

Courtesy translation – only the Italian text is authentic

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 2023)

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 (hereinafter: founding act), 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)¹ pursuant to Legislative Decree No 169 of 4 November 2014².

In setting out the rules on penalties for infringements of the provisions of the Regulation, the above-mentioned Legislative Decree No 169/2014 entrusted the Authority 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 these responsibilities, the Authority may, in particular, obtain, information and documentation from carriers, terminal managing bodies, or any other party concerned, and may conduct controls and inspections on the same carriers and managing bodies.

It should be noted that the Authority, in its capacity as NEB, 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 only pursuant to article 10 of Law No 118 of 5 August 2022 (“Annual competition Law 2021”) it was granted the power to regulate *“on the basis of its own decisions, the methods for the out-of-court dispute resolution between economic operators managing transport networks, infrastructure and services, and users or consumers through simple and non-burdensome procedures, also by means of electronic communication”*.

This provision was implemented by the Authority with the adoption of Decision No. 21/2023 of 8 February 2023 on *“Rules governing the initial implementation of out-of-court settlement of disputes between economic entities operating transport networks, infrastructure and services, and users or consumers, pursuant to Article*

¹ 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.

² 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.

10 of Law No 118 of 5 August 2022”, concerning ADR (alternative dispute resolution) procedures in the sectors falling under the Authority's remit, including bus transport³.

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 2021 to 31 December 2022⁴.

Bus and coach passenger services that are covered by this report are the regular services⁵ 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 imposed⁶.

2. Bus transport services market

To outline some of the characteristics of the bus transport in Italy, the data available to the Authority, as reported in its Annual Report 2022, show that the main searched domestic routes (>5% of total searches), according to Traspol report published in collaboration with Checkmybus.it in the second half of 2021, for medium- and long-distance bus routes (excluding trips with an airport as their origin/destination), involve - based on the data collected on the platform - essentially the Lazio/Abruzzo and Lazio/Calabria connections (in the second half of 2020, the most searched routes also included the following relations: Lombardia/Calabria, Campania/Puglia and Abruzzo/Calabria).

³ Article 12 (3) of the above rules stipulates that: *"For the sole purpose of the exercise of the sanctioning powers by the competent national body, the possibility that users lodge complaints pursuant to Articles 16 (2) of Regulation (EC) No 261/2004, 15 (2) of Regulation (EC) No 1107/2006, 30 (2) of Regulation (EC) No 1371/2007, 33 (2) of Regulation (EU) No 782/2021, 25 (3) of Regulation (EU) No 1177/2010, 28 (3) of Regulation (EU) No 181/2011 shall remain unaffected"*.

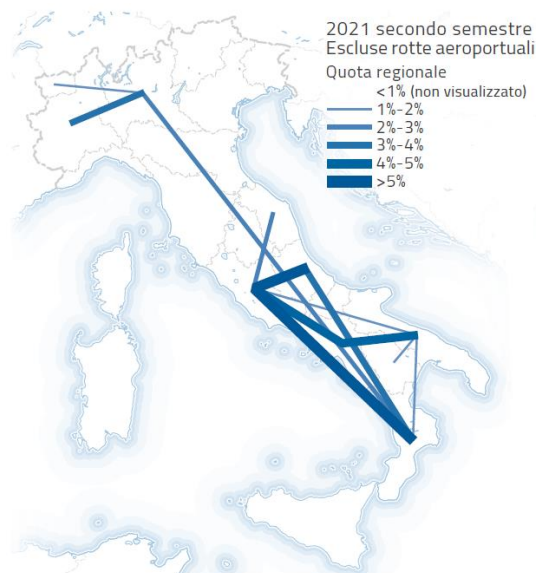
⁴ Unlike previous two-year reports, it was decided to analyse this period only, taking into account the need to allow for easier comparison of the data provided, in the relevant two-year reports, by the NEBs of the Member States, as resulting from their meeting with the Commission on 12 December 2022.

⁵ 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.

⁶ 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 amending proposals 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 (also available in English at the following link: <https://www.autorita-trasporti.it/atti-di-segnalazione/arts-recommendation-on-the-protection-of-passenger-rights-in-rail-sea-inland-waterway-and-coach-bus-transport-rules-on-penalties/?lang=en>).

Figure 1 shows the main national routes in the period of reference, considering the searches on Checkmybus.co.uk aggregated by regions. The colour intensity and thickness of the links increase as a function of the data collected.

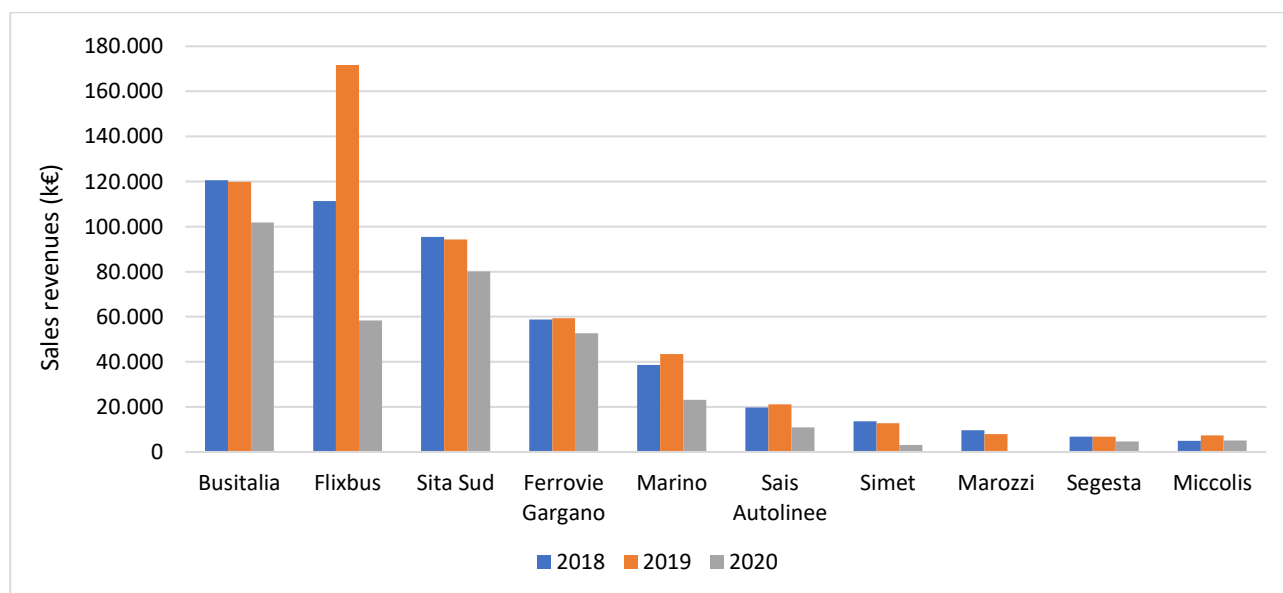
Figure 1 - Main domestic routes of medium- and long-distance bus/coach services - Year 2021, second half



