

*courtesy translation - only the Italian text is authentic*

## RULES OF PROCEDURE

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for the conduct of sanctioning proceedings falling under the remit of the Authority concerning passengers' rights

# ART

Annex "A" to Decision no 146/2023 of 28 September 2023

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## TITLE I — GENERAL RULES

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### Article 1 — Definitions

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1. Under these rules of procedure, the following terms and expressions shall have the following meaning:
  - a) “Authority”: the Transport Regulation Authority, established under article 37 of decree-law No 201 of 6 December 2011, converted, with amendments, into Law No 214 of 22 December 2011;
  - b) “Board”: the collegiate body of the Authority;
  - c) “Office”: the competent office, depending on the stage of the proceeding, pursuant to article 3 of these rules of procedure;
  - d) “decree establishing the Authority”: Decree-Law No. 201 of 6 December 2011, converted, with amendments, into Law No. 214 of 22 December 2011, as amended;
  - e) “institutional website”: the institutional website of the Authority available at [www.autorita-transporti.it](http://www.autorita-transporti.it);
  - f) “SiTe”: online system for submission and handling of complaints available in the institutional website;
  - g) “rules of procedure”: rules of procedure for the conduct of sanctioning proceedings, adopted by the Authority by Decision No 15/2014 of 27 February 2014, as amended;
  - h) “Rail regulation”: Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast);
  - i) “Regulations”: Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004, 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 and Regulation (EU) 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers’ rights and obligations (recast), for which the Authority has been designated as the national enforcement body;
  - j) “ADR”: acronym for Alternative Dispute Resolution, a procedure for the out-of-court settlement of disputes referred to in Article 37 (3) (h) of the decree establishing the Authority;
  - k) “deadline”: the deadline provided for submission of the first-instance complaint under article 24 (2) of Regulation (EU) No 1177/2010, article 27 of Regulation (EU) No 181/2011 and article 28 (2) of Regulation (EU) 2021/782, respectively, as well as for submission of the second-instance complaint under Article 33 (1) of Regulation (EU) 2021/782.

### Article 2 — Scope

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1. These rules of procedure shall govern the proceedings falling under the Authority’s remit that are aimed at ascertaining the infringements of the Regulations and of article 6 (2) of legislative decree No 70 of 17 April 2014, as well as at imposing the related sanctions.
2. The Authority inquires into and assesses the complaints lodged in the second instance for the purpose

of imposing sanctions, if any, and may consider any complaints and alerts received for the purposes of exercising its powers.

3. The Authority exercises the power to impose sanctions also of its own motion.

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### Article 3 — Conferral of powers

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1. The powers of pre-inquiry in the proceedings referred to in these rules of procedure are exercised by the office in charge of Passengers' rights while the powers of inquiry are exercised by the office in charge of Surveillance and enforcement, in compliance with the principle of separation between the office's inquiry responsibilities and the Board's decision-making functions.

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## TITLE II — PRE-INQUIRY STAGE

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### Article 4 — Complaints

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1. Complaints may be lodged by passengers also through their delegates, including associations representing their interests and shall include:
  - a) personal details of the claimant and of its representative, if any; in the latter case, the complaint must be accompanied by the proxy and identity document of the passenger;
  - b) indication of the journey made or planned and enclosed ticket;
  - c) a description of the facts showing a possible infringement of the legislation in force.
2. Complaints are lodged through the SiTe, or alternatively by filling in the forms annexed to these rules of procedure, that shall be sent to the Authority, together with the mandatory documents referred to in the complaint form, by registered mail with acknowledgement of receipt or certified e-mail (CEM) to [pec@pec.autorita-trasporti.it](mailto:pec@pec.autorita-trasporti.it), in .pdf format only. Professionals or associations that lodge complaints on behalf of the passengers shall use the SiTe only.
3. The claimant who intends to preserve the confidentiality or secrecy of the information provided shall indicate this need in the complaint by giving adequate reasons and expressly specifying the confidential parts thereof, failing which entitlement elapses.
4. The office informs the claimant of the receipt of the complaint, including through the SiTe; if the complaint concerns economic claims, it shall inform the claimant about the available ADR procedures.

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### Article 5 — Immediate dismissal

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1. Without prejudice to the provisions of Article 2 (2) and (3), the complaint shall be immediately dismissed where:
  - a) it does not contain the information and documentation referred to in Article 4 (1);
  - b) it is not lodged in accordance with the procedure referred to in Article 4 (2);
  - c) it does not contain the mandatory documentation referred to in Article 4 (2), as specified in the complaint form;
  - d) the claimant has not lodged a first-instance complaint to the undertaking within the prescribed

- deadline, or, despite lodging it, the relevant deadline for the response has not expired yet and no response has been received yet;
- e) it contains general reports concerning unsubstantiated facts or is otherwise manifestly unfounded;
  - f) it is lodged after the expiry of the deadline for the submission of the second-instance complaint, where established by the legislation in force;
  - g) the subject matter of the complaint does not fall under the rights established by the Regulations, or no penalty is provided for it;
  - h) the Authority is not competent to inquire into the complaint.
2. The immediate dismissal is declared by the head of the office and shall be communicated, even in a concise form, to the claimant, where appropriate through the SiTe.
  3. The provisions of Article 4 and the provisions of this Article shall also apply to complaints concerning regional and local services, that are forwarded by the competent regional structures identified by decree of the Minister of infrastructure and transport.

