

**Measures concerning the minimum rights that may be claimed by users of sea and inland waterway transport services against service providers and terminal operators with regard to the handling of complaints**

**Measure 1**  
**(Subject and scope)**

1. In accordance with Article 37 (2) (e) of Decree-Law No 201 of 6 December 2011, converted, with amendments, into Law No 214 of 22 December 2011, the measures contained herein set out the minimum rights, including compensation, that may be claimed by users of transport services by sea or inland waterway against service providers and terminal operators with regard to the handling of complaints.
2. These measures shall apply in respect of users travelling:
  - a) on passenger services where the port of embarkation is situated in the Italian territory;
  - b) on passenger services where the port of embarkation is situated outside the territory of a Member State and the port of disembarkation is situated in Italy, provided that the service is operated by a carrier that is established in the territory of a Member State or provides passenger transport services from or to Italy;
  - c) on a cruise where the port of embarkation is situated in the Italian territory.
3. These measures shall not apply in respect of users travelling:
  - a) on ships certified to carry up to 12 passengers;
  - b) on ships which have a crew responsible for the operation of the ship composed of not more than three persons or where the distance of the overall passenger service is less than 500 metres, one way;
  - c) on excursion and sightseeing tours other than cruises; or
  - d) on ships not propelled by mechanical means as well as original, and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials, certified to carry up to 36 passengers.

**Measure 2**  
**(Definitions)**

1. For the purpose of these measures, the definitions laid down in Article 3 of Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (hereinafter: Regulation) shall apply, as well as the following definitions:
  - a) **service provider**: the carrier referred to in Article 3(d) of the Regulation;
  - b) **complaint-handling mechanism**: all the procedures set up by the service provider or terminal operator within the meaning of Article 24 (1) of the Regulation, to collect complaints and give a substantiated reply thereto within the time limits laid down in paragraph 2 of the a.m. Article;
  - c) **complaint**: any written communication whereby the user, or a legal representative or consumer association on his/her behalf, complains about the non-compliance of the service with one or more requirements under EU or national legislation, general conditions of carriage, or service charter;

- d) **user**: potential user, i.e. the person who intends to use the passenger transport service by sea or inland waterway or a cruise, or actual user, i.e. the person who uses or has already used this service.

### **Measure 3**

#### **(Accessibility of complaint procedures)**

1. Service providers and terminal operators shall ensure that a user-friendly complaint-handling mechanism is available, while ensuring:
  - a) the possible use of the English language, in addition to the Italian, for the submission of complaints; in this case, the reply shall be sent in the same language;
  - b) several channels to lodge a complaint, including at least:
    - b.1) submission via the website, with access from a link in the dedicated section under Measure 3.4 (a), or via e-mail, against proof of receipt; if a certified e-mailbox is used, it shall be enabled to receive e-mails from non-certified e-mailboxes.
    - b.2) submission by registered post via a postal address or PO box;
  - c) availability of a complaint form, even printable, based on the template under Annexes 1 and 2 to these measures.
2. The user may lodge the complaint without using the form under Measure 3.1 (c); service providers and terminal operators are required to examine the complaints that include at least:
  - a) user information (first name, surname, address) and representative, if any, by attaching in this case, proxy and user identity document;
  - b) journey details (date, time of departure, origin and destination) and transport contract information (reservation code or ticket number);
  - c) description of non-compliance of the service with respect to one or more requirements laid down by EU or national law, general conditions of carriage or, where it is provided for its adoption, service charter.
3. Service providers and terminal operators shall inform users at least on:
  - a) channels and languages to be used for lodging the complaints;
  - b) availability of complaint form, including how to find it, and of the minimum information referred to in Measure 3.2;
  - c) time limits within which the complaint shall be sent to the service provider or terminal operator, in accordance with Article 24 (2) of the Regulation;
  - d) maximum timeframe for the service provider or terminal operator to provide a reply to the complaint, pursuant to the provisions of Article 24 (2) of the Regulation or, if earlier, of the general conditions of carriage or service charter, where it is provided for its adoption;
  - e) remedies that may be adopted by the user in the event of non-reaction to the complaint within the time limits set out under (d), in particular concerning:
    - e.1) use of out-of-court dispute settlement procedures;
    - e.2) submission of second-instance complaint to the Transport Regulation Authority (hereinafter: Authority), specifying the relevant arrangements;
  - f) automatic compensation provided for under Measure 5.

