

**ART**

Autorità
di Regolazione
dei Trasporti

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 10 of Law No 118 of 5 August 2022

8 February 2023

ART

Annex “A” to Decision No 21/2023 of 8 February 2023

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Part I — GENERAL PROVISIONS

Article 1 — Definitions

1. For the purposes of these rules, the following definitions shall apply:
 - 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, within the framework of the regulation of public utility services pursuant to Law No 481 of 14 November 1995;
 - b) “Decree”: Decree-Law No 201 of 6 December 2011 converted, with amendments, into Law No 214 of 22 December 2011;
 - c) “Consumer Code”: Legislative Decree No 206 of 6 September 2005;
 - d) “Code of conduct”: code of conduct for conciliators as defined by the Authority;
 - e) “economic operator”: entity operating networks, infrastructure, transport services;
 - f) “user”: either natural or legal person, other than the economic operator, which uses or intends to use transport services, or person that uses or intends to use a transport infrastructure;
 - g) “consumer association”: association that is registered in the list referred to in Article 137 of the Consumer Code or in the regional lists of consumer and user associations established under the legislation of each Region;
 - h) “representative entity”: entity, established by a public or certified private instrument, holding by-laws for representation of specified user categories, which is registered on ART platform and manages dispute settlement procedures in the name and on behalf of its clients;
 - i) “accredited body”: consumer associations, representative entities, and registered lawyers, which are registered on ART platform to initiate and manage dispute settlement procedures in the name and on behalf of their clients;
 - l) “Conciliator”: natural person in charge of assisting the Parties in seeking a dispute settlement agreement, including through non-binding proposals, who is professionally fit, impartial, and independent;
 - m) “ADR entity”: any entity referred to in Article 141 (1) (h) of the Consumer Code offering the settlement of disputes between economic operators and users, as referred to under (e) and (f) of this paragraph, respectively;
 - n) “ConciliaWeb platform”: platform made available by the Authority to conduct, through electronic means, the mandatory attempt to settle the dispute and the out-of-court dispute settlement;
 - o) “ART Dispute Settlement Service”: organisational unit of the Authority which, through ART platform, ensures the conduct of the mandatory attempt to settle the dispute as referred to in Part II of these Rules;

- p) “technical specifications”: document, that is published on the Authority’s institutional website, containing the technical specifications for access to the ConciliaWeb platform and management of out-of-court dispute settlement procedures via the platform;
 - q) “SPID”: public digital identity system for access to online services of the public administration referred to in Prime Ministerial Decree of 24 October 2014;
 - r) “e-ID Card”: personal identity document issued by the Ministry of the Interior referred to as “Electronic Identity Card”;
 - s) “digital signature”: electronic signature referred to in Article 1 (s) of Legislative Decree No 82 of 7 March 2005;
 - t) “Party”: economic operator referred to under (e) or user referred to under (f), or, where referred to jointly, “Parties”;
 - u) “competent office”: organisational unit identified for the conduct of the procedure under the Rules concerning the organisation and operation of the Authority;
 - v) “Rules”: *Rules for 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 10 of Law No 118 of 5 August 2022*;
2. For any other matters not specifically provided for herein, the definitions set out in Article 141 (1) of the Consumer Code shall apply.

Article 2 — Subject-matter and scope

1. Pursuant to Article 37 (3) (h) of the Decree, these Rules set out the procedures, as identified in Article 4, for the out-of-court settlement of disputes between economic entities operating transport networks, infrastructure and services, and users, concerning the users’ rights enshrined in the legislation referred to in Annex 1 to the Rules, or in regulatory acts adopted by the Authority pursuant to Article 37 (2) (e) of the Decree.
2. These Rules shall not apply to disputes between economic operators and users initiated under Article 37 of the Consumer Code and Articles 840-*bis* to 840-*sexiesdecies* of the Code of Civil Procedure.

Article 3 — Mandatory attempt to settle the dispute

1. In respect of disputes referred to in Article 2 (1), no court proceedings may be brought until the mandatory attempt to settle the dispute has been undertaken. The time limits for bringing court proceedings are suspended until expiry of the deadline for completion of the dispute settlement procedure.
2. For court proceedings, the admissibility requirement is deemed to have been satisfied thirty days after the submission of the dispute settlement request. In such cases, if the Party initiates judicial proceedings, the dispute settlement attempt is deemed terminated.
3. In any case, the conduct of the attempt to settle the dispute does not preclude the Parties from requesting urgent and precautionary measures to be adopted from the judicial authority.