Source: Beria P., Lunkar V., Tolentino S., 2022, *Rapporto sul Mercato delle Autolinee a Lunga Percorrenza in Italia Anno 2021*, TRASPOL Report 1/22 & CheckMyBus.

Figure 2 shows the main medium- and long-distance bus/coach undertakings operating in Italy in the three-year period 2018-2020.

Figure 2 – Main MLD bus/coach undertakings – Years 2018 – 2020



Source: ART processing on AIDA database, Bureau van Dijk

The strong growth recorded by Flixbus in 2019 (+54% compared to 2018) is justified by the increase in the number of partner companies. The drop recorded in 2020 (-66% compared to 2019) depends on the fact that most of the partner companies are small- to medium-sized undertakings, which have been most affected by the consequences of the mobility restrictions during the health emergency period.

With reference to the cities where the main bus terminals are located, it should be noted that, by Decree of the Ministry of Transport and Sustainable Mobility of 25 August 2022 (Official Journal No. 211 of 9 September 2022) on "*Designated bus terminals providing assistance to persons with disabilities or reduced mobility*", in addition to Terminal Romano in Crotone and Lampugnano Bus Terminal, already identified by previous Decree, the following terminals were designated: Tibus (Rome Tiburtina), Perugia Bus Terminal, Udine Bus Terminal, Trieste Airport Intermodal Hub Bus Terminal, Bologna Bus Terminal and Florence Bus Terminal.

3. Procedure to lodge a complaint with the Authority

As mentioned in the previous paragraph, the Authority has been, *inter alia*, entrusted with the task of inquiring and evaluating the complaints lodged by passengers, in order to ascertain the infringements of the obligations under the Regulation.

Pursuant to Article 28 (3), second sentence of the Regulation, the 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 carrier⁷. 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 Transport⁸, that shall provide them to the Authority on a monthly basis.

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

⁷ 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 taken to provide the final reply shall not be longer than 3 months from the receipt of the complaint (Article 26 of the Regulation). To be mentioned are also the "*Measures concerning the minimum rights that may be claimed by users of rail and bus and coach transport services against service providers and managing bodies of the related infrastructure with regard to the handling of complaints*" (<https://www.autorita-trasporti.it/wp-content/uploads/2021/03/Annex-A-to-Decision-no-28-2021-Rail-Bus-Complaints.pdf>), approved by the Authority with Decision No. 28/2021 of 25 February 2021.

⁸ 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 concerning 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*".

- 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/?lang=en>, which does not require further transmission. The system, accessible at https://secure.autorita-trasporti.it/ART_Login/LoginB.aspx, allows, through a wizard, to lodge complaints directly on-line after registration and release of login ID and password⁹. 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;
- by filling out the form available at <https://www.autorita-trasporti.it/modulistica/>, including in English at <https://www.autorita-trasporti.it/forms/?lang=en>, which shall be also sent, under penalty of inadmissibility, by registered letter with acknowledgement of receipt or by e-mail to the following address: pec@pec.autorita-trasporti.it¹⁰.

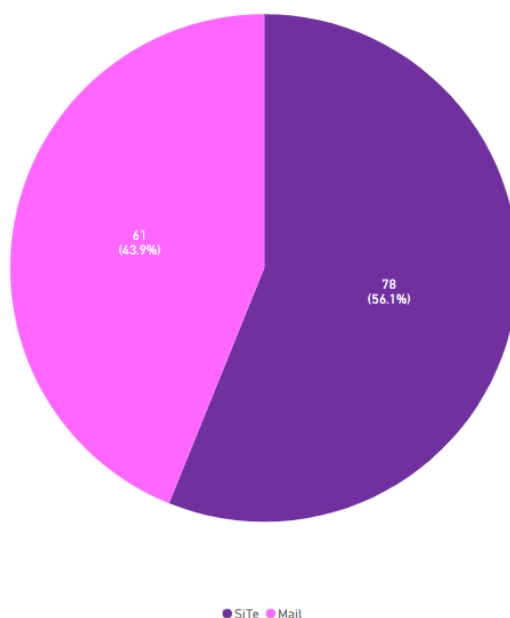
It is worth noting that the SiTe tool simplifies the services rendered to users; this mode of transmission allows users to be guided through the correct completion of complaints, and to centralise their receipt, and enables to provide more effective responses, thanks to the availability of all the useful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

As shown in the following graph, concerning bus and coach transport, 56.12% of complaints were received through SiTe in the period under review, while 43.88% were submitted with a form sent by one of the other designated channels (overall indicated as "mail").

⁹ As of 23 September 2020, SiTe is accessible through the Public Digital Identity System (SPID) as well.

¹⁰ Until 1 December 2022, complaints could also be submitted through an additional e-mail address: reclami.bus@autorita-trasporti.it, which, for the sake of streamlining, was eliminated, because it could be mistook with the e-mail address of some operators, and because the Authority's certified e-mail is also enabled to receive communications from non-certified e-mail addresses. The above-mentioned address was also removed from the list of NEBs on DG-MOVE website.

