

**Decree-Law 78/2014  
of 14 May**

Pursuant to article 4, point 1 of Law 67/2013 of 28 August, which approves the framework law of independent administrative entities to regulate economic activity in the public, private and cooperative sectors, hereinafter called regulator entity framework law, the Instituto da Mobilidade e dos Transportes, I.P. (IMT, I.P.), the organisation of which was approved by Decree-Law 236/2012 of 31 October, has to be restructured, to be succeeded by the Autoridade da Mobilidade e dos Transportes (AMT), in its powers in matters of regulation, promotion and defence of competition in the maritime, port and mobility sectors and under the scope of land, waterway and maritime transport.

It was therefore necessary to separate the regulatory functions of encouraging and defending competition, previously undertaken by the IMT, I.P., that not only include the powers and responsibilities in these areas in matters of land transport in the extinct Instituto da Mobilidade e dos Transportes Terrestres, I.P., but also the powers and regulatory responsibilities in matters of land transport of the extinct Instituto de Infraestruturas Rodoviárias, I.P., along with the powers and responsibilities of the Instituto Portuário e dos Transportes Marítimos, I.P., regarding the supervision and regulation of economic activity in commercial ports and maritime transport.

Therefore, the IMT, I.P. was restructured by Decree-Law 77/2014, to become the state indirect administration body responsible for technical regulation, licensing, coordination, supervision and planning in the land and waterway transports and the respective infrastructures and the economic aspect of the commercial port sector and maritime transport, as well as the management of concession agreements where the state is the awarding entity in those sectors or in other sectors, namely regarding air transport and airport infrastructures, so as to meet the mobility needs of people and goods.

Following the restructuring of the IMT, I.P., it is necessary to ensure the succession of the regulatory functions of the promotion and defence of competition to the AMT, which is constituted as an independent administrative body, pursuant to the framework law of regulatory bodies.

The AMT is responsible for defining and implementing the general framework of regulation and supervision policies to apply to the land, waterway and maritime infrastructure and transport sectors, in a context of scarce resources and of optimising quality and efficiency, aimed at transgenerational citizenship and sustained development.

Furthermore, with the extinction of the electronic identification regime for vehicles (SIEV — Sistema de Identificação Eletrónica de Veículos, S.A.), pursuant to Decree-Law 76/2014, the responsibilities of this private limited company with purely public capital, regarding the regulation of the electronic identification regime for vehicles, namely the definition and approval of the respective regulations and its supervision, are integrated into the AMT.

The bodies of the Autonomous Regions' government were heard.

There was a hearing of the Conselho Nacional do Consumo.

So:

Pursuant to the provisions in articles 3 and 4 of Law 67/2013 of 28 August, and under article 198 point 1 paragraph a) of the Constitution, the government hereby decrees the following:

Article 1

**Purpose**

This law approves the articles of association of the Autoridade da Mobilidade e dos Transportes (AMT), the entity that succeeds the Instituto da Mobilidade e dos Transportes, I.P., (IMT) in its powers in matters of regulation, promotion and defence of competition in the land, waterway and maritime transports, and makes the first alteration to Decree-Law 11/2014 of 22 January, which approves the Fundamental Law of the Ministry of Economy.

Article 2

**AMT articles of association**

The AMT articles of association are approved in the attachment to this law and are an integral part thereof.

Article 3

**Succession**

The AMT succeeds the IMT, I.P., which is restructured pursuant to Decree-Law 77/2014, in its powers in matters of regulation, promotion and defence of competition in the land, waterway and maritime transports.

#### Article 4

##### **Personnel selection**

The general and abstract criteria for selecting the personnel needed to implement the powers of the AMT are having worked at the IMT, I.P., under the scope of the powers that were transferred pursuant to the previous article.

#### Article 5

##### **Transition of workers and labour systems**

1 — The workers employed by IMT, I.P., at the date this law comes into force and who then start working for the AMT, keep the legal status of their jobs, notwithstanding any alterations that may occur under the scope of the regime that applies to them.

2 — The AMT workers who are employed as state sector employees should decide, up until the end of the installation period mentioned in point 1 of the following article, whether to keep this labour relationship or to sign an individual work agreement that is in force for the other workers.

3 — The provision in the previous point does not apply to the state sector employees who work for the IMT, I.P., under mobility, assignment of public interest, service commission or any other kind of limited duration job who start to work for the AMT under the scope of the same legal regime.

4 — The situations mentioned in the previous point, that exist on the date this law comes into force, maintain unchanged until the respective termination or the termination that is the result of any prorogations pursuant to applicable legislation.

5 — In the case of opting, pursuant to point 2, to maintain the legal relationship of a state employee, the regime that is in force for the other AMT employees applies to the development and discipline of that agreement.

6 — If they opt for an individual work agreement referred to in point 2, a written agreement is drawn up, which, for all legal purposes, entails the termination of the state sector work agreement and the worker enters into a new labour agreement with the AMT.

#### Article 6

##### **Installation period**

1 — The AMT shall be considered to be fit to pursue its purpose within 120 days as of the date this law comes into force.

2 — The members of the board of directors shall, within 90 days of this law coming into force, conduct any acts needed for the AMT to fully assume its functions, namely to approve the internal regulations and hire the employees who are essential for it to begin its activities.

3 — The AMT operating costs, along with those of the premises, equipment and other resources that are needed for the ATM's activity are borne by the IMT, I.P., out of its budget, until the AMT is fully operational.

4 — In 2014, the revenues from regulation, promotion and defence of competition owed to the AMT, as well as those arising from it exercising its powers foreseen in the IMT, I.P. budget that it receives, it shall deliver to the latter, after deducting any costs.

5 — The settlement and collection of the AMT revenues referred to in the previous point are assured by the IMT, I.P. until the AMT is fully operational.

#### Article 7

##### **Alteration to Decree-Law 11/2014 of 22 January**

Articles 6 and 19 of Decree-Law 11/2014 of 22 January are given the following wording:

«Article 6

[●●●]

[...]:

a) [...];

b) [...];

c) Autoridade da Mobilidade e dos Transportes (AMT).

#### Article 19

[●●●]

1 — The Instituto da Mobilidade e dos Transportes, I.P. shortened to IMT, I.P., is responsible for technical regulation, licensing, coordination, supervision and planning in the land and waterway transports and the respective infrastructures and the economic aspect of the commercial port sector and maritime transport, as well as the management of concession agreements where the state is

the awarding entity in those sectors or in other sectors, namely regarding air transport and airport infrastructures, so as to meet the mobility needs of people and goods.