Article 4 — Bodies before which the mandatory attempt to settle the dispute may be undertaken

1. For the disputes referred to in Article 2 (1), the mandatory attempt to settle the dispute may be undertaken before:
 - a) ART Dispute Settlement Service;
 - b) dispute settlement panels of the Chamber of Commerce, Industry, Agriculture and Trade, subject to the conclusion of a Memorandum of Understanding between the Authority and Unioncamere;
 - c) ADR entities, including entities conducting joint negotiations, which are included in the list referred to in Article 141-*decies* (1) of the Consumer Code.
2. The mandatory attempt to settle the dispute may be conducted before ART Dispute Settlement Service only if, for the same dispute, users may not rely on non-burdensome procedures before ADR entities, including entities conducting joint negotiations, which are included in the list referred to in Article 141-*decies* (1) of the Consumer Code.
3. For any other matters not specifically provided for in this Part I, the procedures referred to in paragraph 1 (b) and (c) above shall be subject to the rules of procedure of the entity chosen by the Parties.

Part II — PROCEDURE BEFORE ART DISPUTE SETTLEMENT SERVICE

Article 5 — Attempt to settle the dispute via ConciliaWeb platform

1. The mandatory attempt to settle the dispute before ART Dispute Settlement Service, referred to in Article 4 (1) (a), is managed through the ConciliaWeb platform. The procedures and terms concerning access to the ConciliaWeb platform, uploading and signing of acts and documents are set out in the technical specifications of the platform, which are published on the Authority's institutional website.
2. The Authority shall ensure the compliance of the ConciliaWeb platform with the rules on the processing of personal data.
3. Users who intend to lodge an application may access ART platform through their SPID login details or via electronic identity card (e-ID card). Only users who are not resident in Italy may register with the ConciliaWeb platform through an *ad hoc* procedure.
4. Users may submit the application and participate in the procedure independently or through a delegate, who accesses the ConciliaWeb platform with the login details referred to in paragraph 3, or through an accredited body.
5. Consumer associations included in the regional lists act as accredited bodies exclusively on behalf of users residing in the Region where the association is registered.
6. Representative entities of specified user categories can act as accredited bodies, after registration on the ConciliaWeb platform. For this purpose, representative entities submit an application for accreditation to the competent office of the Authority, by attaching the necessary documents to prove that the following requirements are met:
 - a) articles of association drawn up as a public or certified private instrument, with attached by-laws;
 - b) exclusive or at least prevalent social purpose consisting of the protection of specified user categories;
 - c) conduct of the activity referred to under (b) for at least two years;
 - d) the legal representatives have not been convicted by a judgment which has the force of res judicata, in relation to the activity of that body.
7. For accredited bodies, having verified that the necessary requirements are fulfilled, ART Dispute Settlement Service shall, no later than 30 days of the request, register the applicant on ART platform. ART Dispute Settlement Service shall delete the accredited body if the registration in the lists of the consumer associations, or in the Register referred to in Article 1 (g) and (i), is ceased or in case of loss of the requirements referred to in paragraph 6 of this Article.

Article 6 — Application for dispute settlement

1. Users may lodge an application for dispute settlement if they have already lodged a complaint or request for reimbursement or compensation to the economic operator and if they have received a response that is considered unsatisfactory or have received no response within 30 days.
2. The application for dispute settlement shall be submitted, under penalty of inadmissibility:

