

Overview of the year 2022

The Agency for Passenger Rights (apf) is legally obliged to compile an annual report on its activities and results pursuant to section 8 par. 2 Federal Passenger Agency Act¹ and section 9 AStG². The material content of the 2022 report is summarised below. The full report can be retrieved from the apf website free of charge.³

Legislation in Austria

Arbitration board and enforcement body for rail, bus, waterborne and air transport

The Passenger Right Agency Act (PFAG)⁴ came into force on 28 May 2015. With this new legislation, the Agency for Passenger Rights (apf) replaced Schienen-Control's previous rail transport arbitration board and assimilated the arbitration board that was already handling complaints relating to air passenger rights at the former Federal Ministry for Transport, Innovation and Technology. These boards were joined by the newly created arbitration boards for bus and waterborne transport.

The apf is a service provided by the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK) and was established as a department of Schienen-Control.

EU-notified body for alternative dispute resolution

As of 9 January 2016, the apf became a notified alternative dispute resolution body (ADR body) of the European Union (EU) pursuant to the Alternative Dispute Resolution Act (AStG)⁵ (the AStG is the national implementation of the EU directive on alternative dispute resolution in consumer disputes (ADR Directive⁶)). This makes the apf one of the eight ADR bodies active in Austria.

Consumers can recognise the apf's status as an ADR body from the logo with the federal coat of arms and the words *Staatlich anerkannte Verbraucherschlichtungsstelle* ("officially recognised consumer arbitration board"). In terms of structure, funding, legal framework and decision-making, the apf is independent of the companies involved in the arbitration procedures. Arbitration procedures are conducted by the arbitrator appointed by the BMK.

Agency for Passenger Rights

The apf is the statutory arbitration board and enforcement body for rail, bus, waterborne and air transport. As part of its arbitration activities, it is responsible for settling passenger complaints out of court and helping passengers obtain justice in disputes with companies.

In its function as an enforcement body, the apf informs rail, bus, waterborne and air passengers of their rights, monitors observance of the passenger rights embedded in the EU regulations and, if necessary, takes further steps to induce the companies concerned to fulfil their obligations.

¹ Federal Passenger Agency Act, Federal Law Gazette (BGBl) I 2015/61 (current version).

² Alternative Dispute Resolution Act – AStG, BGBl I 2015/105 (current version).

³ www.passagier.at

⁴ Passenger Right Agency Act – PFAG, BGBl I 2015/61.

⁵ Pursuant to section 4 par. 1 in conjunction with section 25 AStG.

⁶ Directive 2013/11/EU, Official Journal of the EU L 2013/165, 63.

apf organisation

The apf is a department of Schienen-Control and has no separate legal identity. In 2022, applicants' concerns (questions, arbitration requests, procedures) were handled directly by the director of the apf and a team of up to twelve full-time/part-time employees (equivalent to eight full-time staff).

apf funding

The apf is funded pro rata by contributions from the companies involved in the arbitration procedures and by contributions from the budget of the Republic of Austria. Companies participating in arbitration procedures are liable for costs. At present, these are fixed at 78 Euro per procedure in accordance with the PFAG Cost Contribution Ordinance 2015⁷. These contributions are calculated to cover 40 percent of the apf's costs⁸. The remaining costs are covered by the BMK using funds from the federal budget.

apf tasks

The apf's task is to help passengers obtain justice without having to go to court. The apf sees itself as an independent mediator between transport companies and their passengers. Passengers and clients of railway undertakings, railway station operators, integrated ticket organisations, airlines, waterborne transport companies and bus/coach companies (and to a lesser extent operators of bus stations, ports, terminals and civilian aerodromes, e.g. airport operators) can submit arbitration requests to the apf provided they have previously attempted to resolve the issue with the company concerned. The apf is not responsible for urban transport companies.

apf competences

Rail transport

With regard to rail transport, the apf helps all passengers and clients of railway undertakings and integrated ticket organisations obtain justice when using the railway. The apf can help with almost any issue involving a contract of carriage.

