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General Secretariat

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**Brussels, 28 May 2024**

**WK 6981/2024 REV 2**

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## **CONTRIBUTION**

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From:	General Secretariat of the Council
To:	Working Party on Consumer Protection and Information
N° Cion doc.:	ST 16338 2023 INIT
Subject:	Package Travel Directive - Table with Member States comments

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Delegations will find attached a revised table with the Member States comments on the Presidency questionnaire, including comments from Denmark.

Questionnaire	Drafting Suggestions and Comments
<p><u>Definitions of ‘package’ Article 3(2) and ‘LTA’ Article 3(5) - recitals 5-9</u></p>	<p>FR  <b>(Drafting Suggestions):</b>  <i>In article 2, we suggest to replace “packages offered for sale” by the expressions                      “packages organize, on a regular basis, by a professional who also reserve the different services included in these packages with service providers in exchange for monetary remuneration paid by these professionals.”</i></p> <p>FR  <b>(Comments):</b>                      Les autorités françaises estiment que la notion d’ « offre à la vente » est trop imprécise et source de contentieux. Elles proposent une rédaction alternative visant à faire entrer dans le champ de la directive des professionnels qui organisent des forfaits et effectuent la réservation des services inclus dans les forfaits, et qui ne doivent pas échapper à la réglementation, même s’ils se font payer par rétro-commissions.  <i>The French authorities feel that the expression " packages offered for sale" is too imprecise and contentious. They propose an alternative wording aimed at bringing within the scope of the directive professionals who organise travel packages and book the services included in these travel packages, (which should not be out of the scope of this regulation) even if the professionals are paid by retro-commissions.</i></p> <p>LT  <b>(Comments):</b></p>

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	<p>While we understand the idea behind making the package concept more dynamic, the new rules would result in package organisers and service providers being unable to know whether they sell a travel service as a package or as a standalone until a second sale is concluded or the time limit has passed. This would result in greater consumer detriment:</p> <ul style="list-style-type: none"> <li> <b>Misinformation for Consumers:</b> When purchasing travel services, consumers rely heavily on precontractual information to make informed decisions. However, if packages and standalone services are not clearly differentiated, consumers may receive misleading or incomplete information simply because the provider does not know that the traveller has the intention of booking a package. For instance, packages often include bundled services or amenities while standalone services do not, and vice versa. Similarly, the trader responsible for the performance of the purchased services and the applicable legislation may change. This lack of clarity can lead to confusion and dissatisfaction among consumers who may not fully understand what they are purchasing.         </li> <li> <b>Loss of Flexibility:</b> One of the key advantages of purchasing individual travel services is the flexibility they offer. For example, hotel bookings may come with more flexible cancellation policies, allowing consumers to change or cancel their plans closer to the date of departure with minimal/no penalties. However, if these services are bundled into packages, consumers may lose this flexibility. Package deals often have stricter cancellation policies or may require non-refundable deposits, in particular if air travel is involved.         </li> <li> <b>Requirement for Consumer Tracking:</b> In order to determine whether a purchase qualifies as a package under         </li> </ul>

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	<p>the new package definition, travel organisers may need to implement consumer-tracking systems. These systems could potentially intrude on consumers' privacy by collecting and analysing their purchasing behaviour, travel preferences, and other personal data. This not only raises privacy concerns but also adds complexity and costs to the booking process for consumers, organisers and service providers.</p> <ul style="list-style-type: none"> <li>• <b>Increased Costs for Consumers:</b> Selling travel products as packages involves additional costs and responsibilities for traders compared to selling standalone services. If traders are required to retroactively classify purchases as packages, they may face additional expenses to ensure compliance with PTD requirements, and the additional protections for consumers. As a result, traders will need to adjust their pricing and terms to account for these added costs, potentially leading to higher prices for consumers than the ones agreed in the first transaction.</li> </ul>
<p>1) Do you agree with the addition in Article3(2)(b)(i) in the definition of ‘package’ of other types of travel services booked within:</p>	<p>EL (Comments): The proposed definition of package will be more complex than the current one, to the extent that it will be unworkable for intermediaries to sell both packages and individual services.</p> <p>ES (Comments): We support the principle underlying the definition of package, which involves a close link between different travel services booked for the purpose of the same trip or holiday. Nevertheless,</p>

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	<p>we would like to underline that in some cases it might be hard to prove the time limits.</p> <p>IE  <b>(Drafting Suggestions):</b>                      Retain Article 3(2)(b)(i) as it stands in the Directive.</p> <p>IE  <b>(Comments):</b>                      IE has significant reservations about these amendments to the definition of “package”. If the intent is to simplify definitions and eliminate complexity, this proposal, as drafted, has not succeeded.</p> <p>In IE’s view, the definition of package should be limited to products and services that are intentionally sold and bundled together.</p> <p>The effect of this amendment would mean that travel services that are bought separately but within the 3-hour and 24-hour timeframes specified would have to be treated as packages. We are concerned about the practical implications of this:</p> <ul style="list-style-type: none"> <li>• Recital 9 seems to place the onus on the consumer to inform the organiser when additional services which cause the booking to now constitute a package have been purchased. This does not seem practical or reasonable and will create consumer (and organiser) confusion.</li> <li>• Alternatively, consumer search and purchasing behaviour would have to be tracked by organisers. This places a significant burden on organisers, assuming such tracking is even technically possible. Tracking consumers in this manner</li> </ul>

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	<p>also raises concerns regarding privacy and compatibility with data protection law.</p> <ul style="list-style-type: none"> <li>• If packages and standalone services are not differentiated, consumers may be given misleading or incomplete information because the provider does not know the consumer intends to book a package.</li> <li>• It may be possible for providers to evade being encompassed within the scope of this definition simply by delaying the time they offer these ancillary services after initial booking.</li> <li>• It is not clear how this type of package can work with the proposed cap of 25% on prepayments for services. If, say, a traveller pays full price at time of booking for a flight and then pays full price at time of booking for a hotel offered by a partner of the air carrier, is this a breach of the 25% cap on prepayments? If so, would a refund have to be made to the traveller? Which provider would make this refund?</li> </ul> <p>We need to make sure that we do not reduce consumer choice and consumer flexibility, as an unintended consequence of these changes. For example, that airlines stop offering options to book hotels and cars in order to avoid becoming the organiser of a package.</p> <p>IT  <b>(Comments):</b></p> <p>We partially agree with the proposed wording of Article 3. We have to make sure that the definitions are clear and that they are simplified with practical and unambiguous criteria in order to avoid problems in interpretation and subsequent application. In the end, putting a time limitation (3hrs/24hrs) would reasonably limit the application of the Directive.</p>

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	<p>PT (Comments):</p> <p>Regarding the additions made to the definition of “package”, and even though we still have a general scrutiny reservation over the whole text, PT agrees with the COM’s intention of better safeguarding consumers and increasing their protection. However, considering the questions that the new provisions may raise in terms of interpretation, PT has doubts as to the clarity and feasibility of these provisions, both from the perspective of professionals and from the perspective of consumers' perception of their rights. Further clarification is therefore necessary to guarantee a high level of legal certainty and consumer protection.</p> <p>SI (Comments):</p> <p>SI can be flexible regarding this change.</p>
(a) 3 hours? Yes/No	<p>AT (Drafting Suggestions):</p> <p>(deletion)</p> <p>AT (Comments):</p> <p>No, AT does not agree with this addition and wants the deletion of this second indent of Article 3 (2)(b)(i) of the COM proposal.</p> <p>CZ (Drafting Suggestions):</p> <p>NO</p> <p>DE</p>

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	<p><b>(Drafting Suggestions):</b></p> <p>Deletion without replacement</p> <p>DE</p> <p><b>(Comments):</b></p> <p><b>No</b></p> <p>This proposal results in a significant and inappropriate extension of the definition of a ‘package’ and consequently also of the scope of application of the Package Travel Directive, without achieving the intended clarification and simplification of the terms.</p> <p>A ‘package’ is a special product whose core element is the bundling of different travel services by an organiser. The current legislative framework for package travel is based on the idea that the person who bundles the travel services should also bear responsibility for the package’s implementation. The Commission’s proposal goes far beyond this spirit and purpose in that, in future, separate bookings of different individual services at one point of sale will be treated as packages if they are made within a 3-hour period. This extends the Directive’s scope to cases that clearly do not fall under the basic idea of the current package travel legislation – namely the organisation and bundling of travel services by an organiser – and for which the special protection afforded to travellers would be inappropriate. Furthermore, this expansion of the definition would likely have a significant impact on booking behaviour and would restrict business practices in the travel industry. The German travel industry fears that the SMEs which largely dominate the over-the-counter segment in Germany would not generally be able to afford liability as organisers; furthermore, the technical and bureaucratic hurdles would dramatically increase.</p>

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	<p>EE  <b>(Comments):</b></p> <p>EE: We believe that the definition of package should be simplified. However, Estonia <b>does not support introducing 3 hour or 24 hour time frames as criteria of formulation of a package</b>. This would lead to very broad meaning of a package that would place too much additional burden on businesses and will result in all travel service intermediaries becoming tour operators. We are concerned that this would harm the competitiveness of SMEs. Consequently, some businesses may refrain from providing services, leading to reduced choice for travellers and a decline in competition. <b>In addition, we also see that the new package travel definition is also very difficult to apply in practice</b>, because the package travel can be formed by the traveller's choices in the future, which the travel company cannot foresee and take into account in his activities. In our opinion, it should already be clear to all parties at the time of purchasing travel services whether a package travel is formed or not. This means that the criteria for the formation of a package should be sufficiently clear and predictable. Such clear characteristics are, for example, one contract for all services or one price. The fact that the package is formed only later, does not provide the necessary clarity to the parties, and in this case the travel company cannot reasonably plan his activities in order to meet the requirements set and it could become a tour operator “by accident”. We also find that travellers need to be maintained the possibility to purchase individual travel services separately.</p> <p>EL  <b>(Drafting Suggestions):</b></p> <p>No</p>

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	<p>EL  <b>(Comments):</b>                      The provision on “packages concluded within 3 hours” is impossible to comply with. In particular, it is impossible to know in advance what service will be sold, as it may change afterwards. Moreover, changing the terms and conditions of the first service after the sale will be confusing and burdensome for consumers. With the definition of package including now the consecutive sales of two travel services within 3h, it would be impossible to provide accurate precontractual information of the first travel service as neither the trader nor the consumer will know what kind of service is purchased (package or standalone service) until eventually a second sale is concluded or the time limit is passed.</p> <p>ES  <b>(Comments):</b>                      Yes, we do.</p> <p>FI  <b>(Drafting Suggestions):</b>                      delete</p> <p>FI  <b>(Comments):</b>                      No.                      Operating within the proposed time limits and monitoring whether the travellers book additional services during them is very challenging for the traders and significantly increases their administrative burden. The ambiguity of the definitions also leads to a situation where travellers do not know whether they</p>

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	<p>have purchased a package travel, a LTA or a separate service falling all together outside the scope of the Directive.                      We have serious doubts about the inclusion of these two provisions with random time limits in the definition of package. They do not clarify the definition, rather the opposite.</p> <p>FR                      (Comments):</p> <p><b>Non, les autorités françaises proposent de supprimer cette définition additionnelle.</b>                      En effet, elles considèrent que la notion de forfait est déjà trop large et imprécise et qu’il convient de refuser les définitions additionnelles proposées à l’article 3(2)(b)(i) pour revenir à la définition du forfait qui existe dans la directive actuelle.                      D’une part, la notion de forfait doit rester liée à celle de l’organisation d’un bouquet de prestations par une professionnel : un forfait ne se compose pas tout seul.                      D’autre part, les délais des trois heures et des 24h seraient complexes à mettre en œuvre pour les professionnels car le forfait ne serait constitué qu’au moment de la 2ème réservation.                      Les autorités françaises soulignent que la complexité proviendrait notamment :</p> <ul style="list-style-type: none"> <li>- de la difficulté rencontrée par le professionnel pour identifier les informations précontractuelles à communiquer au voyageur, sans savoir à l’avance s’il réservera une 2<sup>ème</sup> prestation dans les 3 heures ;</li> <li>- de la difficulté d’apporter la preuve en cas de litige, et de contrôler la mesure pour les autorités nationales.</li> </ul> <p><b><i>No, the French authorities propose to delete this additional definition.</i></b></p>

