

# Position Paper

**of the German Insurance Association  
(GDV)**

**Lobby Register No. R000774**

**on the**

**Commission's Proposal for a Directive revising Directive (EU) 2015/2302 on package travel and linked travel arrangements (COM (2023) 905 final)**

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German insurers are grateful for the opportunity to comment on the Commission's proposal for a Directive revising the Directive on package travel and linked travel arrangements. The proposed Directive is relevant for the German insurance industry with regard to insurance undertakings' role as surety insurers, in particular. German surety insurers play an important role in the surety business not only as insolvency insurers for small travel businesses with a turnover of up to EUR 10 million, but also as a provider of collateral security to the German travel insurance fund (DRSF) which is able to make the conclusion of contracts with travel organisers subject to a turnover-based security (guarantee of a surety insurer or a credit institution).

## Executive summary

German insurers welcome the Commission's objective to increase the effectiveness of the protection of package travellers in a crisis situation, in particular, and to further specify the obligations and responsibilities of travel organisers and their service providers. It is particularly welcome that, in principle, across the EU downpayments of the travellers shall be limited to 25% and shall not be requested earlier than 28 days before the start of the package. From the point of view of German

insurers, however, the previous rules on insolvency protection, in principle, have proven effective so that only small adjustments should be made in this context, if necessary.

## 1. Advance payments (Article 5a)

According to the first sentence of Article 5a, travel organisers shall not be allowed to 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. Pursuant to the second sentence of Article 5a, however, this shall not apply where a higher downpayment is necessary to ensure the organisation and the performance of the package.

EU-wide limitation of the level of advance payments and the time at which the remaining level shall be due is to be welcomed. It could also be considered to follow the German approach, according to which, in principle, advance payments are limited to 20% of the total price of the package and the remaining payment is usually due four weeks before the start of the package. The proposed provision laid down in the first sentence of Article 5a, however, is to be welcomed as a step in the right direction for the purpose of establishing an EU-wide minimum standard.

The proposed regulation that derogations shall be allowed in case higher downpayments are necessary to ensure the organisation and the performance of the package, as laid down in the second sentence of Article 5a, seems understandable, in principle. However, the derogation should clearly and unambiguously be limited to cases where higher downpayments are demonstrably strictly necessary from an objective point of view because the travel organiser is requested to pay their service providers in advance. The second sentence of Article 5a should therefore be specified accordingly to avoid abuses.

## 2. Vouchers (Article 12a)

The inclusion of vouchers in the insolvency protection, as provided for in Article 12a (9) in connection with Article 17, is to be questioned from our point of view. Issuing vouchers is mainly in the interest of the travel organiser, since it lets the travel organiser defer paying the reimbursement to the traveller. Including this form of credit granting in the insolvency protection leads to a significant increase in the risk of the insolvency insurer, which the insolvency insurer might have to take into account in their premium calculation.

Furthermore, the proposal does not contain a provision on the legal consequences that will arise if the covered vouchers do not fulfil the formal requirements referred to in Article 12a (e.g. validity of 3 years instead of up to 2 years as laid down in Article 12a (5)). It is questionable whether, and on what conditions, vouchers are

covered by the insolvency protection in such cases. From our point of view, it would be reasonable to limit the insolvency protection to those vouchers which comply with the legal requirements.

### 3. Insolvency protection (Article 17)

According to Article 17(1), in addition to vouchers, the insolvency protection shall also include the protection of payments which were made “where a traveller was *entitled to a refund* or had received a voucher from the organiser before its insolvency”. As drafted, the provision is very broad. It does not sufficiently clarify what kind of refund it refers to and if there is a cut-off time for how far back a refund can be claimed. The insurance industry requires a restrictive specification for calculation purposes, amongst others, in this context. It should be clarified that it is about undisputed rights to monetary reimbursement related to the non-performance of the package.

Pursuant to Article 17(2), the security shall be sufficient to “cover costs for refunds and, where applicable, repatriations and vouchers, at all times”, taking into account periods where organisers hold the highest amounts of payments and any changes in the volume of sales of packages. Here too, as drafted, the provision is very broad and thus could be problematic, for instance with regard to the protection limits established in the German scheme of travel insolvency protection. This issue should be addressed by clarifying that the guaranteed liability can be limited.

### 4. Travel insurance (cancellation, trip interruption, luggage)

With regard to travel insurance, the revision of the Directive on package travel is to be welcomed. Due to the proposed obligation to provide travellers with the information (Article 5(1)(g)) that they may terminate a package travel before the start of the package without paying any termination fee in the event of “unavoidable and extraordinary circumstances”, travellers will be fully informed about their rights. Furthermore, the clarification (Article 12(2)) that “unavoidable and extraordinary circumstances” may also occur at the place of residence of the traveller and during the journey to the destination will increase legal certainty. In addition, we welcome the fact that official travel warnings continue to be an indication but not a condition for “unavoidable and extraordinary circumstances” (Article 12(3a)). This makes it possible to react rapidly and unbureaucratically on the respective circumstances.

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