2 — [...]:

a) [...]:

i) [...];

ii) [...];

iii) [...];

iv) To authorise, licence and supervise the land and supplementary transport activities, including the coordination of the licensing process and managing the platforms and other logistics facilities, pursuant to applicable legislation;

v) [...];

vi) To approve and certify vehicles and equipment used by the land transport systems, ensuring the required technical and safety standards, licensing the entities involved in the certification and inspection processes;

vii) To ensure the management of the domestic transport sector registries, namely of vehicles, rail infrastructures, inspection centres, drivers, driving schools, transport companies and related activities, passenger public transport services and transport professionals;

viii) [...];

ix) [...].

b) [...]:

i) [...];

ii) [...];

iii) To monitor the maritime transport services and port operation activities, authorising, licensing and supervising the sector's entities, in compliance with domestic and international standards that apply to the sector, notwithstanding the AMT responsibilities as the regulatory authority;

iv) To ensure compliance with domestic and international standards that apply to the sector, under the scope of its responsibilities and powers;

v) [*Previous sub-paragraph vi*];

vi) To regulate the activity of entities that operate in the maritime-port sector under the scope of its responsibilities, namely approving sector regulation administrative standards, in conjunction with the proper maritime area services.

vii) [*Revoked*].

c) [...]:

i) [...];

ii) To promote the definition of regulatory standards to apply to the roadway infrastructure sector in matters of quality and safety, after assessing their impact in comparison with the agreed standards in force, and to supervise compliance with the obligations arising from them for the sector operators;

iii) To participate in defining the roadway infrastructure regime and statute;

iv) To participate in the management of the roadway network, exercising the functions foreseen in laws and agreements, namely in the National Road Statute, National Roadway Plan and in the concession and sub-concession agreements covering the roadway infrastructure, notwithstanding the responsibilities of the AMT as the regulatory authority or the responsibilities of any other entities;

v) To exercise the powers and responsibilities, under the scope of the management and operation of the roadway network, attributed to the state licensor, by law or by agreement, unless they expressly foreseen the intervention of the members of the government who are responsible for the finance and transport areas, or of other public entities, notwithstanding the possibility of sub-delegation, conducting careful, effective management that ensures the safeguard of the public interests that are present;

vi) To exercise the management services of the electronic identification system of vehicle processes and standards, of authorisation of users of the electronic identification system of vehicles, of management of electronic devices and technology certification, of management of public traffic events, for the purpose of the collection of tolls and other roadway taxes, of management of information systems regarding its activity, of approving and supervising electronic device automatic identification systems (*road side equipment* or RSE), and the operation of its own RSE.

3 — [*Revoked*].

4 — [...].»

## Article 8

### **Amendment to Decree-Law 11/2014 of 22 January**

Article 23-B of Decree-Law 11/2014 of 22 January is amended with the following wording:

#### «Article 23-B

The Autoridade da Mobilidade e dos Transportes, hereinafter shortened to AMT, which reports to the Ministry of Economy, exercises its functions independently, with the powers to regulate and supervise the mobility sector and the land, waterway and railway transports and the respective infrastructures, and the economic activity of the commercial port and maritime transport sectors, pursuant to Law 67/2013 of 28 August, which approves the framework law of independent administrative entities that regulate the economic activity of the public, private and cooperative sectors and their respective statutes.»

## Article 9

### **Revocation order**

Article 19, point 2 paragraph *b)* sub-paragraph *vii)* , article 19, point 3 and article 32, point 1, paragraph *d)* of Decree-Law 11/2014, of 22 January are revoked.

## Article 10

### **Comes into force**

This law comes into force on the day after its publication.

## ATTACHMENT

(as referred to in article 2)

### **ARTICLES OF ASSOCIATION OF THE AUTORIDADE DA MOBILIDADE E DOS TRANSPORTES**

#### CHAPTER I

##### General Provisions

##### Article 1

#### **Nature, mission and scope**

1 — The Autoridade da Mobilidade e dos Transportes, hereinafter AMT, is a legal person of public law, it is an independent administrative entity with administrative, financial and managerial autonomy as well as its own assets.

2 —The AMT's mission is to regulate and supervise the mobility sector and the land, waterway and railway transports and respective infrastructures and the economic activity of the commercial port and maritime transport sectors, as services of general economic interest and activities based on networks through its regulation, supervision and sanctioning powers, with responsibilities in matters of the protection of consumers' rights and interests and the promotion and defence of the public, private, cooperative and social sectors, pursuant to these articles of association and other legal instruments.

3 — The AMT's scope of action covers all the country.

4 — The provision in the previous point is without prejudice to the responsibilities and powers of the bodies of the governments of the Autonomous Regions of the Azores and Madeira, established in the respective Political-Administrative Statutes.

## Article 2

### **Legal framework**

The AMT is governed by international and European Union law, by Law 67/2013 of 28 August, which approves the framework law of regulatory entities that regulate the economic activity of the private, public and cooperative sectors, hereinafter called the framework law of regulatory entities, by the legal framework of competition, by these articles of association, by sector legislation and legal provisions that apply and the respective internal regulations.

## Article 3

### **Head office**

The AMT's head office is in Lisbon and it can open branches or services in any part of the country,

whenever the board of directors considers it adequate in the pursuit of its responsibilities.

#### Article 4

##### **Legal capacity**

1 — The AMT's legal capacity covers the practice of all acts and enjoys all the rights and is subject to all obligations needed to pursue its responsibilities.

2 — The AMT can be party to active and passive legal proceedings.

#### Article 5

##### **Responsibilities**

1 — To ensure it fulfils its mission as stipulated in article 1, the AMT's responsibilities are:

*a)* To ensure compliance with the domestic, international and European Union legal framework that applies to regulation, supervision, promotions and defence of competition, involving public property, the defence of citizens' and economic operators' interests, supervising those activities and services, sanctioning administrative breaches and offences, pursuant to these articles of association and other applicable legislation;

*b)* To advise parliament, whenever it asks regarding its responsibilities;

*c)* To participate and, at the request of the government, represent the state at domestic, European and international bodies and meetings that are relevant to the activity, in conjunction with the foreign ministry;

*d)* To promote the progressive adaptation of the legal framework that applies to the mobility sectors and activities covered by its mission, under the framework of sustainable development, the efficient use of resources and proper standards of quality of the services provided to the consumers/users and citizens in general;

*e)* To ensure the mechanisms of monitoring and assessing service levels and functioning of the markets, of the companies in the regulated sectors and in the economy in general, as well as supervising compliance with the economic and financial objectives, when this is defined by legal instruments or agreements;

*f)* To define rules and general principles regarding the cost structure and formation of prices and fares in the regulated sectors, issuing professional opinions about proposals to regulate fares and other fare instruments, namely when these are related to public service obligations;

*g)* To issue binding instructions to entities that are regulated under the scope of its regulatory powers, on promotion and defence of competition and supervision;

*h)* To regulate and ensure the various operators have free, fair, non-discriminatory access to the railway, roadway and port infrastructures, defining rules and assigning priorities regarding the sharing of the respective capacity;

*i)* To mediate and resolve disputes that arise under the scope of the regulated sectors, pursuant to the law and these articles of association;

*j)* To issue recommendations about drawing up and altering public service provision agreements, including concessions and agreements entered into as public-private partnerships in the regulated sectors;

*k)* To define the general requirements to describe the situations that justify the forecast or imposition of public service obligations, and the contracting of passenger public transport services, including short-sea shipping, under the framework of the applicable domestic and European Union legislation;

*l)* To define the rules needed to apply the standards and resolutions issued by international technical standards bodies, in the economic aspect of the regulated sectors;

*m)* To promote the defence of consumers' and users' rights and interests regarding prices, services and the respective quality;