The apf is obliged to notify the Schienen-Control Kommission of any unresolved disputes relating to rail transport (e.g. if it is alleged that the conditions for compensation contain unlawful provisions).

Bus, waterborne and air transport

With regard to bus, air and waterborne transport, the apf's activities are circumscribed by EU regulations, as a result of which its competences are more restricted than in the rail transport sector. The apf also upholds the rights of persons with disabilities or reduced mobility.

Body responsible for cooperating with consumer protection authorities

⁷ PFAG Cost Contribution Ordinance 2015, BGBl II 2015/150.

⁸ Pursuant to section 4 par. 3 Federal Passenger Agency Act.

In an amendment to the Consumer Authorities Cooperation Act (VBKG)⁹, the apf was specified as the body responsible for cooperating with consumer protection authorities in the areas of bus, air, and waterborne transport. Under this law¹⁰, the national authorities responsible for consumer protection legislation may seek assistance from the corresponding authorities abroad. They can then take action against companies in the event of cross-border violations of consumer protection regulations.

This cooperation between authorities now also encompasses the Rail Passenger Rights Regulation and the PRM Air Passenger Rights Regulation governing air transport, and has done so since 17 January 2020¹¹. The amendment to the Consumer Authorities Cooperation Act¹² required for national implementation came into force on 26 March 2021. This expanded both the scope of the statute and the powers granted (e.g. tracing data and financial flows, test purchases, acceptance of commitments to cease violations).

Enforcing passenger rights

If no solution remedying the violation of the respective passenger rights regulation can be found during the arbitration procedure, the apf, in its capacity as the enforcement body, will notify the competent legal authority accordingly. The same applies if a company does not participate in the arbitration procedure.

The amendment to the Aviation Act (LFG)¹³ granted the apf the status of a party to administrative penalty proceedings in the air transport sector. The apf is thus authorised to view all case files, request all the relevant information, and appeal to the Federal Administrative Court and Supreme Administrative Court.

apf arbitration procedures

The apf does not replace the respective company's complaints management. Before the apf can take action, passengers must attempt to reach a mutual agreement with the respective company themselves.

Detailed information about the apf's competences for each mode of transport, i.e. who can submit an arbitration request to the apf, which issues can be addressed, which arbitration requests must be rejected, the exact course of the arbitration procedure, the costs of the procedure etc. is provided in German in the section on "Arbitration procedures" beginning on page 30 of the full report.

Competences of the rail transport regulatory authority

Validation of arbitration requests relating to rail transport

In the case of arbitration requests from rail passengers relating to non-existent or insufficient fare compensation for train delays and cancellations, the Schienen-Control Kommission can declare the apf's proposed solution binding and award the compensation to the passenger¹⁴. This regulation is enforced in cases where no agreement can be reached with the railway undertaking. The Schienen-Control Kommission does not possess this

⁹ Consumer Authorities Cooperation Act – VBKG, BGBl I 2006/148, version published in BGBl I 2015/61.

¹⁰ Consumer Authorities Cooperation Act – VBKG, BGBl 2006/148 (current version).

¹¹ Regulation (EC) 1107/2006 OJ L 2006/204, 1 and Regulation (EU) 2017/2394, OJ L 2017/345, 1.

¹² Consumer Authorities Cooperation Act – VBKG, BGBl I 2006/148, version published in BGBl I 2021/57.

¹³ Aviation Act – LFG, BGBl 1957/253 (current version).

¹⁴ Pursuant to section 78a par. 5 EISbG.

competence in the other three transport sectors. Even in the rail transport sector, it extends only to fare compensation in the event of train delays and cancellations and not to any other claims.

Publication and review of conditions of carriage

Railway undertakings and integrated ticket organisations in the railway transport sector are obliged to present their conditions of carriage to Schienen-Control pursuant to section 22b Railway Act (EisbG).

