



## JUSTITSMINISTERIET

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### **General remarks**

During the COVID-19 pandemic, consumer rights under the Package Travel Directive have been challenged throughout the European Union. Therefore, Denmark welcomes the announced revision of the Directive, as there seems to be a need to improve certain provisions of the Directive in order to ensure that consumer rights are always respected – even in the event of a crisis like the COVID-19 pandemic.

### **Clarification of uncertainties regarding**

The COVID-19 pandemic has shown a need for clarifications of Article 12 of the Package Travel Directive. During the pandemic, we have seen examples in the European Union of consumers being forced to accept vouchers instead of reimbursement in money, and we have also seen examples of consumers not being reimbursed within 14 days. In the opinion of the Danish Government, article 12 does not allow for such regulation. Therefore, the Danish Government believes that there is a need to clarify in Article 12 that the use of vouchers must always be voluntary for the consumer and that the consumer must always be reimbursed within 14 days of the cancellation of the agreement.

Dealing with the challenges facing the package travel industry during the COVID-19 pandemic in Denmark has shown that it is possible to provide support to the package travel industry without compromising consumer protection.

During the COVID-19 pandemic, travel agencies in Denmark have been obliged to comply with the Danish Package Travel Act issued in pursuant to the Package Travel Directive. Thus, they have had to refund travellers in the event of a cancelled or annulled trip within 14 days. Furthermore, travel

agencies have had the opportunity to offer consumers a refund in the form of a voucher, but have also been obligated to provide a cash refund if the consumer so wishes. This scheme is supported by the Commission Recommendation of 13 May 2020, which states that in the event of a cancelled trip, the tour operator may offer the traveller a refund in the form of a voucher, but that this option does not deprive the traveller of the right of a cash refund.

To support the industry, the Danish government established a loan scheme under the Danish Travel Guarantee Fund, so that travel providers in need of extra liquidity had the opportunity to take out loans to ensure the repayment of their customers within 14 days. This has helped package travel providers to comply with the obligations of the Package Travel Directive and thus maintaining a high level of consumer protection in Denmark.

### **Clarification of uncertainties regarding insolvency protection**

Lack of clarity regarding the scope of insolvency protection turned out to be particularly relevant in a crisis such as the COVID-pandemic as package travel contracts were cancelled on a large scale. Negating insolvency protection where an organiser becomes insolvent *before* reimbursing any prepayments made by travellers for the cancelled packages would cause a major loss of travellers' trust in the package travel industry. Travellers must be able to rely on insolvency protection of their prepayments in all cases. Insolvency protection should therefore not depend on the reason why the trip was cancelled.

In this respect, the Travel Guarantee Fund in Denmark has established a practice to cover travel packages other than those that cannot be carried out as a direct consequence of the organiser's insolvency. Thus, the Travel Guarantee Fund also covers gift cards (vouchers) and travel packages that have been lawfully cancelled/annulled before the organiser's insolvency or where the traveller has not been refunded for prepayments made for a travel package before the organiser's bankruptcy.

This long-standing practice was introduced in Denmark in 1996. There was a wish to also protect those travellers who, due to the organiser's bankruptcy, cannot use a prepaid gift card (for the purchase of a travel package), or who are not reimbursed for the prepayment made for a travel package cancelled by the traveller or by the organiser before the bankruptcy.

However, during the COVID-19 pandemic several stakeholders raised doubts as to whether the Travel Guarantee Fund's practice of also covering travellers' claims for refunds of prepayments for cancelled travel packages before bankruptcy goes beyond the Package Travel Directive.

For example, one of the major package travel organisers refused to refund travellers the prepayments made for travel packages that have been lawfully cancelled/annulled because of the COVID-19 crisis, even though travellers are entitled to a refund within 14 days the Package Travel Directive. The organiser stated that if it went bankrupt, the guarantee provided should not cover travellers' claims for reimbursement for cancelled travel packages, as such claims are not covered under the Package Travel Directive.

In order to provide effective insolvency protection to travellers, it is important to have clear provisions stating that the insolvency protection includes refund claims for package travel contracts terminated before the organiser's insolvency. The Danish government would like this to be clarified in the revision of the Package Travel Directive to ensure a continued high level of consumer protection.

The Danish Government are looking forward to the upcoming revision of the Directive and to working closely together with the European Commission and other Member States in order to find balanced solutions regarding this important Directive.

Yours sincerely,

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