*n)* To ensure the objectivity of the regulation rules and the transparency of the relationships between operators and between them and the consumers/users;

*o)* To encourage research into the land transport market and its regulation, conducting studies and other initiatives and establishing proper association or cooperation protocols for this end with other entities;

*p)* To monitor the activities of the maritime-port, mobility and land, waterway and maritime transport sector markets, hearing the relevant entities in the different modes;

*q)* To promote and defend competition in the mobility sector and the land, waterway, maritime and railway transports, in the commercial ports sector and the respective infrastructures in close cooperation with the Portuguese Competition Authority (Autoridade da Concorrência), namely in terms of legal regime of competition;

*r)* To initiate and investigate inquiry processes and to charge offences under the powers of the AMT and charge the respective fines, case costs and accompanying sanctions;

*s)* To collaborate with the other regulatory entities and establish relationships with sister regulatory entities and with relevant European and international bodies, to encourage international cooperation, namely by entering into cooperation agreements;

- t) To monitor and study the best international practice through *benchmarking*;
- u) To ensure the creation and management of a data base with up to date information about the regulated sectors, including a general record of the land and port infrastructures;
- v) To participate in the definition, implementation and assessment of the strategic guidelines and domestic policy in all areas regarding regulation;
- w) To support the government and parliament in implementing and assessing the policies mentioned in the previous paragraph, including collaboration in drawing up professional opinions, studies and information;
- x) To collaborate in drawing up laws in the mobility sectors, land transport, roadway infrastructures, commercial ports and maritime transport, in the economic aspects, as well as propose the adoption of legislative and regulatory measures under the scope of its powers;
- y) To exercise any other powers necessary to comply with its mission, pursuant to these articles of association and other applicable legislation.

2 — In matters of mobility, land transport and roadway infrastructures, it is the AMT's responsibility:

- a) To identify the situations that justify the forecast or imposition of public service obligations, and the contracting of passenger roadway public transport services, under the framework of the applicable domestic and European union legislation;
- b) To participate in drawing up the general rules and principles that apply to public transport and roadway infrastructure fare policy;
- c) To monitor activities related with the mobility and transports sector, including the control of the technical inspection of vehicles and driving tests;
- d) To regulate the up-dating, modernisation and harmonisation of the technical regulation of roadway infrastructures;
- e) To define roadway infrastructure performance levels;
- f) To supervise compliance with obligations by the regulated service operators, as well as compliance by the concessionaires and sub-concessionaires with the respective legal, regulatory and contractual obligations;
- g) To ensure user participation in the management of roadway infrastructure quality management;
- h) To define and approve the regulations that apply to the electronic identification system of vehicles for charging tolls, including the systems, standards and technical procedures that support the information processing about traffic events and about the detection of the electronic device installed in the vehicles, collected from the electronic identification or detection equipment used by Estradas de Portugal, S.A, the concessionaires or sub-concessionaires, the distributors and importers of the vehicle electronic devices, as well as the toll fee collection entities.
- i) To mediate, as the conciliation body, pursuant to article 10 of decision 2009/750/CE, of the Commission of 6 October 2009, the relationship between the roadway infrastructure toll collection operators or concessionaires in Portugal and the suppliers of the European electronic toll service, with signed agreements or under negotiation, ensuring that the contractual conditions that are imposed are not discriminatory and correctly reflect the costs and risks incurred by the parties to the agreement, and comply with the European law in force;
- j) To ensure and monitor the defence of user rights and interests;
- k) To analyse users complaints and any conflicts that involve the operators, namely, by assessing them, encouraging conciliation between the parties, in simple, quick and tendentiously free procedural terms;
- l) To exercise the functions of authority to standardise roadway infrastructures;
- m) To exercise any other functions foreseen in the legal instruments or agreements, namely in the roadway infrastructure concession and sub-concession agreements.

3 — In matters of railway regulation, regarding infrastructure managers and rail transport operators, it is the AMT's responsibility:

- a) To act as an appellate authority for matters regarding the network statement;
- b) To regulate access to the infrastructure so it is free and non-discriminatory, imposing access conditions, as well as the inherent process of accepting operators;
- c) To regulate the up-dating, modernisation and harmonisation of the technical regulation of railway system;
- d) To define rules and attribute priorities in sharing the rail infrastructure capacity, arbitrating and deciding in case of conflict;
- e) To define the rules and charging criteria for the use of the rail infrastructure and approve the fee table proposed by the respective manager entities;
- f) To supervise compliance, by the companies and entities subject to its regulation attributions, with the applicable legal provisions and regulations, as well as compliance with the relevant regulation provisions contained in the respective articles of association, licences, concession agreements or other legal instruments that regulate the respective activity;
- g) To define or approve, in pursuing its regulatory attributions, infrastructure and operator performance regimes that must be followed by the companies and entities that are subject to its regulatory attributions, particularly in terms of reliability and punctuality and the corresponding

monitoring systems, applying fines for poor performance;

- h)* To assess and decide about operator complaints regarding the infrastructure manager;
- i)* To collaborate with the Competition Authority and particularly to identify the conduct of companies and entities subject to its regulatory powers that are susceptible to infringe the provision in the legal regime of competition;
- j)* To exercise, as the railway regulator entity, the powers of representation that are enshrined in the applicable European Union legislation;

4 — In matters of commercial ports and maritime and waterway transport, it is the AMT's responsibility:

- a)* To regulate the commercial activities in the maritime-port sector, namely the maritime and waterway transport and port operation activities;
- b)* To regulate access to the infrastructure so it is free and non-discriminatory, imposing access conditions, as well as the inherent process of accepting operators;
- c)* To study and propose measures and economic criteria that apply to the maritime-port commercial sector, to standardise procedures, indicators and management instruments for the sector, namely the port authorities, and to ensure compliance with the domestic and international standards that apply to the sector;
- d)* To define, through regulations, the rules needed to apply the standards and resolutions issued by the International Maritime Organisation, European Union and any other international technical standards bodies regarding the economic aspect of the maritime-port sector;
- e)* To assess, appreciate and annually approve the proposed charges regulations for each port authority;
- f)* To issue binding instructions to make the port authority charges simpler, more transparent and more standardised so as to encourage and defend competition among domestic ports and to determine the correction of any irregularities in port pricing practices;
- g)* To encourage the assessment of port authority service levels, namely in terms of what they charge;
- h)* To support the government in its assessment of tender programmes and specifications for port operation and service concessions, along with their renewal, as proposed by the port authorities;
- i)* To issue binding opinions about the port operating and use regulations, to be submitted to the port authorities, which can approve the regulations without this opinion, if it is not issued within 45 days;
- j)* To look into questions of market access, competition among ports, financial relations between the European Union member states and the ports;
- k)* To ensure the checking of the conditions regarding the development of domestic maritime transport and related activities, particularly regarding competitiveness and how attractive the sector is for investment;
- l)* To regulate short-sea shipping, within the framework of public service requirements and obligations it is subject to and to adopt any measures needed to ensure it complies with any domestic and European Union legislation.

5 — In exercising its powers, including regulatory powers, the AMT must try and ensure the public interest is always protected to the best of its ability by, among others, analysing the relevant impacts to assess the economic, financial and social cost-benefits of the solutions it adopts.

