the other countries.
 - Force majeure situations which occur not only throughout a country but also in parts of a country may be accepted and lead to partial deduction requests.
 - It is not necessary to provide information on each ZIP-code range but it should be possible for the other members to get a good idea on the geographical extension of the impact.
 - Types of information could include:
 - i Media coverage (e.g. newspaper articles, TV news reports).
 - ii Weather reports (e.g. Internet, meteorological service).
 - iii Official declarations issued by governmental bodies.
 - iv Police reports.
 - v Written reports by the DO describing the situation.
- 5 The VRC will receive the information sent by the DO requesting a deduction and evaluate the situation according to the force majeure definition. Special attention shall be given to the compliance with the rules and the deadlines mentioned. The GMSQLUG Secretary will inform the requesting DO, the GMSQLUG and the measurement system provider of the VRC assessment and conclusion, according to the GMSQLUG rules of procedure.

2.6.3 Rules on cases of non-systemic change requests

- 1 The duration of specific case, such as an external strike or a force majeure, has to last at least 72 hours to qualify for deduction requests for both the Designated Operator (DO) in the country where the strike takes place and for other DOs affected by the strike.
- 2 Any request for deduction of test items has to be submitted to the GMSQLUG Secretary within one month from the end of the strike or the force majeure event. The GMSQLUG Secretary should forward the request to the VRC and copy the measurement system provider. If a strike continues beyond 31 December of a year, any request concerning the period until 31 December has to be submitted by 15 January of the following year at the latest. Any request for deduction of test items has to be signed by the GMSQLUG Member of the DO submitting the request.
- 3 For all deduction requests due to external strikes and force majeure events, the DO requesting a deduction has to provide information which supports its case and enables the other countries to make a fair judgment based on the assessment of the entire situation.
- 4 The VRC will receive the information sent by the DO requesting a deduction and evaluate the situation according to the external strike and force majeure definition. Special attention shall be given to the compliance with the rules and the deadlines mentioned. The GMSQLUG

Secretary will inform the requesting DO, the GMSQLUG and the measurement system providers of the VRC assessment and conclusion, according to the GMSQLUG rules of procedure.

2.6.3.1 Internal strikes

- 1 An internal strike is a strike within a DO.
- 2 In principle, no deduction request is acceptable from the DO where the strike takes place.
- 3 The DOs where the strike did not take place may claim deduction for inbound items. The deduction may be requested for all items arrived from the DO being on strike. The deduction may include up to a maximum of two (2) inbound processing days immediately following the last day of the strike (due to inbound mail volume increase from the DO that was on strike).
- 4 Despite the general rules above, the following situations described in 2.7.1.2 and 2.7.1.3 could be of such grave nature that GMSQLUG may allow the relevant DO to present their case for consideration.

2.6.3.2 Internal industrial action in specific circumstances

- 1 Despite the general rule that no exceptions can be granted to DO's that have experienced an internal strike, DO's that experiences internal " industrial action" in specific circumstances may present their case to GMSQLUG for consideration.
- 2 For an internal industrial action to be considered possible case for deduction or adjustment, all the following conditions must apply:
 - a The industrial action must be a consequence of governmental or regulatory actions, but not commercial actions, i.e. factors external to the DO.
 - b It must be fundamental to the DO's ability to continue providing the USO – i.e. it must involve "business survival" or "essential business transformation".
 - c The post must demonstrate it took all reasonable steps to prevent and mitigate the effects of the strike.
 - d The quality of service failure must be demonstrated to be a result of the strike.
 - e The duration must be sufficient to distinguish it from short-term difficulties (e.g. of weeks' rather than days' duration), and cause significant disruption to services over an extended period. A series of strikes related to the same issue(s) staged over a period of time would also be considered.
 - f The industrial action should be nationwide, or of sufficient extent to indicate its fundamental nature. Local disputes are not considered.
 - g The number of workers and the parts of the business affected must also indicate the gravity of the industrial action .
 - h There must be verification or documentation from a competent external body such as the national postal regulator, the appropriate government ministry, or an external auditor, supporting the conclusion that the above conditions have been met.
- 3 The DO affected by internal industrial action must notify the GMSQLUG Secretary within 30 days from the end of the event of its intention to present a case. The duly justified request shall be sent to the Secretary by registered mail, fax or e-mail, and by accompanied by supporting evidence.

