



## **Issues concerning the application of Regulations (EC) 261/2004 and 1107/2006 in Austria**

Mag.a Maria-Theresia Röhler, LL.M., MBA

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## About the Agency for Passenger Rights

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- **Central Service-Agency for Passenger-Rights:** A service institution overseeing passenger rights in the realms of rail, bus, ship, and air travel
- **Legal mandate** since 2015 (PFAG)
- Founded as a service of the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK) and as a department of Schienen-Control (Railway Regulator)
- **Distinguished Role Since 2016:** One of Eight notified bodies for alternative dispute resolution in Austria (AStG)
- **Independence:** Maintaining independence from concerned stakeholders (Airlines, Railways, etc.) in terms of structure, financing and decision making
- apf advocates for the **reimbursement of all expenses** caused by delays, cancellations, downgrades, etc – beyond mere compensations
- The service provided by apf is **entirely free of charge** for travellers, regardless of the outcome of the claim
- Relevant parties have an **obligation by law to participate** in the proceedings of apf



## Goals and Financing of apf

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- apf's primary goal is to assist passengers in their claims and foster agreements with concerned parties without legal proceedings at court
- Impartial mediation between corporations and their passengers
- Airlines: Enforcement of Regulations (EC) 261/2004 and 1107/2006
- Cooperation with NEBs and consumer-protection agencies
- Enforcement of Passenger Rights – notification to competent legal authority if necessary



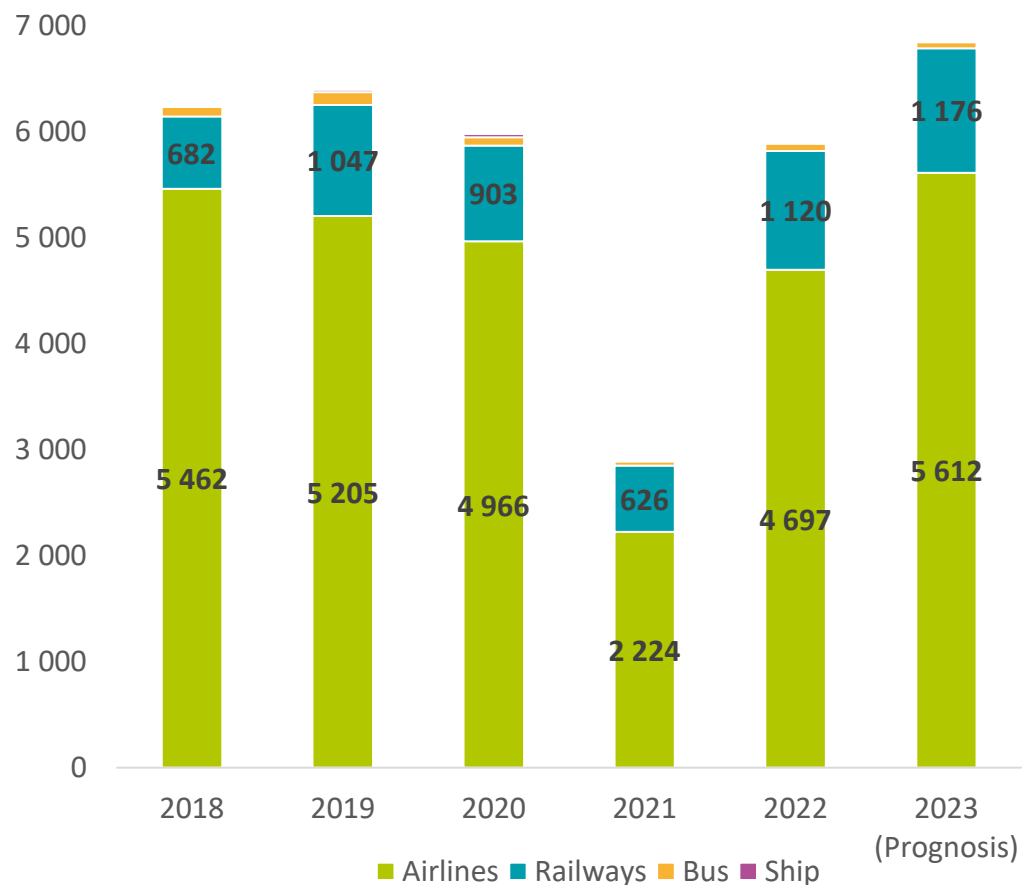
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- The agency's financing is sourced from two key streams: charges levied on businesses for proceedings initiated against them and allocations from the federal budget
- Complaint Procedure Charges: According to PFAG – apf charges 78 Euro per procedure to the concerned business
- 40 per cent of the operational costs of apf should be covered with these charges, the rest is provided via the federal Budget