## Article 6 — Pre-inquiry analyses

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1. The head of the office may request information and documents from any persons who may hold them, in order to acquire any useful information to determine the extent of the infringement.
2. Requests for information and documents shall be made in writing and shall include:
  - a) facts and circumstances in respect of which the information or documents are requested;
  - b) purpose of the request;
  - c) procedure and time limit for receiving the response, to be determined, except where it is not already provided for in specific provisions, in an appropriate manner depending on the urgency of the case and the nature, quantity and quality of the information requested;
  - d) notice that the sanctions provided for by the laws in force may be imposed in the event of inaccurate, misleading, incomplete information or information supplied provided after the deadline.
3. The head of the office may pool together the complaints received, in order to carry out an overall assessment and identify the most relevant conduct for the purpose of initiating the sanctioning proceeding, including on account of the seriousness and relevance of the infringement and the spread of the conduct arising from individual complaints. Complaints, where appropriate, may also be dismissed in aggregate form, giving notice thereof to the claimant in accordance with Article 5 (2).

## Article 7 — Monitoring and fact-finding

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1. The Authority may at any time, including on a regular basis, monitor the compliance of undertakings with the rules governing passenger rights. For this purpose, it may also initiate fact-finding inquiries.
2. The Authority may obtain information and documentation from carriers, infrastructure managers, and from any other person of interest and, in the cases provided for in the existing legislation, it may conduct verifications and inspections as well.

## Article 8 — Conclusion of the pre-inquiry stage

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1. Where, at the end of the pre-inquiry stage, the head of the office considers that the factual or legal prerequisites to initiate a sanctioning proceeding are not met, he/she dismisses the complaint and informs the claimant accordingly pursuant to Article 5 (2).
2. If the head of the office considers that the prerequisites to initiate a sanctioning proceeding are met, he/she shall submit to the Board the draft decision concerning the alleged infringement referred to in Article 9.
3. Every three months the head of the office shall submit to the Board an information report concerning the dismissed complaints.
4. Regarding the infringements of the provisions of the Rail regulation, the time limits laid down in Article 33 (3) thereof shall apply to the pre-inquiry stage.

## TITLE III — INITIATION OF THE PROCEEDING AND INQUIRY STAGE

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### Article 9 — Initiation of the proceeding

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1. When the Board finds, based on the information collected in the pre-inquiry stage, that the conditions for a sanctioning action are met, it decides to initiate the proceeding.
2. The initiation of the proceeding shall include:
  - a) the person or persons against whom the proceeding is brought;
  - b) the reference to the rules that are assumed to be infringed, the corresponding sanctions and the indication of the possibility for the Authority to exercise, in the cases provided for under the law, the powers referred to in Article 14 (5);
  - c) a brief description of the disputed facts;
  - d) a statement of the rights of participation and of the deadlines of the proceeding starting from the communication of the decision to initiate the proceeding, in accordance with Article 10, as well as, in the cases of application of the simplified procedure, of the option referred to in Article 7 (2) of the rules of procedure for the conduct of sanctioning proceedings;
  - e) the reference to the right to the reduced payment pursuant to Article 16 of Law No 689 of 24 November 1981, if this is not excluded by specific legal provisions;
  - f) the appointment of the person in charge of the proceeding, including his/her contact information, and the office where to access the records of the proceeding.
3. The decision to initiate the proceeding shall be notified to the person against whom the proceeding is brought, communicated to the claimant and other third parties concerned, and published on the institutional website.

### Article 10 — Rights of participation and procedural deadlines

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1. Both the person against whom the proceeding is brought, and the third parties concerned may have access to the records of the proceeding.
2. Within thirty days of the notification of the decision to initiate the proceeding, the person against

whom the proceeding is brought, may also send statements of defence and documents to the person in charge of the proceeding and request to be heard before the office.

3. Within sixty days of the notification of the decision to initiate the proceeding, the person against whom the proceeding is brought, may also submit proposals for commitments aimed at removing the contested infringement.
4. Within thirty days of the notification of the decision to initiate the proceeding or, in absence thereof, within sixty days of its publication on the institutional website, the third parties concerned may submit written pleadings and documents to the person in charge of the proceeding, and request the office to be heard. Interested parties who intend to preserve the confidentiality or secrecy of the information provided shall indicate this need by giving adequate reasons and expressly specifying the confidential parts thereof, failing which entitlement elapses.
5. In the cases referred to in paragraph 4, the person in charge of the proceeding transmits the documents received or the minutes of the hearing to the person against whom the proceeding is brought, granting a time limit not exceeding thirty days for the submission of his/her observations and counterarguments.
6. Following the communication of the preliminary findings referred to in Article 12, the person against whom the proceeding is brought may, no later than twenty days of the notification of such communication, submit a rejoinder and request to be heard before the Board.
7. The time limit for the conclusion of the proceeding is 180 days, starting from the notification of the decision to initiate the proceeding to the person against whom the proceeding is brought.
8. The Board may, where circumstances so require, set other time limits than those provided for in the preceding paragraphs.
9. The time limits shall be suspended in the cases provided for under Article 9 of the rules of procedure.
10. The provisions of articles 11 and 12 of the rules of procedure shall apply to the hearings.

