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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on package travel and assisted travel arrangements, amending Regulation (EC) No
2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC**

{SWD(2013) 263 final}

{SWD(2013) 264 final}

{SWD(2013) 266 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. General context

Tourism plays a central role in Europe's economy today. With some 1.8 million businesses, mostly SMEs, employing 5.2% of the total workforce, the European tourism industry is an engine for growth in the EU. The total contribution of European travel & tourism, including related sectors, accounts for around 10% of EU GDP¹.

The adoption of Directive 90/314/EEC on package travel² in 1990 created important rights for European travellers purchasing package holidays, typically consisting of passenger transport and accommodation. A 2002 ruling by the European Court of Justice³ clarified that the notion of "pre-arranged combination" covers also travel services combined by a travel agent at the customer's express request just before the conclusion of a contract between the two.

Directive 90/314/EEC ensures that consumers receive essential information before and after signing a package travel contract. It provides that organisers and/or retailers are responsible for the proper performance of the package, even if the services are provided by sub-contractors, and regulates what happens if there are changes to the package travel contract. It also ensures that travellers receive a refund of pre-payments and are repatriated in the event of the organiser's and/or retailer's insolvency.

However, in 1990 the structure of the travel market was much simpler than today and the Internet did not exist. Despite the abovementioned CJEU ruling, it remains unclear to what extent modern ways of combining travel services are covered by the Directive.

As highlighted in the 1999 Commission's report⁴ on the implementation of the Directive, significant differences remain in the laws transposing the Directive, due to its minimum harmonisation approach, the broad discretion given to Member States, e.g. with regard to the liable party or parties, and ambiguities in the text.

The modernisation of Directive 90/314/EEC responds to requests from the co-legislators, the European Economic and Social Committee, as well as the European Consumer Consultative Group⁵. A large part of the industry and consumer organisations have also asked for a revision. A revision of the Directive is explicitly mentioned in the European Citizens' Reports⁶, the European Consumer Agenda⁷ and in the Single Market Act II⁸.

¹ Commission's Communication "Europe – n°1 world tourist destination - A new political framework for tourism in Europe" COM (2010) 352 final of 30.06.2010.

² Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.

³ Club-Tour Case C-400/00 of 30 April 2002.

⁴ SEC (1999) 1800 final

⁵ E.g. Council conclusions of the 2255th Council meeting on Consumer Affairs 13 April 2000, European Parliament resolution of 16 January 2002 (2001/2136(INI)), Opinion of the European Economic and Social Committee of 11.05.2011 (Official Journal C 132) and ECCG opinions of 21 April 2010 as well as 8 February 2013.

⁶ COM(2010) 603 final and COM(2013) 269 final.

⁷ COM(2012) 225 final.

⁸ COM(2012) 573 final – Annex II.

1.2. Grounds for the proposal

1.2.1. Development of Internet distribution and liberalisation in the airline sector

73% of EU households had access to the Internet in 2011⁹. Almost two-thirds of EU citizens use the Internet at least once a week, more than half of them every day or almost every day. Travel services are among the most popular products purchased on-line.

The development of online sales and the liberalisation in the airline sector have changed the way in which consumers organise their holidays, having led to different ways in which traders assist consumers in customising combinations of travel services, in particular online. The relevant traders include travel agents, tour operators, airlines, cruise lines, etc. There is ambiguity in many Member States as to whether such combinations fall under the scope of the Directive and whether traders involved in putting together such combinations are liable for the performance of the relevant services, especially in the online environment.

This is causing uncertainty for traders and consumers.

It also implies that market players which are today explicitly covered by the Directive are subject to different rules and different costs compared to those businesses which are not covered or do not consider themselves to be covered by the Directive, although they are competing for the same customers.

1.2.2. Unnecessary compliance costs and obstacles to cross-border trade

Some of the provisions of the Directive have become outdated or otherwise create unnecessary burden for companies, such as information requirements for brochures and the inclusion of managed business trips.

Legal fragmentation through numerous discrepancies in the laws of the Member States generates additional costs for businesses wishing to trade cross-border.

1.2.3. Consumer detriment - unclear and outdated rules

The "Consumer Detriment Study in the area of Dynamic Packages"¹⁰ estimated the yearly personal consumer detriment¹¹ in relation to combined travel arrangements where the applicability of the Directive is uncertain. The study showed that problems with such travel arrangements are more frequent and more detrimental to consumers than problems related to traditional packages which are clearly covered by the Directive.

To a certain extent also consumers who buy traditional pre-arranged packages suffer detriment, because some provisions of the Directive are outdated, unclear or leave gaps, e.g. the absence of a right for consumers to cancel the package before the departure.

1.3. Objectives of the proposal

In accordance with Article 114 of the Treaty, the overall objective of the revised proposal is to enhance the functioning of the Internal Market and achieve a high level of consumer protection through the approximation of rules on packages and other combinations of travel services.

The proposal seeks to establish a level playing field between operators, remove legal obstacles to cross-border trade and reduce compliance costs for businesses.

⁹ Eurostat, Data in focus, 66/2011.

¹⁰ http://ec.europa.eu/consumers/strategy/docs/study_consumer_detriment.pdf

¹¹ Consumer detriment is defined as negative outcomes for individual consumers relative to some benchmark such as reasonable expectations. It focuses on ex post outcomes for those consumers who have a negative experience, comprising financial and non-financial detriment, including loss of time.

At the same time, it aims to achieve a high level of consumer protection and reduce consumer detriment by clarifying which combinations of travel services are protected under EU package travel rules and replacing unclear and outdated provisions. It contains mandatory rules for the protection of travellers, which Member States or traders may not derogate from to the detriment of consumers.

