

## **Activity report under article 29 of Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (year 2021)**

### ***1. Functions and responsibilities of the Authority as national enforcement body in charge of the enforcement of the rights of passengers in bus and coach transport***

The Transport Regulation Authority (hereinafter: Authority), established under Article 37 of Decree-Law No 201 of 6 December 2011, as converted with amendments into Law No 214 of 22 December 2011, has been designated as the national enforcement body (NEB) in charge of the enforcement of Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport (hereinafter: Regulation)<sup>1</sup> pursuant to Legislative Decree No 169 of 4 November 2014<sup>2</sup>.

For the purpose of implementing article 28 ("*National enforcement bodies*") of the Regulation, by the above-mentioned Legislative Decree No 169/2014 the Authority was entrusted with the task of (i) carrying out monitoring and inquiries on bus and coach transport services; ii) inquiring into and assessing the complaints lodged by passengers, for the purpose of identifying infringements of the obligations set out in the Regulation, (iii) assessing infringements of the provisions of the Regulation and imposing penalties as provided for in the above-mentioned Legislative Decree.

In exercising its responsibilities, the Authority may, in particular, obtain information and documentation from carriers, terminal managing bodies, or any other person concerned or involved; the Authority may also carry out controls and inspections on the above-mentioned persons.

It should be noted that the Authority is tasked with verifying that the rights of passengers have been respected and with imposing sanctions on the company, as the case may be, while settling disputes between the parties or requiring the provision of compensation for damage do not fall within its remit<sup>3</sup>.

As provided for by Legislative Decree No 169/2014, by Decision No. 4/2015 the Authority adopted the rules on penalty proceedings for infringements of the provisions of the Regulation (hereinafter: rules on penalty proceedings)<sup>4</sup>.

As required by Article 29 of the Regulation ("*Report on the enforcement of this Regulation*"), this report illustrates the activity carried out by the Authority in its capacity as national enforcement body in the two years preceding the publication of the report, by specifying, in particular, the actions taken to enforce the provisions of the Regulation, and by providing statistical data relating to the complaints received and penalties imposed in the period from 1 January 2019 to 30 April 2021<sup>5</sup>.

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<sup>1</sup> Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004.

<sup>2</sup> Rules on penalties proceedings for infringements of the provisions of Regulation (EU) No 181/2011, amending Regulation (EC) No 2006/2004 concerning the rights of passengers in bus and coach transport.

<sup>3</sup> In this respect it is highlighted that by the above-mentioned Decree-Law 201/2011 the Authority is entrusted with the task of encouraging the establishment of simple and low-cost procedures for conciliation and dispute settlement between operators and users (article 37 (3) (h)).

<sup>4</sup> Rules on penalty proceedings for infringements of the provisions of Regulation (EU) No 181/2011 and amending Regulation (EC) No 2006/2004 concerning the rights of passengers in bus and coach transport, as adopted on 20 January 2015.

<sup>5</sup> Past reports on the activity carried out in 2015-2016 (including the first quarter of 2017) and 2017-2018 (including the first quarter of 2019) are available at the following link: <https://www.autorita-trasporti.it/tutela-diritti-dei-passeggeri-trasporto-su-autobus/>.

Bus and coach passenger services that are covered by this report are the regular services<sup>6</sup> for non-specified categories of passengers where the boarding or the alighting point of the passengers is situated in the territory of a Member State.

Finally, pursuant to Article 3 (4) of Legislative Decree No 169/2014, whenever it is deemed necessary, the Authority may submit proposals to the Parliament and the Government to amend the provisions whereby it was designated as national enforcement body, including with reference to the extent of the sanctions to be imposed<sup>7</sup>.

## **2. Procedure to lodge a complaint with the Authority**

In accordance with the provisions of the aforementioned Legislative Decree No 169/2014, the Authority shall handle and assess the complaints lodged by passengers, in order to ascertain the infringements of the obligations provided for by the Regulation concerning regular services.

Pursuant to Article 28 (3), second sentence, of the Regulation, national legislation has established that, in case of alleged infringement of EU legislation, before applying to the Authority, passengers are required to lodge their complaint in the first instance with the carrier<sup>8</sup>. The Regulation provides that such first-instance complaint shall be lodged within three months of the date on which the service was provided or should have been provided.

Only in case of an unsatisfactory response or in case of non-reaction, ninety days after the complaint has been submitted to the carrier, the passenger may appeal to the Authority in the second instance – including through representative associations, where specifically delegated to do so – to report breaches of the obligations set out in the Regulation. With regard to regional and local services, complaints may be submitted to appropriate regional structures, as identified by a decree of the Minister of Infrastructure and Transport (now Minister of sustainable infrastructures and mobility)<sup>9</sup>, that shall provide them to the Authority on a monthly basis.

In particular, for bus and coach transport, the second-instance complaint shall be lodged with the Authority in one of the following ways:

- by using the appropriate online electronic tool for the submission of complaints (SiTe, with access from the Authority's webpage <https://www.autorita-trasporti.it/site/>), which does not require further transmission. The system allows, through a wizard, to lodge complaints directly on-line after registration and release of login ID and password<sup>10</sup>. If the user completes the procedure by uploading all the required documents, the system allows the automatic dispatch to the Authority and the user can verify the registration of its complaint. The electronic tool is available in English as well;

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<sup>6</sup> Pursuant to article 3 (a) of the Regulation, 'regular services' means services which provide for the carriage of passengers by bus or coach at specified intervals along specified routes, passengers being picked up and set down at predetermined stopping points.

<sup>7</sup> As illustrated in the previous report, on 5 December 2018 the Authority addressed to the Government and the Parliament a recommendation on "*Enforcement of passenger rights in rail, sea and inland waterway and bus and coach transport: sanctioning system*", containing proposals of amendments to the existing Legislative Decrees No 70/2014, No 129/2015 and No 169/2014, that implement in the Italian legal system the EU regulations concerning the rights of rail, sea, and bus passengers, respectively.

<sup>8</sup> In this regard, carriers shall set up or have in place a complaint-handling mechanism for the rights and obligations covered by the Regulation. Within one month of receiving the complaint, the carrier shall give notice to the passenger that his complaint is substantiated, rejected or is still being considered. The time necessary to provide the final reply shall not be longer than three months from the receipt of a complaint (Article 26 of the Regulation).

<sup>9</sup> Decree of the Minister of Infrastructure and Transport of 9 October 2015 on "*Identification of regional structures in charge of receiving complaints following the assessment of alleged infringements bus and coach transport services of regional and local competence, for the purpose of implementing article 3 (6) of Legislative Decree No 169 of 4 November 2014*".