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	<p><i>Indeed, they consider that the concept of package is already too broad and imprecise and that this new definition proposed at Article 3(2)(b)(i) with other types of travel services should be deleted so that we maintain the definition of the current directive. On the one hand , the notion of package must remain linked to the organisation of a package of touristic services by a professional; a package cannot be created without this active intervention.</i></p> <p><i>On the other hand , the three-hour time deadline and the period of 24 hours would be too complex for professionals to implement because the package would only be finally composed at the time of the 2nd reservation.</i></p> <p><i>The French authorities stress that the complexity stems in particular from :</i></p> <ul style="list-style-type: none"> <li><i>- the difficulty encountered by the professional in identifying the pre-contractual information to be communicated to the traveller, without knowing in advance whether he will book a 2nd service within 3 hours ;</i></li> <li><i>- the difficulty of providing proof in the event of a litigation, and of monitoring these measured for the national authorities.</i></li> </ul> <p>HR  <b>(Comments):</b>                  No</p> <p>HU  <b>(Comments):</b>                  No</p> <p>IE  <b>(Comments):</b></p>

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	<p>No. See comments above. IE does not understand the rationale for the 3 hour time limit within this Article.</p> <p>IT  <b>(Comments):</b></p> <p>NO</p> <p>LT  <b>(Drafting Suggestions):</b></p> <p>No</p> <p>LT  <b>(Comments):</b></p> <p>We believe that offering and booking individual travel services must remain a possible and viable option, without automatically resulting in the creation of a package on the sole basis of a given period of 3 or 24 hours.</p> <p>With the definition of package including now the consecutive sales of two travel services within 3 hours, it will be impossible to provide accurate precontractual information of the first travel service, if the trader does not know what kind of service is sold (package or standalone service). Depending on the product, precontractual/contractual information obligations are different. Price will vary also. Moreover, packages concluded “within 3h” seems disproportionately burdensome to apply from a contract law perspective. The conclusion of a package after the sale of the second service within 3 hours will only be possible with a change in the contract terms of the first service (from standalone service to a component of a package). How to do that? Should the consumer sign an addendum to the first contract he just agreed on? What if the consumer refuses to sign it? Is he even able to refuse (a consumer can’t waive its consumer rights)?</p>

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	<p>Moreover, successive bookings of travel services online may lead to packages being assembled without the organiser being informed (different names, different credit cards, etc...).</p> <p>Packages created by consumers may not be feasible (for example: connection times between flights too short). An organiser should not be responsible for a package he would never have agreed to offer for sale.</p> <p>LU  <b>(Comments):</b>                      strong concerns regarding applicability/practicability</p> <p>LV  <b>(Drafting Suggestions):</b></p> <p>No</p> <p>LV  <b>(Comments):</b></p> <p>The provisions on package travel concluded within 3 hours cannot be complied with and are contrary to the obligation to provide precise pre-contractual information under Directive 2015/2302 itself. Latvia notes that it is not possible to predict in advance which service will be sold if it can change in the sales process. Furthermore, changing the terms of the initial post-sale package contract will create confusion and burdens for consumers. Also, this brings the risk of becoming a tour operator “by accident”.</p> <p>MT  <b>(Comments):</b></p> <p><b>No</b>, the three-hour timeframe is not feasible and difficult to ascertain especially in non-online transactions.</p>

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	<p>NL  <b>(Comments):</b>                      No.                      This poses difficulties in both feasibility for travel service providers and enforcement. Businesses are obliged to offer consumers different terms and present them with different information in case a booking is regarded as a travel package or not. It is therefore impossible to offer a consumer the correct terms and information if it is unknown during the booking process whether a consumer will book more than one travel services (and therefore will be categorized as a travel package) or not. Also, the regulator has to do case by case research in order to assess whether there was a travel package or not.</p> <p>RO  <b>(Comments):</b>                      No, we support a 24 hours period</p> <p>SE  <b>(Comments):</b>                      No</p> <p>SI  <b>(Comments):</b>                      Yes.</p> <p>SK  <b>(Comments):</b>                      No.</p>

Questionnaire	Drafting Suggestions and Comments
<p>(b) 24 hours (This 24h timeframe would apply only in cases where, before the conclusion of the first transaction, the trader asks travellers whether they are interested in additional services)? Yes/No</p>	<p>AT  <b>(Drafting Suggestions):</b>                      (deletion)</p> <p>AT  <b>(Comments):</b>                      No, AT does not agree with this addition and wants the deletion of this third indent of Article 3 (2)(b)(i) of the COM proposal.</p> <p>CZ  <b>(Drafting Suggestions):</b>                      YES</p> <p>CZ  <b>(Comments):</b>                      CZ is for maintaining the 24-hour time limit, since the possibility of a package without the 24h limit would be virtually unlimited. If this limit had not been maintained, it could mean that the formation of package could practically occur, for example, just before departure.</p> <p>DE  <b>(Drafting Suggestions):</b>                      DE: Deletion without replacement</p> <p>DE  <b>(Comments):</b>  <b>No</b>                      Based on the Commission’s proposal, regulatory components of ‘linked travel arrangements’ are supposed to become part of the definition of a ‘package’. But in Germany’s view, this would not</p>

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	<p>make it any easier to apply the terms. Rather, it would only serve to shift the application problems from the definition of a ‘linked travel arrangement’ to the definition of a ‘package’, thereby making the definition of a ‘package’ even more complex.</p> <p>In Germany’s view, practitioners have grown accustomed to applying the currently applicable definition of ‘linked travel arrangements’ – a term which, despite being unwieldy, nonetheless does justice to the interests involved. Since Germany rejects the proposed expansion of the definition of ‘package’, the appropriate step would be to retain the existing definition of ‘linked travel arrangements’.</p> <p>Furthermore, since the proposed Directive would mean that pure retailers of travel services no longer fall within the scope of ‘linked travel arrangements’, the remaining applicable cases would be very limited.</p> <p>EE  <b>(Comments):</b>                      please see our comment above.</p> <p>EL  <b>(Drafting Suggestions):</b></p> <p>No</p> <p>EL  <b>(Comments):</b>                      Likewise, the provision on “packages concluded within 24 hours” is impossible to comply with. In particular, it is impossible to know in advance what service will be sold, as it may change afterwards. Moreover, changing the terms and conditions of the first service after the sale will be confusing and burdensome for consumers. With the definition of package</p>

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	<p>including now the consecutive sales of two travel services within 24h, it would be impossible to provide accurate precontractual information of the first travel service as neither the trader nor the consumer will know what kind of service is purchased (package or standalone service) until eventually a second sale is concluded or the time limit is passed.</p> <p>ES  <b>(Comments):</b>                      Yes, we do.</p> <p>FI  <b>(Drafting Suggestions):</b>                      delete</p> <p>FI  <b>(Comments):</b>                      No. See comments above.</p> <p>FR  <b>(Comments):</b>  <b>Non, les autorités françaises proposent de supprimer cette définition additionnelle et renvoient à leurs commentaires du (a).</b>  <i>No, the French authorities propose to delete this additional definition and refer to their comments on point (a).</i></p> <p>HR  <b>(Comments):</b></p> <p>No</p> <p>HU</p>

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	<p>(Comments): No IE (Comments): No. See comments above. IT (Comments): NO LT (Drafting Suggestions): No LT (Comments): We do not support the inclusion of this criterion. We have already presented the arguments. LU (Comments): strong concerns regarding applicability/practicability, except for the “click-through” scenario (Article 3(2)(b)(v)). LV (Drafting Suggestions): No LV (Comments):</p>

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	<p>Latvia points out that the clarification of the definition of mergers of services within 24 hours is too complicated and that there may be difficulties in complying with this point as well as in monitoring it. And, as already mentioned above, this brings the risk of becoming a tour operator “by accident”.</p> <p>MT (Comments): Yes. Once again, in transactions that are not carried out online how would one determine that the trader ‘asked’ travellers unless this is done through a durable medium that can be shown.</p> <p>NL (Comments): No, see comment above.</p> <p>PL (Comments): We have doubts about 24 hours. Should the traveller pay for another service within 24 hours? book? We do not understand what the traveller is supposed to do</p> <p>RO (Comments): Yes, but no matter if the trader asks travellers whether they are interested in additional services or not</p> <p>SE (Comments): No</p> <p>SI</p>

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	<p>(Comments):</p> <p>Yes</p> <p>SK</p> <p>(Comments):</p> <p>No.</p>
(c) Any comments or any alternative drafting proposals?	<p>AT</p> <p>(Comments):</p> <p>The AT travel industry sees massive problems in practice. There is a risk that a 3- or 24-hour regulation will lead to great legal uncertainty for companies, especially if different communication channels were chosen for getting in contact (e.g. web store and telephone). Particularly in the case of telephone communication, it will be difficult to allocate the exact time in later evidence proceedings. It would also be hard to distinguish whether bookings would fall under Article 3 (2)(b)(i) third indent or Article 3 (5).</p> <p>Instead, to solve the problem, AT suggests to adopt short, easy-to-read, eye-catching and EU-wide standardised information requirements as to whether a package is concluded or not and what rights are associated with it. Travellers should be able to make an informed decision before booking and consciously decide whether they would like to purchase a package. This objective can be achieved with short, easy-to-read, eye-catching and EU-wide standardised information obligations immediately before booking. The traveller could explicitly confirm that he or she has been informed about the creation of a package.</p> <p>DE</p> <p>(Drafting Suggestions):</p>

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	<p>Deletion without replacement</p> <p>DE (Comments):</p> <p>No</p> <p>DK (Comments):</p> <p>Denmark supports the purpose of expanding the current definition of a ‘package’, while limiting the scope of linked travel arrangements. However, the proposed definitions (3/24 hours) seem difficult to apply in practice and may not correlate with the pre-contractual information obligations.</p> <p>EE (Comments):</p> <p>Additionally, we propose a new exemption from the package definition - to exempt those combinations of services from the scope of the PTD, where a single accommodation service provider offers additional on-site activities for an inclusive price (for example, accommodation + massage or accommodation + sauna etc). We fear that the package definition is too broad and it could harm tourism SME’s – even those, which were not meant to fall under this Directive. There is a big risk that many tourism service providers may accidentally become organizers if they add some additional service(s) to their main service (accommodation) that they offer as additional activities on-site. These are activities that are normally associated with the accommodation service. Therefore, we propose a following definition for package: “(2) ‘package’ means a combination of at least two different types of travel services, as defined in point 1, for the purpose of the same trip or holiday, if:</p>

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	<p>(a) those services are combined by one trader, including at the request of or in accordance with the selection of the traveller, before a single contract on all services is concluded; or</p> <p>b) irrespective of whether separate contracts are concluded with individual travel service providers, and those services are:</p> <p>(i) purchased from a single point of sale and have been selected before the traveller agrees to pay, or</p> <p>(ii) are offered, sold or paid at an inclusive or total price, regardless of any separate billing, or</p> <p>(iii) are advertised or sold under the term ‘package’ or under a similar term, or</p> <p>(iv) are combined after the conclusion of a contract by which a trader entitles the traveller to choose among a selection of different types of travel services.</p> <p><del>(v) are purchased from separate traders through linked online booking processes where the traveller’s name, payment details, e-mail address or the traveller’s other personal data are transmitted from the trader with whom the first contract is concluded to another trader or other traders.</del></p> <p>A combination of travel services where not more than one type of travel service as referred to in point (a), (b) or (c) of point 1 is combined with one or more tourist services as referred to in point (d) of point 1 is not a package if the latter services:</p> <p>(a) do not account for <b>at least 25% a significant proportion</b> of the value of the combination and are not advertised as and do not otherwise represent an essential feature of the combination; or</p> <p>b) are selected and purchased only after the performance of a travel service as referred to in point (a), (b) or (c) of point 1 has started.</p> <p><b>A combination of travel services where not more than one type of travel service as referred to in point (b) of point 1 is</b></p>

