

COMBINED EVALUATION ROADMAP/INCEPTION IMPACT ASSESSMENT

This combined evaluation roadmap/Inception Impact Assessment aims to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are, in particular, invited to provide views on the Commission's understanding of the current situation, problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Revision of the Package Travel Directive
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	Directorate General for Justice and Consumers (DG JUST) (unit E.2)
LIKELY TYPE OF INITIATIVE	Legislative
INDICATIVE PLANNING	Q4 2022
ADDITIONAL INFORMATION	https://ec.europa.eu/info/law/law-topic/consumers/travel-and-timeshare-law/package-travel-directive_en

This combined roadmap/Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by this document, including its timing, are subject to change.

A. Context, Evaluation, Problem definition and Subsidiarity Check

Context

Directive (EU) 2015/2302 on package travel and linked travel arrangements ('the Package Travel Directive' or 'the Directive') aims to contribute to the proper functioning of the internal market and to the achievement of a high level of consumer protection in the area of package travel.

'Packages' are combinations of at least two different types of travel services that an organiser, such as a tour operator, an online or physical travel agency, an airline or a hotel puts together for travellers. The Directive sets out pre-contractual information requirements and contains rules on the liability for the improper performance of packages, cancellations, as well as on the protection of travellers against the organiser's insolvency.

The COVID-19 pandemic led to mass cancellations of travel bookings, including packages. Due to liquidity problems of organisers, contrary to the Directive, many travellers did not receive refunds or received them only with considerable delay. Several Member States adopted legislation deviating from the Directive, significantly extending the periods for reimbursements or making vouchers mandatory for travellers. In May 2020, the Commission recommended¹ principles in order to make voluntary vouchers more attractive for travellers, including by protecting them against the insolvency of the organiser. In July 2020, the Commission opened infringement proceedings against 11 Member States. At the same time, at least some national insolvency protection systems were under pressure under the impact of the Thomas Cook insolvency in 2019 and COVID-19.

In its [New Consumer Agenda](#) of 13 November 2020, the Commission announced that by 2022 it would carry out a 'deeper analysis into whether the current regulatory framework for package travel, including as regards insolvency protection, is still fully up to the task of ensuring robust and comprehensive consumer protection at all times, taking into account also developments in the field of passenger rights.'

The [Commission's report of 26.2.2021 \(COM\(2021\) 90 final\)](#) provided an overview of the application of the Directive since July 2018, including its transposition by the Member States, and highlighted a number of strengths and weaknesses, including challenges that emerged from the 2019 Thomas Cook bankruptcy and the COVID-19 pandemic.

¹ [Commission Recommendation \(EU\) 2020/648](#) on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic of 13.5.2020.

The review will also take into account the 2021 [special report from the European Court of Auditors on air passenger rights during the COVID-19 pandemic](#).

Evaluation

The evaluation will assess whether the Package Travel Directive fulfils its main objectives, which are to contribute to the proper functioning of the internal market and provide robust and comprehensive consumer protection at all times, including during major disruptions like the COVID-19 pandemic.

The evaluation will take into account the following criteria: *relevance* (to what extent the provisions of the Directive correspond to current needs), *effectiveness* (whether the original objectives have been achieved), *efficiency* (costs, benefits and simplification /burden reduction potential), *coherence* (extent to which the Directive is coherent in itself and how well it works together with other related legislation, e.g. the rules on passenger rights), and the *added value* of EU action compared to action taken separately by the Member States. It will cover the period since the Directive started applying in July 2018 until spring 2022, in all Member States and EEA countries.

The findings of the evaluation will feed into an impact assessment. The impact assessment is planned to be carried out after the evaluation and is likely to start in spring 2022. This process will make it possible, if necessary, to propose amendments to the Directive at the end of this exercise to tackle potential shortcomings, including in the areas where the European Court of Auditors recommended the examination of possible legislative changes by the end of 2022.

Problem the initiative aims to tackle

As highlighted in the [Commission's report of 26.2.2021](#), experience so far has revealed certain challenges with the application of the Directive during normal times and during a crisis, such as the COVID-19 pandemic.

In the context of a large crisis as the Thomas Cook bankruptcy and the COVID-19 pandemic, challenges appeared in relation to the solidity and scope of insolvency protection under the Directive and regarding refunds, in particular in the context of a large crisis.