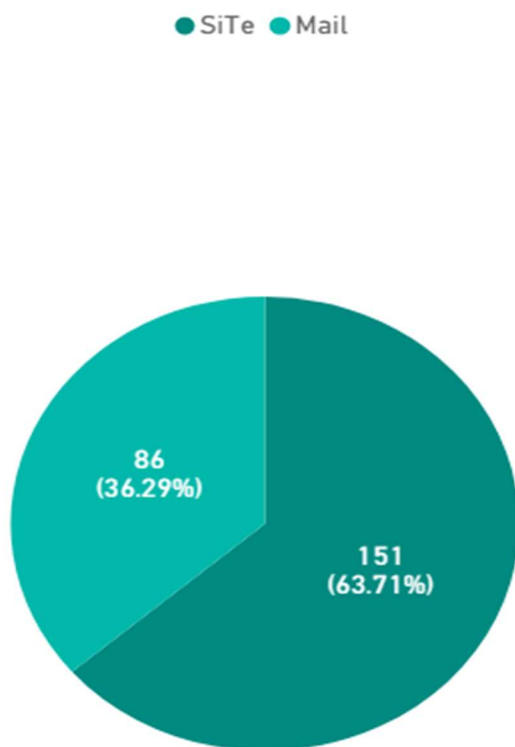
<sup>10</sup> As of 23 September 2020, the SiTe tool is accessible through the Public Digital Identity System (SPID) as well.

- by filling out the form that is available also in English at [https://www.autorita-trasporti.it/wp-content/uploads/2021/07/Complaint-form\\_Bus.pdf](https://www.autorita-trasporti.it/wp-content/uploads/2021/07/Complaint-form_Bus.pdf) this shall be also sent, under penalty of inadmissibility, by registered letter with acknowledgement of receipt or by e-mail to one of the following addresses: [pec@pec.autorita-trasporti.it](mailto:pec@pec.autorita-trasporti.it), or to: [reclamibus@autorita-trasporti.it](mailto:reclamibus@autorita-trasporti.it).

It is worth noting that the SiTe tool simplifies the services rendered to users; this mode of transmission allows users to be guided through the correct completion of complaints, and to centralise their receipt, and enables to provide more effective responses, thanks to the availability of all the pieces of information that are useful for the examination of the complaint.

As shown in the following graph, concerning bus and coach transport, 63.71% of complaints were received through SiTe in the period under review, while 36.29% were submitted with a form sent by one of the other designated channels (overall indicated as “mail”).

*Figure 1 — Methods of receipt of complaints concerning bus and coach transport in the period from 1 January 2019 to 30 April 2021*



Source: ART

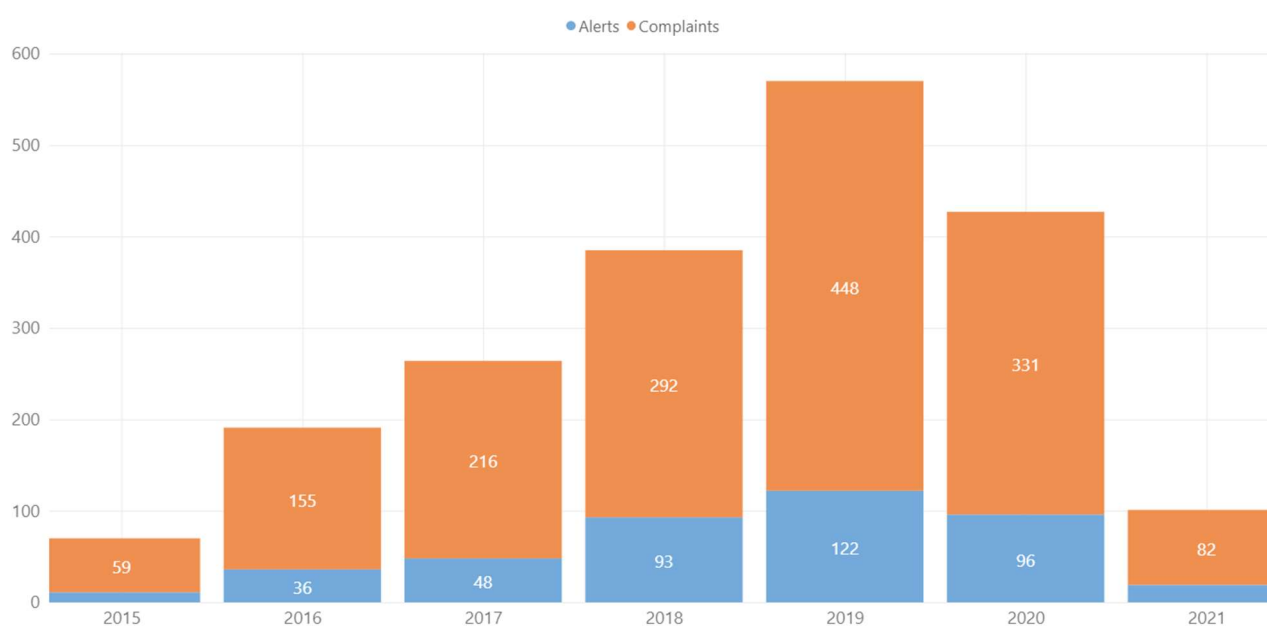
### **3. Alerts and complaints received**

Although the Regulation provides that, by 1 June 2015, and every two years following that date, the activity carried out in the previous two calendar years be reported, it is deemed useful to provide data concerning complaints and alerts (requests) consolidated to date, i.e. received from 1 January 2019 until the first quarter of 2021 (period of reference).

In this respect, it should be clarified that alert means the request sent by the user which is not presented in the prescribed manner (e.g. submitted before the expiry of 90 days from the date the complaint was lodged to the carrier or including only a general description of the issue); on the other hand, the complaint is a request which is properly filed and includes the essential pieces of information for a thorough assessment of the case reported by the user.

As the national body responsible for the enforcement of the Regulation, the Authority has received a number of complaints and alerts from bus and coach passengers that are further outlined in the bar chart and table<sup>11</sup> in Figure 2.