Figure 3 — Methods of receipt of complaints concerning bus and coach transport in the period from 1 January 2021 to 31 December 2022



Source: ART

4. Alerts and complaints received

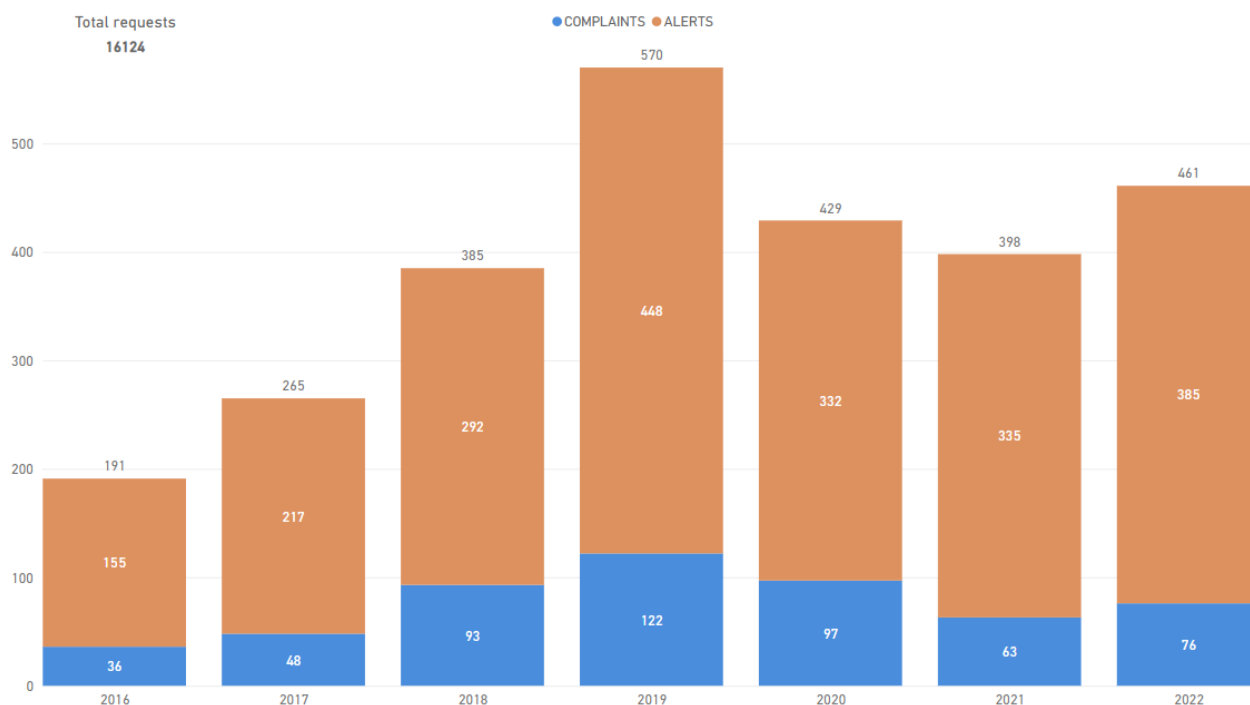
This Report provides data concerning complaints and alerts (requests) received in the period of reference, i.e. from 1 January 2021 to 31 December 2022.

In this respect, it should be firstly 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, in the years from 2016 to 2022, a number of complaints and alerts from bus and coach passengers that are detailed in the bar chart and in the table¹¹ under Figure 4.

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

Figure 4 — Complaints and alerts received in bus and coach transport from 1 January 2021 to 31 December 2022



Source: ART

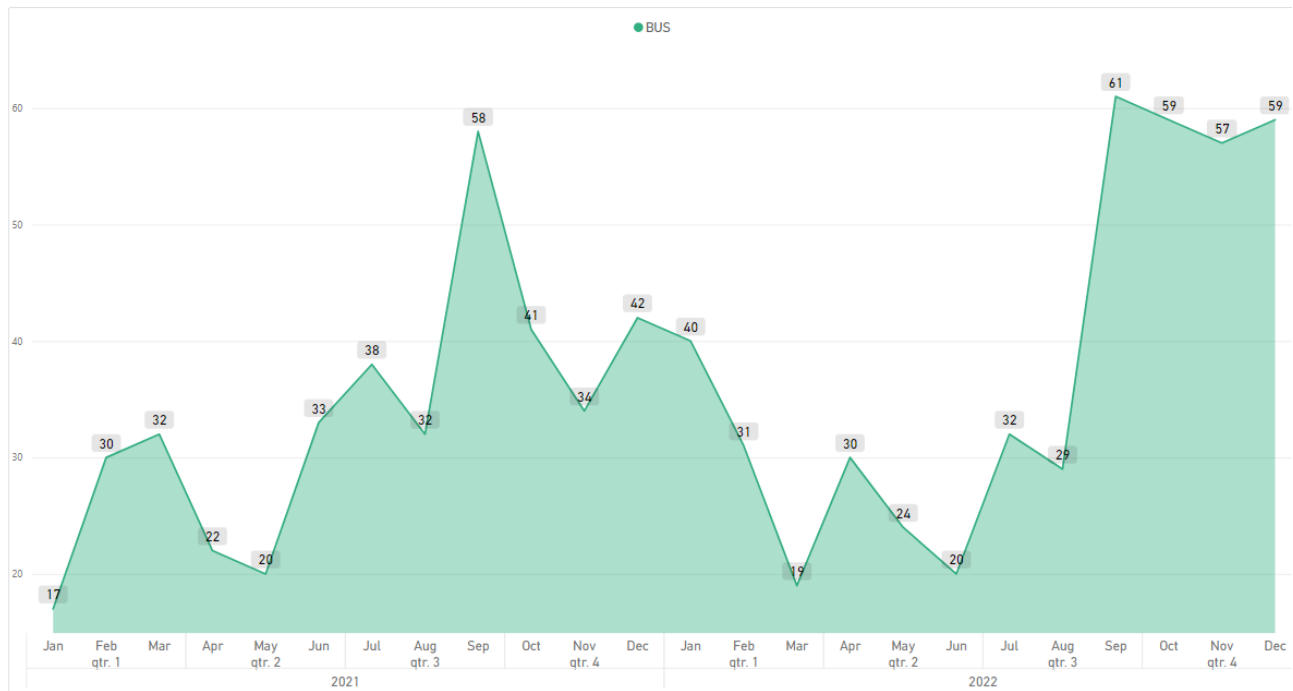
Type of request	2016	2017	2018	2019	2020	2021	2022	Total
Alerts	155	217	292	448	332	335	385	2.164
Complaints	36	48	93	122	97	63	76	535
Total	191	265	385	570	429	398	461	2.699

Source: ART

The total number of requests increases until 2019; a slight decrease is observed in 2020 and 2021, that is assumed to depend on the lower number of journeys made by passengers during the period of the pandemic; the number of complaints and alerts increases again in 2022, when passengers resumed traveling. In particular, in the period from 1 January 2021 to 31 December 2022, the Authority received 385 alerts and 76 complaints concerning bus transport.