6 — The provisions in point 4, paragraphs e), f) and i) do not apply to the autonomous regions of the Azores and Madeira.

## Article 6

### **Regulatory procedure**

1 — The AMT regulations must follow the principles of legality, necessity and clarity and externally obey the principles of participation and publicity.

2 — Before approving or altering any regulations that have external effects, the AMT must advise the respective ministry that is involved about the project and publish it on its web page, this allowing for the intervention of the government, regulated entities and any other entities affected by its decisions, general or specific users' and consumers' associations in the areas of land, waterway and maritime transport and the respective infrastructures.

3 — For the purpose of the previous point, any interested parties can issue their comments and present suggestions over a period of 30 business days, unless, due to reasons of urgency and that are properly grounded, a shorter deadline is set.

4 — After the end of the public discussion period, the AMT shall draw up a report referring to the replies that were received and an overall appreciation that shows its understanding of them, and give the grounds for the options it has taken, and publish them on its web page along with the replies that have been presented under the previous point, minus any details that are clearly shown to be confidential.

5 — Notwithstanding the provision in the previous point, the preliminary report of the regulations

gives the grounds for the decisions that were taken, and must refer to the comments or suggestions that were made regarding the project during the public discussion period.

6 — Any AMT regulations that contain standards with external effectiveness have to be published in the *Diário da República* and made available immediately on the AMT web page, notwithstanding other means of publication that are considered adequate in the situation.

#### Article 7

##### **Report**

1 — In the first quarter of each year of activity, the AMT shall present its respective activity plan and development programme to the proper parliamentary commission.

2 — The AMT shall send parliament a detailed report every year about its activity and operations on the previous year and this report shall be published on its web site.

#### Article 8

##### **Obligation of collaboration**

The legal representatives of the companies or other entities covered by the AMT activity, and the people who work with them, are obliged to provide all the collaboration requested by the AMT for it to fully perform its functions, namely any information and documents that are requested, which must be provided within the deadline established by the AMT, which cannot be greater than 30 days.

#### Article 9

##### **Cooperation with other entities**

1 — The AMT establishes ways of cooperation or association pertaining to the performance of its responsibilities with other domestic and international, public or private law entities, namely with similar regulatory entities and especially with the international, European and domestic Competition Authorities, whenever necessary or convenient for it to pursue its responsibilities.

2 — The AMT must cooperate with the Consumer General Directorate and with the consumer associations to divulge consumers' rights and interests under the scope of the mobility sector and land, waterway, maritime-port and railway transport and the respective infrastructures.

### CHAPTER II Organisation

#### SECTION I

##### Article 10

##### **Bodies**

The AMT bodies are:

- a) Board of directors;
- b) Sole auditor.

#### SECTION II

##### **Board of DIRECTORS**

##### Article 11

##### **Purpose of the Board of Directors**

The board of directors is the AMT's maximum collective body and it is responsible for defining the action and pursuit of its mission as well as the management of the respective services as defined by law and these articles of association.

##### Article 12

##### **Composition**

The board of directors is a collective body composed of a chairperson and up to three members, and it may also have a vice-chairperson, and have an odd number of members.

##### Article 13

##### **Confidentiality**

1. — The members of the board of directors cannot make any declarations or comments about

any processes in progress or specific questions regarding the entities covered by the AMT, except to defend their honour or for any other legitimate interest.

2. — Declarations about concluded processes and providing information regarding legitimate interests or rights, namely access to information, are not covered by the duty of confidentiality.

#### Article 14

### **Incompatibilities and constraints**

1 — The members of the AMT board of directors work on an exclusive basis and cannot:

- a)* Be members of any sovereign bodies, of the autonomous regions or local authorities, or hold any other public or professional job, except for teaching or research roles so long as they are unpaid;
- b)* Have any direct or indirect tie or contractual relationship, paid or otherwise, with companies, groups of companies or other entities covered by the AMT activity or own any stake or interests in them, notwithstanding the relationship as customers or similar;
- c)* Have any direct or indirect tie or contractual relationship, paid or otherwise, with other entities whose activity may collide with their responsibilities and duties.

2 — For two years after their term of office, the members of the board of directors cannot have any contractual tie with the companies, groups of companies or other entities covered by the AMT activity and have the right to half their monthly salary during that period.

3 — The compensation foreseen above is not awarded in the following situations:

- a)* If and as long as the board member has any other job or remunerated activity;
- b)* When the board member has the right to a pension and takes it; or
- c)* In cases in which the term of board member's office ends for any other reason than the end of the respective term.

4 — In the case of any breach of the provision in point 2, the board member must return the amount equivalent to all the net remuneration received during the term of office as well as all the net compensation received under point 2 after applying the coefficients for the annual consumer price index calculated by the Portuguese national statistics office.

5 — The regime of incompatibilities and hindrances established for holders of senior public posts applies to the members of the board of directors in all cases that are not specifically regulated in these articles of association and the framework law of regulatory entities.

6 — The board of directors internally approves the code of conduct that applies to its members following best international practice.

#### Article 15

### **Responsibilities of the Board of Directors**

1 — Notwithstanding the responsibilities contained in article 21 of the framework law of regulatory entities, the AMT board of directors' responsibilities are:

- a)* To give their opinion, on their own initiative or as requested by the government, on any questions or rules related to the regulated sectors, under the scope of their responsibility;
- b)* To propose to the government any legislative or regulatory alterations that contribute towards improving the legal regimes that apply to the regulated sectors;
- c)* To adopt and send the companies and economic agents the decisions, binding instructions, directives and recommendations that are necessary to carry out its mission;
- d)* To adopt measures to promote the defence of the services of general economic interest and the protection of consumers' rights and interests;
- e)* To order studies, inspections and audits to be conducted;
- f)* To order the opening of infraction proceedings and apply the respective fines and accompanying sanctions, pursuant to the legislation in force to the maritime-port, mobility sectors and land, waterway and maritime transport, notwithstanding other entities' infraction responsibilities.

2 — The board of directors is responsible for guiding and managing the AMT in terms of:

- a)* Defining the general direction of the AMT services and to monitor their enforcement;
- b)* Exercising the power of staff administration, management and discipline;
- c)* Producing the plans and reports to be submitted to parliament and the government every year and ensure their enforcement;
- d)* Systematically monitoring and assessing the activity, namely holding the different services responsible for the use of the resources put at their disposal and the results that are attained;
- e)* Producing the activity report;
- f)* Producing the social report pursuant to the law;
- g)* Practising acts regarding the staff that are foreseen in the law and these articles of association;
- h)* Approving the internal regulations regarding the organisation and operation of the AMT bodies

and services, as well as all other management acts required for them to work smoothly;

- i) Designating the AMT representatives at other entities;
- j) Assisting the government to produce opinions, studies, information and draft legislation through technical support;
- k) Ensuring national representation upon government request, in articulation with the foreign ministry, in domestic and international organisations and forums;
- l) Awarding AMT powers of attorney inside and outside of court;
- m) Practising any other management acts arising from the application of the law and these articles of association.