1.4. Consistency with other policies and objectives of the Union

During the last decade the Commission undertook a comprehensive review of the consumer acquis leading to the adoption of Directive 2008/122/EC on timeshare and Directive 2011/83/EU on consumer rights. The revision of Directive 90/314/EEC is part of this exercise.

The proposal is complementary to existing EU law, in particular the Unfair Contract Terms Directive (93/13/EEC), the Unfair Commercial Practices Directive (2005/29/EC), the Consumer Rights Directive (2011/83/EU), the Regulations in the area of passenger rights (Regulations (EC) No. 2004/261, (EC) No. 1371/2007, (EC) No. 1177/2010 and (EC) No. 181/2011) as well as Directives 2000/31/EC on electronic commerce and 2006/123/EC on services in the internal market.

Furthermore, the proposal is complementary to Regulation (EC) No 593/2008 (Rome I) on the law applicable to contractual obligations, and to Regulation 44/2001 (Brussels I) on the law on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultation of interested parties

In 2008, in a public consultation on its 2007 working document, the Commission received more than 80 contributions from business stakeholders, consumer organisations, lawyers, academics and 14 Member States. In January 2009, the Commission launched the Consumer Detriment Study, which covered 17 EU countries and was based on interviews with a sample of 500 consumers.

In a second public consultation of October 2009, consisting of five on-line questionnaires targeted at consumers, consumer organisations, businesses, industry associations and Member States/public authorities, 89% of public authorities, 70% of business associations, 64% of businesses and 96% of consumer organisations supported a revision of the Directive.

In a workshop for Member States of 27 October 2009 particular problems and policy options were discussed. A subgroup of the European Consumer Consultative Group (ECCG) adopted its opinion on 21 April 2010.

On 22 April 2010 a stakeholder workshop discussed the impacts of the identified policy options. From September 2009 to October 2010 more than 15 interviews with key industry representatives were conducted.

In March 2012 the Commission commissioned a study to test a Package Travel Label and consumer behaviour when purchasing so-called dynamic packages. In June 2012 the Commission organised a workshop for Member States and a stakeholder conference to further discuss the revision process. On 8 February 2013 the ECCG again requested a revision of the Directive.

2.2. Impact Assessment

The Impact Assessment (IA) analysed eight policy options plus certain sub-options.

Option 1 - Maintaining the status quo, i.e. maintaining the Directive in its present form

Option 2 – Guidelines, i.e. maintaining the Directive in its current form and preparing guidelines, including CJEU rulings and clarification on the scope and liability

Option 3 - Package Travel Label and/ or requirement on traders selling assisted travel arrangements to state that the services in question do not constitute a package (add-on options)

Sub-option A - introduction of a "Package Travel Label" – an obligatory logotype to be presented to consumers when purchasing a package

Sub-option B - introduction of an obligation, for traders offering combined travel arrangements which are not packages, to clarify that they are not selling a package

Option 4 - Repeal of the Directive and self-regulation by industry

Option 5 - Modernisation of the Directive and coverage of "one-trader packages"

Option 5 involves a legislative revision which would keep the main structure of the existing Directive, while clarifying its scope through the explicit inclusion of "one-trader packages" and revising several provisions. The revised Directive would apply to travel services which are combined for the same trip or holiday on one website or at one high street agent.

Option 6 – Graduated approach - modernisation of the Directive and coverage of both "one-trader" and "multi-trader" packages while applying a lighter regime to "multi-trader" assisted travel arrangements

This option corresponds to Option 5 supplemented with a graduated extension of the scope of the Directive aimed to cover:

- "multi-trader" *packages*, i.e. combinations of travel services through different traders showing certain features associated with packages, which would be subject to the same regime as other packages (including full liability for the proper contractual performance and the obligation to procure insolvency protection),

- "multi-trader" *assisted travel arrangements*, i.e. those combinations of travel services which do not display the typical features of packages and are hence less likely to mislead consumers. They would be subject to a lighter regime consisting of insolvency protection and an obligation to state in a clear and prominent manner that each individual service provider is responsible for the correct performance of the services.

Option 7 – Modernisation of the Directive covering both "one-trader" packages and "multi-trader" travel arrangements

This option includes Option 5 and 6, whilst subjecting all "multi-trader" assisted travel arrangements to the same obligations as packages.

Option 8 – "Travel Directive"

This option includes Option 7 plus an extension of the scope to stand-alone travel services, e.g. car rental, accommodation or flights, containing in principle the same rules for all travel services irrespective of whether they are part of a package or not.

The IA comes to the conclusion that the identified problems will be resolved most appropriately by Option 6, which this proposal is based upon.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposed action

The proposed Directive will clarify and modernise the scope of travellers' protection when purchasing combinations of travel services for the same trip or holiday by bringing within its scope different forms of on-line packages and assisted travel arrangements.

The proposal will ensure that travellers are better informed about the services they are buying and grant them clearer remedies if something goes wrong.

At the same time, by reducing legal fragmentation and strengthening mutual recognition of insolvency protection, the proposal will minimise obstacles to cross-border trade and reduce compliance costs for traders wishing to operate cross-border, and ensure a level playing-field in the travel market.

3.2. Legal basis

This proposal is based on Article 114 Treaty on the Functioning of the European Union (TFEU).

It lays down largely uniform rules in the area of packages and assisted travel arrangements in the Union, giving traders and travellers certainty about the content of their rights and obligations irrespective of the national law applicable to the contract, thereby removing unnecessary costs for cross-border transactions and giving more choice to consumers.