The quarterly trend in the complaints and alerts received by the Authority in the period of reference is shown in the graph under Figure 5.

Figure 5 — Trend in complaints and alerts concerning bus and coach transport from 1 January 2021 to 31 December 2022

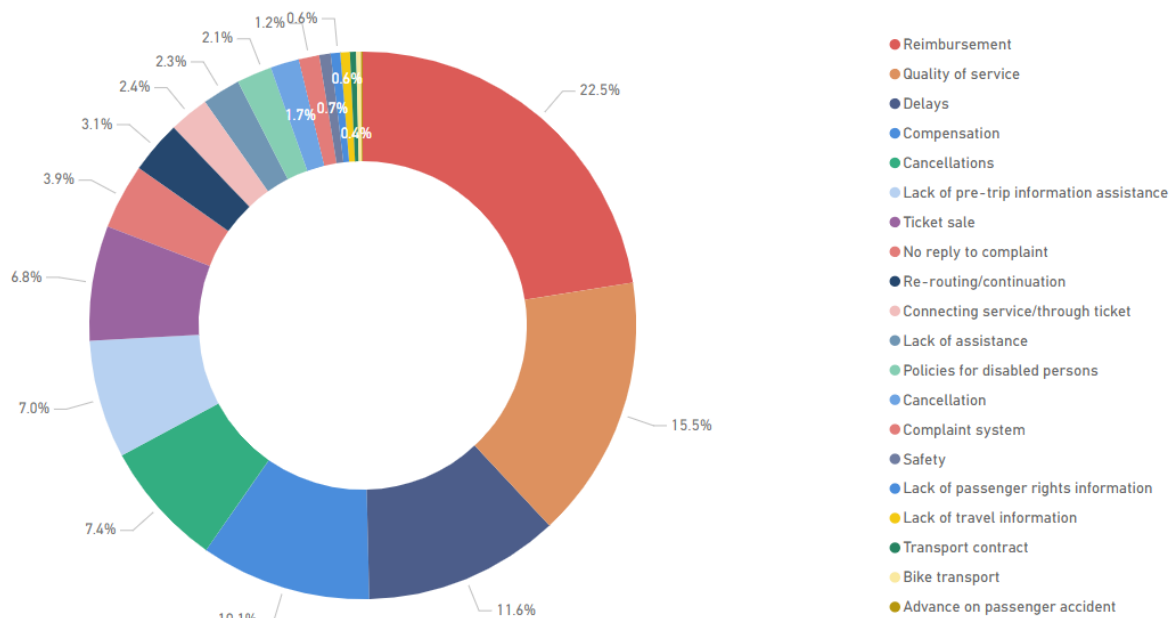


Source: ART

The above graph shows for 2021, at first (third quarter) an upward trend in the number of complaints and alerts received and later a new downturn attributable to a rebound of the pandemic and the renewed travel restrictions, while, for 2022, a peak is observed in the third and fourth quarter, that is linked to the stabilisation of the post-pandemic situation.

The requests received by the Authority highlighted different criticalities, as shown in the graph under Figure 6.

Figure 6 — Grounds of complaints and alerts concerning bus and coach transport in the period from 1 January 2021 to 31 December 2022



Source: ART

It is worth pointing out that all the requests received are classified based on the complaints from passengers, who are not always fully aware of the available rights and, therefore, the highlighted issues often do not fall under those for which the Regulation provides specific protection¹².

Further, many of the requests received are related to journeys with distances shorter than 250 km, in relation to rights enshrined in the Regulations that do not apply¹³ to this type of travel¹⁴, as well as to 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.

¹² Examples include complaints or alerts concerning modes of ticket sale, quality of service or cancellation of local public transport services.

¹³ Pursuant to paragraph 2 of article 2 ("Scope") of the Regulation, where the scheduled distance of the service is shorter than 250 km, only paragraph 2 of article 4 ("Tickets and non-discriminatory contract conditions"), article 9 ("Right to transport"), paragraph 1 of article 10 ("Exceptions and special conditions"), paragraph 1 (b) and paragraph 2 of Article 16 ("Training"), paragraphs 1 and 2 of article 17 ("Compensation in respect of wheelchairs and other mobility equipment") and articles from 24 through 27 (forming part of Chapter IV – General rules on information and complaints) and article 28 ("National enforcement bodies") of the Regulation shall apply.

¹⁴ In particular, 25 complaints were dismissed in the period of reference for this reason.

In consideration of the above, highlighting that each complaint/alert may contain several grounds of complaint, the graph in Figure 6 shows that the main categories of passenger requests are associated with delays, cancellations and related issues as specified below:

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

With regard to the outcomes of the requests, the following table shows the main grounds for dismissal and their percentages:

Reasons for dismissal	Requests received in 2021 and dismissed	%	Requests received in 2022 and dismissed	%
Requests dismissed for formal reasons (e.g., no submission of first-instance complaint; lack of documentation needed to assess the complaint; failure to use the correct channels)	169	42.7%	238	52.0%
Requests dismissed for unrelatedness to the rights enshrined in the Regulation or referring to journeys shorter than 250 km	207	52.3%	200	43.7%
Requests dismissed for lack of grounds to	18	4.5%	12	2.7%

contest infringement of the Regulation				
Requests dismissed for lack of jurisdiction and forwarded to another NEB	2	0.5%	7	1.6%

Where relevant, the content of the requests, including in case of dismissal, has been taken into consideration by the Authority for the exercise of the regulatory functions provided under its founding act¹⁵, in addition to forwarding them to other administrations for issues falling under their remit (e.g., Competition Authority, with regard to unfair commercial practices or, in the case of services subject to public service obligations, entities awarding the relevant service for their checks on the correct execution of the public service contract).