- a) no later than one year of submission of the complaint or request for reimbursement or compensation to the economic operator;
 - b) by using the ConciliaWeb platform.
3. The application for dispute settlement shall include the following:
- a) name, surname and residence or domicile of the user, or name, legal representative, and registered office in the case of legal persons;
 - b) e-mail address where all notifications relating to the procedure may be received, and telephone number;
 - c) name of the economic operator;
 - d) details of the journey undertaken or intended to be undertaken (place of arrival and destination and expected time of departure and arrival);
 - e) description of the facts giving rise to the dispute between the Parties;
 - f) user's requests and, where appropriate, their economic quantification.
4. The following documents shall be attached to the application:
- a) copy of the complaint or request for reimbursement or compensation sent to the economic operator and of the response received, if any;
 - b) copy of any measure of the judicial authority ordering the attempt to settle the dispute;
 - c) copy of the travel document or alike as indicated in the technical specifications of the ConciliaWeb platform;
 - d) in the case of an application submitted by an accredited body or by its delegate, copy of the identity document of the represented user and of the mandate, drawn up according to the model made available by the Authority and signed by the represented user, with indication of the user's e-mail address, to which the ConciliaWeb platform sends the notifications concerning the procedure or, failing that, the user's telephone number.
5. Until the attempt to settle the dispute as referred to in Article 9 (7) is undertaken, the Parties may supplement the application for dispute settlement by providing additional information on the subject matter of the dispute arising after the submission of the request.

Article 7 — Inadmissibility of the application for dispute settlement

1. The application for dispute settlement is inadmissible where:
- a) it is submitted without the prior complaint or request for reimbursement or compensation to the economic operator or without waiting for the deadlines referred to in Article 6 (1);
 - b) does not contain the elements and mandatory documents referred to in Article 6 (3) and (4);
 - c) the dispute does not fall within the scope set out in Article 2;
 - d) for the same dispute, an attempt to achieve a settlement may be undertaken through a non-burdensome procedure for the user before ADR entities, comprising entities conducting joint negotiations, included in the list referred to in Article 141-*decies* (1) of the Consumer Code;
 - e) it is a duplicate of a request that was already dismissed pursuant to article 8 (5) or Article 9 (9) for non-participation of the user;
 - f) the same dispute has already been submitted to the judicial authority, or, for the same dispute, an attempt to achieve a settlement is pending or has been already made before one of the

entities referred to in Article 4, except in the cases where the attempt to settle the dispute has been ordered by the judicial authority.

2. Where ART Dispute Settlement Service finds, including following a communication from the economic operator, a cause of inadmissibility as referred to in (1), it shall provide for dismissal of the application and give timely notice thereof to the Parties and:
 - a) in the cases referred to in (1) (a), it shall inform the user of the possibility of submitting a new application for dispute settlement, after the complaint or the request for reimbursement or compensation has been submitted to the operator;
 - b) in the cases referred to in (1) (b), it shall inform the user of the need to regularise the application within ten days of the communication and, after the expiry of that period without any action taken, it shall arrange for its dismissal and give timely notice thereof to the Parties, without prejudice to the possibility of submitting a new application for dispute settlement including all the elements and documents required within the period referred to in Article 6 (2) (a);
 - c) in the cases referred to under (1) (d), it shall inform the user about the ADR entities which may be addressed to settle the dispute.

Article 8 — Initiation of the procedure

1. Following the registration of the application, ART platform shall notify the Parties of the initiation of the procedure to undertake the attempt to settle the dispute.
2. ART Dispute Settlement Service shall communicate to the Parties the name of the designated Conciliator within fifteen days of the submission of the application, or its regularisation pursuant to Article 7 (2) (b). ART Dispute Settlement Service may pool together several disputes that present objective or subjective connections, providing for the procedure to be managed by a single Conciliator.
3. The economic operator who does not intend to participate in the dispute settlement procedure shall notify ART Dispute Settlement Service thereof. In this case, ART Dispute Settlement Service shall draw up a report stating the negative outcome of the attempt to settle the dispute and shall notify the Parties thereof.
4. If the Parties, prior to the intervention of the Conciliator, reach a settlement agreement through the negotiation procedure of the ConciliaWeb platform, the latter shall issue a certification of the agreement reached and the proceeding is dismissed.
5. If, during the procedure, the user withdraws its application, the proceeding is dismissed, and ART Dispute Settlement Service shall promptly notify the Parties thereof.

Article 9 — Conduct and outcome of the procedure

1. The dispute settlement procedure before ART Dispute Settlement Service is conducted through the non-simultaneous exchange of communications between the Parties and the Conciliator. At any time, the Conciliator has the right to propose a solution for dispute settlement, which either Party may accept or refuse, in accordance with the modalities provided for in the technical specifications of the ConciliaWeb platform.