Figure 2 — Complaints and alerts received in bus and coach transport from 1 January 2019 to 30 April 2021



Type of request	2015	2016	2017	2018	2019	2020	2021 (Apr.)	Total
Alerts	59	155	216	292	448	331	82	1,583
Complaints	11	36	48	93	122	96	19	425
<b>Total</b>	<b>70</b>	<b>191</b>	<b>264</b>	<b>385</b>	<b>570</b>	<b>427</b>	<b>101</b>	<b>2,008</b>

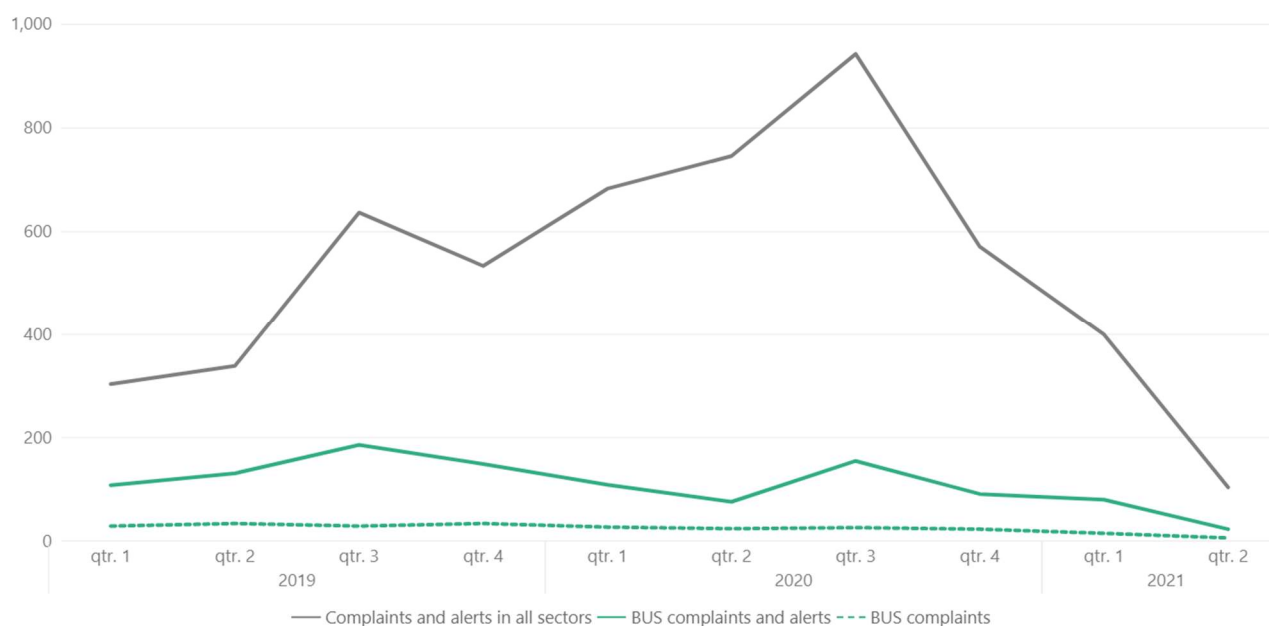
Source: ART

The development in the submission of the requests increases until 2019; a slight decrease is observed in 2020, that is assumed to be due to the lower number of journeys made by passengers during the period of the pandemic.

On the other hand, the graph in Figure 3 shows the quarterly development in the complaints and alerts received by the Authority in the period of reference.

<sup>11</sup> Compared to the data in the tables included in the reports of the previous two-year periods, the minimal deviations are related to further refinement of data and/or reclassifications of requests (including following the transmission of additional documentation by the passenger).

**Figure 3 — Quarterly development in complaints and alerts concerning bus and coach transport from 1 January 2019 to 30 April 2021**



Source: ART

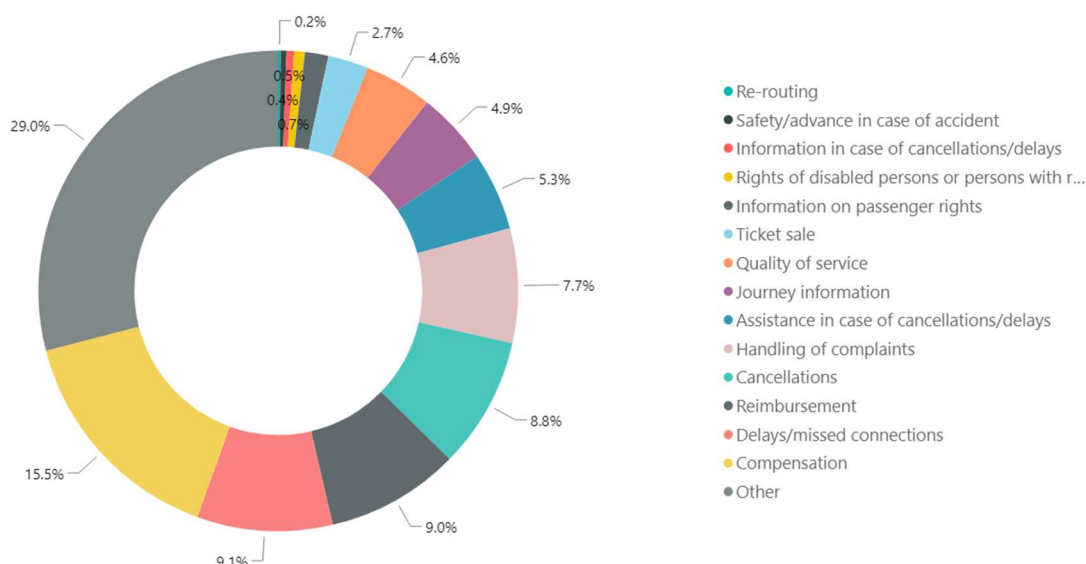
In particular, the above graph shows for 2019, at first (third quarter) an upward trend in the number of complaints and alerts received for bus and coach transport services and later a downturn, while, for 2020, a peak is observed in the third quarter, that is linked, as illustrated below, to the problems in the period of the pandemic emergency, and a new drop in the following period.

The graph also allows for a comparison with the development of the requests received by the Authority for all sectors<sup>12</sup>. The percentage of complaints and alerts received for bus and coach transport, out of the total number of complaints and alerts received, is 22.36%.

In particular, in the period from 1 January 2019 to 30 April 2021, the Authority received 861 alerts and 237 complaints related to bus and coach transport, which highlighted different criticalities, as shown in the graph in Figure 4.

<sup>12</sup> In this regard, in the light of the provisions of legislative decree No 70/2014 and legislative decree No 129/2015, the Authority is also identified as the monitoring and supervisory body for the correct enforcement of Regulation (EC) No 1371/2007 and Regulation (EU) No 1177/2010, for the protection of the rights of passengers by rail and sea and inland waterway, respectively.

Figure 4 — Grounds of complaints and alerts concerning bus and coach transport in the period from 1 January 2019 to 30 April 2021



Source: ART

Whereas each complaint/alert may contain more than one ground of complaint, the graph in Figure 4 shows that the main categories of passenger requests are associated to delays and related issues. In particular, based on a thorough analysis of complaints and alerts, the most problematic issues are linked to:

- requests for reimbursement/compensation following cancelled or delayed departures and their modalities of payment;
- accessibility of the complaint submission system, timeliness and grounds of responses given, and effective solution provided to disruptions experienced by users;
- information to be provided to passengers in case of cancelled or delayed departures, or in case of missed connection;
- assistance in case of cancelled or delayed departures, or in case of missed connection;
- information on travel and passenger rights by carriers or terminal managing bodies;
- choice offered between re-routing or reimbursement in case of cancelled or delayed departures or overbooking.