### Article 11 — The inquiry stage

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1. The person in charge of the proceeding may request, including through hearings, information and documents from any person who may hold them, so as to obtain useful evidence for the inquiry stage.
2. If the person in charge of the proceeding considers that it is necessary to order expert reports or advice, he/she shall submit this requirement to the Board, that will deliver its opinion thereupon.
3. The requests for inquiries shall be made in writing and shall include:
  - a) the facts and circumstances in respect of which the information or documents are requested;
  - b) the purpose of the request;
  - c) the deadline for the submission of a reply, to be determined, where it is not already provided for in specific provisions, in an appropriate manner having regard to the urgency of the case and the nature, quantity and quality of the requested information, considering a reasonable time to prepare them;
  - d) the way the information is provided and, if the request is addressed to a person who is not the addressee of the notice of the decision to initiate the proceeding, the person in charge of the proceeding;



- e) the notice that the sanctions provided for by the laws in force may be imposed in the event of inaccurate, misleading, incomplete information or information provided after the deadline.
4. If the inquiry made to a third party leads to significant new information, the person in charge of the proceeding shall communicate such information to the person against whom the proceeding is brought, granting a period not exceeding thirty days to submit observations and counterarguments.

## TITLE IV — THE DECISION-MAKING STAGE

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### Article 12 — Conclusion of the inquiry stage

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1. At the end of the inquiry stage, having assessed the documents relevant to the proceeding, the office may:
  - a) propose the Board to dismiss the proceeding if it considers that the factual or legal prerequisites for imposing sanctions are not met;
  - b) subject to the authorisation of the Board, inform the parties of the findings of the inquiries if, on the contrary, it considers that the conditions for imposing sanctions are met.
2. The communication of the findings of the inquiries contains a brief description of the outcome of the proceeding, without anticipating the calculation of the penalty, and informs the person against whom the proceeding is brought about the possible actions referred to under article 10 (6).

### Article 13 — Further inquiries for sanctioning purposes

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1. Where it is necessary to obtain documents, information, clarifications, or further useful evidence for the purpose of quantifying the sanction, the person in charge of the proceeding may request any person who may hold such information and documents to provide them. The provisions referred to under article 12 of these rules of procedure shall apply, *mutatis mutandis*, to such inquiries.

### Article 14 — Final measure

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1. Following the inquiries or final hearing, if any, the Board adopts the final decision or request the office to carry out additional verifications, specifying the information to be obtained. In the latter case, the Board may extend the deadline for the conclusion of the proceeding and the office, following the requested insights, shall proceed pursuant to the provisions of Article 12 of these rules of procedure.
2. The final decision includes the matters of fact and law underpinning the decision, as well as the time-limit for appeal and the authority to appeal.
3. The final decision is notified by the person in charge of the proceeding to the person against whom the proceeding is brought, communicated to all parties in the proceeding and published on the institutional website.
4. Unless the prerequisites for the exercise of the power referred to in paragraph 5 are met, where the person against whom the proceeding is brought has exercised the right to make the reduced payment, in accordance with Article 16 of Law No 689 of 24 November 1981, with regard to all the complaints made in the decision to initiate the proceeding, the head of the office shall declare the termination of the proceeding by his/her decision. The termination of the proceeding shall be communicated to the

claimant and to the parties concerned. Every three months the head of the office shall submit to the Board an information report concerning the statements of termination of the proceeding.

5. Where there is evidence that the infringement is still ongoing, the final measure may also contain, in the cases provided for by the legislation in force, an order to cease the infringement and any appropriate remedial measures, as well as the order to amend the exemption or restrictive clauses of the obligations towards passengers, introduced in the contract of carriage in breach of the relevant provisions. The power referred to in this paragraph is not terminated as a result of the payment of the reduced penalty.

## TITLE V — CALCULATION OF THE FINE

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### Article 15 — Calculation of the fine

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1. The amount of the administrative fines is established based on the guidelines adopted by the Authority, within the legislative framework identified by the legislator and in accordance with the criteria referred to in the legislation in force.

## TITLE VI — FINAL PROVISIONS

### Article 16 — Professional secrecy

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1. Any information obtained in the proceeding and in the conduct of the activities referred to in article 6 are covered by the obligation of professional secrecy and may be used only for the exercise of the powers conferred upon the Authority under the law, without prejudice to the notification, reporting and cooperation obligations laid down by law.

### Article 17 — References

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1. Except as otherwise expressly provided for herein, reference is made to the provisions of the rules of procedure on sanctioning proceedings, as well as to Law No. 241 of 7 August 1990, where applicable, and Law No. 689 of 24 November 1981.