

Proposals for amendment to Legislative Decrees No 70 of 17 April 2014, No 129 of 29 July 2015, No 169 of 4 November 2014

RAIL TRANSPORT		
AREA SUBJECT	Legislative amendments proposed to Legislative Decree No 70/2014	Brief explanatory report
RULES ON PENALTIES FOR INFRINGEMENTS OF GENERAL RIGHTS PROVIDED FOR IN EU REGULATIONS <i>INFORMATION ASSISTANCE IN CASE OF DELAY</i>	<p>Legislative Decree No 70 of 17 April 2014 is amended as follows:</p> <p>— in Article 15 (1), the words: “is subject” are replaced by the following: “or the station manager are subject”;</p>	<p>Regulation (EC) No 1371/2007 establishes the passengers’ right to information in the event of delays in arrival or departure, making the railway undertaking or station manager accountable for such delays.</p> <p>In contrast to this provision, Article 15 of Legislative Decree No 70/2014 identifies only the railway undertaking as the addressee of the relevant penalty in the event of infringement of the abovementioned requirement.</p> <p>In accordance with EU legislation, the proposed amendment to Article 15 of Legislative Decree No 70/2014 extends the penalty imposed on the railway undertaking to the station manager as well.</p>
FURTHER MEASURES NECESSARY TO ENSURE THE CORRECT ENFORCEMENT OF EU REGULATIONS	<p>— in Article 5, after paragraph 3 the following shall be added:</p> <p>“3-<i>a</i>. In case of assessment of non-compliance with the obligations of the Regulation, the Authority shall prescribe the infringer to cease the conduct adversely affecting the users’ rights, where this is still in place.</p>	<p>Legislative Decree No 70/2014 does not provide for a specific power of the Authority to require undertakings, after the establishment of an infringement, to regulate their persisting conduct, be it an act or omission, so as to ensure the passengers’ rights granted by Regulation (EC) No 1371/2007.</p> <p>The amendment to Article 5 of Legislative Decree No 70/2014 clarifies the Authority’s power to prescribe the</p>

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	<p>3-b. In case of non-compliance with the prescription referred to in paragraph 3-a, the Authority shall impose an administrative fine ranging from EUR..... to EUR.....</p> <p>3-c. The second sentence of paragraph 5 of Article 8-a of Law No 689 of 24 November 1981 shall not apply to the administrative fines provided for in this Legislative Decree.”</p>	<p>cessation of conduct detrimental to the passenger rights covered by EU regulations, by accompanying such power with appropriate and specific penalties to ensure compliance with the relevant obligations by the regulated entities.</p> <p>Further, the proposed amendment is aimed at clearly expressing that the application of the reduced payment in the event of repetition of the same infringement is incompatible with the system of penalties provided for the protection of users’ rights.</p>
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SEA AND INLAND WATERWAY TRANSPORT		
AREA <i>SUBJECT</i>	Legislative amendments proposed to Legislative Decree 129/2015	Brief explanatory report
RULES ON PENALTIES FOR INFRINGEMENTS OF GENERAL RIGHTS PROVIDED FOR IN EU REGULATIONS <i>RIGHT TO COMPENSATION IN THE EVENT OF DELAY IN ARRIVAL</i>	<p>Legislative Decree No 129 of 29 July 2015 is amended as follows:</p> <p>— the following is added after Article 14: “Article 14-<i>a</i>— Right to compensation linked to the ticket price in the event of delay in arrival</p> <p>1. Carriers failing to comply with the obligation to pay the compensation linked to the ticket price laid down in Article 19 of the Regulation shall be subject to an administrative fine, for each single event, ranging from EUR..... to EUR...</p> <p>2. For each single delay in the payment of the compensation linked to the ticket price provided for in Article 19 of the Regulation which exceeds by three times the time-limit laid down in Article 19 (5) of the Regulation, carriers shall be subject to an administrative fine ranging from EUR... to EUR...”;</p>	<p>Regulation (EU) No 1177/2010 establishes the passengers’ right to receive compensation linked to the ticket price in the event of delay in arrival, which, if the relevant conditions are met, shall be paid by the carrier within one month of the submission of the relevant application.</p> <p>Legislative Decree No 129/2015 does not provide for any penalty imposed on carriers failing to comply with the obligation to pay such compensation.</p> <p>The introduction of the proposed new Article fills the above regulatory gap by establishing for maritime transport, too, penalties for failure to pay the compensation in breach of Article 19 of Regulation (EU) No 1177/2010 and for the late payment thereof.</p>
RULES ON PENALTIES FOR INFRINGEMENT OF THE RIGHTS OF DISABLED PERSONS OR PERSONS WITH REDUCED MOBILITY <i>EXCEPTIONS AND SPECIAL CONDITIONS</i>	<p>— in Article 7 (2), the words “paragraph 2” are replaced by “paragraphs 2 and 3”;</p>	<p>Legislative Decree No 129/2015 does not provide for any penalty imposed on carriers, travel agents or tour operators that, having denied embarkation to the disabled person or person with reduced mobility, do not offer him/her and any accompanying person the choice between the right to reimbursement and re-routing (subject to compliance with all safety requirements), in</p>