3 — The board of directors is responsible in the area of financial management and assets for:

- a) Drawing up the annual budget and following its enforcement;
- b) Collecting revenues and authorising expenses;
- c) Producing the management report and accounts and the management account;
- d) Managing the AMT's own assets;
- e) Accepting donations, inheritances or legacies in benefit of the inventory, with prior authorisation from the members of the government who are responsible for the finance and transport areas;
- f) Ensuring the necessary conditions to exercise financial and budgetary control by the legally competent entities;
- g) Exercising any other powers foreseen in the law and these articles of association that are not attributed to any other body.

4 — Notwithstanding the provision in point 2, paragraph 1), the board of directors can always ask for support and representation in court by the public prosecutor who, in this case, shall defend the interests of the AMT.

#### Article 16

##### **Operations**

1 — The AMT board of directors meets ordinarily at least once a week and extraordinarily whenever the chair convenes a meeting on their own initiative or upon the request of one of the members.

2 — There are no abstentions in the votes, but declarations of votes can be made.

3 — The minutes of the meetings must be signed by all the members who were present and any members who disagree with the contents of the decisions that were taken can have their declarations of vote included in the minutes.

#### Article 17

##### **Delegation of board of directors' powers**

1 — The board of directors may decide to delegate responsibilities to one or more of its members, with the possibility of sub delegation pursuant to general law.

2 — Notwithstanding the inclusion of other powers, the attribution of responsibilities to a member of the board of directors implies delegating the responsibilities needed to direct and supervise the respective services and to practice the current management acts of the departments involved.

3 — The deliberations that involve the delegation of powers must be published in the 2nd series of the *Diário da República*.

#### Article 18

##### **Responsibility of the chair of the board of directors**

1 — The chair of the board of directors is responsible for:

a) Chairing the meetings of the board of directors, steer the works and ensure compliance with the respective decisions;

b) Ensuring the relationship with parliament, the government, other public services and bodies, the European Union authorities and international institutions and with the domestic regulatory authorities and counterparts in other countries;

c) Requesting opinions from the sole auditor;

d) Exercising the powers that are delegated by the board of directors;

2 — The chair may delegate or sub-delegate powers to the vice-chair or the other members.

3 — The chair is replaced in case of absence and hindrance, by the vice-chair or by a member they choose or, otherwise, by the longest serving member.

4 — Notwithstanding the provision in article 14 point 4 in the Administrative Procedure Code, the chair, or their replacement, can veto any board of directors' decisions that can be against the law, these articles of association or public interest and the veto must be given in a properly argued

declaration of vote and included in the minutes.

5— In the cases foreseen in the previous point, the deliberations can only be approved after another decision-making procedure, including hearing from any entities that the chair, or their replacement, considers convenient.

#### Article 19

##### **Responsibility of the members**

1 — The members of the board of directors are jointly responsible for any acts practised in exercising their duties.

2— Members who were present at the meeting when the decision was taken but voted against, in a declaration recorded in the minutes, and any members who were not present and declared their disagreement in writing which is also recorded in the minutes, are exempt from any responsibility.

#### Article 20

##### **Representation and bond**

1 — The AMT is represented, namely in court or in the practice of legal acts, by the chair of the board of directors, by two of its members or by powers of attorney specially designated by them.

2 — The AMT is bound by the signature of:

a) The chair of the board of directors or two other members, if no other way is decided by the board;

b) Anyone who is qualified for the purpose pursuant to and under the scope of the respective power of attorney.

3 — The provision in the previous point, regarding the demand of a signature, does not prevent other forms of binding foreseen, namely in the procedures that apply to domestic and international bodies and forums that it participates in, in this latter case and whenever necessary, in articulation with the foreign ministry.

4 — Mere day-to-day matters can be signed by any board member or by AMT staff to whom the power to do so has expressly been given.

#### Article 21

##### **Statutory regime**

The statutory and remuneration regime defined in the framework law of regulatory entities applies to the members of the board of directors.

### SECTION III

#### **Sole auditor**

#### Article 22

##### **Function**

The sole auditor is the body that is responsible for controlling the legality, regularity and good financial and asset management of the AMT and it's a board adviser, pursuant to the framework law of regulatory entities and the following articles.

#### Article 23

##### **Appointment, term of office and remuneration**

1. — The sole auditor is a statutory auditor or a statutory auditor firm and their term of office lasts for four years and cannot be renewed, notwithstanding the provision in point 3.

2. — The sole auditor is appointed by an order from the members of the government responsible for finances and transport and must be among the auditors registered with the Stock Exchange Commission or, when that is not adequate, from among the statutory auditors or statutory auditor firms enrolled in the respective lists with the Statutory Auditor Association.

3. — The sole auditor cannot belong to any AMT body within the first four years after ending the previous term of office.

4. — The sole auditor remains in office until the effective replacement or until an order is issued by the members of the government who are responsible for the finance and transport areas.

#### Article 24

##### **Powers**

1 — The sole auditor is responsible for:

a) Regularly monitoring and controlling compliance with the applicable laws and regulations, budget enforcement and the economic, financial, asset and accounting situation;

- b) Giving an opinion about the budget, any revisions and alterations, as well as about the activity plan as regards its budget cover;
- c) Giving an opinion about the management report for the year and the management accounts, including the legal certification of accounts documents;
- d) Giving an opinion about the acquisition, rent, sale and burdening of property;
- e) Giving an opinion about the acceptance of donations, inheritances and legacies;
- f) Giving an opinion about taking out loans, when the AMT is allowed to do so;
- g) Keeping the board of directors informed about the results of the checks and exams that are made;
- h) Producing reports about the supervision, including an annual overall report;
- i) Proposing the performance of external audits, whenever this is necessary or convenient;
- j) Giving an opinion about matters that are submitted by the board of directors, by the Audit Court or by entities in charge of the inspection and auditing of state services;
- k) Advising the proper entities of any irregularities that are discovered.

2 — The deadline for producing the opinions referred to in the previous point is 30 days, counting from the day the relevant documents are received, except in situations of extreme urgency.

3 — In order to exercise their powers, the sole auditor has the right to:

- a) Get all information and clarifications considered necessary from the board of directors;
- b) Have free access to all services and AMT documents and may request the presence of people and ask for any clarifications they consider necessary;
- c) Call and hold meetings with the board of directors to analyse questions included under the scope of their powers, whenever their nature or importance justify it;
- d) Take or propose any other steps they consider indispensable.

#### Article 25

### **Incompatibilities and constraints**

1 — The sole auditor works on an exclusive basis and the provision in article 14 applies with the necessary adaptations.

2 — The sole auditor must not have any labour ties with the state.

#### SECTION IV

### **Organisation, staff and service providers**

#### Article 26

### **Services, organisation units and delegations**

The AMT has the services or organisation units needed to meet its responsibilities and the respective organisation and functioning are established in internal regulations.

#### Article 27

### **Regime and hiring of workers and senior management**

1 — The workers and senior management of the AMT are subject to the legal regime of individual work agreements, notwithstanding the provision in the framework law of regulatory entities, these articles of association, the internal staff regulations, in other AMT regulations and other applicable legislation.