In this respect, all the requests received are classified on the basis of the complaints from passengers, that are not always fully aware of the actually available rights and, therefore, the issues highlighted might not fall under those for which the Regulation provides specific protection.

In particular, many of the requests received were related to journeys where the scheduled distance of the service was shorter than 250 km, in relation to rights laid down in the Regulation that do not apply<sup>13</sup> to this

<sup>13</sup> Pursuant to article 2 ("Scope"), paragraph 2 of the Regulation, where the scheduled distance of the service is shorter than 250 km, only article 4 "(Tickets and non-discriminatory contract conditions)", paragraph 2, article 9 ("Right to transport"), article 10 ("Exceptions and special conditions"), paragraph 1, article 16 ("Training") paragraph 1, letter b,

type of travel<sup>14</sup>, as well as requests for compensation for delayed arrival at the final destination, the latter being a right which notably, given the peculiarities of the sector, is not covered by the Regulation at issue.

“Other” includes alerts/complaints pertaining to multiple issues, which tend to be unrelated to the rights guaranteed under the Regulation (requests for general information, theft or lost luggage, quality of travel, impossibility of bicycle transport, access not allowed to pets, application of special offers, fines on board, etc.).

The Authority may either consider the content of these requests for the exercise of the regulatory functions provided under the statutory law<sup>15</sup> or forward them to other administrations for issues falling under their remit (e.g., Competition Authority, with regard to any commercial practices, or entities awarding the relevant service for their checks on the correct execution of the public service contract).

#### **4. Reports and complaints received in the emergency period due to the COVID-19 pandemic**

With regard to alerts and complaints received by the Authority, as referred to in paragraph 3, the effects arising from the COVID-19 emergency, which inevitably impacted on mobility, are worthy of specific attention: on the one hand, because of the perception of the risk of contagion, many passengers who had already concluded transport contracts, renounced travelling; on the other hand, transport companies have reshaped their offer and cancelled a number of services.

In the performance of its functions, the Authority has received, since the end of February 2020, several passenger requests concerning issues related to the reimbursement of unused travel tickets, both for renouncing travelling by passengers, and following cancellation of transport services on the initiative of the carrier or public authority, that was related to the epidemiological emergency.

In this context, the Authority has provided for the timely publication, on its website, of the interpretative guidelines adopted by the EU Commission on the application, in relation to the context of the COVID-19 epidemic, of certain provisions of the passenger rights regulations<sup>16</sup> and of the Recommendation of 13 May 2020<sup>17</sup> concerning reimbursement in money or in the form of a voucher.

Specific news and updates have also been drafted and published on the Authority’s website<sup>18</sup>, together with frequently asked questions (FAQ), to provide sea, bus and rail passengers with information concerning passenger rights in case of disruptions related to the Coronavirus emergency.

The graph in Figure 5 shows the impact of the health emergency on the requests filed by bus and coach passengers.

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and paragraph 2, article 17 (“Compensation in respect of wheelchairs and other mobility equipment”), paragraphs 1 and 2, and articles from 24 to 28 (of Chapter V “General rules on information and complaints”) and article 28 (“National enforcement bodies”) of the Regulation shall apply.

<sup>14</sup> In particular, 25 complaints were dismissed in the period at issue for this specific ground.

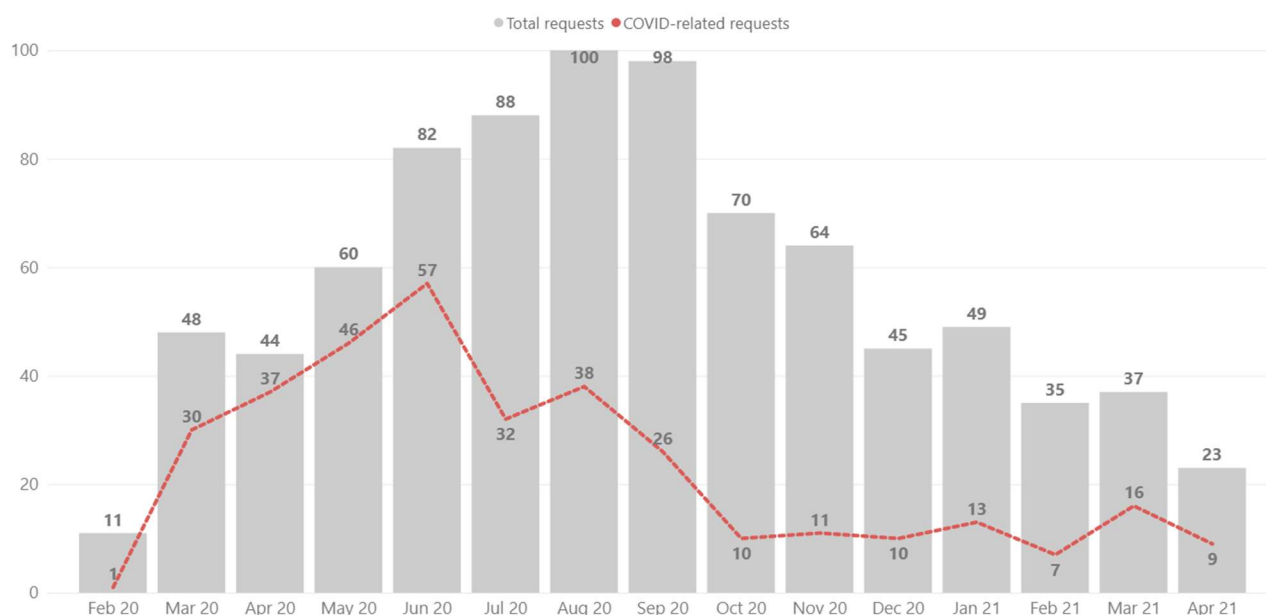
<sup>15</sup> In particular, article 37 (2) of Legislative Decree 201/2011 provides under letter d) that the Authority lays down “the minimum quality standards of national and local transport services that are subject to public service obligations, as identified in accordance with the local characteristics of supply and demand” and under letter e) that the Authority defines “in relation to the different services and infrastructures, the minimum rights and entitlements, including compensation, that may be claimed by users from infrastructure managers and service providers, without prejudice to the additional collaterals increasing users’ protection which infrastructure managers and service providers may include in their service charters”.

<sup>16</sup> “Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with COVID-19”, C(2020) 1830 final.

<sup>17</sup> Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic.

<sup>18</sup> E.g. page <https://www.autorita-trasporti.it/notizie/treni-autobus-navi-tutela-dei-diritti-dei-passeggeri-a-fronte-di-cancellazioni-dei-servizi-di-transporto-anche-con-le-nuove-misure-anti-covid-19/>

**Figure 5 — Development of complaints and alerts in bus and coach transport in the context of the COVID-19 pandemic (1 February 2020 - 30 April 2021)**



Source: ART

The bar chart in Figure 5 shows a more contained peak in the complaints and alerts received by the Authority in connection with the beginning of the pandemic and the initial measures restricting people's movement adopted by the Government and later, in the months of July, August and September, when travelling was resumed; a more or less constant deflection of the curve may be observed in the following months.