Further, it should be noted that, with respect to the analysis of the requests, albeit dismissed, the Authority has been able to take, in several cases, proactive actions and, more generally, a direct dialogue with the companies concerned, in the framework of the so-called duty of collaboration of these entities towards the Authority. The use of collaborative tools has proven particularly useful, *inter alia*, in creating the organizational and managerial conditions aimed at addressing or, at least, reducing the frequency of certain inefficiencies.

For an examination of the effects of the pandemic emergency, still in place in the reporting period, on passenger requests, reference is made to the following section.

4.1 Emergency due to the COVID-19 pandemic

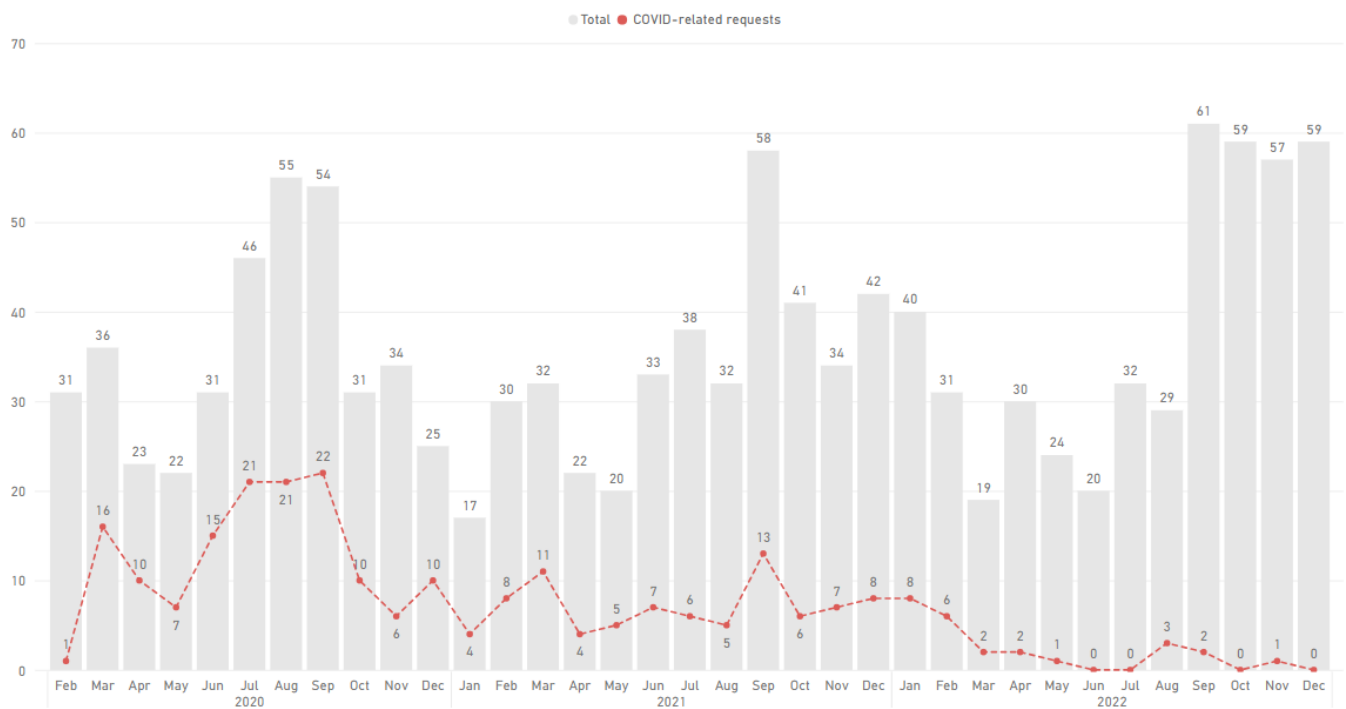
Following up on the previous report, the effects arising from the COVID-19 emergency on the complaints and alerts received are worthy of specific attention.

The emergency inevitably impacted on the citizens' mobility in 2021, too: on the one hand, there was a rebound of the pandemic in the last months of 2020 and first months of 2021, and, therefore, many passengers, due to the renewed perception of the risk of contagion and the new travel restrictions, renounced travelling; on the other hand, transport companies re-modulated their offer and cancelled certain services.

¹⁵In particular, article 37 (2) of Legislative Decree 201/2011 provides under (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 (e) that the Authority defines “in relation to the different services and infrastructure, defining the minimum rights and entitlements, including compensation, that may be claimed by users from infrastructure managers and service providers, and settling the relevant disputes, without prejudice to the additional collaterals increasing users’ protection which infrastructure managers and service providers may include in their service charters”.

The graph in the Figure below shows the impact of the health emergency on the requests of passengers in bus and coach transport.

Figure 7 — Trend in complaints and alerts in bus and coach transport in the context of the COVID-19 pandemic (1 February 2020 – 31 December 2022)



Source: ART

The bar chart shows a peak in the complaints and alerts connected with the renewed epidemiological emergency that were received by the Authority in connection with the new traffic restriction measures adopted by the Government; a new, more limited increase is observed in September 2021, while another deflection of the curve starts from February 2022 until the end of the event.

To ensure 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 *“Interpretative guidelines on EU passenger rights regulations in the context of the developing situation with Covid-19”*¹⁶, the 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.

¹⁶ C (2020) 1830 final.

The remaining issues, related to vehicle overcrowding and health security, were brought to the attention of the competent bodies (in particular, awarding entities).

5. Sanctioning activity

With respect to the sanctioning system provided for by Legislative Decree No 169/2014, penalties for infringement of the Regulation are determined based on 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 passengers carried. Further, in accordance with the Rules on sanctioning 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 under the passenger rights regulations are paid into a special fund, that is established in the budget estimates of the Ministry of Infrastructure and Transport 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 the service providers and infrastructure managers concerned¹⁷.