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	<p><b>combined with one or more tourist services as referred to in point (d) of point 1 is not a package if the latter services are part of accommodation service provider’s on-site services, regardless of the value of this combination or how they are advertised.”</b></p> <p>FR  <b>(Comments):</b>  <b>Les autorités françaises renvoient à leurs commentaires du (a).</b>  <i>the French authorities refer to their comments on point (a).</i></p> <p>IT  <b>(Comments):</b>                      We would like to prevent any consumer contestations, linked to the determination and communication of the purchase time of individual services, from happening.</p> <p>LT  <b>(Comments):</b>                      Definitions of package and LTAs are too complex. In our opinion, a simplification of the scope would have been welcomed. The existing definitions of package are difficult to apply, enforce and understand for the consumers. At the same time, escaping the definition of package is a priority for traders willing to sell combinations of services without the burden imposed by the legislation and additional protection for consumers.                      We believe these various issues can be solved if standalone travel services protection is improved to match the level existing in package travel (in particular in terms of protection of prepayment against insolvency). Should such harmonisation be achieved,</p>

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	<p>escaping the definition package would not make sense anymore and a simplification could be envisaged.</p> <p>As the result the proposed definition of package will be more complex than the current one, to a level it will be unworkable for intermediaries to sell both packages and standalone services.</p> <p>LV</p> <p><b>(Drafting Suggestions):</b></p> <p>‘(2) ‘package’ means a combination of at least two different types of travel services, as defined in point 1, for the purpose of the same trip or holiday, if:</p> <ul style="list-style-type: none"> <li>(a) those services are combined by one trader, including at the request of or in accordance with the selection of the traveller, before a single contract on all services is concluded; or</li> <li>b) irrespective of whether separate contracts are concluded with individual travel service providers, and those services are: <ul style="list-style-type: none"> <li>(i) purchased from a single point of sale and have been selected before the traveller agrees to pay, or</li> <li>(ii) are offered, sold or paid at an inclusive or total price, regardless of any separate billing, or</li> <li>(iii) are advertised or sold under the term ‘package’ or under a similar term, or</li> <li>(iv) are combined after the conclusion of a contract by which a trader entitles the traveller to choose among a selection of different types of travel services.</li> </ul> </li> </ul> <p><del>(v) are purchased from separate traders through linked online booking processes where the traveller’s name, payment details, e-mail address or the traveller’s other personal data are transmitted from the trader with whom the first contract is concluded to another trader or other traders.</del></p>

Questionnaire	Drafting Suggestions and Comments
	<p>A combination of travel services where not more than one type of travel service as referred to in point (a), (b) or (c) of point 1 is combined with one or more tourist services as referred to in point (d) of point 1 is not a package if the latter services:</p> <p>(a) do not account for <del>at least 25%</del> <b>a significant proportion</b> of the value of the combination and are not advertised as and do not otherwise represent an essential feature of the combination; or</p> <p>b) are selected and purchased only after the performance of a travel service as referred to in point (a), (b) or (c) of point 1 has started.</p> <p><b>A combination of travel services where not more than one type of travel service as referred to in point (b) of point 1 is combined with one or more tourist services as referred to in point (d) of point 1 is not a package if the latter services are part of accommodation service provider’s on-site services, regardless of the value of this combination or how they are advertised.</b></p> <p>LV  <b>(Comments):</b></p> <p>Latvia proposes to leave the package definition as it is currently defined in the Directive, but to delete “click-through” from the definition (see the drafting proposal, see arguments below at point 2).</p> <p>Apart from that, Latvia proposes amendments in the exemption part:</p> <p>[1] Latvia does not support the proposal to include 25% in the Article text, we prefer to leave it in the recitals.</p> <p>Latvia considers that this requirement is too categorical, and it is not always possible to accurately determine the value of the service – as well as the administrative burden to SME’s and local</p>

Questionnaire	Drafting Suggestions and Comments
	<p>contact point of calculating every combination of products to see if the combination is a package or not. Situations may arise where, for example, the same combination of services will be counted as a package in one case and not in the other (for example, a tourist accommodation offering to purchase concert tickets - depending on the price of the ticket, the service will count as a package in one case and not in the other). This will create confusion for both the organiser and the consumer.</p> <p>[2] Latvia proposes to include another exemption to package. A combination of travel services where accommodation is combined with one or more tourist services as referred to in point (d) of point 1 is not a package if the latter services are part of accommodation service provider’s on-site services, regardless of the value of this combination or how they are advertised. There is a big risk that many tourism service providers may accidentally become tour operator if they add some additional service(s) to their main service (accommodation) that they offer as additional activities on-site – e.g massage, boat rental or other activities that are common in these establishments. The tour operator's responsibilities begin to extend to them, even when it comes to marginal amounts – for example, the price of simple accommodation offered in a rural area may be less than 20-30 euros per night, which is why the 25% criterion is met for almost every added (on-site) service. For such entrepreneurs, it is a considerable administrative burden, which also reduces the interest in creating inspiring tourism products. We should acknowledge that variety of different in-house services are offered in these accommodation establishments which are not trips in their classical meaning and therefore, in our opinion, these combinations should not fall under the PTD regulation at all. Strict rules on how accommodation providers can offer their</p>

Questionnaire	Drafting Suggestions and Comments
	<p>on-site services which all are performed by their own employees, are not proportional.</p> <p>MT (Drafting Suggestions):</p> <p>Other types of travel services are booked by the same trader by the following day after the traveller pays or partly pays for the first travel service.</p> <p>PL (Drafting Suggestions):</p> <p>In our opinion, the current definition of a ‘package’ should not be changed</p> <p>RO (Comments):</p> <p>No</p> <p>SK (Comments):</p> <p>We believe that the time limits in the package definition can cause significant problems and uncertainty for tour operators, travellers and supervisory authorities. Removing the time limits may be the best solution to maintain legal certainty and simplicity in the tourism sector.</p>
<p>2) Are you in favour of maintaining the principle of click-through package in Article 3(2)(b)(v)? Yes/No</p>	<p>AT (Comments):</p> <p>Yes, in principle, AT is in favour of maintaining the principle of click-through package in Article 3 (2)(b)(v).</p> <p>CZ</p>

Questionnaire	Drafting Suggestions and Comments
	<p>(Drafting Suggestions):</p> <p>NO</p> <p>DE</p> <p>(Comments):</p> <p>Yes</p> <p>DK</p> <p>(Comments):</p> <p>Yes.</p> <p>EE</p> <p>(Comments):</p> <p>Estonia would <b>welcome to exclude the click-through packages from the PTD</b> as we cannot see the added value of protecting such combinations, which are rarely offered in the market, at least in Estonia. We also believe that clear rules are of a significant value for all market participants, hence we should strive for straightforward rules, which are uncomplicated to apply in practice. Also, instead of simplifying, more uncertainty is created here, as the part "or the traveler's other personal data", is added, as it is very vague and broad. This concept is very difficult if not impossible to understand and to enforce. In the current PTD, the data transfer provision is clearer, providing a specific list: traveller's name, payment details and e-mail address. In current PTD it is also limited by the term during which the package could be formed (24 hours), but according to the new wording package may be formed at any time in the future which does not provide sufficient legal clarity.</p> <p>EL</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>Definitions on Click Through package should have a time limit.</p> <p>ES</p> <p><b>(Comments):</b></p> <p>Yes, we are. We believe that if the traveller’s personal data is transmitted from the trader with whom the first contract is concluded to another trader, this should be considered a package.</p> <p>FI</p> <p><b>(Drafting Suggestions):</b></p> <p>delete the definition</p> <p>FI</p> <p><b>(Comments):</b></p> <p>No.</p> <p>The definition of click-through package is problematic in particular. By way of derogation from the current provision, a package is formed if <b>any</b> personal data of the traveller is transferred from one trader to another and another travel service is purchased within an <b>unlimited</b> period of time from the purchase of the first service.</p> <p>We consider it very problematic that an operator who has sold the first service may, possibly without even knowing it, become a party to an agreement that he has not concluded or accepted and thus be liable under the Directive for all the services included in the package.</p> <p>The application and especially the supervising of compliance with the click-through provision is almost impossible in many respects. Travellers do not usually consider buying a package travel if, possibly even after a long time from the purchase of the</p>

Questionnaire	Drafting Suggestions and Comments
	<p>first service, they book another service for the same trip on the basis of a contact from another service provider.</p> <p>The trader who has sold the first travel service might not always become aware that other travel services have been booked and thereby a travel package has been formed, which places many obligations on the trader, for example concerning pre-contractual information.</p> <p>FR  <b>(Comments):</b></p> <p><b>Les autorités françaises peuvent faire preuve de flexibilité sur ce point.</b></p> <p>En effet, elles considèrent que les professionnels sont suffisamment avertis pour comprendre que les données personnelles et les modalités de paiement sont transmises. Même si elles ne proposent pas la suppression du « <i>click-through package</i> » les autorités françaises estiment que ce dispositif peut poser des questions pratiques.</p> <p><b><i>The French authorities can be flexible on this point.</i></b></p> <p><i>Indeed, they consider that professionals are sufficiently well-informed to understand that personal data and payment methods are transmitted.</i></p> <p><i>Even if they do not propose to delete the “click-through package”, the French authorities consider that it may raise practical issues.</i></p> <p>HR  <b>(Comments):</b></p> <p>Yes</p> <p>HU  <b>(Comments):</b></p>

Questionnaire	Drafting Suggestions and Comments
	<p>Yes</p> <p>IE (Comments): Yes. IE does not want to diminish existing consumer rights in this area.</p> <p>IT (Comments): No. We are in favour of maintaining it but the provision is not at all clear and the category of click-through packages is likely to generate confusion as it does not allow it to be easily demonstrated that a tourist package has been created, thus being able to remove the consumer from the consequent protection.</p> <p>LT (Drafting Suggestions):</p> <p>Yes</p> <p>LT (Comments): We suggest keeping the current provision and not changing it.</p> <p>LU (Comments): positive scrutiny reservation (to be seen in conjunction with a 24h time limit)</p> <p>LV (Drafting Suggestions):</p> <p>No</p> <p>LV</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>Latvia points out that services purchased from individual traders through related online booking processes cannot be identified or monitored and there is no practical application of such rules. Since the adoption of Directive 2015/2302, Latvia has not found in practice any case where such a scheme has been observed. In addition, by successively booking several online tourist services, packages can be created without the knowledge of the organiser (different names, different credit cards, etc.). The travel combinations created by consumers themselves may be practically impossible to implement (e.g. too short a connection time between flights). The organizer (tour operator) should therefore not be responsible for the package which he would never have agreed to offer for sale.</p> <p>A package must be a combination of services either purchased in one place from one trader (regardless of the number of invoices/contracts) or in different locations by different traders, but it has one single price (including all services).</p> <p>The service provider may be responsible only for the provision of services for which it can assume responsibility, and which are included in the contract with the consumer.</p> <p>MT</p> <p><b>(Drafting Suggestions):</b></p> <p>(v) are purchased from separate traders through linked online booking processes where the traveller's name <b>or</b> payment details or e-mail address or <b>any other personal data enabling the identification of</b> the traveller <del>other personal data</del> are transmitted from the trader with whom the first contract is concluded to another trader or other traders.</p> <p>MT</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>Yes, in favour with proposed amendment to be clearer. It is not clear from the proposed wording whether if any of the listed details are passed on, then this would constitute a package. If this was the intention then it would be clearer if ‘or’ is inserted after each detail.</p> <p>NL</p> <p><b>(Comments):</b></p> <p>The Netherlands doesn’t have a statement on this point yet.</p> <p>PL</p> <p><b>(Comments):</b></p> <p>‘other personal data’ - not sure what this data is? Is this data mandatory or optional? It seems that the most crucial data from the point of view of the creation of a package are the name and payment details, often not even the e-mail address when purchasing packages online.</p> <p>PT</p> <p><b>(Comments):</b></p> <p>Yes</p> <p>RO</p> <p><b>(Comments):</b></p> <p>Yes</p> <p>SE</p> <p><b>(Comments):</b></p> <p>We would be open to discuss the removal of click-through packages entirely.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>SI <b>(Comments):</b> SI can be flexible regarding this change.</p> <p>SK <b>(Comments):</b> We have a general scrutiny reservation on Article 3(2)(b)(v).</p>
<p>3) If yes, are you in favour of keeping the current 24-hour period in Article 3(2)(b)(v) or lay down a different period (please specify)?</p>	<p>AT <b>(Comments):</b> At the same time, AT also prefers to keep the current 24-hours period in Article 3 (2)(b)(v).</p> <p>DE <b>(Drafting Suggestions):</b> are purchased from separate traders through linked online booking processes where the traveller’s name, payment details, e-mail address or the traveller’s other personal data are transmitted from the trader with whom the first contract is concluded to another trader or other traders <b>and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.</b></p> <p>DE <b>(Comments):</b> <b>Maintenance of the current 24-hour period</b> If different travel services are booked at different times and no temporal connection is required between them, there is no unifying element strong enough to justify regarding the individual bookings as a package. The ensuing practical and legal</p>