These conditions of carriage must be presented both when they are first published and after subsequent amendments. Pursuant to section 78b EisbG, the Schienen-Control Kommission has the right to examine whether the conditions of carriage published by the railway undertakings and integrated ticket organisations comply with the law; in the event of any violations, Schienen-Control may declare them void. The review encompasses all Austrian and European legislation (e.g. KSchG¹⁵, EisbBFG¹⁶ and the Rail Passenger Rights Regulation¹⁷).

apf annual assessment

2022 set a new record with regard to the arbitration work carried out by the Agency for Passenger Rights (apf) in the rail transport sector. Never before has the apf received so many rail transport enquiries and arbitration requests in one year. The apf also had to deal with a larger number of requests and procedures in the air transport sector than in the previous year. The determining factors here included organisational deficiencies, which led to the cancellation of numerous flights in Europe and caused significant passenger handling delays at airports. In 2022, some five percent of enquiries and arbitration requests were still associated with COVID-19. The experts in all four transport sectors remained committed to finding efficient solutions for passengers. Their success rate was again very high, and they were able to mediate an agreement between the parties in more than three-quarters of cases.

Arbitration requests and enquiries

In 2022, the apf received a total of 5,896 written arbitration requests and enquiries (2021: 2,896), 4,697 of which related to air transport (2021: 2,224), 1,120 to rail transport (2021: 626), 69 to bus transport (2021: 38) and ten to waterborne transport (2021: eight). This means that the sum total has doubled. 258 of all arbitration requests and enquiries, i.e. a good five percent, related in some way to the COVID-19 pandemic.

Arbitration procedures initiated

The arbitration procedures counted only include cases in which arbitration procedures were actually initiated. In all, 4,264 arbitration procedures were initiated in 2022 (2021: 1,944); this is double the number initiated in 2021. Most of these (3,350) related to air transport (2021: 1,423), followed by rail transport with 892 (2021: 505) and bus transport with 22 (2021: 15) procedures. No procedures were initiated in the waterborne transport sector (2021: one procedure).

Compensation, reimbursements and penalty rebates

¹⁵ Consumer Protection Act – KSchG, BGBl 1979/140 (current version).

¹⁶ Railway Carriage and Passenger Rights Act – EisbBFG BGBl I 2013/40 (current version)

¹⁷ Regulation (EC) 1371/2007 OJ L 2007/315, 14.

In 2022, the apf obtained a sum of 1.6 million Euro in monetary compensation, reimbursements and penalty rebates for applicants (2021: 1.1 million Euro). This is an increase of approx. 40 percent year on year. However, it must be remembered that the number of procedures during the period mentioned was more than 50 percent higher than the previous year. 115,463 Euro came from pandemic-related procedures initiated in all transport sectors.

At 1.49 million Euro, the lion's share of the total amount fell to the air transport sector (2021: 1.09 million Euro), while 114,637 Euro were obtained in the rail transport sector (2021: 54,429 Euro) and 3,291 Euro in the bus transport sector (2021: 1,278 Euro).

Reaction time and duration of procedures

In 2022, the average time taken for an initial response to be sent to the applicant was around one day (2021: 1.5 days). The apf was thus able to improve its reaction time despite the increased number of requests.

The average duration of the apf's arbitration procedures was around 31 days (2021: 87 days).

Rail transport

Arbitration requests and enquiries

In 2022, the apf received 1,120 arbitration requests relating to rail transport (2021: 626), an increase of 79 percent and the highest number recorded since the apf was established. 46 of the arbitration requests received in the rail transport sector pertained to travel problems associated with COVID-19 (2021: 78).

78 percent of the applications rejected by the apf were repudiated on the grounds that the passenger had not yet lodged a claim with the company concerned (2021: 66 percent).

In 2022, around one third (30 percent) of all rail transport applicants resided in the federal capital Vienna (2021: 33 percent). 14 percent of applicants came from Lower Austria (2021: 16 percent), ten percent from Upper Austria (2021: ten percent) and six percent from Tirol. Eleven percent of applicants came from the other federal provinces (2021: 13 percent), while another 27 percent of the arbitration requests came from passengers residing abroad (2021: 20 percent); almost half of these were passengers from Germany.

Arbitration procedures

In all, 888 arbitration procedures were concluded in 2022 (2021: 509). 47 of these pertained to pandemic-related issues (2021: 65).