In particular, the payments resulting from the penalties applied to transport of national interest are allocated to the Ministry of Infrastructure and Transport, while those arising from the penalties applied to public services of regional and local interest are allocated to each Region in proportion to the paid penalties which are related to the respective territories¹⁸.

As for the quantification of the penalties, the Authority applies the "*Guidelines on the quantification of administrative fines*", as adopted by Decision No 49/2017, to ensure consistency, transparency, and impartiality in the exercise of its sanctioning power. 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 sanctioning powers, and the

¹⁷ 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.

¹⁸ To implement 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 tables summarising the penalties imposed in the previous year, indicating which Region the penalties imposed on regional and local public transport companies shall be referred to.

criteria for the quantification of penalties for infringement of passenger rights laid down in the legislative decrees implementing EU regulations concerning rail, bus and coach and sea and inland waterway transport.

Further, pursuant to the same Legislative Decree No 169/2014, by Decision No. 4/2015, the Authority adopted rules on sanctioning proceedings for infringements of the provisions of the Regulation¹⁹ (hereinafter: Rules on sanctioning proceedings in bus transport).

In 2022, the general sanctioning system of the Authority has undergone some changes under Decision No. 235/2022 of 1 December 2022²⁰, which also impacted on the provisions of the Rules on sanctioning proceedings in bus transport. In particular, the adopted measures were aimed at streamlining the channels for submission of the complaints as well as regulating an *ad hoc* procedure for the adoption of provisional remedies, applicable to all sanctioning proceedings initiated by the Authority. Finally, acknowledging the indications of the Council of State²¹, the participation rights of the companies subjected to sanctioning proceedings have been expanded, providing that, at the end of the preliminary inquiries, they be notified of the preliminary findings, and simultaneously be entitled to submit reply briefs and request to be heard before the Authority's Board.

The Table below shows the sanctioning proceedings for infringements of the passenger rights enshrined in the Regulation, that were initiated and concluded in the period from 1 January 2021 to 31 December 2022²² (all decisions referred to therein are available on the Authority's website), while the following graph in Figure 8 shows the disputes broken down by type of rights concerned by the proceeding.

Initiation sanctioning proceeding	Infringed rules of the Regulation	Measure closing the sanctioning proceeding	Amount of reduced payment
Decision No 9/2021 Last decision reported in the previous Report	article 19, (<i>"Continuation, re-routing and reimbursement"</i>), paragraph 1	Decision No 43/2021	€ 6,900.00
	article 21 (<i>"Assistance in case of cancelled or delayed departures"</i>), paragraph 1 (a)		€ 6,900.00
	article 21 (<i>"Assistance in case of cancelled or delayed departures"</i>), paragraph 1 (b)		€ 2,100.00

¹⁹ Rules on penalty proceedings for infringements of the provisions of Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004, as adopted in the meeting of 20 January 2015.

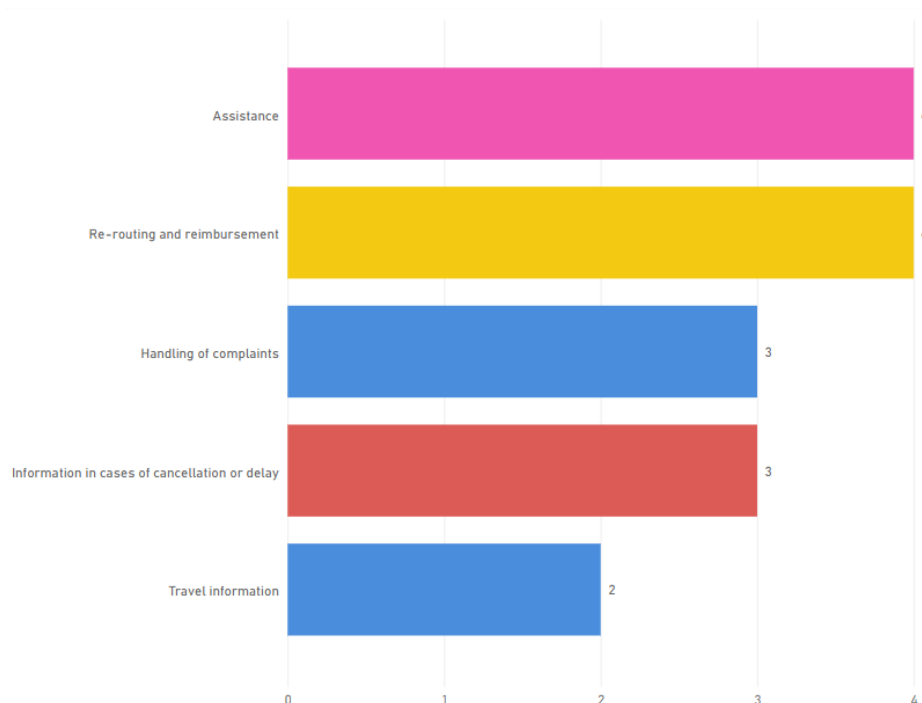
²⁰ Decision No 235/2022 of 1 December 2022 on *"Rules of procedure for the conduct of sanctioning proceedings under the Authority's remit. Amendment."* (<https://www.autorita-trasporti.it/delibere/delibera-n-235-2022/>). The rules on sanctioning proceedings in bus and coach transport, in the amended text, is available at: https://www.autorita-trasporti.it/wp-content/uploads/2018/07/Rules-of-procedure-sanctioning-proceedings-BUS_def.pdf.

²¹ Council of State, Section VI, No 10359/2022 of 24 November 2022.