2. If the Parties reach an agreement, the Conciliator draws up and signs a report including the points at issue and acknowledges the agreement, specifying its content. The dispute settlement report is an enforceable order pursuant to article 2 (24) (b) of Law No 481/1995.
3. If one or both Parties do not accept the proposal or do not take a decision within ten days of the date of notification of the proposal, the Conciliator may submit a new proposal or proceed in accordance with paragraph 7.
4. The Conciliator may, in relation to the complexity of the dispute, convene the Parties at a hearing, with at least a seven-day notice. The hearing shall be conducted preferably through web-conference, or other modes of distance communication.
5. The Parties participate in the hearing in person, or, in the case of legal persons, in the person of their legal representative. Duly authorised agents may also represent the Parties.
6. If neither Party appears at the hearing without having promptly notified the Conciliator of a legitimate reason therefor or persists in a behaviour that is prejudicial to the proper and effective conduct of the procedure, the Conciliator concludes the hearing and acknowledges the aforementioned circumstances in the report drawn up pursuant to paragraph 7.
7. If, within thirty days of the initiation of the procedure, or regularisation of the application, the Parties fail to reach an agreement, the Conciliator draws up a proposal for a report confirming that no agreement has been reached, unless he/she deems it appropriate to further discuss with the Parties with a view to settling the dispute. If at least one of the Parties accepts the proposal or does not state its intention within ten days of the notification of the proposal, the Conciliator signs the report of non-agreement and notifies the Parties thereof.
8. In the report referred to in paragraph 7, the Conciliator specifies the subject-matter of the dispute, acknowledging in brief the outcome of the exchange of communications between the Parties and of the hearing, if any, as well as the outcome of the attempt to settle the dispute. The Parties may request to indicate in the report any partial solution which they agree upon, or each Party may request to give notice of its dispute settlement proposal.
9. Should the user, without making an express waiver, or the economic operator, without submitting the communication referred to in Article 8 (3), or both Parties not participate in the procedure, and not reply to the proposal referred to in paragraph 7 within 10 days as of the time it was made, the Conciliator acknowledges their non-participation in the report and the proceeding is terminated, except in cases of justified impediment, that were promptly communicated to ART Dispute Settlement Service, on which basis the termination of the procedure may be postponed.
10. The report is signed by the Parties, by electronic signature or other electronic means that is suitable to guarantee its origin in accordance with the provisions in force, and by the Conciliator, who certifies the truthfulness of the report, by digital signature. If it is not possible for one or both Parties to sign the report due to technical impediments or other reasons, the Conciliator signs the report certifying that it has been drawn up in accordance with the outcome of the procedure, specifying the reasons behind. ART Dispute Settlement Service shall notify the report to the Parties through ART platform.

Article 10 – Confidentiality and limits of use of the acquired information

1. The staff of ART Dispute Settlement Service and the Conciliator undertake to maintain the confidentiality of the information acquired in the procedure.
2. Statements made or information obtained in the procedure may not be used in the proceedings or in any other out-of-court dispute settlement procedure concerning, even partially, the same subject-matter, except with the consent of the declarant Party or of the Party providing the information.

Article 11 — Identification and requirements of the Conciliator

1. ART Dispute Settlement Service identifies the Conciliators within the administrative structure of the Authority or by agreement with public bodies enrolled in the Register established by the Ministry of Justice pursuant to Article 16 of Legislative Decree No 28 of 4 March 2010 *“Implementation of Article 60 of Law No 69 of 18 June 2009 on mediation aimed at the settlement of civil and commercial disputes”*, or in charge of dispute settlement before other competent authorities, referred to in article 141-octies (1) of the Consumer Code, in compliance with the requirements set out in paragraph 3.
2. The Conciliators accredited by ART Dispute Settlement Service to conduct the procedures through ART platform are included in a list made available on the platform.
3. The Conciliator does not decide on the dispute, but assists the Parties in seeking a mutual agreement for its settlement, and has the following requirements:
 - a) specific training on mediation techniques and specific knowledge of the areas regulated by the Authority, in particular regarding users’ rights and quality of services;
 - b) absence of causes of incompatibility provided for by the relevant laws and by the Code of Ethics, and absence of conflicts of interest. In such cases, the designated Conciliator must refrain from taking the assignment by declaring the impediment to ART Dispute Settlement Service, or cease from the assignment in the cases where incompatibility or conflict of interest arises during the procedure.
4. The Conciliator shall sign the Code of Ethics attached hereto (Annex 2) and an appropriate declaration of impartiality, independence, and neutrality.
5. The Conciliator who no longer fulfils the requirements referred to in paragraph 3, or has ceased to perform this function, or requests so, shall be removed from the list referred to in paragraph 2 by ART Dispute Settlement Service. If the cancellation does not ensue from a request of the Conciliator, it is ordered after hearing the person concerned.
6. ART Dispute Settlement Service may provide, for Conciliators identified pursuant to paragraph 1, for assisted traineeship alongside the designated Conciliator, upon notification of the names to the Parties that may refuse the trainee and, in any case, request his/her removal at any time. The trainee can in no way interfere in the dispute settlement procedure and is bound by the same obligations of confidentiality, independence, and impartiality as the Conciliators.

