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NOTE

From: Presidency
To: Working Party on Consumer Protection and Information (Attachés)
Working Party on Consumer Protection and Information

Subject: Package Travel Directive - Working Party on Consumer Protection and Information
on 20 June - Presidency Flash

Delegations will find attached a Presidency Flash for the above-mentioned meeting.

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Revision of the Package Travel Directive Working Party Meeting of 20 June

Dear colleagues,

We would like to invite you to the last full day Working Party on Consumer Protection and Information under the Belgian Presidency on 20 June. We will continue our discussions on the Commission's proposal for a directive amending directive 2015/2302 on **package travel and linked travel arrangements** (PTD).

1. Agenda

Based on the input received from delegations, the Presidency prepared a **second text proposal** covering the entire Commission proposal (document 9562/24 REV1). The Presidency text proposal will be discussed during the working party on the 20th of June.

2. Main changes to the text

Below we briefly set out the rationale of the main changes that have been made.

A. Article 3: definitions

- **Point (2)(b): package**

The Presidency noted that delegations were generally not in favour of introducing the 3 hours and 24 hours timeframes into the definition of package and had concerns about the application of this definition in practice. Therefore, the Presidency considers it appropriate to **revert to the wording of Article 3, point (2)(b)(i) of the current directive**.

- **Point (2)(v): click-through package**

Similarly, with regard to the click-through packages in point (2)(v), the Presidency noted that there was an overall support for reverting to the text of the current directive and thus the **24-hour timeframe is reintroduced**.

Regarding the transfer of traveller's **personal data** between different traders, allowing the identification of the traveller, the Presidency proposes to use the more general wording "*the traveller's personal data*" (meaning "personal data" as defined in Article 4(1) of the GDPR, cf. recital 8). This includes the usual cases where a traveller's name, payment details and/or email address is transferred from one trader to another. Furthermore, the transfer of the traveller's phone number, social media account or any other information through which the traveller can be identified, also fall under this definition. The aim of this amendment is to make the directive more future-proof and to prevent circumvention.

- **Point (5): linked travel arrangements (LTAs)**

Following the feedback we received from the Member States, the Presidency offers delegations two options.

Option A is to **remove LTAs from the scope of the directive**. Several delegations indicated this causes legal uncertainty and is rarely applied in practice. Therefore, the added value in terms of consumer protection is rather limited. The corresponding recitals would consequently also be deleted.

Under option B, the Presidency proposes a **partial return to the current definition, with** some adjustments to address difficulties currently perceived in practice:

- In the chapeau of point 5, the current text of the directive is reintroduced with some minor changes.
- Point 5(a) is simplified and introduces *“through a single point of sale, the separate selection of travel services within 3 hours”*. In this way, the Presidency intends to prevent circumvention by traders and reduce the legal uncertainty resulting from the use of the term *“single visit or contact”*. This wording covers both online and offline sales.
- Following the same reasoning, changes are made to point 5(b). The wording *“a trader facilitates, in a targeted manner, the procurement”* is replaced by *“invites a traveller to book”*.
- These changes are not yet reflected in the corresponding recitals. If option B is preferred, the recitals will be adapted accordingly.

The Presidency invites delegations to express their preferred option during the working party meeting and/or in their written contributions.

B. Article 5a: payments

The Presidency felt there was little support from Member States for an Article 5a. Therefore, we propose to **delete** this article and the corresponding recitals.

C. Article 12: termination of the package travel contract and the right of withdrawal before the start of the package

• **Paragraph 2: unavoidable and extraordinary circumstances**

This Article and the corresponding recital 18 are amended to **reflect the case law** of the Court of Justice. The reference to the **place of the traveller's residence has been deleted**, as many Member States expressed concerns that this might extend the scope of the Article beyond current case law and practice. The last sentence of recital 18a, previously added by the Presidency, has been moved to recital 18.

• **Paragraph 3a: official travel warnings**

The provision on official travel warnings is not amended in the operative text, but the Presidency proposes some **modifications to the corresponding recital 19**. The recital clarifies the need for the unavoidable and extraordinary circumstances to have significant effects on the performance of the package and these circumstances must be assessed on a case-by-case basis. The recital 19 then further elaborates on the fact that the absence

of official travel warnings does not preclude the determination of the presence of unavoidable and extraordinary circumstances. Both additions **reflect established case law** of the Court of Justice (C-299/22, paragraph 37 in particular).

- **Paragraph 4: refunds**

In this paragraph the Presidency text sticks to the rationale of the changes made in the first compromise text. Thus, cases where the insurance is included in the package travel contract and the traveller has enjoyed part of the insurance coverage, are taken into account. Recital 20 specifies that in practice this mainly concerns **cancellation insurances**.

Paragraph 4 has been reworded for the sake of clarity; it is proposed to revert to the wording of the current directive in the first sentence and to specify in a separate sentence the cases where insurance is part of the package travel contract. In the last sentence, for reasons of coherence, the same wording (“*without the need of any prior request*”) is used as in Article 12a, paragraph 7.

D. Article 12a: vouchers

The Presidency proposes to make a clear distinction between the organiser's information obligations when offering a voucher (paragraph 2) and the information that the voucher itself must contain (paragraph 5a). The other provisions of the Article are adapted accordingly.

Furthermore, a new paragraph 4a is introduced to clearly establish the cases in which the suspension of the traveller's refund right ends, and the traveller must be refunded.

The modifications to Article 12a are also reflected in recital 16.

E. Article 17: effectiveness and scope of insolvency protection

Paragraph 1 reflects the changes made to Article 12a. The **amount of the traveller's refund right is protected against insolvency**, as this is not always equivalent to the amount of the voucher (the latter can be higher to make the voucher more attractive).

In paragraph 6, the Presidency proposes a period of **12 months** for insolvency protection schemes to refund payments affected by the organiser's insolvency. The Presidency considers this to be a more realistic period, while providing for a concrete deadline by which travellers must be refunded.

F. Article 19: insolvency protection and information requirements for LTAs

The destiny of this Article **depends on the choice of whether to keep LTAs in the scope of the PTD, point 5** (cf. *supra*).

- Choosing option A (deleting LTAs from the PTD), will also lead to the deletion of Article 19.
- If option B is chosen, Article 19 is amended to reflect the new wording of Article 3, point 5. This means reintroducing the wording of the current PTD and 5 information forms instead of 2. An obligation is added for the organiser to provide a facility

through which travellers can enquire about booking additional travel services that lead to the establishment of LTAs.

3. Next steps

We look forward to continuing our discussions with you on the **20th of June**. Delegations will be able to send in their **written comments after the meeting** and a new **three-column table** will be distributed for this purpose. In the meantime, please feel free to contact us regarding any queries you might have.

Kind regards,

The Belgian Consumers Team