

Overview of the year 2021

Pursuant to section 8 par. 2 Federal Passenger Agency Act¹ and section 9 AStG², the Agency for Passenger Rights (apf) is obliged to compile an annual report on its activities and results. The material content of the 2021 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.

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.

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.

apf organisation

The apf is a department of Schienen-Control and has no separate legal identity. In 2021, applicants' concerns (questions, arbitration requests, procedures) were handled directly by the director of the apf and up to eleven 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 the Federation. 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 monies 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 in general 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 must 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 stands up for the rights of persons with disabilities or reduced mobility.

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

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

Body responsible for cooperating with consumer protection authorities

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 rail transport and the PRM Air Passenger Rights Regulation governing air transport¹¹, and has done so since 17 January 2020.¹² The amendment to the Consumer Authorities Cooperation Act¹³ 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 infringements).

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 the company does not participate in the arbitration procedure.

The amendment to the Aviation Act (LFG)¹⁴ 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.

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 passenger¹⁵. This regulation is enforced in cases where no agreement can be reached with the railway undertaking. The Schienen-Control Kommission does not

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.

¹² Regulation (EU) 2017/2394, OJ L 2017/345, 1.

¹³ Consumer Authorities Cooperation Act – VBKG, BGBl I 2006/148, version published in BGBl I 2021/57.

¹⁴ Aviation Act – LFG, BGBl 1957/253 (current version).

¹⁵ Pursuant to section 78a par. 5 EISbG.

possess this 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. KSchG¹⁶, EisbBFG¹⁷ and the Rail Passenger Rights Regulation¹⁸).

apf annual assessment

The COVID-19 pandemic continued to have a significant impact on the arbitration work performed by the Agency for Passenger Rights in 2021. Since passenger travel was still restricted and passengers appear to have exercised more care when making bookings, the number of arbitration requests and enquiries fell by half. The experts in all four transport sectors remained committed to finding 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 2021, the apf received a total of 2,896 written arbitration requests and enquiries (2020: 5,977), 2,224 of which related to air transport (2020: 4,966), 626 to rail transport (2020: 903), 38 to bus transport (2020: 78) and eight to waterborne transport (2020: 30). This means that the sum total has halved. 1,189 of all arbitration requests and enquiries, i.e. a good 40 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, 1,944 arbitration procedures were initiated in 2021 (2020: 4,019), i.e. around half the number initiated the previous year. Most of these (1,423) related to air transport (2020: 3,296), followed by rail transport with 505 (2020: 694) and bus transport with 15 (2020: 29) procedures. One procedure was initiated in the waterborne transport sector (2020: no procedures).

Compensation, reimbursements and penalty rebates

In 2021, the apf obtained a sum of 1,142,939 Euro in monetary compensation, reimbursements and penalty rebates for applicants (2020: 1,738,599 Euro). Considering that the number of procedures fell by half between 2020 and 2021, this result is very satisfactory. Almost two-thirds of the sum obtained (746,995 Euro) came from pandemic-related procedures.

¹⁶ Consumer Protection Act – KSchG, BGBl 1979/140 (current version).

¹⁷ Railway Carriage and Passenger Rights Act – EisbBFG BGBl I 2013/40 (current version).

¹⁸ Regulation (EC) 1371/2007 OJ L 2007/315, 14.

At 1,087,232 Euro, the lion's share of the total amount fell to the air transport sector (2020: 1,647,594 Euro), while 54,429 Euro were obtained in the rail transport sector (2020: 88,378 Euro) and 1,278 Euro in the bus transport sector (2020: 2,628 Euro).

Reaction time and duration of procedures

The average time taken for initial feedback to be sent to the applicant was around one-and-a-half days (2020: four days). This means that the apf has succeeded in improving its reaction time still further compared to last year.

The average duration of the apf's arbitration procedures was around 87 days (2020: 101 days).

Rail transport

Arbitration requests and enquiries

In 2021, the apf received 626 arbitration requests relating to rail transport (2020: 903), around 30 percent fewer than the previous year. 78 of the arbitration requests received in the rail transport sector pertained to travel problems caused by COVID-19 (2020: 344).

66 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 (2020: 81 percent).

In 2021, one third (33 percent) of all rail transport applicants resided in Vienna (2020: 22 percent). 16 percent of applicants came from Lower Austria (2020: 20 percent), ten percent from Upper Austria (2020: ten percent) and six percent from Styria. 13 percent of applicants came from the other federal provinces (2020: 19 percent), while another 20 percent of the arbitration requests came from passengers residing abroad (2020: 19 percent); more than half of these were passengers from Germany.