Part III — FINAL PROVISIONS

Article 12 — Annual report, coordination and final provisions

1. The Authority shall publish on its institutional website the annual report referred to in Article 141-*quater* (2) of the Consumer Code, and the data, as a percentage of the total requests received, concerning the non-participation of individual economic operators in the procedures set out in Part II of these Rules.
2. The provisions of Title II-*bis* of Part V of the Consumer Code shall apply, insofar as applicable.
3. 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. Without prejudice to the provisions of Article 6 (2) (a), these Rules shall apply to the dispute settlement requests lodged after the 27th of February 2023.

ANNEX 1 — EU AND NATIONAL LEGISLATION REFERRED TO IN ARTICLE 2 (1)

Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91.

Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (applicable until 6 June 2023).

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.

Regulation (EU) No 2021/782 of the European Parliament and of the Council of 29 April 2021 on rail passengers' rights and obligations (applicable from 7 June 2023).

Legislative Decree No 70 of 17 April 2014 on "Penalties for infringement of the provisions of Regulation (EC) No 1371/2007 on rail passengers' rights and obligations".

ANNEX 2 — CODE OF CONDUCT FOR CONCILIATORS OF THE DISPUTE SETTLEMENT SERVICE OF THE TRANSPORT REGULATION AUTHORITY

Article 1 — (Scope)

1. This Code of Conduct is an integral and substantial part of the “*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 10 of Law No 118 of 5 August 2022*” (hereinafter: Rules) and contains the binding rules of conduct for Conciliators carrying out their activities pursuant to Article 11 of the Rules.

Article 2 — (Training and requirements of independence, impartiality, and neutrality)

1. The Conciliator undertakes to constantly update his/her training, in accordance with the provisions of Article 11 (3) (a) of the Rules.
2. For the purposes of registration in the list of Conciliators referred to in Article 11 (2) of the Rules, the Conciliator is required to sign a declaration whereby he/she undertakes to abstain from conducting the individual dispute under his/her remit, and promptly informs ART Dispute Settlement Service, if he/she:
 - a) considers that he/she is not able to adequately manage the individual procedure on account of its complexity;
 - b) considers that it not possible, including by reason of new facts, to manage the individual procedure with independence, impartiality, and neutrality;
 - c) has managed past procedures concerning the Parties, or even only one of them, as counsel, defender, or arbitrator.
3. The Conciliator further undertakes to inform ART Dispute Settlement Service of any circumstances that may affect his/her independence, impartiality, or neutrality.

Article 3 — (Prohibition of receiving benefits from the Parties)

1. The Conciliator is prohibited from receiving any benefits from the Parties and accredited bodies.
2. The Conciliator shall refrain, in the eighteen months following the conclusion of the procedure, from accepting assignments of any kind from the Parties, or even from only one of them, or from accredited bodies that have represented them.

Article 4 — (Confidentiality and Conduct of the Conciliator)

1. The Conciliator shall keep the information and documents received in the performance of his/her duties strictly confidential, and his/her communication to the Parties shall be made for the sole purpose of the procedure.

2. The Conciliator may report to one Party information which has been disclosed to him/her by the other Party only if it is necessary for the purpose of the procedure and, in any case, with the consent of the latter.
3. The Conciliator does not exert any pressure on the Parties, even if it is aimed at achieving a settlement agreement, and verifies that the Parties have understood and accepted the purposes of the dispute settlement procedure, the role of the Conciliator and of the Parties and the confidentiality obligations imposed on all the persons involved in the procedure.