²² The proceedings initiated by Decisions Nos. 9/2021, 44/2021 and 51/2021 originated from requests received by the Authority in 2020.

	article 27 (<i>"Submission of complaints"</i>)		€ 500.00
Decision No 44/2021	article 19, (<i>"Continuation, re-routing and reimbursement"</i>) paragraphs 1 e 2	Decision No 62/2021	€ 3,600.00
	article 20 (<i>"Information"</i>) paragraph 1		€ 1,000.00
	article 21 (<i>"Assistance in case of cancelled or delayed departures"</i>), paragraph 1 (b)		€ 3,600.00
Decision No 51/2021	article 24 (<i>"Right to travel information"</i>)	Decision No 90/2021	€ 300.00
	article 27 (<i>"Submission of complaints"</i>)		€ 500.00
Decision No 85/2021	article 24 (<i>"Right to travel information"</i>)	Decision No 118/2021	€ 300.00
	article 27 (<i>"Submission of complaints"</i>)		€ 500.00
Decision No 122/2022	article 20 (<i>"Information"</i>) paragraph 1	Decision No 163/2022	€ 1,000.00
	article 21 (<i>"Assistance in case of cancelled or delayed departures"</i>), paragraph 1 (a)		€ 3,600.00
Decision No 137/2022	article 19 (<i>"Continuation, re-routing and reimbursement"</i>) paragraphs 1 and 2	Decision No 206/2022	€ 600.00
Decision No 151/2022	article 19 (<i>"Continuation, re-routing and reimbursement"</i>) paragraphs 1 and 2	Decision No 207/2022	€ 900.00
	article 20 (<i>"Information"</i>) paragraph 1		€ 1,000.00
Total 7 initiated proceedings	Total 16 contested infringements		Total EUR 33,300.00

Figure 8 — Rights covered by sanctioning proceedings initiated and concluded in bus and coach transport in the period from 1 January 2021 to 31 December 2022



Source: ART

As shown in the table and graph in Figure 8, in the period under consideration, most of the disputes against carriers and terminal managing bodies were related to infringements of the following articles of the Regulation:

- article 21 (a) for failing to offer passengers departing from a bus terminal, in the event of delays or cancellations, snacks, meals or refreshments in reasonable relation to the waiting time;
- article 21 (b) for failing to offer passengers departing from a bus terminal, hotel accommodation or other accommodation in the event of delayed departure or cancellations. In particular, worth mentioning is the case where such right has been acknowledged to a passenger holding a single travel solution consisting of a single ticket for two connecting journeys (through ticket);
- Article 19 (1) and (2), for failing to offer passengers, in the event of cancellation or delayed 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;
- Article 20 (1) for failing to provide information in the event of cancellation or delayed departure;
- Article 27, for failing to reply to passenger complaints or for not replying on schedule;

- f) Article 24, for failing to provide adequate information to passengers on a bus stop due to a breakdown and on the modalities to continue the journey.

The outcomes 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 show that in all cases (7) the initiated proceeding was concluded, for all the contested infringements (16), with a reduced payment²³.

Finally, with regard to the concluded proceedings, the table below shows the number of infringements identified in relation to each of the aforementioned articles of the Regulation and the number of carriers which the above-mentioned proceedings were addressed to.

Article of Regulation	Number of initiated proceedings that were concluded* (at 31 December 2022)	Number of companies involved
Article 19 (1) and (2)	3	2
Article 19 (1)	1	1
Article 20 (1)	3	1
Article 21 (1) (a)	2	1
Article 21(1) (b)	2	1
Article 24 (2)	2	1
Article 27	3	1

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

The number of carriers that were addressed by the proceedings remains limited; this could be largely due to the distribution of market shares among carriers operating services where the scheduled distance of the service is 250 km or more.

6. Other initiatives

Information on passenger rights

For the purpose of better informing passengers about their rights, a dedicated section is available on the Authority's website including EU and national legislation for users' protection in rail, bus and coach, and sea

²³ 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, no later than 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.

and inland waterway transport²⁴. The section, which has been constantly updated in the two-year period under review, is available in English as well.

The passengers' rights section can be reached from the homepage and includes a dedicated page for the protection of bus and coach passengers, which provide access, via a link to Your Europe portal, to the European Commission's information pages on passengers' rights, in accordance with the provisions of Regulation (EU) No 2018/1724 of 2 October 2018, establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012.

This page further includes:

- video-tutorials on passenger rights prepared as part of the communication campaign, in collaboration with the Presidency of the Council of Ministers, with a focus on the enforcement of passenger rights, which was implemented in 2021;
- legislation of reference and reports on the application of the Regulation in the previous two-year periods;
- cross-reference to frequently asked questions (FAQs), on passengers' rights and on the tools available to the Authority to protect these rights;
- a reference to the "smARTbot" digital assistant, also accessible from the website homepage, i.e. a chatbot that allows the Authority to provide real-time digital assistance via the web, through an "intelligent conversation" through the exchange of text messages in a chat room, with the aim of providing automatic information on specific issues, guiding the navigation by topics.

The institutional website contains a new section (<https://bdt.autorita-trasporti.it/>) which is dedicated to the Authority's data and statistics, where, *inter alia*, the data on the requests received by the Authority for the sectors under its remit may be consulted, including in relation to the protection of bus and coach passengers' rights.

Finally, the latest monitoring, carried out by the competent offices of the Authority, on the websites of the main carriers and terminal managing bodies operating regular services where the scheduled distance of the service is 250 km or more, showed that the information on passenger rights contained therein is usually available, although it is sometimes included in the General Conditions of Transport and/or in the Mobility Charter.

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, even where no conditions were found to contest infringements of the Regulation, the Authority's

²⁴ <https://www.autorita-trasporti.it/art-for-the-protection-of-passenger-and-user-rights/?lang=en>

offices, based on the complaints and alerts received, have implemented the usual awareness-raising and reporting activities addressed to carriers so as to encourage/support the improvement of caring policies.

Targeted meetings were organised, including with a bus transport company that had just entered the market, to clarify certain aspects of the rights enshrined in the Regulation and draw the utmost attention to these issues.

Protection of disabled passengers and passengers with reduced mobility

In the period under review, the Authority took steps to increase the number of designated bus terminals where, in accordance with the provisions of Article 12 of Regulation (EU) 181/2011, *"assistance for disabled persons and persons with reduced mobility shall be provided"*. In this regard, at the prompting of the Authority²⁵, the competent Ministry of Infrastructure and Transport designated six additional bus terminals.