With regard to bus and coach transport these requests concerned *inter alia*:

- requests for reimbursement of travel tickets for **renouncing travelling**, in relation to various reasons, including delays in the payment of reimbursements and modalities for the use of vouchers;
- requests for reimbursement of travel tickets for **cancellations by carriers**, in relation to various reasons, including modalities for the request for reimbursement, delays in the payment of reimbursements and related modalities;
- requests for reimbursement for unused travel passes;
- vehicle overcrowding due to changes in the services.

Concerning passenger requests related to reimbursement of unused travel tickets, the Authority has repeatedly invited and called upon transport companies to behave consistently with the EU legislation on the enforcement of passenger rights, safeguarding their right to obtain, in case of cancellations of services on the carrier's initiative or by order of the competent authorities, a cash refund of the ticket price.

With a view to ensuring full enforcement of passenger rights, as they were particularly exposed during the health emergency, the Authority has taken steps with specific requests to transport companies, including in the case of alerts or requests for reimbursement for renouncing travelling, with a view to the actual resolution of the issues, even where EU legislation does not provide for specific passenger protection. Indeed, as the Commission reiterated in the above-mentioned interpretative guidelines, EU regulations on passenger rights provide for safeguards only in the event of cancellations of the journey by the carrier and not even in the case of passengers renouncing travelling.

The remaining issues were brought to the attention of the competent bodies (in particular, awarding entities).

## 5. Imposition of penalties

With respect to the penalty system provided for by Legislative Decree No 169/2014, penalties for infringement of the Regulation are determined on the basis of the assessed infringement and are proportionate not only to the seriousness and repetition of the infringement and to the actions taken to relieve or remove its effects, but also to the percentage ratio of the passengers that have been affected by the infringement to the number of transported passengers. Further, in accordance with the Rules on penalty proceedings, where the assessed infringement is still in place, the statement of objections also includes the formal notice to terminate the infringement. Compliance with the notice to terminate the infringement or non-compliance therewith are in any case assessed in accordance with applicable law, including for the purpose of the imposition of penalties.

It should be noted that, pursuant to article 4 (5) of Legislative Decree No 169/2014, the amounts arising from the imposition of penalties are paid into a special fund, that is established in budget estimates of the Ministry of Infrastructure and Transport (now Ministry of Sustainable Infrastructure and Mobility) to finance projects for the benefit of consumers in the transport sectors. In this regard, the Decree of the Minister of Infrastructure and Transport of 19 February 2019, which was adopted upon proposal of the Authority and in agreement with the State-Regions Conference, stipulates that these amounts shall be allocated to projects for the benefit of consumers, aiming at awareness and information campaigns on passenger rights, including through the cooperation of service providers and infrastructure managers concerned<sup>19</sup>.

In particular, the amounts resulting from the penalties applied to transport of national interest are allocated to the a.m. Ministry, while those arising from the penalties applied to public services of regional and local interest are allocated to each region in proportion to the penalties paid which are related to the respective territories<sup>20</sup>.

As for the quantification of the penalties, it is worth highlighting that the Authority applies the "*Guidelines on the quantification of administrative fines*", as adopted by Decision No 49/2017, in order to ensure consistency, transparency and impartiality in the exercise of its power to impose penalties. These guidelines set out the criteria for their determination which have been notionally provided for by the legislator, taking into account the differences between the parameters provided for by Law No 689 of 24 November 1981 ("*Changes to the penalty system*"), which are applicable to the cases falling within the Authority's general powers to impose penalties, and the criteria for the quantification of penalties for infringement of passenger rights laid down by the legislative decrees implementing EU regulations concerning rail, bus and coach and sea and inland waterway transport.

The table below shows the sanctioning proceedings for infringement of the passenger rights enshrined in the Regulations, that were initiated and concluded in the period from 1 January 2019 to 30 April 2021 (all decisions referred to therein are available on the Authority's website), while the following graph in Figure 6 shows the disputes broken down by types of right concerned by the proceeding.

Initiation of proceeding	Contested infringement of provisions of regulation	Decision on closure of sanctioning proceeding	Amount of reduced payment	Amount of imposed penalty /dismissal
Decision No 32/2019	article 19 ("Continuation, re-	Decision No 63/2019	EUR 2,400.00	

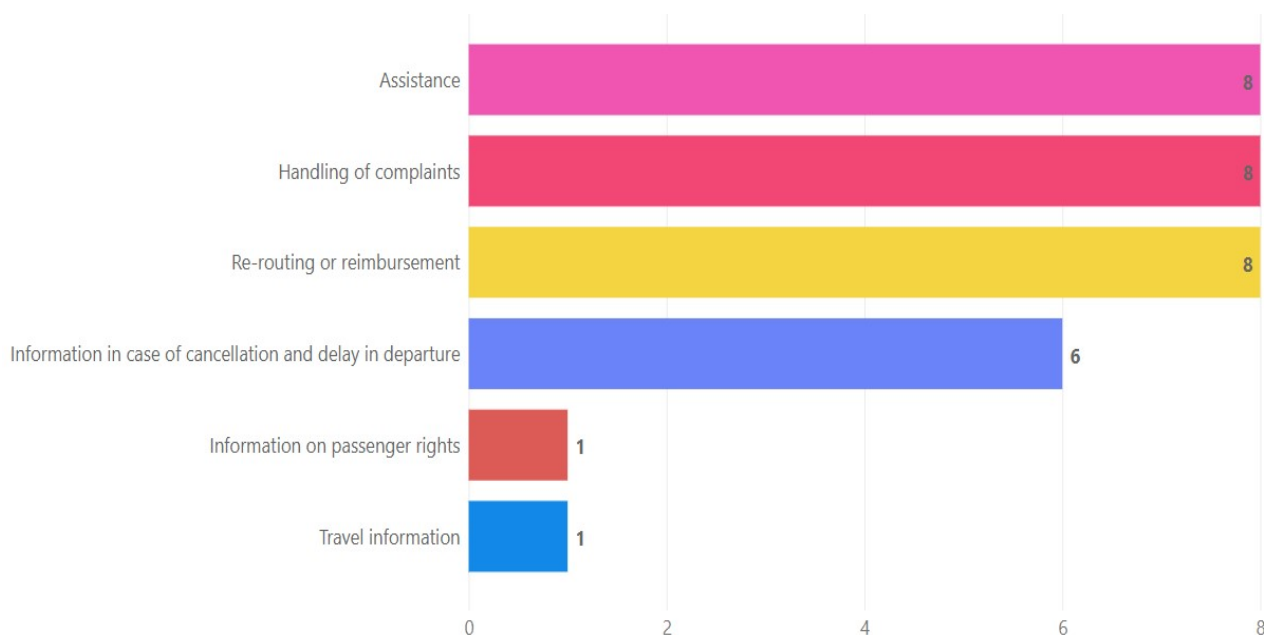
<sup>19</sup> Ministerial decree of 19 February 2019 "*Modalities of allocation of the amounts deriving from the payment of penalties for infringement of the provisions on passenger rights in rail, bus and coach and inland waterway transport*", published in the Official Journal, General Series, No. 83 of 8 April 2019.