4. The information referred to in Measure 3.3 shall be included at least:
  - a) on the website, in a dedicated section with access from home page, through the link “*Complaints*”;
  - b) in the general conditions of carriage, in a dedicated “*Complaints*” section;
  - c) in the service charter, where it is provided for its adoption, in a dedicated “*Complaints*” section;
  - d) on posters on board ships, in ports and at port terminals, in a dedicated “*Complaints*” section.
5. For the purpose of the expiry of the time limits laid down in Measure 3.3 (c) and (d):
  - a) in case of submission by e-mail or via the website, the complaint is considered to have been transmitted and received on the day it has been sent;
  - b) in case of submission by registered post via a postal address or PO box, the complaint is considered to have been transmitted on the day it was sent and to have been received on the day it was delivered to the service provider or terminal operator;
  - c) where provided for in the available channels, in the event of:
    - (c.1) submission by ordinary mail, the complaint is considered to have been transmitted on the day it was sent and to have been received on the day of its registration in the systems of the service provider or terminal operator, that shall take place in due time and, in any case, within five days of delivery;
    - (c.2) hand delivery to the offices of the service provider or terminal operator, the complaint is considered to have been transmitted and received on the day of delivery, as indicated on the relevant receipt;
    - (c.3) hand delivery to a travel agent, tour operator or ticket vendor, the complaint is considered to have been transmitted on the day of delivery, as indicated on the relevant receipt, and to have been received by the service provider or terminal operator on the day of its registration in their systems, which shall take place in due time and, in any case, within five days of receipt.
6. Tickets shall clearly indicate the service provider with which a complaint may be lodged, and the website address of the section referred to in Measure 3.4 (a), even where the contract of carriage is concluded through a ticket vendor, travel agent or tour operator.

#### **Measure 4**

##### **(Requirements to state reasons)**

1. The response to the complaint shall provide the reasons thereof and be drafted in easily comprehensible language for the average user, in respect of all grounds for complaint raised by the user, clearly indicating, in particular:
  - a) whether the complaint is accepted or rejected, in relation to fact-findings and applicable legislation;
  - b) whether the user is entitled to receive compensation in any form, and, if so, the relevant timeframe and procedure to obtain it; where the user is entitled to the economic compensation referred to in Article 19 (1) of the Regulation, it shall be specified that the compensation may be paid in money, unless the user has already supplied the relevant information in the complaint form;

- c) measures implemented to solve the reported disruption and, where it has not been solved yet, the relevant timeframe;
- d) remedies to be adopted by the user in case the response received is considered not to be satisfactory, in particular concerning:
  - d.1) use of out-of-court dispute resolution procedures;
  - d.2) submission of a second-instance complaint to the Authority, specifying the relevant arrangements.

#### **Measure 5 (Compensation)**

1. The user shall be entitled to receive automatic compensation of the ticket price related to the transport service to the extent of at least:
  - a) 10 % in case the reply is given between the 61th and 90th day as of receipt of the complaint;
  - b) 20 % in case of non-reaction within the 90th day as of receipt of the complaint.
2. The compensation referred to in Measure 5.1 is not due where:
  - a) the amount thereof is below EUR 6;
  - b) the complaint has not been lodged by the user according to the procedures, minimum information and timeframes laid down in Measure 3;
  - c) the user has already received the compensation under Measure 5.1 in respect of a complaint concerning the same journey.

#### **Measure 6 (Complaint registration and data retention)**

1. Service providers and terminal operators shall ensure, as part of the complaint-handling mechanism, the registration of the complaints received, indicating for each complaint:
  - a) user information and journey details;
  - b) date of receipt of the complaint, established in accordance with Measure 3.5;
  - c) grounds for complaint as indicated in the template under Annexes 1 and 2 to these measures;
  - d) substantiated reply to the complaint, together with the date it was sent.
2. In accordance with the rules on the protection of natural persons with regard to the processing of personal data, service providers and terminal operators shall, within their respective areas of responsibility, retain the data relating to the complaint, including the registrations referred to under Measure 6.1, for a reasonable period of time, which shall not be less than 24 months from the date on which the service was provided or should have been provided, including in relation to any requests for information made by the Authority in the performance of its institutional tasks with regard to the protection of users' rights.

**Measure 7**  
**(Final provisions)**

1. Service providers and terminal operators are required to provide for the dedicated website section referred to in Measure 3.4 (a), that shall include at least the information referred to in Measure 3.3 (a), (c), d) and (e) of this Decision, and to make, within one month of the date of its entry into force, the necessary amendments to their website.
2. Without prejudice to Measure 7.1, service providers and terminal operators are required to comply with the measures laid down in this Decision by adjusting, within six months of the date of its entry into force, their general conditions of carriage and, where the adoption of a service charter is provided for, by proposing, within the same deadline, the necessary amendments to the competent bodies.
3. Within 45 days of the date of entry into force of this Decision, service providers and terminal operators shall notify to the Authority, for the purpose of publication on a dedicated section of the Authority's institutional website, the link referred to in Measure 7.1, promptly indicating any subsequent changes.