These were established based on the Measures approved by the Authority with Decision No. 56/2018 of 30 May 2018²⁶, which provides for the obligation, for certain bus terminals with specific characteristics, to adopt a Terminal Information Statement (TIS) including full description of characteristics of the infrastructure, equipment, areas and technical and economic conditions for their use by carriers, as well as conditions for access by PRM. An information set is published on the Authority's website containing updated sheets for each of the bus terminal²⁷, including their main services and features of accessibility.

Reporting activities to the Parliament

In the hearings of 8 and 17 February 2022 before the Parliamentary Inquiry Commission on Protection of Consumers and Users of the Chamber of Deputies and before the Tenth Commission on Industry, Commerce, Tourism of the Senate of the Republic, the Authority recalled its recommendation of December 2018 to the Parliament and the Government on *"Protection of passenger rights in rail, sea & inland waterway and coach & bus transport: rules on penalties"*, and the critical issues that limit the effectiveness and deterrent effect of the existing sanctions.

In view of a development of the sanctioning system, the Authority has highlighted, *inter alia*, the need to be able to exercise not only the power to impose sanctions in case of infringements of passenger rights, but also to provide for their direct compensation, accompanied by the power, once the infringement is assessed, to order undertakings to bring their conduct into line with the existing legislation, by applying the prescriptive power provided for under ART's founding act (cf. Article 37 (3) (f)), with respect to conduct in conflict with the regulatory acts adopted by the Authority and to the commitments undertaken by the regulated entities.

²⁵ See the above-mentioned list.

²⁶ *"Measures to ensure equitable and non-discriminatory access to bus terminals to meet the passengers' mobility needs through intermodal and intramodal service connection."*

²⁷ Available at: <https://www.autorita-trasporti.it/indice-delibere/delibera-n-56-2018-condizioni-di-accesso-eguo-e-non-discriminatorio-alle-autostazioni/>

Cooperation between NEBs and with the Commission

Finally, it is worth mentioning that the activities carried out by the Authority in this sector include the cooperation with the NEB of other Member States. Indeed, where the subject-matter of the complaints received was related to regular services departing from points situated 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, 4 requests were forwarded to NEBs of other Member States, and only 1 was received from other NEBs). On the other hand, in compliance with Article 30 (*“Cooperation between enforcement bodies”*) of the Regulation, the competent offices of the Authority participated in the meetings, held on 13 December 2021 and 12 December 2022, convened by the Directorate-General for Mobility and Transport (DG-Move) of the European Commission.

In this framework, as requested by DG-Move, information was provided concerning, *inter alia*, (i) training of drivers in bus and coach transport, (ii) rules and functions carried out in the field of ADR, (iii) references to the Authority’s website, with regard to the European Single Digital Gateway²⁸. Further, information was provided to the Commission on the most significant measures adopted and the relevant documentation was included in the NEB exchange platform made available by the Commission.

In 2022, the Authority also participated in the initiative of the European Commission on *“Better Protection of Passengers and their Rights”*, whose work is expected to be completed in the second quarter of 2023. At this stage, in its responses to the public consultation, the Authority has highlighted the need (i) for an intervention at EU level aimed at ensuring passenger protection also in multi-modal journeys, given that, at present, the different regulations do not provide, in the case of multi-modal journeys, for specific tools ensuring full and effective protection; (ii) that the issue of the rights of passengers with disabilities and reduced mobility be dealt with in a cross-cutting manner with respect to the different regulations in the various modes of transport. With a view to inclusiveness, these passengers must be able to use transport without discrimination and, as far as possible, independently; (iii) that special attention be paid to the rights of passengers holding through tickets, which are increasingly spreading also in response to the new mobility needs which have been further highlighted in the context of the pandemic; (iv) for an EU-wide regulation, applicable to all situations such as the COVID-19 pandemic, so as to give both greater certainty to all the persons involved and more effectiveness to the action of the authorities responsible for enforcement.

7. Conclusions and developments since the last report

Some brief concluding remarks are provided based on the data comparison with previous two-year periods and on the most recent developments in the sector.

First of all, both the two-year period covered by this report and the previous one contains data and information relating to years (2020 and 2021) that were affected by the pandemic and by its effects on

²⁸ The European Single Digital Gateway initiative was launched by Regulation (EU) 2018/1724, published in the Official Journal of the European Union, L 295 of 21 November 2018.

travelling and propensity to travel of bus and coach passengers, i.e. a sector characterised by less marked seasonality than, for example, sea transport.

These effects impacted on the number of requests and, consequently, on the number of initiated sanctioning proceedings:

- with regard to the number of requests received by the Authority in the two-year period covered by this report, after a period of downturn, attributable to the effects of the pandemic which were still apparent in 2021, a new growth was observed, due to the resumption of bus travel;
- the number of disputed infringements was lower than in the previous two-year period and, unlike the latter, all initiated proceedings were concluded with the payment of a reduced penalty. The lower number of disputed infringements appears to be attributable to the lower number of requests received, especially compared to 2019. However, it could also be an effect not only of the sanctioning activity, but also of the Authority's proactive actions and use of collaborative tools, circumstances that may be verified in the coming months;
- in the two-year period under review, in the light of the experience gained, the Authority further increased the use of collaborative tools, so as to induce carriers and managing bodies to adopt procedures that are increasingly oriented towards compliance with passenger rights, even in cases where the related infringement was not subject to the imposition of penalties under the Regulation.

Among the elements, considered in this report, that may influence the two-year period 2023-2024 are, on the one hand, the higher number of designated bus terminals which entails greater protection for passengers with disabilities or reduced mobility, but also an increase in the number of the entities (managing bodies) that are required to comply with some of the rights enshrined in the Regulation and, on the other hand, the establishment of an ADR system in the areas under the Authority's remit, which may result in better opportunities for bus and coach passengers to obtain individual compensation by not having to lodge second-instance complaints to the Authority. The enforcement of passenger rights may consequently evolve from the examination of individual cases, also aimed at verifying the payment of individual compensation, towards the reinforced use of preventive and general tools, such as monitoring and/or inspections.