Arbitration procedures

In all, 509 arbitration procedures were concluded in 2021 (2020: 695). 65 of these pertained to pandemic-related issues (2020: 227).

In 2021, 94 percent of all procedures in the rail transport sector reached a positive outcome to the satisfaction of both parties (2020: 95 percent). Despite intensive effort, no mutual agreement could be reached in five percent of the procedures (2020: four percent); one percent of procedures were substantively suspended as in 2020.

At the end of May 2015, transport companies participating in arbitration procedures were made liable for costs. In 2021, the railway undertakings involved were obliged to pay costs in 393 of the procedures concluded in the rail transport sector (2020: 545).

Company obligation to cooperate and complaints filed with district administrative authorities

In 2021, none of the companies in the rail transport sector refused to participate in an arbitration procedure (2020: one company).

Grounds for procedures and distribution among companies

At 48 percent, the most frequent grounds for the initiation of arbitration procedures in 2021 were passenger fines and fees (2020: 34 percent).

Procedures relating to ticket refunds took second place at 32.5 percent (2020: 43.4 percent).

Procedures relating to compensation (for other expenses), procedures relating to other matters and procedures relating to compensation for delays all came in third at six to seven percent.

In 2021, changes were made to the documentation of the reasons for the procedures, which is why the categories used in this report are new or different.

93.9 percent of the procedures involved ÖBB-Personenverkehr (2020: 97.1 percent), while 3.1 percent involved Wiener Lokalbahnen (Badner Bahn). The remainder involved integrated ticket organisations and WESTbahn at 1.2 percent each (2020: 0.9 percent and 0.4 percent), One Mobility at 0.4 percent and Raaberbahn at 0.2 percent.

Compensation, reimbursements and penalty rebates

The sum obtained by the apf from all the rail transport procedures concluded in 2021 amounted to 54,429 Euro (2020: 88,378 Euro). 9,233 Euro of these compensation payments were associated with COVID-19 cases.

Duration of procedures

In 2021, the apf was able to resolve 77 percent of rail transport procedures in less than two weeks (2020: 81 percent). Another 18 percent of procedures were concluded in less than one month (2020: 13 percent) and four percent in less than two months (2020: five percent). Only one percent of arbitration procedures took longer than two months (as in 2020); these mostly involved complex cases.

In 2021, the average duration of all (simple to highly complex) arbitration procedures in the rail transport sector was around ten days (as in 2020).

Bus transport

Arbitration requests and enquiries

In 2021, the apf received a total of 38 arbitration requests relating to bus transport (2020: 78). Two of these related to COVID-19 (2020: 22).

91 percent of those rejected were repudiated on the grounds of non-competence (2020: 79 percent), and nine percent because the applicant had not contacted the bus company first (2020: 21 percent).

In 2021, 37 percent of the applicants who filed bus transport requests lived in Vienna (2020: 27 percent), followed by 16 percent whose primary residences were located in Upper Austria (2020: four percent). 18 percent of applicants came from the other federal provinces (2020: twelve percent). 18 percent of the applicants in 2021 did not live in Austria (2020: 14 percent). Eleven percent provided no information about their primary residence last year (2020: 24 percent).

Arbitration procedures

In all, 16 arbitration procedures were concluded in 2021 (2020: 29). Two procedures involved COVID-19 (2020: eight).

As in 2020, 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 15 of the procedures concluded in 2021 (2020: 23).

Company obligation to cooperate and complaints filed with district administrative authorities

In 2021, none of the companies in the bus transport sector refused to participate in an arbitration procedure (2020: one company).

Grounds for procedures and distribution among companies

At 88 percent, cancellations, delayed departures and overbooking were the main reasons why arbitration procedures were initiated in the bus transport sector in 2021 (2020: 77 percent cancellations).

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

In 2021, changes were made to the documentation of the reasons for the procedures, which is why the categories used in this report are new or different.

82 percent of the procedures concluded in 2021 involved Flixbus (2020: 93 percent). The companies Vienna International Airport, ÖBB-Postbus and Salzburg AG each accounted for six percent of the procedures concluded by the apf.

Compensation and reimbursements

In 2021, the apf obtained 1,278 Euro in monetary compensation and reimbursements for bus passengers (2020: 2,628 Euro). 251 Euro of the total sum came from COVID-19 procedures (2020: 1,106 Euro).

Duration of procedures

One third (33 percent) of the procedures initiated in 2021 were concluded within two weeks (2020: 48 percent). Around one quarter each (27 percent) were concluded in less than one month (2020: just under 43

percent) or less than two months (2020: nine percent). 13 percent required more than two months due to lengthy enforcement procedures (2020: zero percent).