Questionnaire	Drafting Suggestions and Comments
	<p>problems and other uncertainties in practice are almost impossible to estimate. In light of these issues and in order to ensure appropriate outcomes, the criterion of 24 hours should therefore absolutely be retained. In addition, the 24-hour period has proven itself in practice, so that it does not appear necessary to lay down a different period.</p> <p>DK  <b>(Comments):</b>                      Denmark suggests to keep a timeframe in article 3(2)(b)(v). It shouldn't constitute a 'package', if the subsequent service(s) is/are purchased days after the first agreement.</p> <p>ES  <b>(Comments):</b>                      Yes, we are in favour of keeping the current 24-hour period as we believe it brings more legal certainty to the provision.</p> <p>FI  <b>(Comments):</b>                      If the majority of MS are in favour of keeping the definition of click-through package, we consider it is better to keep the 24-hour period.</p> <p>FR  <b>(Comments):</b>                      Les autorités françaises ne demandent pas la remise en cause de ce type de forfait.  <i>The French authorities are not requesting a change to this type of package.</i></p> <p>HR</p>

Questionnaire	Drafting Suggestions and Comments
	<p>(Comments):</p> <p>24 hour</p> <p>HU</p> <p>(Comments):</p> <p>Hungary proposes to keep the present 24 hours.</p> <p>IE</p> <p>(Drafting Suggestions):</p> <p>“(v) purchased from separate traders through linked online booking processes where the traveller's name, payment details, e-mail address and any other personal data necessary to complete the booking are transmitted from the trader with whom the first contract is concluded to another trader or traders <b><u>and a contract with the latter trader or traders is concluded at the latest 24 hours after the confirmation of the booking of the first travel service.</u></b>”</p> <p>IE</p> <p>(Comments):</p> <p>Yes. Furthermore, IE is of the view that where “other personal data” is transferred it should be in addition to the traveller’s name, payment details and email address and, in line with the necessity and proportionality principles of GDPR that only such personal data required to complete the booking should be transferred. See drafting suggestion.</p> <p>IT</p> <p>(Comments):</p> <p>No. Why a consumer acquiring the second service after the 24 hrs should be damaged? In addition, the consumer often proceeds</p>

Questionnaire	Drafting Suggestions and Comments
	<p>with purchasing after a longer period of time (and upon search of alternative services). So, we are against keeping the current 24-hour period and in favour of the elimination of any time period limit.</p> <p>LT  <b>(Drafting Suggestions):</b></p> <p>Yes</p> <p>LT  <b>(Comments):</b></p> <p>We suggest keeping the current provision and not changing it.</p> <p>LU  <b>(Comments):</b></p> <p>in favour of keeping for “click-through” scenario</p> <p>LV  <b>(Drafting Suggestions):</b></p> <p>-</p> <p>MT  <b>(Comments):</b></p> <p>Yes, no objection to 24 hrs period.</p> <p>PL  <b>(Drafting Suggestions):</b></p> <p>We propose to keep the current arrangements</p> <p>PT  <b>(Comments):</b></p> <p>yes</p>

Questionnaire	Drafting Suggestions and Comments
	<p>RO (Comments):</p> <p>Yes</p> <p>SE (Comments):</p> <p>If the principle of click-through packages would be maintained, we prefer keeping the current 24-hour period. We would also prefer not to expand the personal data that could be transferred to create a package.</p> <p>SI (Comments):</p> <p>SI can be flexible regarding this change.</p>
<p>4) Are you in favour of maintaining the concept of linked travel arrangement in Article 3(5) as a category between packages and stand-alone services? Yes/No?</p>	<p>AT (Comments):</p> <p>Yes, AT prefers to maintain the concept of linked travel arrangement. For consumers, linked travel arrangements also offer a certain added value due to the associated information obligations and insolvency protection. In this respect, the deletion of the category of linked travel arrangements without replacement, as proposed by several Member States, should also be rejected.</p> <p>CZ (Drafting Suggestions):</p> <p>NO</p> <p>DE (Comments):</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>Yes</b></p> <p>Based on the Commission’s proposal, regulatory components of ‘linked travel arrangements’ are supposed to become part of the definition of a ‘package’. In Germany’s view, this would not make it any easier to apply the terms. Rather, it would only serve to shift the application problems from the definition of a ‘linked travel arrangement’ to the definition of a ‘package’, thereby making the definition of a ‘package’ even more complex.</p> <p>In Germany’s view, practitioners have grown accustomed to applying the currently applicable definition of ‘linked travel arrangements’ – a term which, despite being unwieldy, nonetheless does justice to the interests involved. Since Germany rejects the proposed expansion of the definition of ‘package’, the appropriate step would be to retain the existing definition of ‘linked travel arrangements’.</p> <p>Furthermore, since the proposed Directive would mean that pure retailers of travel services no longer fall within the scope of ‘linked travel arrangements’, the remaining applicable cases would be very limited.</p> <p>DK  <b>(Comments):</b></p> <p>Denmark’s position in this connection depends on the results of the negotiations regarding packages. If the definition of a ‘package’ is expanded, it seems less necessary to maintain the concept of a linked travel arrangement.</p> <p>EE  <b>(Comments):</b></p> <p><b>Although a new definition of LTAs is more clear and more limited, we would propose to exclude LTAs as a whole from the scope of PTD.</b> We are on an opinion that such services do</p>

Questionnaire	Drafting Suggestions and Comments
	<p>not need insolvency protection and LTAs do not actually provide concrete protection for travellers and instead, they might increase confusion. In addition to that, it is difficult to understand and prove whether an LTA has been purchased or not.</p> <p>ES (Comments): Yes, we are in favour of maintaining the concept of LTAs.</p> <p>FI (Comments): While the proposal clarifies to some extent the current definition of linked travel arrangements (LTA), it should be assessed whether the inclusion of such travel arrangements in the scope of the Directive is justified in terms of passenger protection.</p> <p>FR (Comments): <b>Non, les autorités françaises proposent de supprimer la catégorie juridique des « prestations de voyage liées » (PVL).</b> En effet, depuis l'entrée en vigueur de la directive, cette notion de PVL apparaît trop floue. En outre, elle ne peut pas se manifester concrètement dans la réalité, puisque, dans le cas d'une PVL en chaîne, le premier professionnel n'a aucun moyen de savoir que le consommateur a contracté avec un deuxième professionnel. Dans ces conditions, les autorités françaises constatent que la notion de PVL n'apporte aucune garantie au consommateur et qu'elle est trop difficile à appréhender par les professionnels et les particuliers. Enfin, elles ne disposent à ce jour d'aucune donnée démontrant l'effectivité de cette catégorie juridique.</p>

Questionnaire	Drafting Suggestions and Comments
	<p><i>No, the French authorities propose to delete the legal concept of “linked travel arrangement” (LTA). Indeed, since the directive entered into force, this concept of linked travel arrangement has appeared to be too vague. Furthermore, it cannot manifest itself concretely in reality, since, in the case of a LTA chain, the first professional cannot know that the consumer has contracted with a second professional. In these conditions, the French authorities consider that the LTA concept does not provide any guarantee to the consumer and that it is too difficult for professionals as private individuals to understand. Finally, they do not have any data proving that this legal category has been effective so far.</i></p> <p>HR (Comments): Yes</p> <p>HU (Comments): Yes</p> <p>IE (Comments): Subject to further consultation with stakeholders, IE does not want to diminish existing consumer rights in this area.</p> <p>IT (Comments): We partially agree. We believe that LTA should be governed exactly like the package travels, to ensure the protection of the consumers.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>In particular, we would like to ensure that the rule is not easy to apply and is unclear, not offering certain protections to consumers.</p> <p>LT  <b>(Drafting Suggestions):</b></p> <p>No</p> <p>LT  <b>(Comments):</b></p> <p>We think that it is necessary to delete the concept of LTAs as its definition is unclear. It leads to legal uncertainty for traders and does not generate any concrete protection or benefit for the consumer.</p> <p>LU  <b>(Comments):</b></p> <p>yes, in favour of keeping</p> <p>LV  <b>(Drafting Suggestions):</b></p> <p>No</p> <p>LV  <b>(Comments):</b></p> <p>Latvia proposes to assess the possibility of abandoning the LTA as such and excluding them from the scope of the Directive in whole or in part (by narrowing down and clarifying the situations when the regulation applies). Often, in practice, providers are not even aware that such a combination could form. Consequently, if such combinations are carried out only occasionally and there is</p>

Questionnaire	Drafting Suggestions and Comments
	<p>no deliberate scheme for the purchase of such combinations, it is difficult in practice to adhere to or detect them.</p> <p>MT  <b>(Comments):</b>                      No. MT prefers if the concept of Linked Travel Arrangements is removed completely as it creates ambiguity.</p> <p>NL  <b>(Drafting Suggestions):</b>                      ‘(5) linked travel arrangement’ means a combination of different types of travel services, not falling under the definition of a package in point 2, where, a trader which is party to a contract on the provision of a travel service and receives payments by or on behalf of a traveller invites a traveller to book additional type of travel service from another trader for the purpose of same trip or holiday and where a contract on the provision of an additional travel service is concluded at the latest 24 hours after the confirmation of the booking of the first contract.</p> <p>NL  <b>(Comments):</b>                      No.                      We doubt that consumer protection will be improved by including linked travel arrangements in the scope of the PTD. It is our experience that consumers most of the time are not aware of the fact that they are booking a linked travel arrangement. The requirements for the consumer to register that a linked travel arrangement has been booked is cumbersome, confusing and sensitive to errors and misinterpretation. Therefore there is no guarantee that the consumer is protected against insolvency of a travel service provider. Also, it is very difficult for the consumer</p>

Questionnaire	Drafting Suggestions and Comments
	<p>authority to assess whether a linked travel arrangement has been booked.</p> <p>Furthermore we believe that the recommendation to record the invitation and the additional booking will cause an administrative burden for consumers and businesses. We also doubt that consumers will record the invitation and the additional booking. It is also difficult for a consumer authority to assess this as well.</p> <p>PL  <b>(Drafting Suggestions):</b></p> <p>We propose to keep the current arrangements</p> <p>PT  <b>(Comments):</b></p> <p>Yes</p> <p>RO  <b>(Comments):</b></p> <p>Yes</p> <p>SE  <b>(Comments):</b></p> <p>No. SE is of the opinion that linked travel arrangement should be removed from the directive.</p> <p>SI  <b>(Comments):</b></p> <p>SI can be flexible regarding this change.</p> <p>SK  <b>(Comments):</b></p>