<sup>20</sup> For the purpose of implementing the provisions of Article 3 (2) of the Ministerial Decree, the Authority has transmitted, within the deadline provided for therein (first quarter of each year), the summary tables of all the penalties imposed in the previous year, indicating to which Region the penalties imposed on regional and local public transport companies shall be referred to.

	<i>routing and reimbursement”), paragraphs 1 and 2</i>			
	article 20 (“ <i>Information</i> ”), paragraph 1		EUR 1,000.00	
	article 27 (“ <i>Submission of complaints</i> ”)		EUR 500.00	
Decision No 57/2019	article 19 (“ <i>Continuation, re-routing and reimbursement</i> ”), paragraph 1	Decision No 90/2019	EUR 12,000.00	
	article 20 (“ <i>Information</i> ”), paragraph 1		EUR 1,000.00	
	article 21 (“ <i>Assistance in case of cancelled or delayed departures</i> ”), paragraph 1 (b)		EUR 12,000.00	
	article 27 (“ <i>Submission of complaints</i> ”)		EUR 500.00	
Decision No 179/2019	article 19 (“ <i>Continuation, re-routing and reimbursement</i> ”), paragraphs 1 e 2	Decision No 87/2020		EUR 7,750.00
	article 20 (“ <i>Information</i> ”), paragraph 1			EUR 600.00
	article 27 (“ <i>Submission of complaints</i> ”)		EUR 500.00	
Decision No 10/2020	article 21 (“ <i>Assistance in case of cancelled or delayed departures</i> ”), paragraph 1 (a)	Decision No 135/2020		EUR 4,480.00
Decision No 53/2020	article 19 (“ <i>Continuation, re-routing and reimbursement</i> ”), paragraph 1 and 2	Decision No 139/2020		EUR 18,400.00
	article 20 (“ <i>Information</i> ”), paragraph 1			EUR 650.00
Decision No 64/2020	article 21 (“ <i>Assistance in case of cancelled or delayed departures</i> ”), paragraph 1 (a)	Decision No 140/2020	EUR 13,200.00	
	article 27 (“ <i>Submission of complaints</i> ”)		EUR 500.00	
Decision No 101/2020	article 25 (“ <i>Information on passenger rights</i> ”)	Decision No 200/2020		EUR 42,900.00
Decision No 144/2020	article 19 (“ <i>Continuation, re-routing and reimbursement</i> ”), paragraph 1	Decision No 201/2020		EUR 500.00
	article 20 (“ <i>Information</i> ”), paragraph 1			Euro 750.00
	article 21 (“ <i>Assistance in case of cancelled or</i> ”)		EUR 10,200.00	

	<i>delayed departures”), paragraph 1 (a)</i>			
	<i>article 21 (“Assistance in case of cancelled or delayed departures”), paragraph 1 (b)</i>		EUR 300.00	
	<i>article 27 (“Submission of complaints”)</i>		EUR 500.00	
Decision No 166/2020	<i>article 19 (“Continuation, re-routing and reimbursement”), paragraphs 1 and 2</i>	Decision No 4/2021		EUR 1,060.00
	<i>article 20 (“Information”), paragraph 1</i>			EUR 770.00
	<i>article 21 (“Assistance in case of cancelled or delayed departures”), paragraph 1 (a)</i>		EUR 3,300.00	
	<i>article 27 (“Submission of complaints”)</i>		EUR 500.00	
Decision No 171/2020	<i>article 19 (“Continuation, re-routing and reimbursement”), paragraph 1</i>	Decision No 8/2021		EUR 3,000.00
	<i>article 24 (“Right to travel information”)</i>			EUR 200.00
	<i>article 27 (“Submission of complaints”)</i>		EUR 300.00	
Decision No 9/2021	<i>article 19 (“Continuation, re-routing and reimbursement”), paragraph 1</i>	Decision No 43/2021	EUR 6,900.00	
	<i>article 21 (“Assistance in case of cancelled or delayed departures”), paragraph 1 (a)</i>		EUR 6,900.00	
	<i>article 21 (“Assistance in case of cancelled or delayed departures”), paragraph 1 (b)</i>		EUR 2,100.00	
	<i>article 27 (“Submission of complaints”)</i>		EUR 500.00	
<b>Total 11 initiated proceedings</b>	<b>Total 32 contested infringements</b>		<b>Total EUR 75,100.00</b>	<b>Total EUR 81,060.00</b>

Figure 6 — Rights covered by sanctioning proceedings initiated and concluded in bus and coach transport in the period from 1 January 2019 to 30 April 2021



Source: ART

As shown in the table and graph in Figure 6, and in line with past reports, most of the disputes against carriers and terminal managing bodies were related to infringements of the following articles of the Regulation:

- a) Article 27, for failing to respond to passenger complaints or for not responding on schedule;
- b) Article 21 (a) for failing to offer passengers departing from the bus terminal, in the event of delays or cancellations, snacks, meals or refreshments in reasonable relation to the waiting time;
- c) article 21 (b) for failing to offer passengers departing from the bus terminal, hotel accommodation or other accommodation in the event of delays in departure or cancellations. In particular, it is worth mentioning a case where such right has been recognized to a passenger holding a single travel solution consisting of a single ticket for two connecting journeys (through ticket)<sup>21</sup>;
- d) Article 19 (1) and (2), for failing to offer passengers, in the event of cancellation or delay in departure from a bus terminal or in case of overbooking, the choice between continuation, re-routing and reimbursement, in the case of cancelled or delayed departure exceeding 120 minutes, and, in some cases, for failing to pay the claimants 50% of the ticket price in addition to the reimbursement within the term provided for by the EU Regulation;
- e) Article 20 (1) for failing to provide information in the event of cancellation or delay in departure. In particular, it is worth mentioning the case of a carrier which, despite the availability of the passenger's telephone contact, only provided the relevant information via app<sup>22</sup>;
- f) Article 24, for failing to provide adequate information to a passenger who, due to overbooking, was unable to use a connecting journey under a single ticket (through ticket)<sup>23</sup>;
- g) Article 25 for failing to provide adequate information to passengers about their rights and for failing to indicate the necessary contact details of the Authority. It should be noted that this sanctioning procedure was initiated following an inspection<sup>24</sup> carried out at the terminal managing body of a

<sup>21</sup> Initiation of proceeding by Decision No 144/2020 of 30 July 2020, concluded by Decision No 201/2020 of 3 December 2020.