The average duration of the bus transport procedures concluded in 2021 was around 28 days, i.e. marginally less than one month (2020: 15 days).

Waterborne transport

Arbitration requests, enquiries and arbitration procedures

In 2021, the apf received a total of eight arbitration requests relating to waterborne transport (2020: 30). Two of the requests and enquiries received by the apf related to the COVID-19 pandemic (2020: 21). One procedure was initiated (2020: no procedures). In 2021, as in previous years, all the requests rejected were repudiated on the grounds of non-competence

Air transport

Arbitration requests and enquiries

In all, 2,224 arbitration requests and enquiries relating to air transport were processed in 2021 (2020: 4,966).

59 percent of those rejected in 2021 were repudiated on the grounds of non-competence (2020: 42 percent) and 21 percent because the passenger had not yet lodged a claim with the airline concerned (2020: 39 percent). 20 percent of cases had to be repudiated on other grounds such as failure to formally submit a request or the airline's insolvency (2020: 19 percent).

At 72 percent, most of the arbitration requests submitted in 2021 were received from persons residing in Austria (2020: 71 percent). 16 percent of requests came from other EU countries, Iceland, Norway, and Switzerland (2020: 13 percent), while three percent came from non-member countries (2020: five percent). Nine percent of applicants provided no information regarding their country of residence (2020: eleven percent).

Arbitration procedures

A total of 2,176 procedures were concluded in the air transport sector in 2021 (2020: 3,869). 1,231 of these procedures related to issues caused by COVID-19 (2020: 1,632).

The companies and passengers concerned were able to reach a mutual agreement in 73 percent of cases, thus bringing the procedures to a positive conclusion (2020: 71 percent). As in 2020, no mutual agreement could be reached in four percent of the procedures despite intensive efforts. The remaining procedures were substantively suspended. 13 percent were suspended due to extraordinary circumstances such as adverse weather conditions (2020: 20 percent) and ten percent on other grounds such as delays of less than three hours (2020: five percent).

The airlines were held liable for costs in 1,769 of the procedures concluded in 2021 (2020: 3,162).

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 a violation 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.

104 procedures of this kind were initiated during the business year 2021 (2020: 75). In 37 cases, the airline had also failed to participate in the apf's arbitration procedure (2020: 33).

Grounds for procedures and distribution among companies

In 2021, around 77 percent of the procedures were initiated due to cancellations (2020: 70 percent). As in the previous year, airlines cancelled a large number of flights due to the severe long-term travel restrictions imposed as a result of the COVID-19 pandemic. 17 percent of the arbitration procedures related to delayed flights (2020: 27 percent) and just under five percent to denied boarding (2020: three percent).

21 percent of the procedures concluded in 2021 were initiated against Austrian Airlines, the biggest Austrian airline (2020: 26 percent). Around 16 percent were initiated against Laudamotion (2020: 13 percent) and approximately ten percent against Wizz Air (2020: four percent). Ryanair and TAP were responsible for eight percent each (2020: seven percent TAP), while three percent each fell to Eurowings (2020: six percent), Iberia (2020: three percent), Lufthansa (2020: six percent) and Vueling (2020: three percent). Aeroflot and Turkish Airlines were each involved in one percent of procedures. The remainder (23 percent in all) related to other airlines, each of which accounted for a small percentage.

Compensation and reimbursements

In 2021, the apf obtained a sum of 1,087,232 Euro in monetary compensation and reimbursements for applicants in the air transport sector (2020: 1,647,594 Euro). 737,511 Euro of these compensation payments involved COVID-19 cases (2020: 932,054 Euro).

Duration of procedures

In 2021, apf was again able to conclude one quarter (25 percent) of arbitration procedures within two weeks (2020: 25 percent). Solutions that were mutually acceptable to both passenger and company were found within one month in 17 percent of cases (2020: 17 percent) and within two months in 15 percent of cases (2020: twelve percent). 43 percent of the procedures in 2021 took more than two months to resolve (2020: 46 percent).

In 2021, the average duration of arbitration procedures in the air transport sector was around 106 days, i.e. around 15 weeks (2020: 118 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. Due to the low number of cases during the period under review, it is not possible to draw any general conclusions about any structural problems that may exist in the waterborne transport sector.

In the rail transport sector, the apf's activities focused largely on issues such as online tickets, fines / fare recovery, reimbursements, the COVID-19 pandemic, strikes and information about disruptions.