Questionnaire	Drafting Suggestions and Comments
	SK: We have a general scrutiny reservation on Article 3(5) due to the continuation of the analysis of Article 3(5) and the development of a national position, but we can imagine excluding the LTA as a whole from the scope of the PTD.
5) If yes, would you:	LV (Drafting Suggestions): -
(a) support the text of the Commission proposal?	AT (Comments): No, because the amendments to Article 3 proposed by the COM would also lead to the de facto abolition of linked travel arrangements. This would lead to an increase in costs for EU companies because services such as higher liability risk and insolvency protection would have to be priced in, which would then have to be charged to consumers. It would also lead to a massive reduction in supply, because of the approximately 6,000,000 accommodations available worldwide, only 16,000 are under contract with tour operators. It is to be feared that without the possibility of booking linked travel services, consumers will increasingly resort to offers from third countries without appropriate advice from travel agencies. This would distort international competition to the detriment of European companies. In addition, the demand for individually arranged trips as part of linked travel services is particularly strong in AT, which is why this point is of particular importance.  DE (Comments): No (see above)

Questionnaire	Drafting Suggestions and Comments
	<p>ES (Comments): Yes, we can support the COM proposal regarding the LTAs as we understand it simplifies the definition.</p> <p>FI (Comments): If majority of MS supports keeping the definition, we consider the com proposal to be somewhat better than the current one.</p> <p>HR (Comments): Still analysing proposal</p> <p>HU (Comments): Yes</p> <p>IE (Comments): IE wishes to engage in further consultation with stakeholders before coming to a position on this.</p> <p>LU (Comments): positive scrutiny reservation</p> <p>LV (Drafting Suggestions): -</p> <p>MT</p>

Questionnaire	Drafting Suggestions and Comments
	<p>(Comments):</p> <p>N/A</p> <p>SI</p> <p>(Comments):</p> <p>SI can be flexible regarding this change</p>
(b) prefer the current definition?	<p>AT</p> <p>(Comments):</p> <p>AT prefers to maintain the current definition of linked travel arrangements.</p> <p>DE</p> <p>(Comments):</p> <p>Yes (see above)</p> <p>FI</p> <p>(Drafting Suggestions):</p> <p>No</p> <p>HU</p> <p>(Comments):</p> <p>No</p> <p>IE</p> <p>(Comments):</p> <p>IE wishes to engage in further consultation with stakeholders before coming to a position on this.</p> <p>LU</p> <p>(Comments):</p> <p>no, prefer COM proposal (despite scrutiny reservation)</p>

Questionnaire	Drafting Suggestions and Comments
	<p>LV (Drafting Suggestions):</p> <p>-</p> <p>MT (Comments):</p> <p>N/A</p> <p>RO (Comments):</p> <p>Yes</p> <p>SI (Comments):</p> <p>SI can be flexible regarding this change</p>
(c) have any alternative drafting proposals (please specify)?	<p>DE (Comments):</p> <p>No (Maintenance of the current definition)</p> <p>HU (Comments):</p> <p>No</p> <p>IE (Comments):</p> <p>IE wishes to engage in further consultation with stakeholders before coming to a position on this.</p> <p>LV (Drafting Suggestions):</p>

Questionnaire	Drafting Suggestions and Comments
	<p>-</p> <p>MT</p> <p>(Comments):</p> <p>N/A</p>
<p>(d) support the implementation mechanism proposed by the Commission (See Article 19(2) in conjunction with Annexes II, Parts A and B, fourth paragraph of the first box? If not, please provide any alternative drafting proposals to ensure enforcement of LTAs.</p>	<p>AT</p> <p>(Comments):</p> <p>AT supports the implementations mechanism proposed by the COM in Article 19 (2).</p> <p>DE</p> <p>(Comments):</p> <p><b>Yes</b></p> <p>ES</p> <p>(Comments):</p> <p>Yes, we can support it.</p> <p>HU</p> <p>(Comments):</p> <p>Yes</p> <p>IE</p> <p>(Comments):</p> <p>IE supports the principle of informing the customer that the product they have booked is not a package but is protected from insolvency. However requiring the customer to record the invitation to book via screenshots etc. and inform the organiser of the additional booking seems burdensome and complex for the customer and seems to be a somewhat “analogue” approach in an increasingly interconnected digital world. IE wishes to engage in</p>

Questionnaire	Drafting Suggestions and Comments
	<p>further consultation with stakeholders before coming to a position on this.</p> <p>LU                      (Comments):                      yes, support</p> <p>LV                      (Drafting Suggestions):                      -</p> <p>MT                      (Comments):                      N/A</p> <p>PL                      (Drafting Suggestions):                      Annexes to the directive should remain unchanged</p> <p>PT                      (Drafting Suggestions):  <i><b>In order to benefit from this protection</b>, You are advised to record the invitation to book additional travel service and the additional booking, for instance through screenshots, and to inform XY about the additional travel services you booked within 24 hours for your trip or holiday at this email address or on this website:</i></p> <p>PT                      (Comments):                      As previously stated, PT has doubts about the text in the annex (fourth paragraph of the first box), which seems to indicate that</p>

Questionnaire	Drafting Suggestions and Comments
	<p>the burden of proof falls on the consumer (since the reference “<i>in order to benefit from this protection</i>” indicates that the consumer will only benefit from insolvency protection if he/she records the invitation as advised). <b><u>This does not seem reasonable to us.</u></b> According to some explanations provided by the COM, the intention is to provide a recommendation, therefore <b>we would like to see the text improved to clarify that we are dealing with only a recommendation</b> (for example, as we suggest in the drafting suggestions box).</p> <p>SI  <b>(Comments):</b>                      SI can be flexible regarding this change</p>
<p><b>Article 5a - Payments</b></p>	
<p>6) Should there be a limitation on prepayments? Yes/No</p>	<p>AT  <b>(Comments):</b>                      No, from an AT perspective, a regulation of the issue of prepayments at EU level is not desirable. AT already has a well-functioning advance payment regulation. The Member States should be able to regulate this issue themselves or retain existing regulations.</p> <p>CZ  <b>(Drafting Suggestions):</b></p> <p>NO</p> <p>DE  <b>(Comments):</b></p> <p>Yes</p> <p>DK</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>Denmark finds it reasonable to consider whether it is even necessary to limit downpayments in the Directive also keeping in mind, that if the insolvency protection is enforced in practice, the traveller will receive a refund if the travel organiser becomes bankrupt. Thus, Denmark is very sceptical of this proposal.</p> <p>EE</p> <p><b>(Comments):</b></p> <p><b>We do not find it reasonable to limit prepayments.</b> Travel businesses require those payments to ensure that the trip takes place, they need to pass on these payments to service providers. Often, 100% of the flight ticket must be paid at the time of booking. Considering both today's market practices and the fact that we already have insolvency protection to protect prepayments, such an intervention is not necessary and instead of the expected benefit, it may create an additional administrative burden, increase the prices of packages and weaken the liquidity of tour operators. Another issue with this restriction is that it is hard to apply in practice, as it is difficult for the traveller to assess the justification of a higher prepayment, while it is also relatively easy to avoid this restriction by businesses.</p> <p>EL</p> <p><b>(Drafting Suggestions):</b></p> <p>No</p> <p>EL</p> <p><b>(Comments):</b></p> <p>The restriction on advance payments will be an additional obligation on top of the insolvency protection and various other</p>

Questionnaire	Drafting Suggestions and Comments
	<p>guarantees that a package organiser already has to provide (e.g., securities for the sale of tickets and for credit card companies). This provision will require bookings to be settled in two instalments (25% and then 75%) and will de facto prevent operators from offering more flexible payment plans, e.g., 4 or 5 instalments. This will of course affect the most vulnerable consumers.</p> <p>Such restriction will drive up package prices, weaken the liquidity of travel organisers and will not reduce the cost of insolvency protection. On the contrary, it will further fragilize organisers' liquidities and encourage consumers to choose cheaper, less protected travel alternatives.</p> <p>ES (Comments): Yes, we support a limitation on prepayments.</p> <p>FI (Comments): No. We have <b>major reservations</b> regarding the limitation of downpayments. This may have a significant impact on the opportunities for small and medium-sized traders to operate in the tourism sector in particular. The proposed provision could undermine the level playing field for traders as it would restrict only the ability of organisers and retailers to collect downpayments. Other traders in the tourism sector, such as airlines and hotels, would not be affected by this restriction. Instead of limiting the amount of downpayments, the proposed provisions on insolvency protection are better ways of safeguarding the position of passengers, including the return of downpayments.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>FR (Comments):</p> <p><b>Non, les autorités françaises estiment qu’aucune limitation des prépaiements n’est à envisager pour les forfaits et proposent donc la suppression de cette ligne.</b></p> <p>Elles soulignent, depuis le début des discussions, la nécessaire cohérence des différents textes régissant aussi bien les voyagistes que les transporteurs. Or, aucune limite de prépaiement n’est posée aux transporteurs. Par conséquent, la cohérence n’est pas assurée si seuls les voyagistes devaient appliquer une limite. Les autorités françaises rappellent que les voyagistes doivent réserver et payer immédiatement la part pour la réservation aérienne qui peut représenter plus de 25 % du prix du forfait. En outre, elles estiment qu’une limitation des prépaiements ne permettrait pas le paiement en plusieurs fois pour les consommateurs souhaitant mensualiser la dépense ou pour les foyers à plus faibles revenus. Les autorités françaises considèrent que cette mesure pose donc à la fois des difficultés aux consommateurs et aux professionnels. Enfin, les autorités françaises indiquent que le règlement du solde du forfait 28 jours avant (délai qui semble choisi de façon arbitraire) pose également des difficultés en cas d’insolvabilité du consommateur. Le consommateur se retrouverait à devoir payer un montant important (75 % du prix) en une seule fois.</p> <p><b><i>No, the French authorities believe that there is no need to limit prepayments and propose the deletion of this notion.</i></b></p> <p><i>Since the beginning of the discussion, they have stressed the need for coherence between the different regulations of the Mobility package. However, no prepayment limit is imposed on transport companies; therefore, consistency is not ensured if only</i></p>

Questionnaire	Drafting Suggestions and Comments
	<p><i>organisers of packages have to apply a limit. The French authorities stress that organisers and retailers must book and immediately pay the portion for the air reservation which can represent more than 25% of the price of the package.</i></p> <p><i>In addition, they believe that limiting prepayments would not allow payment in several parts for consumers wishing to make monthly payments or for lower-income households.</i></p> <p><i>Therefore they consider that this measure causes difficulties for both consumers and professionals.</i></p> <p><i>Finally, the French authorities indicate that the fact that the remaining payment should not be required earlier than 28 days before (a period which seems to have been chosen arbitrarily) also poses difficulties in the event of the consumer's insolvency. The consumer would end up having to pay a significant amount (75% of the price) at once.</i></p> <p>HR (Comments):</p> <p>No</p> <p>HU (Comments):</p> <p>No</p> <p>IE (Drafting Suggestions):</p> <p>Delete Article 5a.</p> <p>IE (Comments):</p>