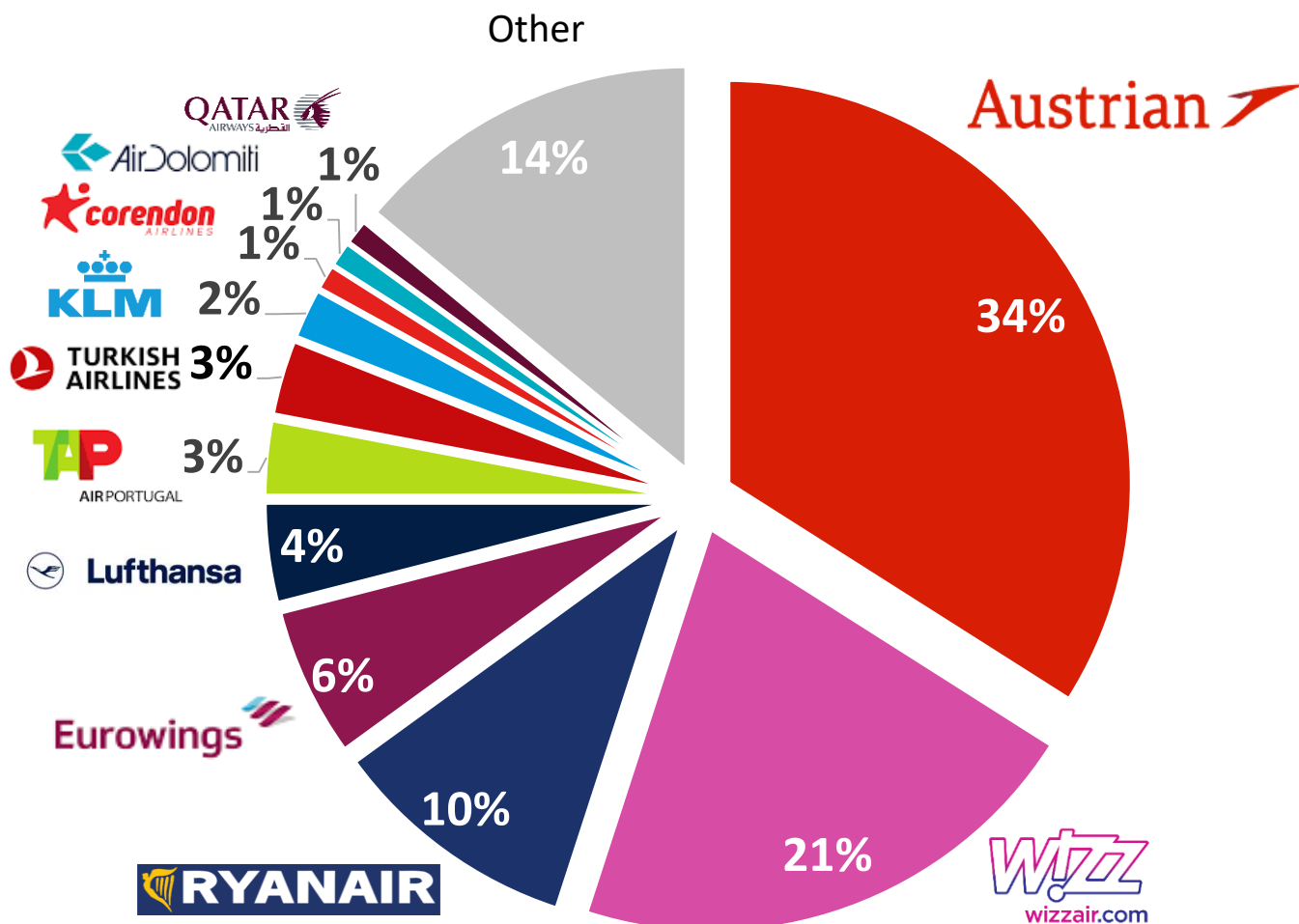
## Requests by travel-mode



- **Air-Travel dominates:** the majority of requests concern Air-Travel
- 16 requests per day on average (2022, all travel modes)
- apf anticipates a surge in requests in 2023
- 1,49 Million Euro in refunds/compensation 2022 (556 Euro per procedure on average)
- High Success-Rate: Only 3 Per Cent of proceedings end without agreement.
- Overall very good cooperation with airlines



# Proceedings by Airline 2022



- Austrian Airlines – Biggest Carrier in Austria with most proceedings
- Little or no difference between budget- and legacy-carriers