In accordance with Article 114 (3) TFEU, the proposal guarantees a high level of consumer protection by maintaining or improving the level of consumer protection compared with Directive 90/314/EEC.

3.3. Subsidiarity principle

The proposal complies with the subsidiarity principle as set out in Article 5 of the Treaty on European Union (TEU).

The objective of improving the functioning of the internal market, through removing differences between the laws of the Member States, and improving consumers' access to services from other Member States, cannot be sufficiently achieved by the Member States acting in an un-coordinated manner.

Therefore, the Union is best placed to address the identified problems by a legislative measure which approximates the national rules.

3.4. Proportionality principle

The proposal complies with the principle of proportionality as set out in Article 5 TEU.

Like Directive 90/314/EEC, it does not cover all aspects of travel law, but only certain aspects of packages and other combinations of travel services, where coordinated action by the Union is deemed necessary. For instance, it does not interfere with general national contract law and authorisation and licensing regimes.

According to the IA, non-binding measures such as recommendations, guidelines or self-regulation cannot achieve the abovementioned objectives.

A directive ensures a coherent set of rights and obligations, whilst allowing Member States to integrate these rules into their national contract law.

Furthermore, it will enable the Member States to implement the most appropriate means of enforcement and the necessary sanctions for breaches of its rules. In certain areas the proposal gives Member States the possibility to impose stricter rules.

3.5. Impact on Fundamental Rights

In accordance with the Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union¹², the Commission has ensured that the proposal complies with the rights set out in the Charter and further promotes their application. In particular, the proposal respects the freedom to conduct a business laid down in Article 16 of the Charter, while ensuring a high level of consumer protection, in accordance with Article 38 of the Charter.

3.6. Review clause

The proposal obliges the Commission to present a report on the application of the Directive at the latest five years after its entry into force and to submit it to the European Parliament and the Council, where necessary accompanied by legislative proposals.

3.7. European Economic Area

The proposed Directive concerns an EEA matter and should therefore extend to the European Economic Area.

3.8. Explanatory documents

In view of the complexity of the proposal and the different ways in which the Member States have transposed Directive 90/314/EEC, the Commission considers the transmission of documents explaining the relationship between the components of this Directive and the corresponding parts of national transposition instruments to be justified.

4. EXPLANATION OF THE PROPOSAL

The proposal consists of 29 articles and two annexes (a table relating articles of Directive 90/314/EEC to articles of this proposal and the Legislative financial statement).

4.1. Subject-matter, scope and definitions (Articles 1-3)

Article 1 sets out the subject-matter of the Directive. In conjunction with the definitions of 'package' and 'assisted travel arrangement' contained in Article 3, Article 2 determines its scope, taking into account the different ways in which travel services can be combined.

Based on the way in which travel services are presented to the traveller, combinations which meet any of the alternative criteria laid down in Article 3 (2) will be considered as packages with the associated legal consequences for information requirements, liability and insolvency protection.

Combinations where retailers, through linked booking processes, facilitate the procurement of additional travel services in a targeted manner or where the traveller concludes contracts with the individual service providers and where the defining features of a package, e.g. an inclusive or total price, are not present, are defined as 'assisted travel arrangements'. Retailers who are in the business of facilitating the purchase of 'assisted travel arrangements' are subject to the requirement to explain clearly to travellers that only the individual service providers are liable for the performance of the travel services concerned. Furthermore, with a view to ensuring a certain layer of additional, Union-wide protection compared to the one stemming from rules on passenger rights or general consumer acquis also for travellers buying more than one travel service through them, it is appropriate to provide that such retailers have to ensure that, in case of their own insolvency or the insolvency of any of the service providers, travellers will receive a refund of their pre-payments and, where relevant, will be repatriated.

¹² Communication from the Commission, COM(2010) 573 of 19.10.2010.

Since it is not appropriate to grant the same level of protection to business travellers whose travel arrangements are made on the basis of a framework contract concluded between their employers and specialised operators often offering, on a business-to-business basis, a level of protection similar to the one stemming from this Directive (so-called managed business travel), such travel arrangements are excluded from the scope.

Other limitations of the scope are maintained, including for so-called occasionally organised packages.

Apart from 'packages' and 'assisted travel arrangements' Article 3 defines other key terms of the Directive, including 'traveller', 'organiser', 'retailer' and 'unavoidable and extraordinary circumstances'. The 'organiser' is defined as a trader who combines and sells/ offers for sale packages, either directly or through/together with another trader. Organisers are liable for the performance of the package (Articles 11 and 12), for providing assistance to the traveller (Article 14) and procuring insolvency protection (Article 15). Retailers and organisers are both liable for providing pre-contractual information (Article 4). Retailers are liable for booking errors (Article 19). Retailers facilitating the procurement of assisted travel arrangements are obliged to procure insolvency protection (Article 15).

4.2. Information obligations, conclusion and content of the package travel contract (Articles 4 -6)

Article 4 lists specific pre-contractual information which organisers and, where applicable, retailers have to provide to travellers wishing to buy a package. These requirements apply in addition to information requirements under other applicable directives or regulations.

Article 5 regulates the conclusion of the package travel contract.

Article 6 contains provisions on the content and the presentation of the contract or its confirmation as well as on documents and information to be provided before the start of the package.

4.3. Changes to the contract before the start of the package (Articles 7-10)

Similarly to Article 4 (3) of Directive 90/314/EEC, Article 7 lays down the conditions under which the traveller's right to transfer the package to another person may be exercised.