<sup>22</sup> Initiation of proceeding by Decision No 166/2020 of 28 September 2020, concluded by Decision No 4/2021 of 14 January 2020.

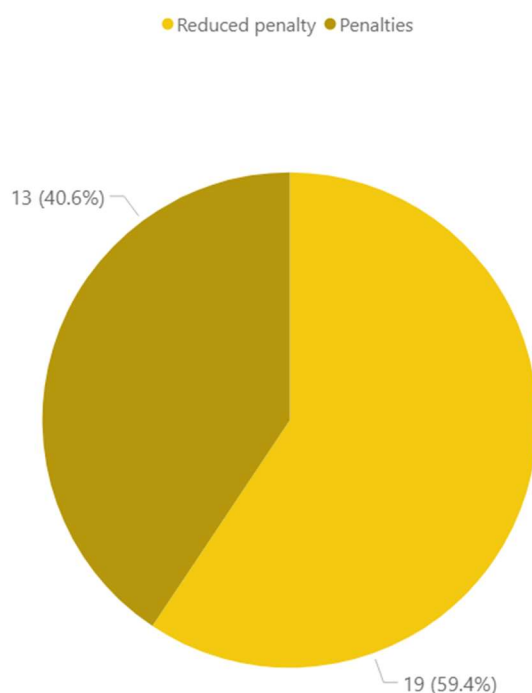
<sup>23</sup> Initiation of proceeding by Decision No 171/2020 of 14 October 2020, concluded by Decision No 8/2021 of 27 January 2021.

<sup>24</sup> Initiation of proceeding by Decision No 101/2020 of 21 May 2020, concluded by Decision No 200/2020 of 3 December 2020.

designated terminal. In the sanctioning measure, the Authority did not consider that the actions taken by the terminal managing body after the inspection were appropriate to remedy the contested infringement, i.e. to make the information under Article 25 available; on the other hand, such actions were found to be suitable to guarantee the future dissemination of this information and were, in any case, taken into consideration to quantify the penalty.

The pie chart in Figure 7 illustrates the outcome of the sanctioning activity related to the protection of passenger rights in bus and coach transport carried out by the Authority in the period under review.

*Figure 7 — Outcome of proceedings initiated and concluded in bus and coach transport in the period from 1 January 2019 to 30 April 2021*



Source: ART

The pie chart in Figure 7 shows that the disputes subject to a reduced payment (59.4%) outnumbered those that were concluded with the imposition of administrative fines (40.6%).

The reduced payment, referred to in Article 16 of Law No 689/1981, allows the company that is subject to a sanctioning proceeding to terminate such proceeding, through the payment, within sixty days of the contested infringement of an amount equal to one third of the maximum penalty provided for the infringement, or, if more favourable and where the minimum statutory penalty is fixed, equal to twice the amount thereof.

In one of these cases, the payment of the reduced penalty was made after the carrier revoked the proposed commitments, which the Authority had considered to be only partially receivable<sup>25</sup>.

Finally, with regard to the proceedings concluded with a reduced payment or with imposition of a penalty, the table below shows the number of infringements identified in relation to each of the aforementioned articles of the Regulation and the number of addressees of the above-mentioned proceedings.

Article of Regulation	Number of initiated proceedings concluded* (as at 30 April 2021)	Number of companies involved
Article 19 (1) and (2)	4	1
Article 19 (1)	4	1
Article 20 (1)	6	1
Article 21 (1) (a)	5	3
Article 21(1) (b)	3	1
Article 24 (2)	1	1
Article 25	1	1 (terminal managing body)
Article 27	8	2

\*Please note that a decision to initiate a sanctioning procedure may include several infringements.

It should be noted that the number of disputes and, consequently, the overall amount of the penalties imposed is increasing compared to what was reported for the previous two-year period. On the other hand, the number of carriers that were addressed by the proceedings remains limited; this could be largely due to the allocation of market shares, but also to the characteristics of the journeys offered by the different carriers (national and international relations with connecting services or direct relations).

## 6. Other initiatives

### Information on passenger rights

As illustrated in the previous reports, for the purpose of better informing passengers on their rights, a dedicated section is available on the Authority's website including EU and national legislation for users' protection in rail, bus and sea and inland waterway transport. The section is available in English as well.

In this respect, with regard to the accessibility of its website, the Authority has recently implemented a fully automatic software solution powered by artificial intelligence (AI) that guarantees full accessibility to the Authority's portal for a wide range of disabilities.

The software has been adopted in compliance with national and supranational legislation, and in accordance with the *Web Content Accessibility Guidelines* (WCAG 2.1), which define the criteria for web accessibility and set the standard for web accessibility legislation in all countries of the world.

Always with a view to providing users with immediate support concerning the rights established by the Regulation and with regard to the Authority's role, the dedicated page including the FAQ section on

<sup>25</sup> Decision No 109/2020 of 18 June 2020, whereby the commitments made by the carrier were considered to be partially receivable; the proceeding was concluded by Decision No 140/2020 of 30 July 2020 providing for a reduced payment.

passengers' rights and the cases in which the Authority may be addressed is regularly updated. As described above, the information provided by the EU Commission (Covid interpretative Guidelines and Recommendation) on EU passenger rights in the context of the COVID-19 pandemic, including the relevant links, have also been made available on the same page.

In addition, the Authority is continuously monitoring the availability of information on passenger rights and on the modalities for submission of complaints on the carriers' websites.

With reference to the regulatory "*Measures aimed at ensuring equitable and non-discriminatory access to terminal stations that meet passenger mobility needs through intermodal and intramodal connection of services*", adopted with Decision No 56/2018 of 30 May 2018, referred to in the activity report on the previous two-year period, please note that the Authority publishes on its website a set of information including the description and progressive updating of a form for each of the bus terminals as identified in accordance with the above-mentioned Decision<sup>26</sup>, with the indication of the main services, including the relevant accessibility features, that are in place in the bus terminal.

Finally, the Authority has launched a communication campaign, in collaboration with the Prime Minister's Office, with a focus on the enforcement of passenger rights, which will be implemented in 2021.

#### Awareness-raising activities for carriers

In the framework of the activity carried out by the Authority for the enforcement of the Regulation, it is worth noting that, in continuity with previous periods, even where no conditions were found to contest infringements of the Regulation, the Authority's offices, on the basis of the complaints and alerts received, have implemented awareness-raising and reporting activities addressed to carriers so as to encourage/support the improvement of caring policies.

In particular, meetings were organised focusing on some critical issues arising from the analysis of the requests received and concerning, among others: (i) procedures and timing for handling first-instance complaints; (ii) "technical issues" related to the correct receipt of certified mail and/or e-mails and concerning difficulties in providing evidence of the transmission of a substantiated response; (iii) issue of tickets with connecting routes that are considered covered by a single transport contract (so-called through ticket) and of the rights to be guaranteed to passengers in the event of lost connections; (iv) need to improve material assistance procedures at bus terminals.