## Reasons for Proceedings 2022

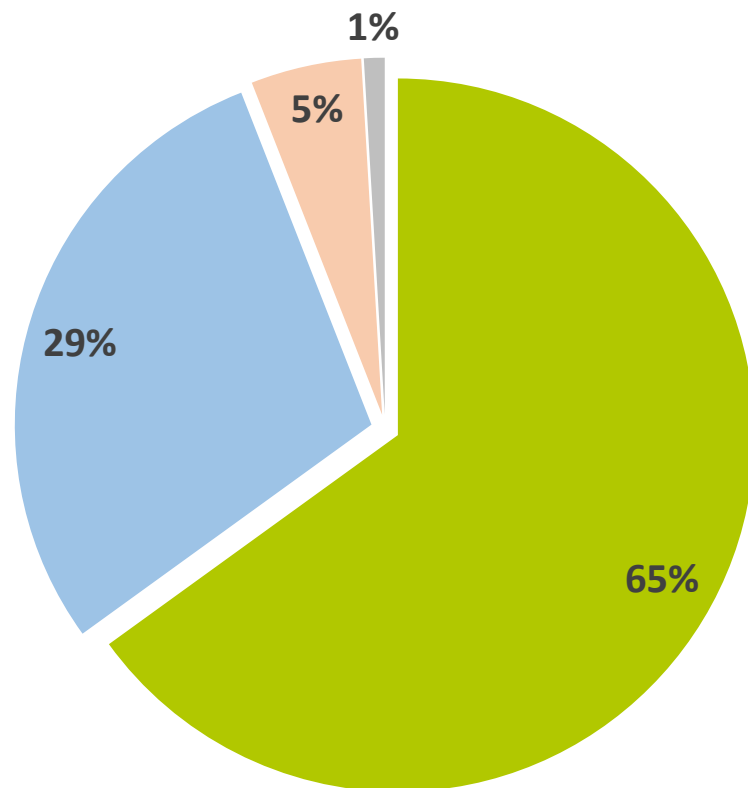


Abb.: Reasons for proceedings 2022  
Base: year 2022. Source: apf.  
n= 2.673

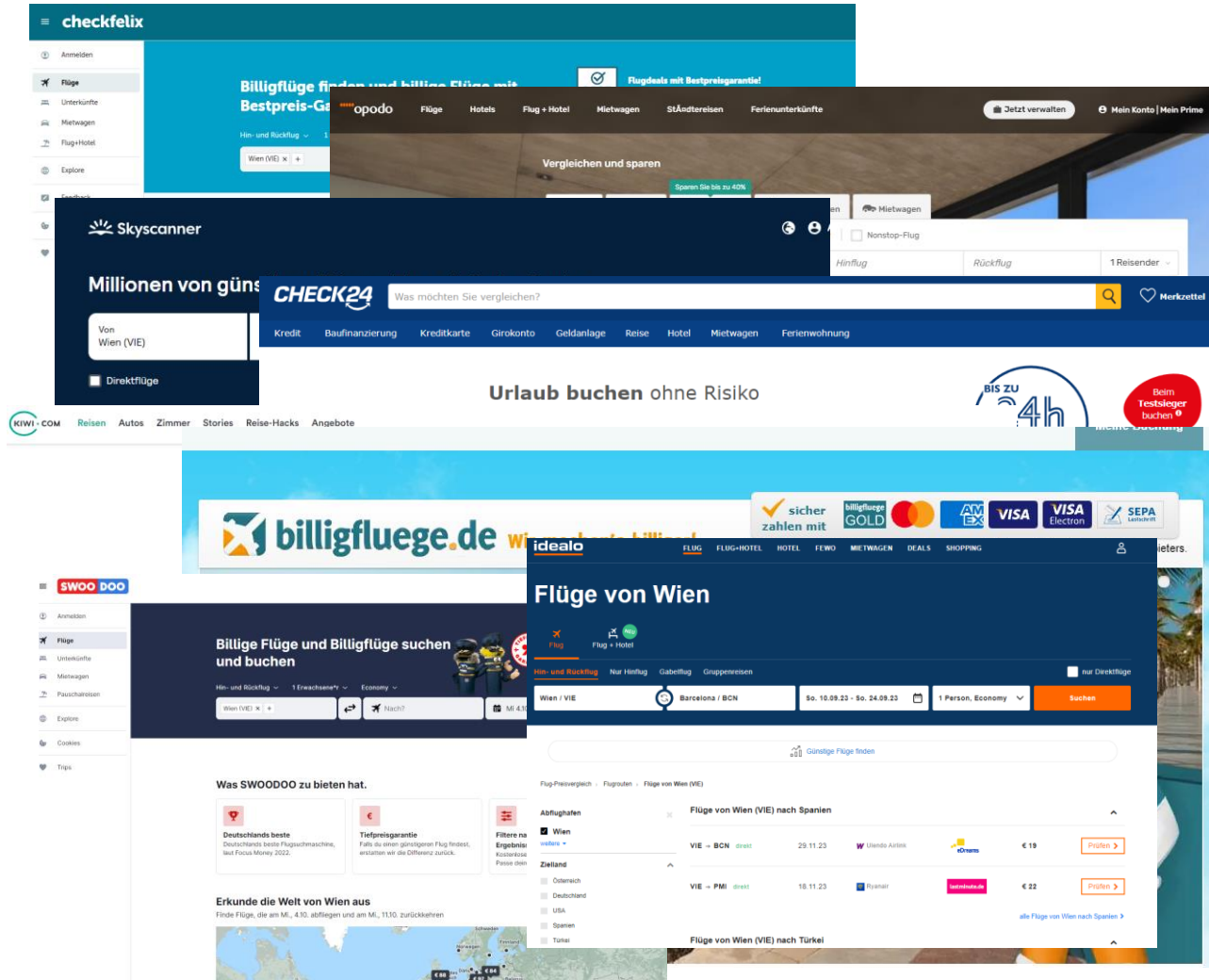
■ Cancellation ■ Delay ■ Denied Boarding ■ Other