In 2022, 98 percent of all procedures in the rail transport sector reached a positive outcome to the satisfaction of both parties (2021: 94 percent). Despite intensive effort, no mutual agreement could be reached in two percent of procedures (2021: five percent); 0.5 percent of procedures were substantively suspended (2021: one percent). These involved cases with no foundation, e.g. because the case had already been settled with the company concerned.

At the end of May 2015, transport companies participating in arbitration procedures were made liable for costs. In 2022, the railway undertakings involved were obliged to pay costs in 670 of the procedures concluded in the rail transport sector (2021: 393).

Company obligation to cooperate and complaints filed with district administrative authorities

In 2022, none of the companies in the rail transport sector refused to participate in an arbitration procedure (2021: no companies).

Grounds for procedures and distribution among companies

At 37 percent, the most frequent grounds for the initiation of arbitration procedures in 2022 were ticket refunds (2021: 33 percent).

Procedures relating to passenger fines and fees took second place at 30 percent (2021: 48 percent).

Third place was shared by procedures relating to compensation for delays and procedures relating to compensation for other costs.

95 percent of the procedures involved ÖBB-Personenverkehr (2021: 93.9 percent), while 1.5 percent involved WESTbahn. The remainder involved other transport companies, infrastructure operators and integrated ticket organisations.

Compensation, reimbursements and penalty rebates

The sum obtained by the apf from all the rail transport procedures concluded in 2022 amounted to 114,638 Euro (2021: 54,429 Euro). 8,872 Euro of these compensation payments were associated with COVID-19 cases.

Duration of procedures

In 2022, the apf was able to resolve 83 percent of rail transport procedures in less than two weeks (2021: 77 percent). Another twelve percent of procedures were concluded in less than one month (2021: 18 percent) and four percent in less than two months (2021: four percent). Only one percent of arbitration procedures took longer than two months (as in 2021); these mostly involved cases that were legally highly complex.

In 2022, the average duration of all (simple to highly complex) arbitration procedures in the rail transport sector was around nine days (2021: ten days).

Bus transport

Arbitration requests and enquiries

In 2022, the apf received a total of 69 arbitration requests relating to bus transport (2021: 38). Four of these were associated with COVID-19 (2021: two).

81 percent of those rejected were repudiated on the grounds of non-competence (2021: 91 percent), and 17 percent because the applicant had not contacted the bus company first (2021: nine percent).

In 2022, 22 percent of the applicants who filed bus transport requests lived in Vienna (2021: 37 percent), followed by 14 percent whose primary residences were located in Upper Austria (2021: 16 percent). 44 percent of applicants came from the other federal provinces (2021: 18 percent). 13 percent of the applicants in 2022 did not live in Austria (2021: 18 percent). Seven percent provided no information about their primary residence last year (2021: eleven percent).

Arbitration procedures

In all, 20 arbitration procedures were concluded in the bus transport sector in 2022 (2021: 16). COVID-19 was not an issue in any of the procedures (2021: two procedures).

As in 2021, 100 percent of the procedures in the bus transport sector reached a positive outcome to the satisfaction of both parties.

The respective bus transport companies were held liable for costs in 19 of the procedures concluded in 2022 (2021: 15).

Company obligation to cooperate and complaints filed with district administrative authorities

In 2022, none of the companies in the bus transport sector refused to participate in an arbitration procedure (2021: no companies).

Grounds for procedures and distribution among companies

At 82 percent, cancellations, delayed departures and overbooking were the main reasons why arbitration procedures were initiated in the bus transport sector in 2022 (2021: 88 percent cancellations).

Nine percent of procedures related to forms of assistance such as catering and accommodation.

All of the procedures concluded in 2022 involved Flixbus (2021: 82 percent).

Compensation and reimbursements

In 2022, the apf obtained 3,291 Euro in monetary compensation and reimbursements for bus passengers (2021: 1,278 Euro). 251 Euro of the total sum came from procedures associated with COVID-19 (2021: 251 Euro).