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		<p>breach of the obligation laid down in Article 8 (3) of Regulation (EU) No 1177/2010.</p> <p>The proposed amendment to Article 7 of Legislative Decree No 129/2015 is aimed at strengthening the effectiveness of the right to transport of disabled persons or persons with reduced mobility by introducing an <i>ad hoc</i> penalty regime for the cases under consideration.</p>
<p>RULES ON PENALTIES FOR INFRINGEMENT OF THE RIGHTS OF DISABLED PERSONS OR PERSONS WITH REDUCED MOBILITY</p> <p><i>QUALITY STANDARDS FOR ASSISTANCE</i></p>	<p>— the following is added after Article 10: “Article 10-<i>a</i> - Quality standards for assistance</p> <p>1. Carriers and terminal operators that, within their respective competences, fail to set quality standards for assistance within the meaning of Article 13 (1) of the Regulation shall be subject to an administrative fine ranging from between EUR..... to EUR.....</p> <p>2. Carriers and terminal operators that, within their respective competences, fail to comply with the obligation laid down in Article 13 (3) of the Regulation shall be subject to an administrative fine ranging from EUR..... to EUR.....”;</p>	<p>Legislative Decree No 125/2015 does not impose any penalty on terminal operators and carriers that fail to establish quality standards for assistance and make them publicly available in accessible formats.</p> <p>The introduction of a new article in Legislative Decree No 129/2015 is aimed at ensuring access to transport on non-discriminatory conditions for all passengers by introducing an <i>ad hoc</i> penalty regime for the cases in question.</p>
<p>FURTHER MEASURES NECESSARY TO ENSURE THE CORRECT ENFORCEMENT OF EU REGULATIONS</p>	<p>— in Article 4, the following shall be added after paragraph 3: “3-<i>a</i>. In case of assessment of non-compliance with the obligations under the Regulation, the Authority shall prescribe the infringer to cease the conduct adversely affecting the users’ rights, where this is still in place.</p>	<p>Legislative Decree No 129/2015 does not provide for a specific power of the Authority to require undertakings, after the establishment of an infringement, to regulate their persisting conduct, be it an act or omission, so as to ensure the passengers’ rights granted by Regulation (EU) No 1177/2010.</p>

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	<p>3-b. In case of non-compliance with the prescription referred to in paragraph 3-a, the Authority shall apply an administrative fine of from EUR..... to EUR...</p> <p>3-c. The second sentence of paragraph 5 of Article 8-a of Law No 689 of 24 November 1981 shall not apply to the administrative penalties provided for in this Legislative Decree.”</p>	<p>The amendment to Article 4 of Legislative Decree No 129/2015 clarifies the Authority’s power to prescribe the cessation of conduct detrimental to the passengers’ rights covered by the EU regulations, by accompanying such power with appropriate and specific penalties to ensure compliance with the relevant obligations by the regulated entities.</p> <p>Further, the proposed amendment is aimed at clearly expressing that the application of the reduced payment in the event of repetition of the same infringement is incompatible with the system of penalties provided for the protection of users’ rights.</p>
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BUS AND COACH TRANSPORT		
AREA SUBJECT	Legislative amendments proposed to Legislative Decree No 169/2014	Brief explanatory report
<p>RULES ON PENALTIES FOR INFRINGEMENTS OF GENERAL RIGHTS PROVIDED FOR IN EU REGULATIONS <i>CONTINUATION, RE-ROUTING AND REIMBURSEMENT</i></p>	<p>Legislative Decree No 169 of 4 November 2014 is amended as follows:</p> <p>— in Article 13, the following is added after paragraph 2: “2-a. For each individual delay in the payment of reimbursements provided for in Article 19 of the Regulation which exceeds by three times the time-limit laid down in Article 19(5), carriers shall be subject to an administrative fine ranging from EUR..... to EUR...”;</p>	<p>Regulation (EU) No 181/2011 provides for the passenger right to receive, within 14 days after the offer has been made or the request has been received, the payment of the ticket reimbursement, as an alternative to continuation or re-routing, in the event of cancellation, delay in departure of more than 120 minutes or overbooking.</p> <p>Unlike other modes of transport, Legislative Decree No 169/2014 does not provide for a specific penalty imposed on the carrier for delay in the payment of the reimbursement.</p> <p>The proposed amendment to Article 13 is aimed at providing more complete protection for bus and coach users.</p>
<p>RULES ON PENALTIES FOR INFRINGEMENTS OF GENERAL RIGHTS PROVIDED FOR IN EU REGULATIONS <i>INFORMATION IN CASE OF CANCELLATION OR DELAY IN DEPARTURE</i></p>	<p>— in Article 14 (1), after the words “information and communication obligations provided for in Article 20” and after the words “necessary information referred to in Article 20”, the words “, paragraph 1,” shall be deleted;</p>	<p>Regulation (EU) No 181/2011 lays down specific information requirements for passengers missing a connecting service due to a cancellation or delay.</p> <p>Unlike other modes of transport, Legislative Decree No 169/2014 does not provide for a specific penalty imposed on carriers or terminal managing bodies that</p>

