


GERMAN POSTAL LAW

Copenhagen | April 2024

Overview

- › German Postal Act (“Postgesetz”) and the relevant universal service ordinance (“Post-Universaldienstleistungsverordnung” or “PUDLV“) date from the late 1990ies and have not been significantly revised since then
- › Earlier attempts (2013 and 2019/2020) to reform the postal regulatory framework have failed
- › Under the Postal Act all prices charged by market dominant undertakings for postal services are subject to regulation
- › Universal service requirements are set by PUDLV and still reflect user needs of some 25 years ago
- › As in other countries letter volumes have declined significantly in Germany due to digitalisation
- › German domestic parcel market has enjoyed strong growth and is subject to intensive competition between several parcel service providers operating nationwide networks (DHL, Amazon, Hermes, DPD, GLS, UPS)
- › The current legal framework does not account for those structural market changes as well as for increased automation and for the need for to transform the network towards an environmentally sustainable service provision



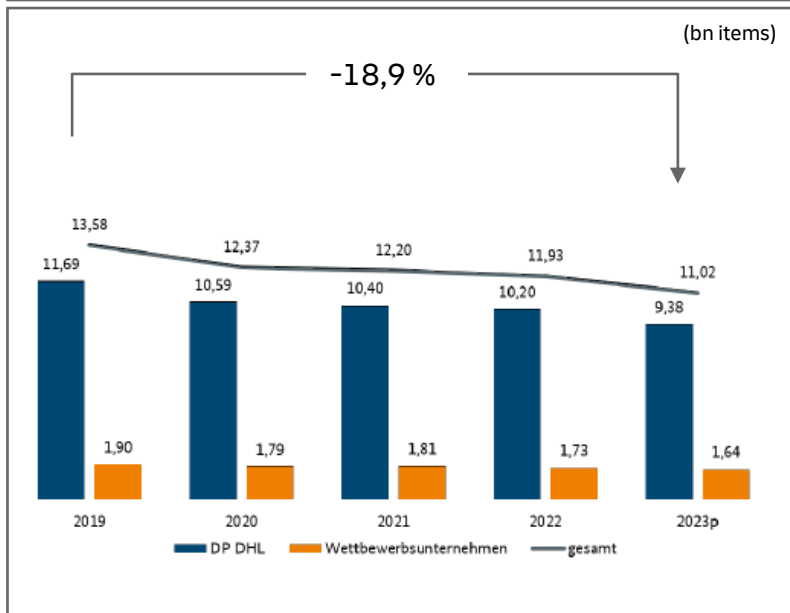
The 2021 Coalition Treaty states the aim

“to revise the postal law and with this further develop social-ecological standards and strengthen competition”

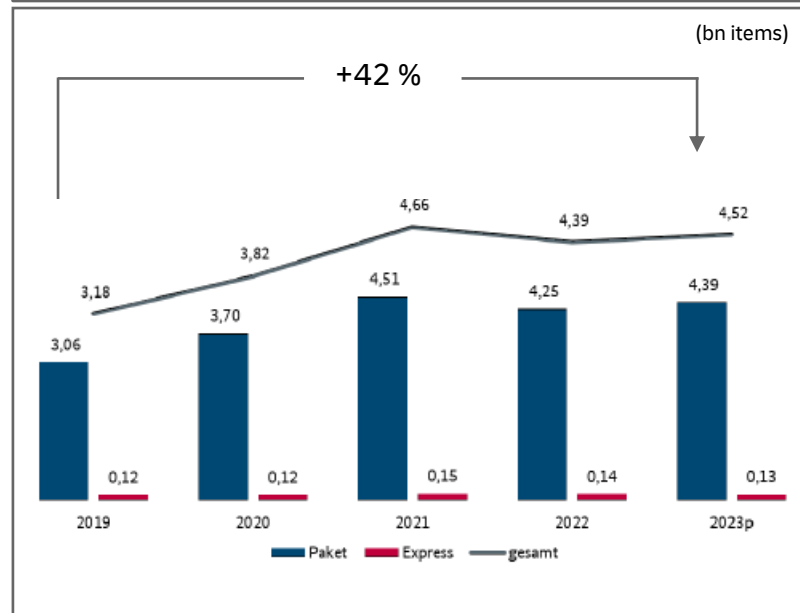
The image shows the cover of the 2021 Coalition Treaty document. It features a logo with horizontal bars in red, yellow, and green. The text on the cover reads: 'MEHR FORTSCHRITT WAGEN' in large letters, followed by 'BÜNDNIS FÜR PROGRESS, GERECHTIGKEIT UND NACHHALTIGKEIT' in smaller letters. At the bottom, it says '19. DEZEMBER 2021'.