2 — The board of directors approves the staff regime, including the performance assessment, pursuant to article 32 of the framework law of regulatory entities, by an internal regulation to be published on the AMT *Internet*, in accordance with the mandatory legal provisions of the individual work agreement regime, including:

- a) Regime and rules on recruiting and selecting workers and senior management;
- b) The remunerations, extras, supplements, benefits and productivity incentives for the workers and senior management;
- c) Provision conditions and work discipline;
- d) Definition of the workers' career rules and regime;
- e) Definition of the senior managers' career rules and regime;

3 — The AMT can be party to collection work regulation instruments.

4 — The recruitment of workers and senior managers is subject to:

- a) Prior public announcement, namely on the AMT web page and on the Public Employment Pool;
- b) A competitive type of procedure that, in any case, must ensure the application of objective and detailed criteria of assessment and selection and of the grounds for the decision;

c) Assessment and selection procedure that ensures the respect for the principles of equality of the candidates' conditions and opportunities, impartiality in dealing with the candidates and the provision of complete, clear information to the candidates about the progress and conclusion of the candidacy.

5 — The AMT must ensure continuous, specialised training to its staff and senior managers, so their work is recognised and accepted and that the applicable domestic and international obligations are met in this matter.

#### Article 28

### **Incompatibilities and hindrances of workers and senior management**

1 — The AMT staff work on an exclusive basis and they are covered by the provision in article 14 point 1, with the necessary adaptations.

2 — The AMT senior management work on an exclusive basis and they are covered by the provision in article 14 points 1 and 2, with the necessary adaptations, notwithstanding the provision in the following point.

3 — The compensation for ceasing work, applied due to the provision in the previous point, does not apply in the following situations:

- a) Expiry of a fixed-term contract;
- b) Ending a service commission, when the worker returns to their previous job;
- c) The job is terminated on the AMT's initiative;

4 — The option of individual contracting regime does not waive compliance with the requirements and limitations arising from the pursuit of public interest by the workers, namely regarding accumulations and incompatibilities legally established for the public sector workers.

5 — The board of directors approves the code of conduct that applies to the workers and senior management, through internal regulations, according to best international practice.

#### Article 29

### **Social protection**

The AMT staff and the senior management benefit from the general social security regime, if they do not opt for any other that covers them.

## CHAPTER III

### **Economic, financial and asset management**

#### Article 30

### **Budget and finance regime**

1 — The AMT has the autonomy provided under the law for regulatory entities and these articles of association and the legal regime of state business entities regarding its financial and asset management.

2 — The AMT accounts and budget are produced according to the Standardised Accounting System.

3 — The rules of public accounting and the regime of funds and autonomous services, namely the standards regarding the authorisation of expenses, the retention and use of retained earnings and the blocking of amounts do not apply to the ATM, notwithstanding the provision in point 5.

4 — The AMT's net earnings are retained and can be used, namely in benefit of the consumers or the regulated sector, unless they are from the use of public domain goods or the state budget, when applicable, in which case they may revert to the state, under the terms to be defined by administrative order by the members of the government who are responsible for the finance and transport area.

5 — The budget and financial regime of autonomous funds and services apply to any amounts from the use of public domain goods or that depend on state budget allocations, namely regarding the authorisation of expenses, the retaining and use of net earnings and the blocking of amounts.

6 — The AMT keeps any surplus amounts to be given to the state under the application of annual gross profits referred to in point 4 in accounts opened at the Agência de Gestão da Tesouraria e da Dívida Pública - IGCP, E.P.E., not part of the state collection network.

7 — The reporting of accounts is governed by the provision in the Organisation and Process Law of the Audit Court and the respective regulatory provisions.

8 — The state treasury regime and particularly the treasury principles and rules apply to the AMT.

## Article 31

### Assets

1 — The AMT has its own assets, composed of its goods, rights, guarantees or economic obligations, provided by the state or that it acquired for itself.

2 — It requires prior authorisation from the members of the government responsible for the finance and transport areas to buy or sell properties.

## Article 32

### Revenue

1 — The AMT's own revenues arise from its regulation and supervision activity:

*a)* The income from roadway infrastructure regulation fees, calculated, net and collected pursuant to the provision in Decree-Law 43/2008 of 10 March;

*b)* The participation from the application of the overall amount of usage fees due for the operation of transport services on the infrastructure, renamed rail infrastructure regulation fee, to be received from Rede Ferroviária Nacional - REFER, E.P.E., which is set annually by an order from the members of the government responsible for the finance and transport areas;

*c)* The product of the application of a coefficient of up to 2% of the operating revenues, renamed port infrastructure regulation fee, to be received from each port that is part of the port authority, which is set annually by an order from the members of the government responsible for the finance and transport areas;

*d)* Thirty percent (30%) of the revenue of IMT, I.P., from the contribution of the vehicle inspection centre management entities, provided in article 9, point 3, of Law 11/2011 of 26 April, altered by Decree-Law 26/2013 of 19 February;

*e)* Thirty percent (30%) of the revenue of IMT, I.P., from the contribution of the private entities that are authorised to conduct driving exams, provided in article 5, of Law 138/2012 of 5 April, altered by Decree-Law 37/2014 of 14 March;

*f)* Thirty percent (30%) of the revenue of IMT, I.P., from the electronic transaction fee, to be paid by the concessionaires, by sub-concessionaires or by other entities that, for the payment of their services by the users or customers, accept the electronic device as a means of collection, for each aggregated or simple electronic transaction, depending on the case, so long as it is not associated to a toll fee payment exemption, pursuant to article 18-A of Ordinance 314-B/2010 of 14 June, altered by Ordinances 1033-C/2010 of 6 October, 1296-A/2010 of 20 December, 135-A/2011 of 4 April and 343/2012 of 26 October;

*g)* Forty percent (40%) of the product of the contractual pecuniary sanctions provided in the concession and sub-concession agreements, with 60% going to the state.

2 — The orders referred to in paragraphs *b)* and *c)* in the previous point, must be issued by the end of May.

3 — Another own income of the AMT is the contribution regarding the exercise of regulatory functions, called Mobility and Transport Contribution, charged to the entities subject to the regulatory activity not covered in the previous paragraphs, the objective and subjective scope of which is defined in separate legislation.

4 — AMT own revenues also include:

*a)* The income from the fees for providing the services included in its responsibilities;

*b)* The income from any fines applied at punishment for offences, as well as the costs of offence processes that it must appraise and decide;

*c)* The income from applying the pecuniary sanction to regulated entities foreseen in the regulations, for poor performance in matters of safety and quality;

*d)* The income from the sale or provision of goods and services, including publications and other information supports, training courses and issuing opinions;

*e)* The revenues from the management of its property and assets, as well as the state public or private domain goods entrusted to its administration;

*f)* Any other revenues that it is attributed by law or agreement.

5 — The amounts of the revenues provided in these articles of association are given to the AMT, which shall distribute them, when applicable, to the entities that belong to it.

6 — The AMT credits from fees or other revenues that must be paid as established in the law or that have been recognised by an order from the respective member of the government, are subject to enforced recovery according to the tax execution process, governed by the Tax Process and Procedure Code, and the rates are comparable with state credits.