Questionnaire	Drafting Suggestions and Comments
	<p>No. IE is very concerned about the potential impact of setting a cap on the level of prepayments may have for the travel trade industry across the EU.</p> <p>The level of prepayment has not been an issue for consumers; it has been the speed and ability to get refunds. It is not clear that the 25% limitation solves this – it reduces the financial exposure of consumers but does not improve their chances of getting their money back. The focus of reform should be on insolvency and refund timeframes. This provision risks damaging the market, damaging competition and favouring the large incumbent providers who have access to larger cash reserves and have the leverage in the market to obtain special terms and rates with airlines, hotel chains and other travel providers.</p> <p>This proposal may present issues for SMEs who could face difficulties with paying operational costs if these rules are introduced. This may impact certain business models, especially if the business is seasonal, as much of the travel industry is. Some businesses rely on prepayment income for cashflow purposes and this proposal could impact the financial stability of companies going forward which is a concern. The effect, therefore, may be to place additional pressure on insolvency protection schemes; precisely the opposite of what this measure is intended to achieve. It may also lead to price rises.</p> <p>It may also create a barrier for new companies wishing to enter the market as it would likely increase the amount of working capital new entrants would need to raise to enter the market”.</p> <p>The proposal may also take away flexibility which the customer currently enjoys - i.e. if they wish to put arrangements in place with the organiser for the payment of a holiday in instalments over a period of time or, indeed, if they wish to pay in full up front.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>It is noted that providers may seek higher prepayments where this is necessary to ensure the organisation and performance of the package. It is assumed that this covers situations where suppliers, such as air carriers or hotels, demand a higher payment or payment in full at time of booking or within a shorter timeframe than that allowed by this provision. While this exception is welcome, it can surely be expected that providers will maximise their utilisation of this provision – the question arises then as to whether the effect of this provision would be to reduce the level of prepayments at all? The impact assessment suggests the overall reduction may be just 5 percentage points. The value of such a minor benefit is questionable when considered in the context of the potential risks to the operation the travel market set out above and in the comments of many other Member States.</p> <p>Finally, IE is not convinced that this provision – taking into account the exceptions referred to in the paragraph above – can be easily or effectively enforced. It seems to present an unreasonable and unimplementable regulatory burden on both the industry and the national enforcement bodies to monitor compliance.</p> <p>IT  <b>(Comments):</b></p> <p>No, there shouldn't be any limitations to prepayments. Thus, to permit the organising agencies to have full coverage of the costs accrued at the time of booking (like, the cost of flights, which must be paid up promptly). As for intermediary travel agencies, on the other hand, the fact of not placing a limit on prepayments would allow them to standardise the request for down payments to the client, to the one they receive from tour operators.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>LT  <b>(Drafting Suggestions):</b>                      Yes</p> <p>LU  <b>(Comments):</b>                      supports the idea of a limitation, provided there is a balance between the principle and the exceptions (in many cases, higher payments are needed in order to make sure the package indeed will take place). We would rather support a <b>30%</b> threshold (link with credit card guarantee). More explanation about the practical impact of the introduction of such a limitation is still required (for example from Germany, which already implemented such a system).</p> <p>LV  <b>(Drafting Suggestions):</b>                      No</p> <p>LV  <b>(Comments):</b>                      Latvia does not support the inclusion of the Article in the Directive.                      [1] Latvia has concerns regarding supervision of the requirement - as an organiser (tourism operator), it could be challenging (with high administrative burden) to prove that higher advance fees are necessary in exceptional cases. The assessment of such individual cases will significantly increase both the burden on the industry and the administrative burden when monitoring the sector, also in cases, if this exception would apply to groups of certain predefined services.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>[2] In addition, Latvia stresses that organisers already have relatively high costs for obtaining insolvency protection, regardless of the base country or monitoring system implemented there. Moreover, service providers are experiencing large seasonality fluctuations, so the need to limit the amount of advance payments, which can significantly reduce the active funds available to the organiser, needs to be carefully assessed. Latvia points out that if an insolvency protection regulation is in place that requires all advance payments to be secured and if the tourism operator complies with this requirement, it is not necessary to introduce additional limits regarding the amount of advance payments.</p> <p>[3] In addition, the split of the payment into two parts, will limit the possibility for travellers to settle with downpayments (4 or 5 times), affecting the most vulnerable consumers. Such a restriction will increase the prices of packages, weaken the liquidity of organisers and not lead to a reduction in insolvency protection costs in general, but on the contrary will further encourage consumers to opt for cheaper and unsecure travel alternatives.</p> <p>[4] Latvia believes that such restriction of 25% of downpayments will negatively affect the EU single market, not to mention the rights of entrepreneurs, because no restrictions will be put on 3<sup>rd</sup> countries, therefore organisers from 3<sup>rd</sup> countries will have more favourable contracts with service providers and cheaper prices for packages. The proposal also lacks arguments in favour for the restriction (even if it is said to be the average % used in EU, it does not fully validate the restriction). Latvia does not support the suggestion of possible package division into groups (by allocating which groups can be exempt from this restriction). Especially larger organisers will</p>

Questionnaire	Drafting Suggestions and Comments
	<p>mostly qualify into all groups since the packages they sell vary a lot. And eventually the restriction of 25% does not solve the initial problem – efficient insolvency protection.</p> <p>MT  <b>(Comments):</b>                      No, from discussions held with the stakeholders, it transpired that the restriction of the 25% downpayment in the absolute majority of cases will not be attainable. Hence, the provision allowing for higher downpayments will in the majority of cases be resorted to. It is thus proposed that the provision of Article 5 1 d of EU 2015/2302 remains, as it is more adequate.</p> <p>NL  <b>(Drafting Suggestions):</b>  <del>Member States shall ensure that, except for packages as defined in Article 3, point (2)(b)(iv), and packages booked less than 28 days before the start of the package, the organiser or, where applicable, the retailer shall not request downpayments exceeding 25% of the total price of the package and shall not request the remaining payment earlier than 28 days before the start of the package. The organiser, or where applicable, the retailer may request higher downpayments where this is necessary to ensure the organisation and the performance of the package. The downpayments may cover advance payments to providers of services included in the package and costs incurred by the organiser, or where applicable the retailer, specifically in relation to the organisation and performance of the package insofar as it is necessary to cover those costs at the time of booking.<sup>2</sup>.</del></p> <p>NL</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>No.</p> <p>We have concerns on the proposal to regulate downpayments. We are of the opinion that the conditions regarding downpayments should continue to be determined by the market. The downpayments is a competitive parameter with which travel providers can distinguish themselves towards consumers. The downpayment limit might have negative outcomes for SME's. The level playing field will be affected since the downpayment limit does not apply to airlines or other travel services. In addition, it is not proportional to burden the travel service providers with the extra administrative expenses (they have to take out a working capital loan to pay their partners) and the corresponding enforcement tasks for the regulator by introducing this article. Therefore the Netherlands proposes to delete article 5a.</p> <p>PL</p> <p><b>(Comments):</b></p> <p>In Poland's view, the solutions proposed by the European Commission regarding the down payment to be made by consumers (which should be no more than 25% of the price of the tourist event) may negatively affect the market for first-minute tourist events, as well as the possibility of paying in instalments more than 28 days before the start of the tourist event. Therefore, in this regard, the RP proposes an in-depth analysis at the drafting stage.</p> <p>PT</p> <p><b>(Comments):</b></p> <p>Yes</p>

Questionnaire	Drafting Suggestions and Comments
	<p>RO (Comments):</p> <p>Yes</p> <p>SE (Comments):</p> <p>No</p> <p>SI (Comments):</p> <p>Yes</p> <p>SK (Comments):</p> <p>No.</p>
<p>7) If yes, do you agree with the current wording or do you have any alternative drafting proposals?</p>	<p>AT (Drafting Suggestions):</p> <p>(deletion)</p> <p>AT (Comments):</p> <p>AT would prefer a deletion of Article 5a. In AT, national advance payment restrictions apply, which are clear and work very well, especially in connection with insolvency protection. The proposed Article 5a would lead to a significant deterioration in the existing level of protection for consumers and create great legal uncertainty, including for companies. The proposed exemption provision is too vague and leads to many legal questions; court proceedings are bound to happen. In addition, the lack of an absolute time limit for advance payments - in</p>

Questionnaire	Drafting Suggestions and Comments
	<p>Austria, advance payments are not permitted earlier than 11 months before the end of the trip - will lead to a considerable increase in payments to be secured by insolvency protection. Together with the unclear exemption regulation, the insolvency risk to be covered will increase massively and jeopardize the existing Austrian insurance system.</p> <p>DE (Comments):</p> <p>Yes</p> <p>ES (Comments):</p> <p>Spain would like to highlight two elements regarding this article:                      1. Including a derogation where higher downpayments may be requested “where this is necessary to ensure the organisation and the performance of the package” brings legal uncertainty to the proposal. Such an exception should be clearly defined.                      2. On the other hand, downpayments not exceeding 25% of the total price of the package might be a low percentage in some cases.</p> <p>IE (Comments):</p> <p>IE proposes the deletion of this provision.</p> <p>LT (Drafting Suggestions):</p> <p>No</p> <p>LT (Comments):</p>

Questionnaire	Drafting Suggestions and Comments
	<p>We suggest defining in more detail the cases when the organizers could demand payment of more than 25 % of the total price, and what evidence would be suitable to justify such a necessity (flight ticket payment, invoices issued by other service providers, etc.).</p> <p>LV (Drafting Suggestions):</p> <p>-</p> <p>MT (Comments):</p> <p>N/A</p> <p>PT (Comments):</p> <p>No, PT believes that <u>further clarification is needed</u>. PT considers that the proposed wording raises doubts regarding the 25% limit and the cases in which a higher downpayment may be requested; and also, about the possibility of payments by instalment being made for the remaining 75% of the package before the 28 days, by agreement between the consumer and the travel agency.</p> <p>PT questions if it's possible to pay in instalments, each of which is worth less than 25% of the total package price or is it not at all possible to make payments before 28 days prior to the trip that exceed 25% of the total price of the package.</p> <p>We consider it <b>very important to clarify this issue, and believe that a ban on paying for travel in instalments would be penalizing for consumers.</b></p> <p>RO</p>

Questionnaire	Drafting Suggestions and Comments
	<p>(Comments):</p> <p>We agree</p> <p>SI</p> <p>(Comments):</p> <p>We are aware that certain organisers and agents, which are SMEs, are often unable to organize tourist packages without an advance downpayment from consumers, as they do not have sufficient funds to be able to reserve the sums for all the necessary costs in advance. On the other hand, the exception is very broadly defined and open to abuse against the consumer. The limitation to the advance payment of 25% of the price should also apply to the relationship between providers of tourist services and organizers or agents of tourist packages, otherwise it will be difficult to avoid paying higher downpayments. The Republic of Slovenia would like to additionally point out that the draft directive does not define sufficiently the criteria how or in what way will the organizers or travel agents determine that is necessary to demand higher downpayments to ensure the organisation and the performance of the package. If such exemptions in favour of the organizers shall exist, it needs to be transparent and information of the fulfilment of the criteria for the request for a higher downpayment must be disclosed to the consumer in due time (for example before the conclusion of the package travel contract). The information justifying the request for a higher downpayments must be made available to supervision authorities for inspection.</p>
<p><b>Clarifying the role of official travel warnings in Article 12(3a)</b></p>	
<p>8) Are you, in principle, in favour of inserting a reference to official travel warnings in Article 12(3a)? Yes/No?</p>	<p>AT</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>No, AT opposes a reference to official travel warnings in Article 12 (3a). The consideration of travel warnings is already in line with the current case-law. However, there is no uniform EU-wide system for travel warnings, which is why a case-by-case examination will always be necessary. The mentioning of travel warnings in the provisional part of the Directive gives the impression that travel warnings should be given a higher importance than they have been so far.</p> <p>CZ</p> <p><b>(Drafting Suggestions):</b></p> <p>NO</p> <p>DE</p> <p><b>(Comments):</b></p> <p>Yes</p> <p>DK</p> <p><b>(Comments):</b></p> <p>Yes. However, it should be considered if it is adequate to mention the role of official travel warnings in the recitals (see below).</p> <p>EE</p> <p><b>(Comments):</b></p> <p>The principle that travel warnings are taken into account, amongst other relevant circumstances, is in compliance with Estonian Law. However for us it is important, that the general principle of free assessment of evidence, which is manifested in Estonian procedural law, applies. The court does not regard any</p>