Duration of procedures

28 percent of the procedures initiated in 2022 were concluded within two weeks (2021: 33 percent). 56 percent of procedures were concluded in less than one month (2021: 27 percent) and eleven percent in less than two months (2021: 25 percent). Five percent required more than two months due to lengthy enforcement procedures (2021: 13 percent).

The average duration of the bus transport procedures concluded in 2022 was around 23 days, i.e. significantly shorter than the previous year (2021: 28 days).

Waterborne transport

Arbitration requests, enquiries and arbitration procedures

In 2022, the apf received a total of ten arbitration requests relating to waterborne transport (2021: eight). No procedures were initiated (2021: one procedure). In 2022, as in previous years, all the requests rejected were repudiated on the grounds of non-competence.

Air transport

Arbitration requests and enquiries

In all, 4,697 arbitration requests and enquiries relating to air transport were processed in 2022 (2021: 2,224).

72 percent of those rejected in 2022 were repudiated on the grounds of non-competence (2021: 59 percent) and 22 percent because the passenger had not yet lodged a claim with the airline concerned (2021: 21 percent). Six percent of cases had to be repudiated on other grounds such as failure to formally submit a request or the airline's insolvency (2021: 20 percent).

At 75 percent, most of the arbitration requests submitted in 2022 were received from persons residing in Austria (2021: 72 percent). 16 percent of requests came from other EU countries, Iceland, Norway, and Switzerland (2021: 16 percent), while three percent came from non-member countries (2021: three percent). Six percent of applicants provided no information in the application form regarding their country of residence (2021: nine percent).

Arbitration procedures

A total of 2,673 procedures were concluded in the air transport sector in 2022 (2021: 2,176). 196 of these procedures related to issues caused by COVID-19 (2021: 1,231).

The companies and passengers concerned were able to reach a mutual agreement in 84 percent of cases, thus bringing the procedures to a positive conclusion (2021: 73 percent). Despite intensive effort, no mutual agreement could be reached in three percent of cases (2021: four percent). The remaining procedures were substantively suspended. These involved situations such as extraordinary circumstances and delays of less than three hours. Eleven percent were suspended due to extraordinary circumstances such as adverse weather conditions (2021: 13 percent) and two percent on other grounds such as delays of less than three hours (2021: ten percent).

The airlines were held liable for costs in 2,351 of the procedures concluded in 2022 (2021: 1,769).

Company obligation to cooperate and complaints filed with district administrative authorities

Since the apf is not only an arbitration board but also one of the bodies responsible for enforcing European passenger rights regulations, non-compliance with regulations has to be sanctioned with appropriate consequences.

When the apf's attention is drawn to violations of this kind, it brings administrative charges against the airline's authorised representatives (e.g. the managing director or board) through the competent district administrative authorities.

16 procedures of this kind were initiated during the business year 2022 (2021: 104). In six cases, the airline had also failed to participate in the apf's arbitration procedure (2021: 37).

Grounds for procedures and distribution among companies

In 2022, around 65 percent of the procedures were initiated due to cancellations (2021: 77 percent). 29 percent of the arbitration procedures related to delayed flights (2021: 17 percent) and almost five percent to denied boarding (2021: five percent).

34 percent of the procedures concluded in 2022 were initiated against Austrian Airlines, the biggest Austrian airline (2021: 21 percent). Around 21 percent were initiated against Wizzair (2021: 16 percent) and approximately ten percent against Ryanair DAC (2021: ten percent). Six percent of the procedures fell to Eurowings (2021: eight percent) and four percent to Lufthansa (2021: six percent). The remaining 25 percent were spread between other airlines.

Compensation and reimbursements

In 2022, the apf obtained a sum of 1,485,499 Euro in monetary compensation and reimbursements for applicants in the air transport sector (2021: 1,087,232 Euro). 106,591 Euro of these compensation payments involved COVID-19 cases (2021: 737,511 Euro).

Duration of procedures

In 2022, apf was again able to conclude one quarter (24 percent) of arbitration procedures within two weeks (2021: 25 percent). Solutions that were mutually acceptable to both passenger and company were found within one month in 35 percent of cases (2021: 17 percent) and in less than two months in 21 percent of cases (2021: 15 percent). 20 percent of the procedures in 2022 took more than two months to resolve (2021: 43 percent). Overall, a clearly positive trend is evident in terms of processing times.