- Cancellations as main reason for contacting the apf in 2022
- Delays were close to 30 per cent of all closed proceedings 2022
- Denied boarding and Downgrades at 5 per cent of the proceedings
- Passengers must seek an agreement with the airline before the apf can process a claim
- **Frequent reasons for contacting apf include:**

Insufficient claim-offer by the Airline  
Airline claims extraordinary circumstance  
No reply from Airline within six weeks



# Online Booking Platforms and Passenger Rights



- Bookings through online travel intermediaries are problematic in a legal sense
- In the case of connecting flights: often no combined ticket to final destination (lack of transparency)
- Short layover times are problematic (check-in and boarding processes)
- Limited passenger rights for connecting flights
- Accessibility and availability of support
- Company-generated email addresses are an issue for airlines (information obligations)





## Other current Issues

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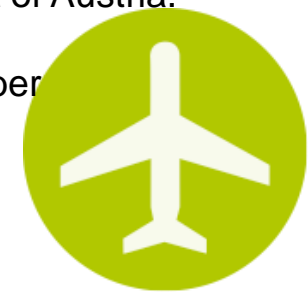
- Alternative Transportation – issues with the offer of re-routing and rebooking to other airlines
- Substantial efforts are necessary for examining "extraordinary circumstances" (evidence from airlines, airline-specific documents)
- extraordinary circumstances include:
  - Strikes in Europa (France, Italy, Germany)
  - Funchal – weather conditions
  - Cable-Damage at Frankfurt Airport
- Right to care – insufficient or not provided (hotel, transfer, meals & refreshment)
- Minimum Connecting Time („MCT“) VIE Airport
- PRM Reg. 1107/2006: The apf received 5 complaints in 2022 but only two cases resulted in official proceedings
  - 2022 VIE Airport provided Assistance to 170.000 PRM
- Gaps in jurisdiction regarding multimodal transportation



## Enforcement Proceedings

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- In its role as an enforcement agency, the apf:
  - Informs passengers in the rail, bus, ship, and aviation sectors about their rights
  - Ensures compliance with the passenger rights established in EU regulations
  - Takes necessary actions, if required, to compel the businesses to fulfill their obligations
  - Conducts monitoring activities (Audits)
    - Audit VIE Airport Reg. 1107/2006
    - Audit AUA counter at VIE Airport Reg. 261/2004
    - Questionnaires regarding Reg. 1107/2006 from remaining Airports and Airlines in Austria
- If mediation doesn't resolve a passenger rights violation, apf reports it to the competent administration-penal authority
- This also applies when a company **refuses to participate or cooperate in proceedings**. (e. g. by not responding)
- Fine of up to EUR 22.000 per passenger - personal liability of directors / CEO
- In aviation cases, apf has **party status in administrative penalty proceedings**
- This grants apf the authority to access all procedural records, request information and file complaints and appeals with the Federal Administrative Court of Austria.
- 2023: 80+ enforcement proceedings by October



Ihr Recht. Unser Auftrag!



**Thank you for your attention**

Kontakt:

Mag. Maria-Theresia Röhler, LL.M.

+43 1 5050 707

[office@apf.gv.at](mailto:office@apf.gv.at)

Kontakt:

Schlichtungsstelle Flug

+43 1 5050 707 740

[www.passagier.at](http://www.passagier.at)