

## Proposal for a revision of the Package Travel Directive

### EPF position – December 2023

The EU Package Travel Directive (PTD), in force since July 2018, aims to protect travellers that have booked combinations of at least two types of travel services (transport, accommodation, car rental or other services, for example guided tours) – either as ready-made ‘packages’ or as ‘linked travel arrangements’. On 29. November 2023, a proposal for a revision of the PTD was adopted as part of a “Passenger Mobility Package”, [a set of proposals](#) to improve passenger and traveller experience and strengthening their rights.

#### KEY TAKEAWAYS FOR EPF:

In November 2022, EPF prioritised 6 issues to be addressed by the PTD review ([link](#)).

The proposed amendments to the PTD bring many **improvements**:

- Overall, clearer rules and reduced legal uncertainty;
- Strengthened insolvency protection;
- Clarification of passengers’ right to self-cancellation;
- Clearer rules on vouchers;
- Roles of different actors clarified, B2B rules help to ensure a smooth refund process;
- Improved information to be provided to passengers;
- More combinations considered as packages, meaning better consumer protection.

However, the following aspects would **require some further attention**:

- Enforcement, including complaint handling / redress options for customers;
- Definitions (LTAs) and information to be provided to passengers;
- Alignment with other Regulations (notably on insolvency protection and self-cancellation).

#### 1. Enforcement

*Currently, the provisions on enforcement are quite vague, which leads to a fragmented application and limited compliance across the EU.*

What’s changed?

- Overall, the PTD revision provides for clearer rules and reduced legal uncertainty, which is likely to lead to less disputes and greater compliance (+)
- On the other hand, the revision does not introduce any new rules on enforcement, nor on complaint handling / redress options for customers (-)

During the Covid-19 pandemic, several Member States adopted national legislation that deviated from the PTD, which led to infringement procedures against 11 States. How to avoid such a situation from occurring again in the future? Furthermore, the PTD does not foresee any National Enforcement Bodies, as exist under the Passenger Rights Regulations, as the role of the “central contact points” referred to in the Directive is limited to supervision of organisers’ insolvency protection requirements.

From an individual passenger’s point of view, the PTD revision also does not contain any further guidance or rules on complaint handling and redress options. The PTD is said to

be in the scope of the CPC (Consumer Protection Cooperation Regulation) as well as the RAD (Representative Actions Directive). Whereas collective action can surely be helpful, it is also insufficient, as individual redress options must be guaranteed too, including access to Alternative Dispute Resolution.

It is important that travellers are properly informed on their rights, are able to understand the information provided to them and have access to that information when they need it. The PTD revision introduces some amendments to the standard information forms to be provided to travellers; however, some further work is needed on these, e.g., clarifying which elements qualify as “unavoidable and extraordinary circumstances” that “significantly affect the performance of the package”.

## **2. Insolvency protection**

*Minimal, and harmonised, rules to ensure appropriate risk coverage (covering not only insolvency but also liquidity problems and, where applied, vouchers), are needed.*

What's changed?

- Vouchers and outstanding refund claims covered by insolvency protection (+)
- Member States are obliged to supervise insolvency protection arrangements of organisers and monitor the market for insolvency protection, possibly requiring a second level of protection e.g., a back-up fund (+)
- Deadline set for reimbursement in case of insolvency: 3 months after the traveller has submitted the request (+)
- Security should cover costs for refunds and repatriations counting the highest sums held in the business year and taking into account changes in volume sold (+)
- Flexible limitation of downpayments to 25%, which can be increased where this is necessary to ensure the organisation and the performance of the package (+)
- Alignment with rules on airline insolvency protection? (-)

Insolvency protection has been strengthened overall, which is good news for travellers. Furthermore, a new article has been introduced on payments, providing that in principle downpayments may not exceed 25% of the package price. Limiting pre-payments as such means less risk for end-users. However, deviations are still possible, and the final amount still needs to be paid 28 days before the start of the trip, so it remains to be seen what the actual impact will be.

Alignment is needed with other rules dealing with airline insolvency protection, as air travel is very often part of a package travel. In specific, this topic is announced to be addressed in the revision of the Air Services Regulation – whereby it remains unclear when we can expect the proposal for a revision and to which extent the proposed measures therein will be sufficient to tackle the problem (see also here: [Airline insolvency protection scheme urgently needed](#)).

## **3. Cancellation by passengers**

*In case of a major crisis (and notably following official travel warnings / advice), passengers should be able to cancel their trip without having to pay a termination fee.*

What's changed?