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		<p>fail to make reasonable efforts to inform the passengers concerned of alternative connections.</p> <p>The proposed amendment to Article 14 of Legislative Decree No 169/2014 is aimed at ensuring more complete protection for bus and coach users.</p>
<p>RULES ON PENALTIES FOR INFRINGEMENTS OF THE RIGHTS OF PERSONS WITH DISABILITIES OR REDUCED MOBILITY <i>EXCEPTIONS AND SPECIAL CONDITIONS</i></p>	<p>— in Article 8, the following is added after paragraph 1: “1-<i>a</i>. Carriers, travel agents or tour operators that infringe Article 10 (2) and (3) of the Regulation shall be subject to an administrative fine ranging from EUR... to EUR.... The same penalty shall apply to carriers, travel agents or tour operators that, in breach of Article 10 (5), do not inform the disabled person or person with reduced mobility in writing, no later than five days of the request, of the reasons why they refused to accept a reservation or to issue or otherwise provide a ticket to or to take that person on board”;</p>	<p>Regulation (EU) No 181/2011 provides for a number of rights to protect passengers in the event that carriers, travel agents or tour operators refuse, except for permitted reasons, to accept a reservation, to issue or otherwise provide a ticket or to embark passengers on the grounds of disability or of reduced mobility (information on any alternative services, choice between entitlement to reimbursement and continuation of the journey or re-routing, written information of the reasons for refusal).</p> <p>Unlike other modes of transport, Legislative Decree No 129/2015 does not provide for specific penalties for the infringement of each of the rights in question.</p> <p>The proposed amendment to Article 8 of Legislative Decree No 169/2014 is aimed at strengthening the effectiveness of the right to transport of disabled persons or persons with reduced mobility by introducing specific penalties for the cases under consideration.</p>

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<p>RULES ON PENALTIES FOR INFRINGEMENTS OF THE RIGHTS OF PERSONS WITH DISABILITIES OR REDUCED MOBILITY <i>COMPENSATION IN RESPECT OF WHEELCHAIRS AND OTHER MOBILITY EQUIPMENT</i></p>	<p>— in Article 11, the following shall be added after paragraph 2: “2-<i>a</i>. Carriers and terminal managing bodies that infringe their obligations under Article 17 (3) of the Regulation shall be subject to an administrative fine ranging from EUR..... to EUR...”;</p>	<p>Regulation (EU) No 181/2011 imposes an obligation on carriers and terminal managing bodies to undertake every effort to rapidly provide temporary replacement equipment or devices in case of loss of or damage to wheelchairs, other mobility equipment or assistive devices.</p> <p>Unlike other modes of transport, Legislative Decree No 169/2014 does not provide for a specific penalty imposed on non-compliant carriers or terminal managing bodies.</p> <p>The proposed paragraph to be included in Article 11 is aimed at ensuring more complete protection for users of bus and coach transport services with disabilities or reduced mobility.</p>
<p>FURTHER MEASURES NECESSARY TO ENSURE THE CORRECT APPLICATION OF EU REGULATIONS</p>	<p>— in Article 4, the following shall be added after paragraph 3: “3-<i>a</i>. In case of assessment of non-compliance with the obligations of the Regulation, the Authority shall prescribe the infringer to cease the conduct adversely affecting users’ rights, where this is still in place.</p> <p>3-<i>b</i>. In case of non-compliance with the prescription referred to in paragraph 3-<i>a</i>, the Authority shall impose an administrative fine ranging from EUR..... to EUR....</p> <p>3-<i>c</i>. The second sentence of paragraph 5 of Article 8-<i>a</i> of Law No 689 of 24 November 1981 shall not apply to the administrative fines provided for in this Legislative Decree.”</p>	<p>Legislative Decree No 169/2014 does not provide for a specific power of the Authority to require undertakings, after the establishment of an infringement, to regulate their persisting conduct, be it an act or omission, so as to ensure the passengers’ rights granted by Regulation (EU) No 181/2011.</p> <p>The amendment to Article 4 of Legislative Decree No 169/2014 clarifies the Authority’s power to prescribe the cessation of conduct detrimental to the passengers’ rights covered by the EU regulations, by accompanying such power with appropriate and specific penalties to ensure compliance with the relevant obligations by the regulated entities.</p>

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