7—The enforced recovery provided in the previous point may be undertaken by the Tax and Customs Authority, under the terms to be defined in an agreement to be entered into for that purpose by that service and the AMT.

8 — For the purpose of the provision in point 6, the board of directors issues an enforceable instrument, in accordance with the provision in articles 162 and 163 of the Tax Process and

Procedure Code.

## Article 33

### **Expenses**

1 — The AMT expenses arise as the result of charges due to it pursuing its responsibilities.

2 — Notwithstanding the provision in the previous point, AMT expenses also arise from charges due to the pursuit of its responsibilities to promote and defend competition along with the payments that it is legally entrusted under the scope of the financing of the Competition Authority.

## CHAPTER IV

### **Powers and procedures**

## Article 34

### **Powers**

1 — In order to meet its responsibilities, the AMT has powers covering regulation, legislation, supervision, promotion and defence of competition, oversight and sanctions, pursuant to these articles of association and the framework law of regulatory entities.

2 — In exercising its regulatory powers, the AMT shall:

*a)* Define the rules and principles that apply to the public transport and roadway, railway and port infrastructure tariff policy in the legislative and contractual framework in force in the regulated sectors;

*b)* Issue previous binding opinions about the procedure of how to draw up concession or public service provision concession agreements in the regulated sectors, or about alterations to the agreements in force;

*c)* Define the general rules and principles that apply to public service obligations in the regulated sector, in accordance with the principle of equality, transparency and proportionality of the financial compensation;

*d)* Define the general rules and principles that apply to establishing service levels and the safety rules in the regulated sectors.

3 — In exercising the supervisory powers and the promotion and defence of competition, the AMT shall:

*a)* Follow the European Union laws, regulations and legal acts;

*b)* Supervise and audit compliance with the legal, regulatory and contractual obligations of the concessionaires and public service providers subject to its jurisdiction and propose the application of contractual sanctions;

*c)* Conduct the annual control of the compensation awarded to entities that ensure general economic interest services in the regulated sectors;

*d)* Conduct systematic control of the factors that compose the prices, hearing the relevant entities in the different modes.

4—In exercising its regulatory powers, the AMT shall:

*a)* Approve rules, specifically in the form of instructions to develop the legislative principles or regarding the definition of the organisation and operation of the regulated sectors;

*b)* Propose and approve codes of conduct and manuals of good practice for the recipients of its activity;

*c)* Give its opinion, upon a request from parliament or the government, about legislative initiatives or other regarding the regulation of the mobility and land, waterway and maritime transport sectors and the respective infrastructures;

*d)* Present parliament or the government with proposals that can form the grounds for legislative initiatives to review the legal framework in force.

5. — In exercising its supervisory and sanctioning powers, the AMT shall:

*a)* Supervise and audit the application of laws and regulations and other applicable rules to the activities that are subject to its jurisdiction and proceed with the necessary inspections and inquiries to discover specific facts;

*b)* Conduct investigations to come to a general conclusion about the operation of the regulated sector entities;

*c)* Apply penalties and determine the application of contractual sanctions to the regulated entities;

*d)* Appraise and decide the offence processes pursuant to these articles of association and other legislation that awards it this responsibility;

*e)* Apply administrative sanctions pursuant to these articles of association and other legislation that awards it this responsibility;

*f)* Adopt the procedures needed for the enforced collection of fees and fines.

6. — The provision in point 2, paragraph b) must be applied taking into consideration the attributions and responsibilities of the regional government bodies in the Autonomous regions of the Azores and Madeira.

7 — In exercising the powers provided in point 2, paragraphs a), c) and d), whenever applicable, the regional government of the Azores and Madeira should be heard.

## Article 35

### **Inspection and audit powers**

1 — The AMT conducts inspections, investigations and inquiries in enforcing the previously approved inspection plans and whenever there are circumstances that indicate disturbances in the respective sector of activity.

2 — The workers authorised by the AMT to conduct inspections, audits, investigations or inquiries, are similar to agents of authority and can:

*a)* Access all premises, land and means of transport of companies and other entities subject to AMT activity and who must collaborate with them;

*b)* Inspect the books and other records regarding the companies and other entities subject to AMT activity and who must collaborate with them, regardless of their support;

*c)* Get, by any means, copies or extracts of the controlled document;

*d)* Ask any legal representative, worker or agent of the company or any other entity subject to AMT activity and anyone who collaborates with them, for clarification about facts or documents related to the purpose of the inspections, audits, investigations or inquiries, and record their replies;

*e)* Identify for later action, the entities and people who infringe the laws and regulations subject to AMT supervision;

*f)* Call on assistance from the police and administrative authorities when they judge it necessary for the full performance of their jobs.

3 — The AMT workers who conduct inspections and audits must carry an identification card for the purpose.

4 — The collaborators of the people ordered to accompany an inspection or audit must have a credential.

## Article 36

### **Binding instructions**

1 — In exercising its powers, the AMT issues binding instructions to the regulated entities pursuant to its powers of regulation, promotion and defence of competition and supervision.

2 — Any acts performed by the regulated entities in violation of binding instructions issued by the AMT in exercising its powers are null and void.

## Article 37

### **Precautionary measures**

1 — Whenever the investigations that are being conducted indicate that the acts that are the focus of the process are on the verge of causing a serious loss or irreparable or difficult to repair damage for the regulated sector or for the public service users, the AMT can preventively order the immediately suspension of those acts or take any other interim measures needed to immediately reinstate compliance with the applicable laws or regulations that are indispensable for the useful effect of the decision to be given in the process that was opened or is going to be opened.

2 — The precautionary measures provided in the previous point remain in force until they are revoked by the AMT, for a period of no more than 90 days, unless they are extended for a duly argued reason.

3 — The adoption of the measures mentioned in point 1 is preceded by hearing the entities the precautionary measures are aimed at, unless this puts the purpose or effectiveness of the measures in serious risk, in which case they shall be heard within 10 days after the measures have been decreed, otherwise the measures shall expire.

## Article 38

### **Conflict mediation**

1 — In the exercise of its powers in matters of resolving conflicts between entities subject to AMT regulation, or between them and their customers or third parties, the AMT shall:

- a)* Conduct conciliation actions;
- b)* Take note and reply to the complaints from users or consumers and take the necessary steps, pursuant to the law.

2 — The AMT has a one-stop shop for attending, informing, processing and handling complaints as part of its responsibilities.

3 — The AMT shall ensure that the procedures adopted pursuant to point 1 are decided within 90 days of the date of receiving the request and this period can be extended for the same amount of time when the AMT needs further information or even for a longer time following agreement with the claimant.

4 — The AMT shall regularly inspect the records of complaints lodged by users or consumers that are presented to the entities subject to its regulation and publish a table about the complaints from users and consumers, the operators with the highest number of complaints and the results of its actions every six months.

5 — For the purpose of the previous point, the entities subject to AMT regulation must keep proper records of the complaints they receive and provide them when so requested.

## CHAPTER V

### Sanctioning powers

#### Article 39

##### Qualification

1 — Notwithstanding any criminal liability and the administrative, precautionary and contractual measures there may be, any breaches of the rules foreseen in these articles of association and European Union law, the compliance with which is ensured by the AMT, are contraventions that can be punished pursuant to the provision in these articles of association.