During the COVID-19 pandemic, many travellers reportedly did not receive reimbursements within 14 days as required under Article 12(4) of the PTD or did not receive them at all. In many instances, package organisers, which faced liquidity problems, imposed vouchers on travellers against the requirements of the Directive and without such vouchers necessarily being protected against the insolvency of the organiser.

Some stakeholders have been requesting a fairer burden-sharing in the value chain through provisions on refunds from travel service providers (e.g. airlines and hotels) to organisers to improve their liquidity and ensure refunds to travellers.

Regarding general issues in the application of the Directive, some stakeholders have referred to the broad scope of the Directive with regard to the combination of accommodation and other tourist services but not containing transport, as well as to uncertainties and complexity related to the new concept of linked travel arrangements (LTA) and the delimitation between packages and LTAs. Questions have been raised also in relation to the standard information forms contained in the Annexes to the Directive.

Therefore, the question arises of whether there are gaps or legal uncertainty in the Directive, for instance, in relation to refunds for travellers, insolvency protection, vouchers, refund rights of organisers vis-a-vis travel service providers or in relation to certain concepts, such as LTAs. This may prevent the achievement of the required high level of consumer protection and the proper functioning of the internal market, including in times of crisis.

Further issues and topics might be identified in the evaluation and impact assessment processes.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis for any legislative initiative will be Article 114 of the [Treaty on the Functioning of the European Union](#) (TFEU), which gives the EU legislators the power to approximate national provisions regarding the establishment and functioning of the internal market.

B. Objectives and Policy options

The objective of the review is to contribute to the proper functioning of the internal market and to better ensure a high level of consumer protection, including in times of crisis. The Commission will carry out a comprehensive impact assessment of relevant policy options. The options will be further developed based on the evaluation and in the impact assessment process and will be assessed against a baseline of the status quo, i.e. a scenario with

no policy change.

Options to be considered will include 1) non-legislative approaches such as better implementation and enforcement through the issuance of guidance or recommendations, 2) targeted amendments of the Directive as well as 3) the possible need for a more comprehensive revision of the legal framework.

Subject to the outcome of the evaluation and impact assessment process, the policy options to be assessed could in particular include legislative or non-legislative measures such as:

- rules on voluntary vouchers and clarifications or additional rules on refunds where packages are cancelled due to unavoidable and extraordinary circumstances, including with regard to insolvency protection,
- guidance or additional provisions on the national insolvency protection systems, plus the potential creation of an EU insolvency back-up fund,
- the potential creation of a special fund/special funds at national or Union level to cover refunds in times of crisis without requiring the insolvency of the relevant package organiser,
- a possible limitation of pre-payments to be made by package travellers, reducing the need for insolvency protection, and avoiding/limiting the risk for travellers of having to wait for refunds, in particular, in times of crisis,
- recommendations or rules on refunds from providers of travel services (e.g. airlines) to package organisers,
- possible alternatives to the current rules on linked travel arrangements if similar guarantees can be provided in a simpler way, e.g., through certain rules on intermediaries and insolvency protection requirements for certain service providers.

Further areas may be identified in the course of this exercise.

Coherence will be ensured with other initiatives in related consumer protection areas, in particular the envisaged review of the regulatory framework on passenger rights (based on five regulations) and/or mode-specific rules such as the [Air Services Regulation](#), as identified in the [Sustainable and Smart Mobility Strategy](#) adopted in December 2020, in particular actions 59, 63 and 64.

C. Preliminary Assessment of Expected Impacts

The initiative should facilitate the good functioning of the internal market while improving the protection of travellers. More specific likely impacts are highlighted below.

Likely economic impacts

Measures aiming to clarify obligations and contributing to the better functioning of the Directive are likely to be neutral or may have positive effects on businesses. Adjustments related to insolvency protection and aiming to enhance consumer protection, including the possible limitation of pre-payments or the creation of a liquidity fund for refunds in times of crisis, are liable to have cost implications for travel businesses, including organisers.

Any economic effects should be assessed in relation to the possible benefits in terms of enhanced consumer trust and a better functioning of the internal market. Furthermore, provisions on a liquidity fund and vouchers may reduce the risk of insolvencies. Enhanced clarity, coherence and a more uniform application of the legal framework in the EU would also be beneficial for the travel industry and create a level playing field with fairer competition.