Starting from the principle that agreed prices are binding, Article 8 lays down rules on the possibility and consequences of price changes, given that package travel contracts are often concluded a long time in advance. These rules are based on the same principles as Article 4 (4) – (6) of Directive 90/314/EEC.

Article 8 (2) maintains the right to impose price increases related to cost of fuel, taxes and exchange rate fluctuations, but clarifies the conditions compared with Directive 90/314/EEC. If an organiser reserves the right to price increases, it is now also obliged to grant travellers price reductions. Prices may not be increased by more than 10% of the price of the package.

With regard to changes other than price changes, distinct rules are set out for insignificant (Article 9(1)) and significant changes (Article 9 (2) and (3)).

Compared with Directive 90/314/EEC, Article 10 contains additional termination rights for travellers before the start of the package. The right for travellers to terminate the contract against an appropriate compensation (Article 10 (1)) corresponds to rules and practices found in the Member States. Article 10 (2) grants travellers the right to terminate the contract without compensation in the event of unavoidable and extraordinary circumstances.

4.4. Performance of the package (Articles 11-14)

These articles contain rules on the organiser's liability for the performance of the package (Articles 11-13) and the obligation to provide assistance to the traveller (Article 14).

In contrast to Directive 90/314/EEC, only the organiser is liable for the performance of the package. This aims to avoid a doubling of costs and litigation. At the same time, uniform rules on liability will facilitate cross-border transactions by organisers and retailers.

Articles 11 and 12 provide for the remedies available to the traveller in the event of lack of conformity, including the lack of performance and the improper performance of the services. These rules are based on the same principles as Articles 5 and 6 of Directive 90/314/EEC, but are presented in a more systematic fashion, providing certain clarifications and closing certain gaps.

Article 11 lays down the obligations to remedy the lack of conformity and to make suitable alternative arrangements for the continuation of the package where a significant proportion of the services cannot be provided as agreed in the contract. It is clarified that the latter obligation applies also where the traveller's return to the place of departure is not provided as agreed. However, where it is impossible to ensure the traveller's timely return because of unavoidable and extraordinary circumstances, the organiser's obligation to bear the cost for the continued stay is limited to EUR 100 per night and three nights per traveller in line with the proposed amendment to Regulation (EC) No 261/2004.

Article 12 contains provisions on price reductions related to lack of conformity and to alternative arrangements resulting in a package of lower quality, as well as on damages. In accordance with the Court's ruling in Case C-168/00 Simone Leitner, paragraph 2 clarifies that also non-material damage has to be compensated. Paragraph 4 regulates the relationship with compensation based on other legal grounds.

Since for many travellers the first point of contact is the retailer through which they booked the package, Article 13 provides that travellers may address messages, complaints or claims also to the retailer, the receipt of such notifications being decisive for compliance with any time-limits or prescription periods.

Under Article 14, organisers are obliged to provide assistance to travellers who are in difficulty.

4.5. Insolvency protection (Articles 15 and 16)

Directive 90/314/EEC created a general obligation for 'the organiser and/or retailer' to provide insolvency protection so as to ensure the repatriation of passengers and the refund of advance payments in the event of insolvency. Due to different legal solutions chosen by the Member States, this often led to duplication of costs for organisers and retailers. According to Article 15 of this proposal, only package organisers and retailers who facilitate the purchase of 'assisted travel arrangements' are subject to this obligation. At the same time, it lays down more specific criteria on the effectiveness and the scope of the required protection.

To facilitate cross-border operations, Article 16 (1) explicitly provides for the mutual recognition of insolvency protection procured under the law of the organiser's/relevant retailer's Member State of establishment. To ensure administrative cooperation, Article 16 obliges Member States to designate central contact points.

4.6. Information requirements for assisted travel arrangements (Article 17)

To ensure legal certainty and transparency for the parties, retailers offering assisted travel arrangements have to explain to travellers in a clear and prominent manner that only the

relevant service providers are liable for performance of the services and that travellers will not benefit from any of the Union rights granted to package travellers, except the right to a refund of pre-payments and, where relevant, to repatriation in case the retailer itself or any of the service providers becomes insolvent.

4.7. General provisions (Articles 18 – 26)

Article 18 contains particular rules for packages where the organiser is established outside the EEA.

Under Article 19, retailers involved in the booking of packages and assisted travel arrangements are liable for booking errors.

Article 20 clarifies that this Directive does not affect the organiser's right to seek redress from third parties.

Article 21 confirms the imperative nature of the Directive.

Article 22 on enforcement is a standard provision in the consumer acquis.

Article 23 is a standard provision on penalties for infringements of the national provisions transposing this Directive. Similar provisions can be found in the Consumer Rights Directive (2011/83/EU) and in the Unfair Commercial Practices Directive (2005/29/EC).

Article 24 obliges the Commission to submit a report on the application of this Directive to the European Parliament and the Council.

Article 25 (2) amends Directive 2011/83 on consumer rights to ensure that that Directive applies fully to assisted travel arrangements and that certain general consumer rights apply also to packages.

4.8. Final provisions (Articles 27 - 29)

Article 26 repeals Directive 90/314/EEC. Article 27 is a standard provision on transposition and fixes a transposition time-limit of 18 months. Articles 28 and 29 are standard provisions.