2 — The general regime of offences, approved by Decree-Law 433/82 of 27 October applies to the offences foreseen in these articles of association.

#### Article 40

##### Offences

1 — The following breaches are offences that can be punished with a fine of €1,000.00 to €3,740.98 or €5,000.00 to €44,891.81, depending on whether they were committed by an individual or a legal person:

- a)* Non-compliance with any decision issued by the AMT exercising its regulatory powers;
- b)* Non-compliance of an instruction issued by the AMT exercising its powers of regulation, of promoting and defending competition and supervision, including those regarding the simplification, transparency and standardisation of fares and the decisions to correct any irregularities that are found;
- c)* Non-compliance with the regulations approved by the AMT that apply to the entities and users of the electronic identification system of vehicles for toll collection, as well as the specifications, requirements and obligations imposed on the suppliers of the European electronic toll service, regarding the European Union law in force;
- d)* Non-compliance with the domestic and European Union rules that are part of the AMT's powers and that impose obligations on the regulated sector companies or operators, namely roadway, railway, maritime, waterway and the respective infrastructures;
- e)* The breach of the general rules that impose service levels and safety standards to be provided by the regulated entities;
- f)* The breach of the general rules issued by the AMT, on the definition of public service obligations and respective forms of compensation;
- g)* The breach of domestic or European Union rules that apply to receiving compensation or financial aid, not foreseen in any law, regulation or contractual instrument;
- h)* The managers of the regulated entities not providing information or providing false, inaccurate or incomplete information, when required to do so by the AMT under its powers of authority;
- i)* The refusal to collaborate with the AMT, when it is due, namely any refusal of access to the exercise of its supervisory, monitoring and auditing powers and inspection and supervisory actions;
- j)* Non-compliance with the precautionary measures or temporary measures imposed by the AMT under the scope of its powers of authority;

2 — In the cases foreseen in the previous point, if the offence consists of not complying with a legal duty or an order issued by the AMT, the fine does not release the perpetrator from complying with the duty if that is still possible.

3           3 — Attempt and negligence are punishable pursuant to the general regime of offences, approved by Decree-Law 433/82 of 27 October.

#### Article 41

##### **Processing offences**

- 1 — The AMT is responsible for processing the offences foreseen in these articles of association.
- 2 — The AMT board of directors is responsible for applying fines.
- 3 — The AMT organises the record of contraventions that are committed, pursuant to the legislation in force.
- 4 — If, in exercising its powers of supervision, the AMT finds illicit facts that could be an offence, but it is not empowered to open and investigate the process, it shall issue the respective report and send it to the proper entity.

#### Article 42

##### **Additional sanctions**

- 1 — As well as the fine, additional sanctions provided in article 21, point 1, paragraphs b), c), f) and g) of the general regime of offences, approved by Decree-Law 433/82 of 27 October may be determined, depending on the seriousness of the offence and the level of blame, in the case of the offences foreseen in article 40, point 1.
- 2 — The additional sanctions can be applied in the case of offences that seriously affect users' rights, or in the case of repeat and serious non-compliance with legal and regulatory requirements regarding the public service operator's operations.
- 3 — The additional sanctions referred to in the previous points last for up to two years.

#### CHAPTER VI

##### **Legal Appeal**

#### Article 43

##### **Control by competent court**

- 1 — In general, the decisions made by the AMT are open to appeal.
- 2— The administrative activity of the AMT bodies and staff is subject to administrative jurisdiction, pursuant to the respective legislation.
- 3— The Competition, Regulation and Supervision Court is fully competent to accept appeals lodged about the decisions that are taken by the AMT in processes it investigated.
- 4— The appeal has no suspensive effect, but the claimant, in the case of decisions that apply fines or other sanctions provided in the law, can ask when making the appeal, that the effects are suspended, when the execution of the decision causes considerable damage and if they offer to post bond instead and the award of this effect would then depend upon the effective posting of the bond within the deadline set by the court.
- 5— If an appeal against a final decision by the AMT is lodged, the AMT sends the records to the Public prosecutor within a period of 30 days, which cannot be extended, and can attach allegations and other details and information it considers relevant for the decision in question, as well as offer proof, notwithstanding the provision in article 70 of the general regime of offences, approved by Decree-Law 433/82 of 27 October.
- 6— The AMT, the Public prosecutor or the defendant can object that the court issues an order without a trial hearing.
- 7—The Public prosecutor can drop the case only if the AMT agrees.
8. — The court notifies the AMT of the sentence and all the decisions that are not merely routine correspondence.
9. — It there is a hearing, the court decides based on the evidence proffered in the hearing and the evidence produced in the administrative phase of the offence process.
10. — Decisions proffered under the scope of litigation resolution are open to appeal in court, pursuant to the law.

#### CHAPTER VII

##### **Independence and liability**

#### Article 44

##### **Independence**

Notwithstanding the application of the provision in article 45 of the framework law of regulatory entities, the AMT is independent in exercising its functions and is not subject to government supervision or control under the scope of this exercise, and the government cannot send any

recommendations or issue any instructions to the board of directors about its sanctioning activity, supervision or regulation, nor about the determination of priorities in exercising its mission.

Article 45

#### **Responsible ministry**

The AMT is restricted to the ministry responsible for the transport area.

Article 46

#### **Entities subject to AMT powers**

All companies and other entities that conduct economic activities under the scope of mobility, land waterway, maritime, railway transports and respective infrastructures are subject to the AMT powers pursuant to these articles of association and other applicable legislation.

Article 47

#### **Liability**

1 — The AMT senior management and its staff have civil, criminal, disciplinary and financial liability for any acts and omissions that commit in doing their jobs, pursuant to the constitution and other applicable legislation.

2 — The financial liability is conducted by the Audit Court.

Article 48

#### **Confidentiality**

The AMT senior management and its staff, along with service providers and their employees, are subject to duties of diligence and confidentiality regarding the facts that become aware of through their jobs and that cannot be disclosed pursuant to the law.

Article 49

#### **Provision of information**

1 — In the first quarter of each year of activity, the AMT shall present its respective activity plan and development programme to the proper parliamentary commission.

2 — The AMT shall send parliament a detailed report every year about its activity and operations on the previous year and this report shall be published on its web site.

3 — Whenever requested, the AMT senior management must go before the proper parliamentary commission to provide information or clarification about the respective activity.

4 — Notwithstanding the annual obligations in the law that approves the state budget, the AMT shall comply with article 67 of the budget framework law, approved by Law 91/2001 of 20 August.

Article 50

#### **Web page**

The AMT shall have a web page with relevant data about its attributions, namely:

a) All the legislation that governs its activity, including the framework law of regulatory entities, these articles of association and its internal regulations;

b) The composition of the bodies, including the respective biographic and remuneration details;

c) All the activity plans, activity reports, and multi-annual plans;

d) All budgets and accounts, including the respective balance sheets;

e) Information about its regulatory and sanctioning activity, namely the binding information that has been issued and the precautionary measures that have been applied;

f) A table of the staff, without their individual names and their respective remuneration and career system.