Questionnaire	Drafting Suggestions and Comments
	<p>item of evidence as having a predetermined weight, meaning that the parties can prove all kinds of circumstances with any evidence of their free choice.</p> <p>As we understand it, article 12(3) does not have the aim of regulating the issuing nor the binding effect of travel warnings in principle.</p> <p>In order to avoid any possible doubts or complications in transposing the Directive in the future, <b>we believe that the text provided in art 12(3) belongs in the recitals.</b></p> <p>ES  <b>(Comments):</b></p> <p>Yes, we are in favor of inserting a reference to official travel warnings. We support the COM proposal as we understand it protects the consumer’s interests. The official warnings should indeed be taken into account in the assessment of whether a termination of a contract is justified.</p> <p>FI  <b>(Comments):</b></p> <p>Yes</p> <p>FR  <b>(Comments):</b></p> <p><b>Non, les autorités françaises demandent la suppression de cette notion dans la révision de la directive.</b></p> <p>Les autorités françaises s’opposent à ce que les avis voyageurs publiés puissent être liés à la caractérisation d’une situation de « circonstances exceptionnelles et inévitables », afin notamment de ne pas établir de lien entre les avis officiels sur une destination et les relations bilatérales contractuelles entre le professionnel et le voyageur.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>Il est d'ailleurs bien précisé sur le site du Ministère que les fiches « Conseil aux Voyageurs » n'ont qu'une valeur de conseil, et qu'il n'est pas possible de solliciter une attestation du Ministère lorsque les risques ont changé et qu'une agence de voyage ne veut pas rembourser le coût du séjour annulé au voyageur. Force est ainsi de constater que l'ajout de ce paragraphe vise précisément à établir un lien explicite entre « avertissements officiels » et « circonstances exceptionnelles et inévitables » justifiant la résiliation, et apparaît problématique.</p> <p>Par ailleurs, l'article 12 paragraphe 3 bis tel que défini pose un risque d'insécurité juridique en cas d'avertissements de voyage contradictoires dans différents pays. De même, aucun délai ou contrainte temporelle n'est mentionné pour qualifier les « circonstances exceptionnelles et inévitables ».</p> <p><b><i>No, the French authorities ask for the deletion of this notion in the revision of the directive.</i></b></p> <p><i>The French authorities are opposed to the idea that official travel warnings can be linked to the characterization of a situation of "exceptional and unavoidable circumstances", so as not to establish a link between official advice on a destination and the bilateral contractual relationship between the professional and the traveler.</i></p> <p><i>Moreover, the Foreign Affairs Ministry's website clearly states that the "Conseil aux Voyageurs" (Travel Advice) sheets are for advice purposes only, and that it is not possible to request a certificate from the Ministry when the risks have changed and a travel agency does not wish to reimburse the traveller for the cost of the cancelled holiday. The addition of this paragraph, aimed precisely at establishing an explicit link between "official warnings" and "exceptional and unavoidable circumstances" justifying cancellation, therefore appears problematic.</i></p>

Questionnaire	Drafting Suggestions and Comments
	<p><i>In addition, article 12 paragraph 3 bis as defined poses a risk of legal uncertainty in the event of contradictory travel warnings in different countries. Similarly, no time limit or time constraint is mentioned to qualify "exceptional and unavoidable circumstances" which represent another risk of legal uncertainty.</i></p> <p>HU (Comments): Yes</p> <p>IE (Comments): Yes, IE supports the inclusion of official travel warnings in this provision, in principle. IE is concerned, however, that the proposal as drafted is highly ambiguous and runs a significant risk of precipitating disputes that will likely end up with national enforcement bodies or the courts. IE will therefore only support a proposal in this regard if it sufficiently robust in its drafting.</p> <p>IT (Comments): Yes.</p> <p>LT (Drafting Suggestions): Yes</p> <p>LU (Comments): Yes, supports DE proposal sent via mail</p> <p>LV</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Drafting Suggestions):</b></p> <p>No</p> <p>LV</p> <p><b>(Comments):</b></p> <p>Latvia does not support this proposal. Especially the part for warnings issued by national authorities - it is very questionable, whether such warnings should be taken into account when assessing if termination of a contract is justified. Member States may have different practices in issuing warnings, and they may be made in the form of a recommendation rather than a prohibition. Therefore, Latvia proposes to delete this text or move it to recitals.</p> <p>MT</p> <p><b>(Comments):</b></p> <p>Yes, once a recognised national entity of a Member States declares via an official warning against travel, or that there will be serious restrictions were travel is not recommended, then that should <i>de facto</i> be a determining element.</p> <p>NL</p> <p><b>(Comments):</b></p> <p>The Netherlands doesn't have a statement on this specific point. The Netherlands is, in principle, in favor for clarifying the definition of unavoidable of extraordinary circumstances.</p> <p>PT</p> <p><b>(Comments):</b></p> <p>Yes.</p> <p>RO</p>

Questionnaire	Drafting Suggestions and Comments
	<p>(Comments):</p> <p>Yes</p> <p>SE</p> <p>(Comments):</p> <p>No</p> <p>SI</p> <p>(Comments):</p> <p>Yes.</p> <p>SK</p> <p>(Comments):</p> <p>No.</p>
<p>(a) If yes, would you consider any changes to the drafting of Article 12(3a) as proposed by the Commission? Please specify.</p>	<p>AT</p> <p>(Comments):</p> <p>-</p> <p>DE</p> <p>(Drafting Suggestions):</p> <p>Official warnings against travel to a particular destination issued by the authorities of the Member State of <del>departure or</del> traveller's residence <del>or the country of destination</del>, or the fact that travellers will be subject to serious restrictions at the travel destination or in the Member State of residence <del>or departure</del> after returning from the trip or holiday, shall be important elements to be taken into account in the assessment of whether a termination of the contract based on paragraph 2 and paragraph 3, point (b), is justified.'</p> <p>DE</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>(Comments):</b></p> <p>In the interests of legal certainty, this provision should only cover travel warnings issued by the authorities at the traveller’s place of residence. Otherwise, there is a risk of considerable legal uncertainty in the event of contradictory travel warnings in different countries.</p> <p>DK</p> <p><b>(Drafting Suggestions):</b></p> <p>In order to make the proposed Article 12(3a) more operative, the changes mentioned below could be considered:  <i>“Official warnings against travel to a particular destination issued by the authorities of the Member State of departure or traveller’s residence or the country of destination, or the fact that travellers will be subject to serious restrictions at the travel destination or in the Member State of residence or departure after returning from the trip shall be taken into account in the assessment of whether a termination of the contract based on paragraph 2 and paragraph 3, point (b), is justified.”</i></p> <p>DK</p> <p><b>(Comments):</b></p> <p>It seems clear from the wording that official travel warnings etc. are only indicative and thus not decisive in the assesment of whether a termination of the contract is justified.</p> <p>EE</p> <p><b>(Comments):</b></p> <p>We propose that recital 19 should be worded as follows:  <i>“..During the Covid-19 pandemic, different interpretations emerged regarding cancellation rights due to ‘unavoidable and</i></p>

Questionnaire	Drafting Suggestions and Comments
	<p><i>extraordinary circumstances’ including in relation to the relevance of travel warnings. It is, therefore, appropriate to specify that official travel warnings for the travel destination issued by the authorities of the Member State of the traveller’s residence or departure or the country of destination, <del>are</del> <b>can be</b> important elements when assessing the justification of the termination of a contract. <u>However, the principle of a case-by-case assessment should be maintained to ensure protection suitable for all possible situations.</u>”</i></p> <p>ES (Comments):</p> <p>No.</p> <p>HU (Comments):</p> <p>We recommend the following additions: Official travel warnings - <b>issued after the conclusion of the travel contract</b> - <b>by the ministry of foreign affairs of the country in which the tour operator is established</b> are considered important elements when assessing the justification of the termination of a contract;</p> <p>IE (Comments):</p> <p>IE would need to reflect and consult with relevant stakeholders before making drafting suggestions in this regard.</p> <p>IT (Drafting Suggestions):</p>

Questionnaire	Drafting Suggestions and Comments
	<p>“3 bis Official notices advising against travel (...) are essential elements to consider the resolution justified on the basis of par. 2 and par. 3 letter b”.</p> <p>IT  <b>(Comments):</b>                      Yes. We reckon that it is necessary to specify that official advice is essential for the termination of the contract. Personal hindrances must be excluded (ex. sickness).</p> <p>LT  <b>(Drafting Suggestions):</b></p> <p>No</p> <p>LU  <b>(Comments):</b>                      Yes, supports DE proposal sent via mail</p> <p>LV  <b>(Drafting Suggestions):</b></p> <p>-</p> <p>MT  <b>(Drafting Suggestions):</b>                      Official warnings against travel to a particular destination issued by <b>nationally recognised</b> authorities of the Member State of departure or traveller’s residence or the country of destination, or the fact that travellers will be subject to serious restrictions at the travel destination or in the Member State of residence or departure after returning from the trip or holiday, shall be <b>important a determining</b> elements to be taken into account in the</p>

Questionnaire	Drafting Suggestions and Comments
	<p>assessment of whether a termination of the contract based on paragraph 2 and paragraph 3, point (b), is justified.</p> <p>PT  <b>(Comments):</b>                      PT can accept the drafting as proposed by the Commission.</p> <p>RO  <b>(Comments):</b></p> <p>No</p> <p>SI  <b>(Comments):</b>                      SI does not oppose the purpose of the article which sets out reference to official travel warnings in Article 12(3a). We believe that it should be better defined whether all official warnings or only travel bans should be taken into account, as most official warnings are only formulated as advice and warnings.                      It is also necessary to clarify how to prevent unequal treatment resulting from a non-uniform assessment of the situation in a region, place, or country. In practice, the assessments differ, which puts both organizers and passengers in an unequal position. Also, official warnings in Member States vary greatly in practice, so the diction that hints at an "important element of assessment" is vague. In addition, the official bodies of the country either bear or do not bear material responsibility for the issued warning, which is also not negligible. Does an important element have more value than other relevant elements included in the assessment by law or does important mean that these elements should be taken into account if they exist, without any predefined value.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>SI would additionally like to point out that this part of the proposal is still being consulted with stakeholders.</p>
<p>(b) If not, would you consider mentioning the role of official travel warnings in a recital?</p>	<p>AT  <b>(Comments):</b>                      Yes, AT prefers to mention the role of official travel warnings in a recital. Since the suggested Article 12 (3a) only states that travel warnings shall be important elements to be taken into account, it would be sufficient to mention travel warnings only in a recital.</p> <p>CZ  <b>(Drafting Suggestions):</b></p> <p>NO</p> <p>CZ  <b>(Comments):</b>                      Institutionalizing the "official role of the Ministry of Foreign Affairs" (MFA) in the field of travel advices/warnings in a normative document is perceived as very problematic by CZ, even would it be just in the form of a mention in the recital. The main reason for this is that our travel advices/warnings are not and cannot be binding for citizens. They are merely an informative hint on the situation in the given location, while the resulting final behaviour of a concrete individual shall be always depending on his/her specific situation, needs, purposes and personal reasons of why to travel to/ stay in a given place. Hence, MFA's travel advices/warnings cannot be legislatively put as a base for, for example, holiday package cancellations or the management of cancellation fees. It is not appropriate for the state to step in the middle of a private-law relation between the client and the travel agency/ insurance company. Lastly, it shall</p>

Questionnaire	Drafting Suggestions and Comments
	<p>also be accentuated that the MFA as the authority for exterior politics and diplomacy cannot secure and guarantee, for obvious reasons, that there will always be a travel advice/warning on its web in every situation, with precise details and for every country. In the same sense, the MFA cannot substitute or copy the informative role of the media.</p> <p>DK  <b>(Comments):</b>                      As indicated above, it should – in light of the indicative nature of the proposed Article 12(3a) – be considered if it is adequate to mention the role of such warnings in the recitals regarding the understanding of the proposed Article 12(2), and not in the operative part of the Directive.                      Furthermore, it should be specified in the recitals, what constitutes "serious restrictions" (besides quarantine requirements) as referred to in Article 12(3a).</p> <p>FR  <b>(Comments):</b>  <b>Non, pour les mêmes raisons mentionnées précédemment.</b>  <i>No, for the same reasons mentioned above.</i></p> <p>HR  <b>(Comments):</b>                      Yes</p> <p>IE  <b>(Comments):</b>                      IE would be open to proposals in this regard. A recital may assist enforcement bodies and courts when making determinations as regards whether an event constitutes “unavoidable or unforeseen</p>