#### Handling of complaints

In the exercise of its regulatory powers, by Decision No 28/2021 of 25 February 2021, the Authority adopted, pursuant to Article 37 (2) (e) of Legislative Decree No 201/2011, the regulatory "*Measures concerning the minimum rights that may be claimed by users of rail and bus and coach transport services against service providers and related infrastructure with regard to the handling of complaints*". The measures shall apply as of 1 January 2022.

As for their scope of application, the measures shall be carried out for the benefit of users of rail and bus and transport services and related infrastructures, without limitations based on the territorial context in which such services are operated (cross-border, national, regional or local), regardless of the nature of the service (subject to public or service obligations or open access); they also include the information and/or ticketing services offered, with regard to rail or bus and coach passenger transport, by digital platform managers, given their dissemination and the incidental nature of the services offered by these entities.

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<sup>26</sup> Available at the following link: <https://www.autorita-trasporti.it/indice-delibere/delibera-n-56-2018-condizioni-di-accesso-equo-e-non-discriminatorio-alle-autostazioni/>

Regarding the content, a first group of measures defines the complaint-handling system as the set of procedures organised by service providers, terminal managing bodies or digital platform operators, for the purpose of collecting first-instance passenger complaints and providing a substantiated response. Also regulated is the accessibility of the service provider's complaint procedures, starting from easily identifiable and simple transmission modalities, through a variety of channels, including, at least, the website or the e-mail or registered mail; the measures also provide for the possibility to use the English language, in addition to the Italian; in this case, the reply shall be drafted in English as well.

Although two specimens have been produced so as to facilitate the submission of complaints (one for complaints relating to railway services and another for bus and coach services) that the service providers are required to make available, it is provided that the complaint may in any case always be lodged in any form, and shall be examined by the recipient even if it contains a minimum set of information<sup>27</sup>.

Concerning the foregoing - as well as the deadlines for submission of the complaint and those for providing a response by the service provider, the remedies to apply in the event of non-reaction and any automatic compensation in the event of non-reaction or late response - transport service providers shall ensure that full information is supplied to users through (i) a "Complaints" section, accessible from the homepage of their website, (ii) inclusion in the general conditions of carriage and, if applicable, in the service charter and, finally, (iii) availability of the information at stations, terminals and on board. Furthermore, the ticket shall clearly indicate the service provider whom a complaint can be lodged with; if the user enters into a transport contract with intermediaries (ticket seller, travel agent, tour operator), it is mandatory to include in the ticket the indication of the service provider whom any complaint should be addressed to.

For the purpose of more complete user protection, a minimum set of guarantees is identified, concerning the accessibility of the complaint-handling system of terminal managing bodies and digital platform operators, in terms of channels for the submission of complaints and working languages, essential elements of the complaint, information on the deadlines within which service providers shall provide a response to the complaint and on the remedies to be adopted by the user in the event of a late response.

In order to ensure an exact match between the subject-matter of the complaint and the complainant's request and the response from the service provider, the station manager or the digital platform operator, the response shall be substantiated, insofar as it shall indicate, in a comprehensible language, whether the complaint is accepted or rejected and, if the passenger is entitled to a reimbursement or compensation, the relevant deadlines and methods; the right to receive any reimbursement or compensation in money, upon the user's request, shall be specified as well, unless this information has already been provided in the complaint. In addition, the measures and any deadlines required to eliminate the reported disruption shall be indicated as well, in addition to the remedies that can be adopted by the user in the event of an unsatisfactory response. Finally, the regulatory act provides that service providers, terminal managing bodies or digital platform operators, where the complaint is rejected as it falls within the remit of other entities, are required to forward it, and at the same time inform the user, to the competent entity; this shall respond to the complainant in accordance with the methods and deadlines that are specifically provided for the response to the complaint, as indicated in the above-mentioned measures.

Finally, worth mentioning is the measure that defines the user's right to receive specific compensation in the event of non-reaction or late response to the complaint. Compensation, that is proportional to the overall ticket price and to the delay, is paid automatically when the response is delayed. In the case of travel passes, the amount of compensation is defined by the service provider in the service charter, where it is provided

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<sup>27</sup> Passenger identity, booking code or ticket number and description of the case at issue which is assumed to be contrary to EU or national legislation, to the general conditions of carriage or to the service charter, in case it is provided for its adoption.

for its adoption, and in the general conditions of carriage. The measure further regulates the cases in which automatic compensation is not payable<sup>28</sup>.

Considering that an efficient and effective complaint-handling system implies that complaints are appropriately registered, the measures lay down the data registration and retention obligations, so that the service providers ensure a registration that indicates, for each complaint, in addition to the identification details of user and journey, the type of service, date of receipt of the complaint, related grounds and substantiated response thereto, together with the date of transmission of the company's response; moreover, in compliance with the rules on the protection of natural persons with regard to the processing of personal data, service providers are required to keep the complaint-related information, including documents, for a suitable period, that is in any case no less than 24 months from the date on which the service was performed or should have been performed.

### Cooperation between NEBs

Finally, it is worth mentioning that the activities carried out by the Authority in this sector include the cooperation with the *National Enforcement Bodies* (NEB) of other Member States, i.e., the bodies overseeing the enforcement of the Regulation. Indeed, where the subject-matter of the complaints received was related to regular services departing from points located in other Member States within the meaning of Article 28 (1) of the Regulation, in the period of reference the claim has been forwarded to the competent NEB (in particular, 26 claims were forwarded to NEBs of other Member States, and 3 were received from other NEBs). On the other hand, in compliance with Article 30 ("*Cooperation between enforcement bodies*") of the Regulation, information on the measures adopted by the authorities in charge of the enforcement of the Regulation was exchanged, where appropriate, within the framework of the meetings regularly convened by the Commission.

Further, in 2020 the Authority actively participated in the "*Evaluation*" process<sup>29</sup> that was launched by the EU Commission in 2019 – aimed at checking the results achieved in the enforcement of the Regulation and at assessing whether the measures provided for therein are still justified in terms of effectiveness, efficiency, relevance, consistency and added value, also considering the rapid development that has characterized the bus transport sector - by providing, *inter alia*, the requested information on the basis of a questionnaire drafted by the consultancy company at the request of the EU Commission.

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<sup>28</sup> In particular, if the amount payable is less than EUR 4, if the complaint is missing the essential information or has not been lodged in compliance with the prescribed time limits, as well as, in order to avoid serial complaints, if the user has already been compensated for a claim relating to the same journey.

<sup>29</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11879-Evaluation-of-rights-of-passengers-in-bus-and-coach-transport-in-the-EU>