- Information on the travellers' right to terminate the package travel contract due to unavoidable and extraordinary circumstances made mandatory (+)
- Clarification that the self-cancellation right applies in case of unavoidable and extraordinary circumstances either at the travel destination or its immediate vicinity or affecting the journey to the destination, but also at the places of residence or departure, in all cases significantly affecting the performance of the package travel (+)

- Official travel warnings issued by authorities or serious restrictions covering the travel destination or after returning from there are recognized as important elements (+); however, as such these are currently not mentioned in the information form to be provided to passengers (annex to the proposal) (-)
- Organiser is obliged to refund the traveller in the event of a termination of the contract due to unavoidable and extraordinary circumstances, regardless of whether the traveller specifically asks for a refund (+)
- Alignment with rules on self-cancellation by (air – multimodal – any type of) passengers in times of major crisis? (-)

On this point, alignment would be welcome with other (mode-specific) passenger rights regulations, notably the Air Passenger Rights' Regulation. Also when booking a standalone flight (or any mode of transport), cancellation by passengers should be possible without paying a fee in case of a major crisis.

#### 4. Vouchers

*The legal conditions under which vouchers may be offered should be clarified: vouchers must always be voluntary, insolvency protected, and flexible in terms of transferability and validity.*

What's changed?

- Legal conditions under which vouchers may be issued clarified (+)
- Enforcement is still an issue (cf. infringement procedures during Covid-19) (-)

A new article on vouchers clarifies that, when a contract is terminated, organisers may issue travellers with vouchers instead of a cash refund, but before accepting them, the traveller must be informed that they are not obliged to accept the voucher; vouchers should be valid for 12 months and their duration may be extended once with the approval of both parties; their value must be at least equal to the amount of the refund; they must be transferable and covered by insolvency protection; travellers are entitled to an automatic refund where a voucher is not redeemed.

The uptake of the EC's Recommendation on vouchers<sup>1</sup>, issued May 2020, varied across the EU, with several countries adopting legislation deviating from the PTD, resulting in infringement procedures against 11 States. How to avoid such a situation from occurring again in the future?

#### 5. Intermediaries

*Both for standalone flights and packages, the role of intermediaries must be clarified: who informs passengers and assists them in case something goes wrong?*

What's changed?

- Better information: The contract must now specify that the organizer is the party responsible for refunds and that travellers may contact the organisers via the retailer; in addition, the relevant information form should be attached to the package travel contract (+)
- The roles of different actors are clarified, but the legal obligation to refund advance payments remains with the organizer (+)
- B2B rules on reimbursement will help ensure a smooth process for passengers (+)

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<sup>1</sup> Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic (OJ L 151, 14.5.2020, p. 10)

On this topic, again alignment is needed with other Regulations (Air Passenger Rights, multimodal passenger rights), to ensure a consistent approach.

Further, we need to stress the importance of re-routing and assistance (i.e., not only reimbursement), whereby it must be clear to passengers whom to address in case of (any kind of) trouble.

## **6. Clarify definitions**

*For passengers, it is often not clear what kind of package / travel arrangement they bought and what rights are associated with it.*

What's changed?

- Definitions have been adapted, with more types considered as “package” (+)
- Referring to packages combining accommodation with other (no transport) tourist services, the formulation “significant proportion” has been replaced by “25%” (+)
- The LTA concept – Linked Travel Arrangement – has been clarified and simplified (+); however it is still quite complex and unclear who should ‘prove’ the existence of an LTA and how (-)
- Some further work is needed on the information forms, to be provided to travellers (-)

The definition of “package” has been clarified and broadened. More types of travel qualify as packages, which means better overall protection for passengers, notably i) bookings of different types of travel services at one point of sale within a short period of time, as well as ii) bookings of different travel services whereby a trader transfers the traveller's personal data to another trader (no time limit).

Regarding LTAs, the proposal suggests that “Where a linked travel arrangement is formed, the trader which concludes a contract on a different type of travel service shall inform the trader which invited the traveller to conclude such contract on this fact” (§19.4). But, at the same time, the information form (annex 2 & (9) of the preamble) suggests that travellers “record the invitation and the additional booking, for instance through screenshots”, and “inform the trader with whom a first contract was concluded”, for which purpose the trader should make available a “facility, such as an email address or a website”. This seems burdensome and it should not be up to the travellers to ‘prove’ their rights.

## **Alignment with other Regulations**

*In general, alignment should be sought with other Regulations, in particular the Air Passenger Rights' Regulation – to ensure harmonised and consistent rules on notably insolvency protection, the role of intermediaries, the legal conditions that should apply whenever vouchers are offered as an alternative to refunds, and the passengers' right to cancel a ticket / trip on their own initiative (which should be possible without fee in case of a major crisis).*

Reimbursement rules for air passengers when booking via an intermediary are addressed by the new proposal to amend existing mode-specific regulations as regards enforcement of passenger rights in the Union (COM (2023) 756 final), so that alignment on this is covered.

Other aspects – notably, passenger protection in case of air carriers' insolvency and major crisis and the right to self-cancellation – are being considered in the context of the revision of the Air Services Regulation (1008/2008) and/or the Air Passenger Rights' Regulation (261/2004). However, it is not clear when to expect these proposals, and whether the proposed measures will be sufficient.