Important topics addressed during arbitration procedures in the air transport sector included the impact of the COVID-19 pandemic, cancellations, online brokers and denied boarding due to COVID-19.

International cooperation

The passenger rights regulations applicable to all EU member states require regular intensive dialogue between the national enforcement bodies (NEB) in order to guarantee a uniform cross-border approach. Along with regular meetings (in most cases at the European Commission in Brussels), other measures include participation in working groups, ongoing discussions at informal meetings, events jointly organised with stakeholders, and written communications relating to general questions on dealing with specific problems. In 2021, most of the meetings took place virtually due to the ongoing COVID-19 pandemic.

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.

Issues in 2021 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.

Passenger rights audits

During 2021, the apf performed an audit in the rail transport sector in the federal provinces of Tirol and Vorarlberg. apf staff visited and audited the integrated ticket organisations Verkehrsverbund Tirol (VVT) and Verkehrsverbund Vorarlberg (VVV and VMobil) and the railway undertaking Montafonerbahn (MBS). As usual, the staff inspected the trains, railway stations and stops operated by ÖBB-Personenverkehr on both outward and return journeys.

The apf experts discussed the results with the respective companies, recommended or stipulated measures for improvement, and monitored the implementation of these wherever possible.

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 Regulation¹⁹. The new version of the Rail Passenger Rights Regulation²⁰ 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 enters into force.

Schienen-Control Kommission procedures

During 2021, the Schienen-Control Kommission again handled several regulatory procedures in the area of passenger rights. These related to price information in the online ticket shop, conditions of carriage for bicycles, and the exclusion of appeals against fare recovery.

¹⁹ COM(2017)548.

²⁰ Regulation (EU) 2017/782 OJ L 2017/172, 1.

Air transport

Relevant rulings during 2021

As the Air Passenger Rights Regulation has still not been revised, the European Court of Justice (ECJ) again had to deal with several issues relating to the interpretation of passenger rights legislation in 2021. 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? If an airline's workforce strikes in solidarity with the workforce of the parent company, does this constitute an extraordinary circumstance? Does the diversion of an aircraft to another airport that serves the same location, city or region constitute a cancellation?

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 Regulation²¹ and the PRM Air Passenger Rights Regulation²², the apf submitted an increased number of notifications to the competent authorities in 2020 and 2021. This was due to a sharp rise in the number of applications and enquiries since 2018. The apf filed 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 relevant information and appeal to the Federal Administrative Court and Supreme Administrative Court.

As a result of its newly granted party status, the apf was able to state its position and appeal a number of procedures in 2021. The apf has for example taken action to clarify the competence of the authorities and appeal administrative penalties for violations which were – in the apf's opinion – too low.

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.

Audits

During 2021, the apf audited the website of Austrian Airlines (www.austrian.com) in order to determine whether the obligations set out in the Air Passenger Rights Regulation and the PRM Air Passenger Rights Regulation were being complied with²³. The apf also administered an examination on the Air Passenger Rights Regulation. Moreover, the apf's air transport experts scrutinised the website to determine how far the

²¹ Regulation (EC) 261/2004 OJ L 2004/46, 1.

²² Regulation (EC) 1107/2006 OJ L 2006/204, 1.

²³ Pursuant to Art. 16 Regulation (EC) 261/2004 and Art. 14 Regulation (EC) 1107/2006.

information obligation and quality standards set out in the PRM Air Passenger Rights Regulation are adhered to.

The enforcement body requested the airline to make corresponding improvements in areas where deficiencies were found.

Cooperation between consumer authorities

With the amendment to the Consumer Authorities Cooperation Act (VBKG)²⁴, 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 2021, the apf took part in a coordinated action for cooperation in consumer protection within the framework of the CPC network²⁵. This action was carried out by the national consumer protection authorities and supported by the European Commission. It addressed the issue of how airlines that operate in the EU deal with flight cancellations caused by the pandemic. In order to ensure that consumer and air passenger rights are properly upheld, the participants analysed problematic cancellation practices and developed specific recommendations for action to be taken by airlines operating in EU territory. Following talks with the European Commission and the national consumer protection authorities, 16 major airlines made a commitment to improve the information provided to passengers whose flights are cancelled and to refund their tickets within a reasonable time. The European Commission published the following press release on this topic: https://ec.europa.eu/commission/presscorner/detail/en/IP_21_4944.

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.

Note: The topic of punctuality has been removed from the report and is now addressed separately on the website.

²⁴ Consumer Authorities Cooperation Act – VBKG, BGBl I 2006/148, version published in BGBl I 2021/57.

²⁵ CPC – Consumer Protection Cooperation, European network of enforcement authorities.