In 2022, the average duration of arbitration procedures in the air transport sector was around 39 days, an immense improvement compared to the previous year (2021: 106 days).

Focal areas of arbitration activity

Based on the large number of arbitration requests received, the apf is able to determine on a year-by-year basis where systematic, significant problems exist and where there is room for improvement. These issues are dealt with in depth while mediating between the passengers and companies, and are also addressed afterwards if necessary. Moreover, personal meetings are held with certain companies several times a year (virtually due to COVID-19), mainly to discuss topics that are particularly relevant for a larger group of people.

Significant issues have arisen particularly in the rail, bus and air transport sectors. These are described in detail in the section "Focal areas of arbitration activity", which is available in German only and begins on page 78 of the full report. Due to the low number of cases during the period under review, it is not possible to draw any general conclusions about structural problems that may exist in the waterborne transport sector.

In the rail transport sector, the apf's activities largely focused on issues such as online ticket purchases, fines/fare recovery, reimbursements, service restrictions and non-compliance with deadlines.

Important topics addressed during arbitration procedures in the air transport sector included the impact of COVID-19, cancellations, denied boarding, long waits for security checks, and online brokers.

International cooperation

The passenger rights regulations applicable to all EU member states require regular intensive dialogue between the national enforcement bodies (NEBs) in order to guarantee a uniform cross-border approach. Along with regular meetings and participation in working groups, the measures adopted include ongoing discussions at informal meetings, events jointly organised with stakeholders, and written communications relating to general questions on dealing with current challenges.

More information about the European Commission's meetings with the NEBs, cooperation with other NEBs and other activities in this area in 2021 is provided in the section on "International cooperation", available in German, beginning on page 94.

Passenger rights

Rail transport

Violations of the Rail Passenger Rights Regulation and the Railway Carriage and Passenger Rights Act

When handling arbitration requests, the apf occasionally finds that applicable provisions in the Rail Passenger Rights Regulation and/or the Railway Carriage and Passenger Rights Act (EisbBFG) have been violated. These cases are generally resolved by arbitration; however, the Schienen-Control Kommission had to be notified in a few cases.

In 2022, key issues in this area included non-compliance with deadlines for the payment of compensation for delays, refusals to issue refunds and violations relating to the issue and reduction of passenger fines.

Review of conditions of carriage

As part of its mandate to scrutinise conditions of carriage and during the course of arbitration procedures initiated in response to arbitration requests, the apf addresses possible violations of the law on the companies' part. In several procedures initiated by the Schienen-Control Kommission, certain sections of conditions of carriage were ultimately declared invalid, while other procedures impelled the companies in question to amend their conditions of carriage.

Further information is provided in the section on "Court rulings and implementation of passenger rights in the rail transport sector" is available in German in the full report, beginning on page 100.

Passenger rights audits

During 2022, the apf performed an audit on the Westbahn route in the rail transport sector. They audited WESTbahn GmbH and the major railway stations along the Westbahn route between Salzburg and Vienna.

Afterwards, the apf team discussed the results with the respective companies, recommended or stipulated measures for improvement, and monitored the implementation of these insofar as they were able.

First and foremost, the apf examined whether the fare conditions and conditions of carriage were lawful and whether information obligations were complied with, for example by displaying posters listing passenger rights and fares.

New Rail Passenger Rights Regulation

On 27 September 2017, the European Commission published its proposal for a revision/new version of the Rail Passenger Rights Regulation¹⁸. The new version of the Rail Passenger Rights Regulation¹⁹ came into force on the twentieth day following its publication in the Official Journal of the EU on 29 April 2021. Except for one provision, the new version of the Rail Passenger Rights Regulation will apply from 7 June 2023. The previous passenger rights regulations will remain valid until the new EU Regulation comes into force. Further information is provided in the section on "Court rulings and implementation of passenger rights in the rail transport sector" beginning on page 100 in the full report.