Likely social impacts

The initiative is likely to help increase consumer trust in the package travel sector.

Likely environmental impacts

Travel has a significant impact on the environment. However, the initiative is not expected to have a significant impact in that respect.

Likely impacts on fundamental rights

Any legislative or non-legislative action would implement Article 38 of the [Charter of Fundamental Rights of the European Union](#) according to which the Union must ensure a high level of consumer protection.

Likely impacts on simplification and/or administrative burden

Clearer rules as envisaged in some options should simplify the regulatory framework, enhance its application by businesses and consumers and facilitate its enforcement. This can reduce administrative burden for businesses and public authorities. The impact assessment will carefully assess options for simplification and reduction of administrative burdens, taking into account an opinion from the [Fit for Future Platform](#) to be issued in the autumn

of 2021. The evaluation and impact assessment will analyse and quantify costs and benefits, to the extent that this is feasible and proportionate. In the context of offsetting the administrative costs under the one-in one-out approach, the impact assessment will include costs estimates, which will as far as possible be quantified using the standard cost model.

D. Evidence base, Data collection and Better Regulation Instruments

Impact assessment

Based on the evaluation of the existing legislation the Commission will carry out an impact assessment of possible policy options.

Evidence base and data collection

The impact assessment report accompanying a potential Commission proposal for revised EU legislation on package travel will be supported by a study, which will be carried out by a contractor, in addition to existing information, and information to be obtained through a public consultation and other forms of stakeholder consultations, e.g., meetings of the [Package Travel stakeholder expert group](#). The evaluation and impact assessment will be able to benefit from a range of existing analysis, including:

- [Report](#) of 26.2.2021 on the application of the Package Travel Directive (see above);
- [Report](#) of 21.6.2019 on package travel and linked travel arrangements applying to online bookings made at different points of sale ;
- [Commission Recommendation \(EU\) 2020/648](#) on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic of 13.5.2020;
- Report on [COVID-19 and EU travellers' rights. Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers'](#), published by BEUC in December 2020
- The [Sustainable and Smart Mobility Strategy](#) of 9.12.2020;
- [Special Report 15/2021: Air passenger rights during the COVID-19 pandemic: Key rights not protected despite Commission efforts](#) published by the European Court of Auditors o 29.6.2021;
- [Information](#) on the Package Travel Directive in connection with the COVID-19 of 19.3.2020;
- [Consumer Market Monitoring Survey](#);
- [European Parliament resolution](#) on the negative impact of the bankruptcy of Thomas Cook on EU tourism of 24.10.2020;
- [Tourism statistics](#) provided by Eurostat;
- Studies carried out by Joint Research Centre, such as [Behavioural changes in tourism in times of COVID-19](#);
- [European Parliament resolution](#) on transport and tourism in 2020 and beyond of 19.6.2020.

Consultation strategy

The Commission will gather views and information from the general public and relevant stakeholders, including travellers and travel businesses, on the key problems, possible solutions and their potential impacts as indicated above in the respective sections of this document. This consultation process will include the following activities:

- All interested stakeholders will be invited to provide **feedback on this combined roadmap/inception impact assessment**.
- In the autumn of 2021, the Commission will launch a **public consultation** in all EU languages. The questionnaire will be available for a minimum period of 12 weeks on the Commission's central public consultation webpage ('[Have your say](#)'). The public consultation will include questions for both the evaluation and the impact assessment. The Commission will publish a factual summary report of the outcome of the public consultation shortly after its closure on the consultation page.
- **Targeted consultations** addressing, in particular, **Member States' authorities and European stakeholder organisations** such as consumer organisations and associations of travel businesses affected by the Package Travel Directive.
- Discussions with the [Package Travel stakeholder expert group](#) and within DG JUST networks groups e.g. the [Consumer Protection Co-operation network](#) of consumer protection enforcement authorities.
- **Bilateral meetings with stakeholders**, such as consumer organisations, travel associations, travel companies, online platforms and other businesses affected by the Directive.

The results of all consultation activities will be summarised in a synopsis report published as an annex to the evaluation and impact assessment report.

Will an implementation plan be established?

To address implementation issues and improve future application, if relevant, an implementation plan would be established to help Member States transpose and implement any possible legislative changes.