5. BUDGETARY IMPLICATIONS

The proposal has very limited budgetary implications. The only operational costs relate to the preparation of the report on the application of this Directive, covering the preparatory work of an external contractor, i.e. operational appropriation of €0.2 million under the Rights and Citizenship programme, as well as administrative expenditure of around €0,184 million during seven years after the adoption of the Directive. This expenditure will be borne by internal redeployment and not entail an increase in the funds.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹³,

Having regard to the opinion of the Committee of the Regions¹⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours¹⁵ lays down a number of important consumer rights in relation to package travel, in particular with regard to information requirements, the liability of traders in relation to the performance of a package and protection against the insolvency of an organiser or a retailer. However, it is necessary to adapt the legislative framework to market developments, in order to make it more suitable for the internal market, remove ambiguities and close legislative gaps.
- (2) Tourism plays an important role in the economies of the Union and packages represent a significant proportion of that market. The travel market has undergone considerable changes since the adoption of Directive 90/314/EEC. In addition to traditional distribution chains, the Internet has become an increasingly important medium to offer travel services. Travel services are not only combined in the form of traditional pre-arranged packages, but are often combined in a customised fashion. Many of these travel products are either in a legal grey zone or are clearly not covered by Directive 90/314/EEC. This Directive aims to adapt the scope of protection to those developments, enhance transparency and increase legal certainty for travellers and traders.
- (3) Article 169 of the Treaty on the Functioning of the European Union (the Treaty) provides that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 of the Treaty.
- (4) Directive 90/314/EEC gives broad discretion to the Member States as regards transposition; therefore, significant divergences between the laws of the Member

¹³ OJ C , , p. .

¹⁴ OJ C , , p. .

¹⁵ OJ L 158, 23.06.1990, p. 59.

States remain. Legal fragmentation leads to higher costs for businesses and obstacles for those wishing to operate cross-border, thus limiting consumers' choice.

- (5) In accordance with Article 26(2) of the Treaty, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services and the freedom of establishment are ensured. The harmonisation of certain aspects of package contracts and assisted travel arrangements is necessary for the creation of a real consumer internal market in this area, striking the right balance between a high level of consumer protection and the competitiveness of businesses.
- (6) The cross-border potential of the package travel market in the Union is currently not fully exploited. Disparities in the rules protecting travellers in different Member States are a disincentive for travellers in one Member State from buying packages and assisted travel arrangements in another Member State and, likewise, a disincentive for organisers and retailers in one Member State from selling such services in another Member State. In order to enable consumers and businesses to benefit fully from the internal market, while ensuring a high level of consumer protection across the Union, it is necessary to further approximate the laws of the Member States relating to packages and assisted travel arrangements.
- (7) The majority of travellers buying packages are consumers in the sense of Union consumer law. At the same time, it is not always easy to distinguish between consumers and representatives of small businesses or professionals who book trips related to their business or profession through the same booking channels as consumers. Such travellers often require a similar level of protection. In contrast, larger companies or organisations often make travel arrangements for their employees on the basis of a framework contract with companies which specialise in the arrangement of business travel. The latter type of travel arrangements do not require the level of protection designed for consumers. Therefore, this Directive should apply to business travellers only insofar as they do not make travel arrangements on the basis of a framework contract. To avoid confusion with the definition of the term 'consumer' in other consumer protection directives, persons protected under this Directive should be referred to as 'travellers'.
- (8) Since travel services may be combined in many different ways, it is appropriate to consider as packages all combinations of travel services that display features which travellers typically associate with packages, notably that separate travel services are bundled together into a single travel product for which the organiser assumes responsibility for proper performance. In accordance with the case law of the Court of Justice of the European Union¹⁶, it should make no difference whether travel services are combined before any contact with the traveller or at the request of or according to the selection made by the traveller. The same principles should apply irrespective of whether the booking is made through a high street travel agent or online.
- (9) For the sake of transparency, packages should be distinguished from assisted travel arrangements, where online or high street agents assist travellers in combining travel services leading the traveller to conclude contracts with different providers of travel services, including through linked booking processes, which do not contain those features and in relation to which it would not be appropriate to apply all obligations applying to packages.

¹⁶

See Judgment in Case C-400/00 *Club Tour, Viagens e Turismo SA v. Alberto Carlos Lobo Gonçalves Garrido and Club Med Viagens Ld*, ECR 2002, I-04051.

- (10) In light of market developments, it is appropriate to further define packages on the basis of alternative objective criteria which predominantly relate to the way in which the travel services are presented or purchased and where travellers may reasonably expect to be protected by the Directive. This is the case, for instance where different travel services are purchased for the same trip or holiday within the same booking process from a single point of sale or where such services are offered or charged at an inclusive or total price. It should be considered that travel services are procured within the same booking process if they are selected before the traveller has agreed to pay.
- (11) At the same time, assisted travel arrangements should be distinguished from travel services which travellers book independently, often at different times, even for the purpose of the same trip or holiday. Online assisted travel arrangements should also be distinguished from links through which travellers are simply informed about further travel services in a general fashion, for instance where a hotel or an organiser of an event includes on its website a list of all operators offering transport services to its location independently of any booking or if cookies or meta data are used to place advertisements on websites.
- (12) The purchase of an air travel service on a stand-alone basis as a single travel service constitutes neither a package nor an assisted travel arrangement.
- (13) Particular rules should be laid down for both high street and on-line retailers which assist travellers, on the occasion of a single visit or contact with their own point of sale, in concluding separate contracts with individual service providers and for online retailers which, through linked online booking processes, facilitate the procurement of additional travel services from another trader in a targeted manner, at the latest when the booking of the first service is confirmed. These rules would apply for example, where, along with the confirmation of the booking of a first travel service such as a flight or a train journey, a consumer receives an invitation to book an additional travel service available at the chosen travel destination, for instance hotel accommodation, with a link to the booking site of another service provider or intermediary. While those arrangements do not constitute packages within the meaning of this Directive as there can be no confusion that a single organiser has assumed the responsibility for the travel services, such assisted arrangements constitute an alternative business model that often competes closely with packages.
- (14) In order to ensure fair competition and to protect consumers, the obligation to provide sufficient evidence of security for the refund of pre-payments and the repatriation of travellers in the event of insolvency should also apply to assisted travel arrangements.
- (15) To increase clarity for travellers and enable them to make informed choices as to the different types of travel arrangements on offer, it is appropriate to require traders to state the nature of the arrangement clearly and inform travellers of their rights. A trader's declaration as to the legal nature of the travel product being marketed should correspond to the true legal nature of the product concerned. The enforcement authorities should intervene where traders do not provide accurate information to travellers.
- (16) Only the combination of different travel services, such as accommodation, carriage of passengers by bus, rail, water or air, as well as car rental, should be considered for the purposes of identifying a package or an assisted travel arrangement. Accommodation for residential purposes, including for long-term language courses, should not be considered as accommodation within the meaning of this Directive.