Schienen-Control Kommission procedures

In 2022, the Schienen-Control Kommission handled numerous passenger rights procedures relating to conditions of carriage for bicycles, the exclusion of appeals against fare recovery, fare conditions for the KlimaTicket and information about the cheapest fares on cross-border routes. More information about the procedures handled in 2022 is provided in the section on "Court rulings and implementation of passenger rights in the rail transport sector" beginning on page 100.

Air transport

Relevant rulings during 2022

¹⁸ COM(2017)548.

¹⁹ Regulation (EU) 2017/782 OJ L 2017/172, 1.

The revision of the Air Passenger Rights Regulation is still outstanding. In 2022, the European Court of Justice (ECJ) again had to deal with multiple issues relating to the interpretation of passenger rights legislation. Rulings relevant to the apf's activities include those that address the following questions: can a strike organised by a union of airline employees constitute an extraordinary circumstance? Can a general shortage of fuel supplies be seen as an "extraordinary circumstance"? Can bringing forward a flight time constitute a cancellation? Is it sufficient if passengers are notified of changes in flight data through booking platforms? Further information is provided in the section on "Court rulings and implementation of passenger rights in the air transport sector" beginning on page 100 in the full report.

Enforcement activities in the air transport sector

Notifications and party status in administrative procedures

As the designated National Enforcement Body for the Air Passenger Rights Regulation²⁰ and the PRM Air Passenger Rights Regulation²¹, the apf has in recent years submitted a number of notifications to the competent authorities. In 2022, its enforcement activities largely focused on administrative penalty proceedings. The apf continued to file notifications due to violations of the regulations mentioned or breaches of the duty to participate in arbitration procedures set out in the LFG. Section 169 LFG specifies administrative penalties of up to 22,000 Euro for violations of these regulations and failure to participate in the apf's arbitration procedures.

Since the amendment to the LFG and the new regulations in section 139a LFG ("Alternative Dispute Resolution"), the apf now has the status of a party to administrative penalty proceedings. The apf is thus authorised to view all case files, request all the relevant information and appeal to the Federal Administrative Court and Supreme Administrative Court.

Enforcement in cases involving systematic violations

The apf's enforcement activities also included general requests to airlines in cases where systematic violations of the Air Passenger Rights Regulation were suspected or identified. In cases of established or suspected violations, the apf held discussions with the airlines concerned and sent them written requests to cease and desist. Examples of systematic violations in 2022 included shortages of flight dispatch personnel, unwillingness to pay on the part of individual airlines once agreements had been reached during arbitration procedures, and non-compliance with information obligations during arbitration procedures.

Audits

In 2022, the apf again audited the website of Austrian Airlines (www.austrian.com) to determine whether the changes recommended in the 2021 audit regarding the obligations set out in the Air Passenger Rights Regulation and the PRM Air Passenger Rights Regulation had been implemented. Audits also commenced at all six of Austria's international airports to determine whether the quality standards set out in the PRM Air Passenger Rights Regulation are being adhered to.

Cooperation between consumer authorities

²⁰ Regulation (EC) 261/2004 OJ L 2004/46, 1.

²¹ Regulation (EC) 1107/2006 OJ L 2006/204, 1.

With the amendment to the Consumer Authorities Cooperation Act (VBKG)²², which came into force on 26 March 2021, the apf, as a department of Schienen-Control GmbH, was again named as a competent authority as per the new Consumer Protection Cooperation Regulation.

In 2022, the apf again took part in a coordinated action for cooperation in consumer protection within the framework of the CPC network²³. The coordinated action examined practices implemented by European airlines to ensure that air passenger rights are upheld if flights are cancelled on pandemic-related grounds.

Other topics

As usual, the annual report provides an additional service by engaging with the following topics.

- The progress of the arbitration procedure and the most important information.
- A reference to the current guideline for arbitration procedures with the apf's legal framework.
- A list of the legal provisions relevant to the apf.

²² Consumer Authorities Cooperation Act – VBKG, BGBl I 2006/148, version published in BGBl I 2021/57.

²³ CPC – Consumer Protection Cooperation, European network of enforcement authorities.