



DIDIER REYNDERS

MEMBER OF THE EUROPEAN COMMISSION
JUSTICE

Rue de la Loi, 200 B-1049 Brussels

Phone: +32-2 295 09 00

Didier.Reynders@ec.europa.eu

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Ares(2020)2002502 s

Dear Minister,
Dear Secretary of State,

The outbreak of COVID-19 is a severe public health emergency for our citizens. The priority for us all today is to stop its spread within the European Union. All your governments and national parliaments are taking unprecedented steps. The European Commission encourages such Member States' actions and has adopted, over the last days, several measures, guidelines and communications with the aim to support Member States and clarify the measures that could be adopted at national level, in conformity with the European Treaties.

Besides health considerations, which are by far the most important for the EU, this crisis is also a major economic shock. In its Communication "Coordinated economic response to the COVID-19 outbreak" of 13 March 2020, the European Commission specifies the possible financial support measures that Member States may consider in order to address the acute liquidity needs and to support businesses facing real risks of bankruptcy, among others in the tourism and the transport sectors. More precisely, the Commission has taken various measures to facilitate member states' support to the various sectors of our economy, in particular through a temporary framework for State aid and the activation of the general escape clause in the framework of the Stability and Growth Pact, which could contribute to alleviating the impact of the challenges the travel sector is confronted with.

The pressure on the EU's travel and tourism sectors is unprecedented. All modes of transport, travel and related tourism services are concerned, including many SMEs. Many of them are facing direct liquidity issues and are seeking support from the public authorities, including the EU. At the same time, citizens are impacted by the cancellation of nearly all national and international travel and tourism services.

The organisers of package travel are subject to the harmonised regime of Directive (EU) 2015/2302. This Directive provides that the organiser must reimburse the traveller for payments made if the trip is cancelled due to unavoidable and extraordinary circumstances, and that not later than 14 days after the package travel contract is terminated. In the current context, this reimbursement obligation may pose significant liquidity problems for organisers and travel agencies offering package tours. I heard that a number of Member States have worked or are still working on legislative or regulatory measures or interpretative guidelines regarding Directive (EU) 2015/2302 or on rules regarding reimbursement and the use of vouchers.



I support these initiatives when it comes to clarifying the way this Directive should be implemented. However, I would like to underline that such measures must comply with consumers' rights provided under EU and national law, recognising their right to be reimbursed and striking the right balance between consumer protection and support to travel and tourism businesses.

Given the major and unprecedented disruption for the travel, tourism and transport sectors, the Commission is ready to take initiatives to ensure that the rights of travellers to be reimbursed are upheld in a way that helps tour organisers to ease their liquidity problems.

A way forward could be that tour operators offer credit notes (so-called "vouchers") under certain conditions. First, notwithstanding the right to be reimbursed under the relevant legislation, the travellers would have the choice to accept the voucher and should have the possibility to ask for a full refund if, eventually, they do not make use of it, so that to ensure that they are not deprived from their rights under the Directive. In addition, measures to ensure robust financial coverage are needed to enhance travellers' confidence to make such choice.

Travellers may be reluctant to accept vouchers, if they question the financial soundness of companies and their ability to survive this crisis. I therefore invite you to clarify that the existing insolvency protection for package organisers put in place at national level covers vouchers issued in the current circumstances or, if needed, to take appropriate measures to ensure such coverage, in cooperation with travel guarantee funds, insurers or other financial institutions. It is also important to check whether the providers of tour operators' insolvency protection need re-insurance and to help them for that purpose, in accordance with applicable State aid rules. Article 107(2)(b) of the Treaty on the Functioning of the European Union (TFEU) enables the Commission to approve State aid measures granted by Member States to compensate specific companies or specific sectors for the damages directly caused by exceptional occurrences, such as the COVID-19 outbreak¹.

I can assure you that the Commission is committed to work closely with the Member States to find a balanced and coordinated solution with all the stakeholders and in conformity with EU law that protects consumers and supports the companies in these sectors, regardless of their place of establishment in Europe. For this purpose, I have been consulting with stakeholders and national authorities, and continue doing so, to find a suitable solution on EU level.

The contact point within Directorate-General Justice and Consumers (in charge of the Package Travel Directive) is Mr Peter Bischoff-Everding, Deputy Head of Unit DG JUST "Consumer and Marketing Law" (just-e2-communication@ec.europa.eu).

Yours faithfully,

(e-signed)

Didier REYNDERS

¹ The information to be provided is listed here:

https://ec.europa.eu/competition/state_aid/what_is_new/Notification_template_107_2_b_PUBLICATION.pdf