- (17) Other tourist services, such as admission to concerts, sport events, excursions or event parks are services that, in combination with either carriage of passengers, accommodation and/or car rental, should be considered as capable of constituting a package or an assisted travel arrangement. However, such packages should only fall within the scope of this Directive if the relevant tourist service accounts for a significant proportion of the package. Generally, the tourist service should be considered as a significant proportion of the package if it accounts for more than 20% of the total price or otherwise represents an essential feature of the trip or holiday. Ancillary services, such as travel insurance, transport of luggage, meals and cleaning provided as part of accommodation, should not be considered as tourist services in their own right.
- (18) It should also be clarified that contracts by which a trader entitles the traveller after the conclusion of the contract to choose among a selection of different types of travel services, such as in the case of a package travel gift box, should constitute a package. Moreover, a combination of travel services should be considered as a package where the traveller's name or particulars needed to conclude the booking transaction are transferred between the traders at the latest when the booking of the first service is confirmed. Particulars needed to conclude a booking transaction relate to credit card details or other information necessary to obtain a payment. On the other hand, the mere transfer of particulars such as the travel destination or travel times should not be sufficient.
- (19) Since there is less need to protect travellers in cases of short-term trips, and in order to avoid unnecessary burden for traders, trips lasting less than 24 hours which do not include accommodation as well as occasionally organised packages, should be excluded from the scope of this Directive.
- (20) The main characteristic of package travel is that at least one trader is responsible as an organiser for the proper performance of the package as a whole. Therefore, only in cases where another trader is acting as the organiser of a package should a trader, typically a high-street or on-line travel agent, be able to act as a mere retailer or intermediary and not be liable as an organiser. Whether a trader is acting as an organiser for a given package should depend on its involvement in the creation of a package as defined under this Directive, and not on the denomination under which it carries out its business. Where two or more traders meet a criterion which makes the combination of travel services a package and where those traders have not informed the traveller which of them is the organiser of the package, all relevant traders should be considered as organisers.
- (21) In relation to packages, retailers should be responsible together with the organiser for the provision of pre-contractual information. At the same time it should be clarified that they are liable for booking errors. To facilitate communication, in particular in cross-border cases, travellers should have the possibility of contacting the organiser also via the retailer through which they bought the package.
- (22) The traveller should receive all necessary information before purchasing a package, whether it is sold through means of distance communication, over the counter or through other types of distribution. In providing this information, the trader should take into account the specific needs of travellers who are particularly vulnerable because of their age or physical infirmity, which the trader could reasonably foresee.
- (23) Key information, for example on the main characteristics of the travel services or the prices, provided in advertisements, on the organiser's website or in brochures as part of

the pre-contractual information, should be binding, unless the organiser reserves the right to make changes to those elements and unless such changes are clearly and prominently communicated to the traveller before the contract is concluded. However, in light of new communication technologies, there is no longer any need to lay down specific rules on brochures, while it is appropriate to ensure that, in certain circumstances, changes impacting the contract performance are communicated between the parties on a durable medium accessible for future reference. It should always be possible to make changes to that information where both parties to the contract expressly agree on that.

- (24) The information requirements laid down in this Directive are exhaustive, but should be without prejudice to the information requirements provided for in other applicable Union legislation¹⁷.
- (25) Taking into account the specificities of package travel contracts, rights and obligations of the parties should be laid down, for the time before and after the start of the package, in particular if the package is not properly performed or if particular circumstances change.
- (26) Since packages are often purchased a long time before their performance, unforeseen events may occur. Therefore the traveller should, under certain conditions, be entitled to transfer a package to another traveller. In such situations, the organiser should be able to recover his expenses, for instance if a sub-contractor requires a fee for changing the name of the traveller or for cancelling a transport ticket and issuing a new one. Travellers should also have the possibility of cancelling the contract at any time before the start of the package against paying appropriate compensation, as well as the right to terminate the contract without paying compensation where unavoidable and extraordinary circumstances like warfare or a natural disaster will significantly affect the package. Unavoidable and extraordinary circumstances should in particular be deemed to exist where reliable and publicly available reports, such as recommendations issued by Member State authorities, advise against travelling to the place of destination.
- (27) In specific situations, also the organiser should be entitled to terminate the contract before the start of the package without paying compensation, for instance if the minimum number of participants is not reached and where this possibility has been reserved in the contract.
- (28) In certain cases organisers should be allowed to make unilateral changes to the package travel contract. However, travellers should have the right to terminate the contract if the proposed alterations change significantly any of the main characteristics of the travel services. Price increases should be possible only if there has been a change in the cost of fuel for the carriage of passengers, in taxes or fees imposed by a third party not directly involved in the performance of the included travel services or in the exchange rates relevant to the package and if both an upward and downward revision of the price is expressly reserved in the contract. Price increases should be limited to 10% of the price of the package.
- (29) It is appropriate to set out specific rules on remedies as regards the lack of conformity in the performance of the package travel contract. The traveller should be entitled to have problems resolved and, where a significant proportion of the services contracted