Letter and parcel volumes in Germany 2019-2023

Letters (up to 1,000 g)



Parcel and Express



Source: Bundesnetzagentur, Tätigkeitsbericht 2022/23

Timeline

- › Key issues paper published January 2023
- › First stakeholder hearing in March 2023
- › Draft law published 28 November 2023
- › Stakeholder consultation up to 6 December 2023
- › Federal Cabinet approval of draft law on 20 December 2023
- › First reading Bundesrat (upper house of parliament) on 2 February 2024
- › First reading Bundestag (lower house of parliament) on 21 February 2024
- › Bundestag committee stakeholder hearing on 20 March 2024
- › *Second & third reading and final vote of Bundestag prob. May 2024*
- › *Second reading and final vote Bundesrat prob. June 2024*
- › *New Postal Act will enter into force prob. June or July 2024*

Main changes to the Postal Act – Universal Service

Universal service

- › Replacement of current system of “voluntary” universal service provision
 - companies providing the universal service at the time the law enters into force will automatically become designated universal service providers
- › Extension of domestic letter transit times (for universal service mail) from 80 % D+1 (and 95 % D+2) to 95 % D+3 (and 99 % D+4)
- › Changed product scope of universal service (bulk mail conveyed at standard rates included, cash-on-delivery and urgent delivery services taken out)
- › But no change to numerical/geographical rules on retail outlets (minimum number of outlets stays at 12,000, criteria on distance and area coverage remain largely the same)
- › Introduction of a possibility to replace retail outlets with automated stations, but only after obtaining permission by regulator in each individual case
 - regulator to ensure “appropriate relation” between staffed and automated access points
- › No fundamental change to system of universal service financing
 - universal service costs continue to be primarily financed by service users
 - in case a provider claims a deficit, a compensation fund mechanism could be activated
 - no introduction of legal basis for state compensation for providing the universal service

Main changes to the Postal Act – Price Regulation and Promotion of Competition

Rules on price regulation

- › Regulator to conduct market definition and market analysis exercise in regular intervals to establish continued requirement to regulate tariffs (three criteria test as known in telecom regulation)
- › Requirement for ex-ante price approval extended to all universal service products
- › New method to calculate profit margin for regulated products
- › Detailed specification of method for allocation of “legacy costs” (universal service costs, pension costs etc.)

Measures to promote competition

- › Extension of access obligation to the letter mail network to small packet containing goods
 - only for competitors operating at least some form of mail delivery infrastructure
- › New “price consistency test”, ensuring that cost increases lead to increase of prices of single piece prices as well as bulk mail/access prices
- › Right for third parties to apply to regulator for an initiation of abuse proceedings

Main changes to the Postal Act – Labour Conditions and Sustainability

Market oversight / Labour conditions

- › Replacement of licence requirement for letter delivery by introducing new provider registry,
→ applicable to all postal services (letter, parcel, express) and to complete delivery chain
- › Only registered undertakings are permitted to provide postal services
- › Obligation to submit documents to proof “reliability” in order to fulfil registration requirements
- › Possibility for postal regulator to eliminate service providers from register in case of violation of certain social security or labour law provisions
- › **Obligation to monitor subcontractors used for parcel delivery and provide monitoring report to regulator on request / but no restrictions on subcontractor use**
- › **Obligation to deliver parcels >20 kg either by 2 persons or with help of technical means**

Environmental sustainability

- › Transparency on environmental sustainability by introducing reporting requirements on GHG emissions for all operators with a domestic letter and parcel service turnover above € 50 m
→ uniform standards developed at EU level to be applied
- › Possibility (but no obligation) to use “green labels” / details to be developed by regulator

Main changes to the Postal Act – Consumer Protection and Enforcement

Rules on parcel delivery

- › Obligation for all parcel service providers to deliver parcels into lockers operated by third parties
 - but no obligation to open proprietary locker networks for third parties
- › If delivery of a parcel is not possible, parcel has to be deposited at the “nearest possible” collection point

Strengthening of consumer rights

- › Regulator to create “digital atlas” for consumers
- › Obligation for regulator to establish own system for measuring (letter) transit times
- › Obligation for all postal operators to publish customer complaint statistics

Enforcement

- › Ability for regulator to issue fines for breaches of universal service requirements, especially violation of rules on transit times (up to 2 % of relevant turnover of domestic postal services)
- › Various provisions on possibility to issue (lower) fines for other breaches of requirements imposed under Postal Act (up to € 1 million)