- 4 The case must be supported by full documentation, to allow the VRC to assess the merits of the case. This may entail a delay beyond the usual rules, because of the potentially complex nature of the evidence and the need for external verification.
- 5 If VRC agrees that the situation is in accordance with the definition of the internal industrial action as specified above, and all conditions specified above have been met, the case will be investigated by VRC and VRC's recommendation will be presented to GMSQLUG.
- 6 In the event that the GMSQLUG decides to approve the DO's request, the rules that apply to external strikes may be applied.

2.6.3.3 External strike

- 1 An external strike is a strike outside a DO. In order to request deduction for such a strike it requires a situation where all major transportation systems are blocked on a nationwide or regional level (for partial deduction) and the DO is unable to deliver mail on time.
- 2 The DO where the external strike occurs may claim the deduction of inbound items. The deduction may be requested for all items which arrived at the OE before the CTT of the starting date of the strike situation up to and including the CTT of the last day of the strike, with a minimum duration of 72 hours.
- 3 The DO where the external strike occurs may request the partial deduction of inbound items. In case of an external strike with a minimum duration of 72 hours that does not affect all major transport systems; the receiving DO may request a partial deduction of transponders. The deduction will consist of all transponder mail to those postal code areas only for which the DO proves that it was impossible to deliver mail on time due to the strike situation or its effects.
- 4 The DO where the external strike occurs may request the exclusion of inbound items. In cases where outbound DO's withhold their mail due to the strike in the inbound DO country, a deduction may be requested for all items which arrived during the first two (2) days after the last day of the strike due to the volume increase to the inbound DO.
- 5 Other DOs may request the exclusion of inbound items. The deduction may be requested for all items which arrived during the first two (2) days after the last day of the strike situation from the DO in the country being on strike, due to mail volume increase from this DO.

2.6.4 Force majeure request procedures

Since 2011 there is a common procedure for submitting claims of force majeure and for closing such cases. A common implementation procedure has been established for designated operators within the framework of the different systems of remuneration based on quality of service. The rules for claims of force majeure concerning letter mail as described in Module 4 continue to apply.

In compliance with the common procedure, for the purpose of **letter mail**, designated operators submitting a claim of force majeure should respect the next two conditions in their applications:

- Designated operators wishing to claim force majeure will do so by completing the single template form. The applications need to comply with the conditions as provided under 2.7 (specific cases and instances of force majeure) of Module 4.
- They will send it by e-mail or fax to the Emergency Information System (EmIS). The GMSQLUG Secretariat should be copied to this message.

Application forms for opening and closing cases of force majeure are found in Annex 4.5 (link)

2.6.5 Exclusion of items due to force majeure

- 1 The DO where the force majeure occurs may request the exclusion of inbound items. The deduction may be requested for all items arriving at the OE before the CTT of the starting date of the force majeure situation up to and including the CTT of the last day of the force majeure situation, with a minimum duration of 72 hours.
- 2 The DO where the force majeure occurs may request the partial exclusion of inbound items. In case of a force majeure situation with a minimum duration of 72 hours that does not affect all major transport systems, the receiving DO may request a partial deduction of transponders. The deduction will consist of all transponder mail to those postal code areas only for which the DO proves that it was impossible to deliver mail on time due to the force majeure situation or its effects.
- 3 Other DOs may request the exclusion of inbound items. The deduction may be requested for all items arriving during the first two (2) days after the last day of the Force Majeure situation from the DO in the country affected by the force majeure, due to mail volume increase from this DO.

2.6.6 UPU-agreed measurement systems deduction request

DO: Designated Operator making the request
Date of the request: Date when the request is sent to the GMSQLUG Secretary

- 1 Event: Specify what type of event: external strike, internal industrial action or force majeure, according to the User Manual, Module 4, Chapter 2.7.
- 2 Location (Country-DO): Specify where the event took place and/or which DO is involved. Example: Your DO makes the request – the event (strike) takes place in another DO.
- 3 Period of time: The start and end of the event should be mentioned as follows: From: DD/MM/YYYY to DD/MM/YYYY.
- 4 Description: description of the event and provision of proof material.
- 5 Postcodes: postcodes of the areas affected by the force majeure event.
- 6 Period of deduction: It should be mentioned the period (From date: DD/MM/YYYY and time HH:MM to date: DD/MM/YYYY and time: HH:MM) for items that have been registered for instance at the inbound OE XXABCB of the receiving country ZZ.
- 7 Means of information: specify the "Means of information" along with the deduction request, e.g. media coverage, weather reports, official declarations issued by governmental bodies.