¹⁷ See, Directives 2000/31/EC and 2006/123/EC, as well as Regulations (EC) No 1107/2006, (EC) No 1008/2008, (EC) No. 1371/2007, (EC) No. 181/2011, (EC) No. 1177/2010 and (EC) No 2111/2005.

for cannot be provided, the traveller should be offered alternative arrangements. Travellers should also be entitled to a price reduction and/or compensation for damages. Compensation should also cover any immaterial damage, in particular in case of a spoilt holiday, and, in justified cases, expenses which the traveller incurred when resolving a problem himself.

- (30) In order to ensure consistency, it is appropriate to align the provisions of this Directive with international conventions covering travel services and with the Union legislation on passenger rights. Where the organiser is liable for failure to perform or improper performance of the services included in the package travel contract, the organiser should be able to invoke the limitations of the liability of service providers set out in such international conventions as the Montreal Convention of 1999 for the Unification of certain Rules for International Carriage by Air¹⁸, the Convention of 1980 concerning International Carriage by Rail (COTIF)¹⁹ and the Athens Convention of 1974 on the Carriage of Passengers and their Luggage by Sea²⁰. Where it is impossible, because of unavoidable and extraordinary circumstances, to ensure the traveller's return to the place of departure, the organiser's obligation to bear the cost of the travellers' continued stay at the place of destination should be aligned with the Commission's proposal²¹ aimed to amend Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights²².
- (31) This Directive should not affect the rights of travellers to present claims both under this Directive and under any other relevant Union legislation, so that travellers will continue to have the possibility to address claims to the organiser, the carrier or any other liable party, or, as the case may be, to several parties. It should be clarified that they may not cumulate rights under different legal bases if the rights safeguard the same interest or have the same objective. The organiser's liability is without prejudice to the right to seek redress from third parties, including service providers.
- (32) If the traveller is in difficulty during the trip or holiday, the organiser should be obliged to give prompt assistance. Such assistance should consist mainly in providing, where appropriate, information on aspects such as health services, local authorities and consular assistance, as well as practical help, for instance with regard to distance communications and alternative travel arrangements.

¹⁸ 2001/539/EC: Council Decision of 5 April 2001 on the conclusion by the European Community of the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention) (OJ L 194, 18.07.2001, P. 38).

¹⁹ 2013/103/EU: Council Decision of 16 June 2011 on the signing and conclusion of the Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) (OJ L 51, 23.2.2013, p. 1).

²⁰ 2012/22/EU: Council Decision of 12 December 2011 concerning the accession of the European Union to the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, with the exception of Articles 10 and 11 thereof (OJ L 8, 12.1.2012, p. 1).

²¹ Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air - COM/2013/130 final.

²² OJ L 46, 17.2.2004, p.1.

- (33) In its Communication on passenger protection in the event of airline insolvency,²³ the Commission set out measures to improve the protection of travellers in the event of an airline insolvency, including better enforcement of Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community²⁴, of Regulation No 261/2004 on air passenger rights and engagement with industry stakeholders, failing which a legislative measure could be considered. That Communication concerns the purchase of an individual component, namely air travel services, and therefore is without prejudice to existing rules on packages and does not prevent the legislators to provide for insolvency protection also for buyers of other modern combinations of travel services.
- (34) Member States should ensure that travellers purchasing a package or an assisted travel arrangement are fully protected against the insolvency of the organiser, of the retailer having facilitated the assisted travel arrangement or of any of the service providers. Member States in which package organisers and retailers facilitating assisted travel arrangements are established should ensure that traders offering such combinations of travel services provide security for the refund of all payments made by travellers and for their repatriation in the event of insolvency. While retaining discretion as to the way in which insolvency protection is granted, Member States should ensure that their national insolvency protection schemes are effective and able to guarantee prompt repatriation and the refund of all travellers affected by the insolvency. The required insolvency protection should take into account the actual financial risk of the activities of the organiser, relevant retailer or service provider, including the type of combination of travel services they sell, foreseeable seasonal fluctuations as well as the extent of pre-payments and the way in which these are secured. In accordance with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market²⁵, in cases where insolvency protection may be provided in the form of a guarantee or an insurance policy, such security may not be limited to attestations issued by financial operators established in a particular Member State.
- (35) In order to facilitate the free movement of services, Member States should be obliged to recognise insolvency protection under the law of the Member State of establishment. To facilitate the administrative cooperation and supervision of businesses which are active in different Member States with regard to insolvency protection, Member States should be obliged to designate central contact points.
- (36) As regards assisted travel arrangements, beyond the obligation to provide insolvency protection and to inform travellers that individual service providers are solely responsible for their contractual performance, the relevant contracts are subject to general Union consumer protection legislation and sector-specific Union legislation.
- (37) It is appropriate to protect travellers in situations where a retailer arranges the booking of a package or an assisted travel arrangement and where the retailer makes mistakes in the booking process.
- (38) It is also appropriate to confirm that consumers may not waive rights stemming from this Directive and organisers or traders facilitating assisted travel arrangements may not escape from their obligations by claiming that they are simply acting as a service provider, an intermediary or in any other capacity.