Questionnaire	Drafting Suggestions and Comments
	<p>circumstances”. As set out in previous comments, support from IE for any such proposal would be contingent on how robust the wording proposed is.</p> <p>LT (Drafting Suggestions):</p> <p>No</p> <p>LV (Drafting Suggestions):</p> <p>Yes</p> <p>RO (Comments):</p> <p>Yes</p> <p>SE (Comments):</p> <p>SE prefers that the role is not mentioned in a recital either. However, SE could accept it being mentioned if the recital also states that the issuing of travel warnings is a national concern.</p> <p>SI (Comments):</p> <p>We see no significant difference in whether the provision on the importance of official warnings is in the recital or in the article, since the provision does not establish an obligation to comply with official warnings.</p> <p>SK (Comments):</p> <p>Yes.</p>

Questionnaire	Drafting Suggestions and Comments
<p><u>Insolvency protection – Article 17(6)</u></p>	<p>FR  <b>(Drafting Suggestions):</b></p> <p>A l'article 17, nous renouvelons notre demande d'insérer la phrase suivante :  <i>On article 17, we reiterate our request to insert the following sentence:</i>  <b><i>“Each Member State publishes and updates a register of organizers and their guarantors”</i></b></p> <p>FR  <b>(Comments):</b></p> <p>Les autorités françaises proposent la création d'un registre par État membre répertoriant les voyagistes et leurs garants, comme cela est déjà fait au niveau national.                  Elles estiment en effet que seul un dispositif de ce type, élargi au niveau européen, permettrait de vérifier le garant d'un voyageur intervenant en libre prestation de services.  <i>The French authorities propose that each Member State publishes and updates a register of organizers and their guarantors, as is already the case in France.</i>  <i>They consider in fact that only such a system of this type, generalized within the EU, would make it possible to check the guarantor of an organiser of package doing business under the freedom to provide services.</i></p>
<p>9) Do you consider including a deadline? Yes/No</p>	<p>AT  <b>(Comments):</b></p> <p>No, AT does not want to include a specific deadline. In view of the extended scope of the Directive and the extensive definition of the terms "package" and "linked travel services", it can be assumed that the envisaged period of three months is too short.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>This period is too short, particularly in the case of major insolvencies. Article 17(5) of the PTD in its current version is sufficient. The newly suggested Article 17 (6) is rejected.</p> <p>CZ (Drafting Suggestions):</p> <p>YES</p> <p>DE (Drafting Suggestions):</p> <p>Refunds of payments affected by the organiser’s insolvency shall be provided without undue delay after <del>the traveller’s request and at the latest within three months after</del> the traveller has submitted the documents necessary to examine the request.</p> <p>DE (Comments):</p> <p><b>No</b> Germany has considerable concerns about to the proposed introduction of a fixed deadline of three months for refunds in the event of insolvency – a provision which seems impracticable in view of insolvency cases in Germany. Germany is therefore in favour of deleting the refund deadline without replacement.</p> <p>DK (Drafting Suggestions):</p> <p><i>“Refunds of payments affected by the organiser’s insolvency shall be provided without undue delay after the traveller has submitted the documents necessary to examine the request.”</i></p> <p>DK (Comments):</p>

Questionnaire	Drafting Suggestions and Comments
	<p>No. Denmark is concerned about an absolute deadline of three months from the time, the traveller has submitted the necessary documents to examine the request. We find, that a certain degree of flexibility should be allowed, so that in exceptional situations this repayment period can be waived.</p> <p>EE (Comments):</p> <p>Estonia can be flexible in respect of setting a deadline</p> <p>ES (Comments):</p> <p>Yes, we can support including a deadline as it provides for more legal certainty, rather than just mentioning “without undue delay”.</p> <p>FI (Comments):</p> <p>No.</p> <p>FR (Drafting Suggestions):</p> <p><i>In addition to the deadline, the French authorities consider that member states should ensure that the traveller is warned of the insolvency of the organiser by the guarantor within one month after the insolvency occurs and through individual message: “(..) The organiser’s insolvency shall inform each concerned traveller about the insolvency within one month after the insolvency occurs and through individual message.”</i></p> <p>FR (Comments):</p>

Questionnaire	Drafting Suggestions and Comments
	<p><b>Oui, les autorités françaises estiment qu’une limite de temps est nécessaire, sinon cela serait préjudiciable pour le consommateur.</b></p> <p>En outre, elles considèrent que la protection du consommateur ne peut être effective que si le consommateur est prévenu par le garant de la défaillance de l’opérateur, à titre individuel et dans un délai rapide. En effet, les consommateurs ne sont pas toujours au courant de la défaillance du voyageur et ne peuvent pas réclamer leur dû.</p> <p>Elles proposent donc un amendement du texte en ce sens.</p> <p><b><i>Yes, the French authorities consider that a deadline is necessary; it would be otherwise harmful to the consumer.</i></b></p> <p><i>In addition, the French authorities consider that consumer protection can only be effective if the consumer is informed by the guarantor of the operator's insolvency, individually and promptly. In fact, consumers are not always aware of the tour operator's insolvency and cannot claim their dues.</i></p> <p><i>The French authorities therefore propose an amendment in this sense.</i></p> <p>HR  <b>(Comments):</b>                  Yes</p> <p>HU  <b>(Comments):</b>                  Yes</p> <p>IE  <b>(Comments):</b>                  IE is open to the addition of a suitable deadline, subject to consultation with stakeholders.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>IT  <b>(Comments):</b>                      Yes. We reckon that protection against insolvency or bankruptcy should be excluded in any case the insolvency/bankruptcy are the outcome of a wilful misconduct or gross negligence of the operator.</p> <p>LT  <b>(Drafting Suggestions):</b>                      Yes</p> <p>LU  <b>(Comments):</b>                      we are in favour of including a deadline</p> <p>LV  <b>(Drafting Suggestions):</b>                      Yes</p> <p>MT  <b>(Comments):</b>                      It would be better if there was <b>no</b> deadline, however as a compromise MT is suggesting amended text as per question 10 below.</p> <p>PT  <b>(Comments):</b>                      Yes. PT welcomes the introduction of a specific deadline for the refunds, which clarifies the previous provision that only made reference to the need for the refund to be provided <i>without undue delay</i>.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>RO (Comments):</p> <p>Yes</p> <p>SE (Comments):</p> <p>Yes</p> <p>SI (Comments):</p> <p>Yes</p> <p>SK (Comments):</p> <p>No.</p>
<p>10) If yes, should it be 3 months, or would you propose an alternative deadline?</p>	<p>CZ (Drafting Suggestions):</p> <p>6 months</p> <p>EE (Comments):</p> <p>Would prefer more flexibility here as in more complicated cross-border cases 3 months deadline might not be feasible. It seems that period of 6-12 months would be more realistic or the possibility to prolong the deadline to 6-12 months. But in general, as already stated above, we can be flexible here.</p> <p>EL (Comments):</p>

Questionnaire	Drafting Suggestions and Comments
	<p>The three-month deadline is not realistic, in particular if refund claims are involved and that instead some flexibility should be provided for, so that in exceptional situations (e.g., pandemic) this repayment deadline can be waived.</p> <p>ES (Comments):</p> <p>We believe 3 months is a reasonable deadline.</p> <p>FI (Comments):</p> <p>We prefer the current wording.</p> <p>FR (Drafting Suggestions):</p> <p><i>“A period of three months would be fine, but could be extended to a maximum of 6 months so as to allow greater flexibility for financial guarantors.”</i></p> <p>FR (Comments):</p> <p><b>Les autorités françaises considèrent qu’un délai de trois mois serait suffisant mais qu’il serait possible de l’étendre à un délai maximum de 6 mois afin d’avoir une plus grande souplesse pour les garants financiers.</b> <i>The French authorities consider that a period of three months would be fine but could be extended to a maximum of 6 months so as to allow greater flexibility for financial guarantors.</i></p> <p>HR (Comments):</p> <p>We propose 6 months as deadline.</p>

Questionnaire	Drafting Suggestions and Comments
	<p>HU  <b>(Comments):</b>                      Yes, 3 months</p> <p>IE  <b>(Comments):</b>                      The experience of the administrator of the insolvency protection scheme in Ireland indicates that 3 months is a very tight timeframe for resolution of claims. IE will consider its position in consultation with stakeholders.</p> <p>IT  <b>(Comments):</b>                      More than three months.                      The establishment of an actual state of insolvency, as defined by national law, requires a period of time that is not compatible with the prescribed period of three months from the time when the traveller submitted the documents necessary for the examination of the application, suggesting that it should run from the date on which the insolvency was established.</p> <p>LT  <b>(Drafting Suggestions):</b>                      4-6 months                      We would suggest this clarification:                      “Refunds of payments affected by the organiser’s insolvency shall be provided without undue delay after the traveller’s request and at the latest within three months after the traveller has submitted the <b>all</b> documents necessary to examine the request.”</p>

Questionnaire	Drafting Suggestions and Comments
	<p>LT (Comments):</p> <p>The proposed period of 3 months is really too short to carry out the procedures. Member States must be given the necessary flexibility in implementation. For example, The Law on Tourism of the Republic of Lithuania provides that the traveller must apply to the institution authorized by the Government no later than 3 months from the date of publication of the information on the submission and examination of requests for compensation by the institution authorized by the Government. There are cases when travellers apply to the authority immediately after notification, but there have been cases where they apply on the last day of the deadline. In any case, the end of the 3-month deadline is expected and only then will all applications received be evaluated. The currently legal regulation has already been tested in practice and works well.</p> <p>LU (Comments):</p> <p>3 months might be too short (practicability)</p> <p>LV (Drafting Suggestions):</p> <p>3 months with an option to prolong in international cases. See the drafting proposal: Refunds of payments affected by the organiser’s insolvency shall be provided without undue delay after the traveller’s request and at the latest within three months after the traveller has submitted the documents necessary to examine the request, <b><u>with an option</u></b></p>

Questionnaire	Drafting Suggestions and Comments
	<p><b><u>to prolong the refund up to one year in cases of large or international organizers' insolvency.</u></b></p> <p>LV  <b>(Comments):</b>                      Latvia proposes that a reference should be made to exceptional cases, with the possibility of extending the process not only to cross-border situations but also to the organisation of refund by large organisers, since in these cases rapid data processing, communication with consumers, the ability of consumers to submit documents quickly and the finding of a solution may not be possible.</p> <p>MT  <b>(Drafting Suggestions):</b>                      Refunds of payments affected by the organiser's insolvency shall be provided without undue delay after the traveller's request <del>and at the latest within three months after the traveller has submitted the documents necessary to examine the request.</del> <b>and subject to the submission of all necessary documentation to examine the request and at the latest within twelve months after the organiser has been legally declared insolvent as per national insolvency legislation.</b></p> <p>MT  <b>(Comments):</b>  <b>The three months could be insufficient when there are many travellers that would require refunds. In addition, the declaration of insolvency is also a legal matter that would need to be determined and decided upon by the court. Such a timeline is unrealistic.</b></p>

Questionnaire	Drafting Suggestions and Comments
	<p>In the context of Malta, the three-month deadline is unacceptable. In addition, due to national procedures, the organiser would need to have been declared insolvent prior to any timelines being triggered.</p> <p>PL  <b>(Drafting Suggestions):</b></p> <p>We propose to extend the deadline to maximum 4 months</p> <p>PT  <b>(Comments):</b></p> <p>Even though we welcome the introduction of a 3-month deadline, PT is open to the suggestions made in the last meeting regarding the possibility of extending the 3-month deadline to the maximum of 12 months.</p> <p>RO  <b>(Comments):</b></p> <p>3 months</p> <p>SE  <b>(Comments):</b></p> <p>The deadline should either be longer or an exception for certain situations should be introduced. The exception could be applied for example in the event of the insolvency of a major organizer.</p> <p>SI  <b>(Comments):</b></p> <p>SI can support 3 months deadline or a slight extension of this deadline.</p> <p>SK</p>

Questionnaire	Drafting Suggestions and Comments
	<p>(Drafting Suggestions):</p> <p>Refunds of payments affected by the organiser’s insolvency shall be provided without undue delay after the traveller’s request and at the latest within <del>three</del> <u>six</u> months after the traveller has submitted <del>the</del> <u>all</u> documents necessary to examine the request.</p> <p>SK</p> <p>(Comments):</p> <p>If there is a deadline, we propose at least 6 months.</p>