²³ COM (2013)129 of 18.3.2013.

²⁴ OJ L 293, 31.10.2008, p. 3.

²⁵ OJ L376, 27.12.2006, p. 36.

- (39) It is necessary that Member States lay down penalties for infringements of national provisions transposing this Directive and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.
- (40) The adoption of this Directive makes it necessary to adapt certain consumer protection acts. Taking into account that Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on consumer rights²⁶ in its current form does not apply to contracts covered by Directive 90/314/EEC, it is necessary to amend Directive 2011/83/EU to ensure that it applies to assisted travel arrangements and that certain consumer rights laid down in that Directive also apply to packages.
- (41) This Directive should be without prejudice to Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)²⁷ and national contract law for those aspects that are not regulated by it. Since this Directive aims to contribute to the proper functioning of the internal market and to the achievement of a high level of consumer protection, its objectives cannot be achieved by the Member States and can be better achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve its objectives.
- (42) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. The proposal, in particular, respects the freedom to conduct a business laid down in Article 16 of the Charter, while ensuring a high level of consumer protection within the Union, in accordance with Article 38 of the Charter.
- (43) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter

This Directive is to contribute to the proper functioning of the internal market and to the achievement of a high level of consumer protection by approximating certain aspects of the laws, regulations and administrative provisions of the Member States in respect of contracts on package travel and assisted travel arrangements concluded between travellers and traders.

²⁶ OJ L 304, 22.11.2011, p. 64.

²⁷ OJ L 177, 4.7.2008, p. 6.

Article 2

Scope

1. This Directive shall apply to packages offered for sale or sold by traders to travellers, with the exception of Article 17, and to assisted travel arrangements with the exception of Articles 4 to 14, Articles 18 and Article 21(1).
2. This Directive shall not apply to:
 - (a) packages and assisted travel arrangements covering a period of less than 24 hours unless overnight accommodation is included;
 - (b) ancillary contracts covering financial services;
 - (c) packages and assisted travel arrangements purchased on the basis of a framework contract between the traveller's employer and a trader specialising in the arrangement of business travel;
 - (d) packages where not more than one travel service as referred to in points (a), (b), and (c) of Article 3(1) is combined with a travel service as referred to in point (d) of Article 3(1) if this service does not account for a significant proportion of the package; or
 - (e) stand-alone contracts for a single travel service..

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) 'travel service' means:
 - (a) carriage of passengers,
 - (b) accommodation other than for residential purpose,
 - (c) car rental or
 - (d) any other tourist service not ancillary to carriage of passengers, accommodation or car rental;
- (2) 'package' means a combination of at least two different types of travel services for the purpose of the same trip or holiday, if:
 - (a) those services are put together by one trader, including at the request or according to the selection of the traveller, before a contract on all services is concluded; or
 - (b) irrespective of whether separate contracts are concluded with individual travel service providers, those services are:
 - (i) purchased from a single point of sale within the same booking process,
 - (ii) offered or charged at an inclusive or total price,
 - (iii) advertised or sold under the term 'package' or under a similar term,
 - (iv) combined after the conclusion of a contract by which a trader entitles the traveller to choose among a selection of different types of travel services, or

- (v) purchased from separate traders through linked online booking processes where the traveller's name or particulars needed to conclude a booking transaction are transferred between the traders at the latest when the booking of the first service is confirmed;
- (3) 'package travel contract' means a contract on the package as a whole or, if the package is provided under different contracts, all contracts covering services included in the package;
- (4) 'start of the package' means the beginning of the performance of the package;
- (5) 'assisted travel arrangement' means a combination of at least two different types of travel services for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers, if a retailer facilitates the combination:
 - (a) on the basis of separate bookings on the occasion of a single visit or contact with the point of sale; or
 - (b) through the procurement of additional travel services from another trader in a targeted manner through linked online booking processes at the latest when the booking of the first service is confirmed;
- (6) 'traveller' means any person who is seeking to conclude or is entitled to travel on the basis of a contract concluded within the scope of this Directive, including business travellers insofar as they do not travel on the basis of a framework contract with a trader specialising in the arrangement of business travel;
- (7) 'trader' means any person, who is acting for purposes relating to his trade, business, craft or profession;
- (8) 'organiser' means a trader who combines and sells or offers for sale packages, either directly or through another trader or together with another trader; where more than one trader meets any of the criteria referred to in point (b) of paragraph 2, all of those traders are considered as organisers, unless one of them is designated as organiser and the traveller is informed accordingly;
- (9) 'retailer' means a trader other than the organiser who:
 - (a) sells or offers for sale packages or
 - (b) facilitates the procurement of travel services which are part of an assisted travel arrangement by assisting travellers in concluding separate contracts for travel services with individual service providers;
- (10) 'durable medium' means any instrument which enables the traveller or the trader to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (11) 'unavoidable and extraordinary circumstances' means a situation beyond the control of the trader the consequences of which could not have been avoided even if all reasonable measures had been taken;
- (12) 'lack of conformity' means lack of and improper performance of the travel services included in a package.

Chapter II

Information obligations and content of the package travel contract

Article 4

Pre-contractual information

1. Member States shall ensure that, before the traveller is bound by any package travel contract or any corresponding offer, the organiser and, where the package is sold through a retailer, also the retailer shall provide the traveller with the following information where applicable to the package:
 - (a) the main characteristics of the travel services:
 - (i) the travel destination(s), itinerary and periods of stay, with dates;
 - (ii) the means, characteristics and categories of transport, the points, dates and time of departure and return or, where the exact time is not yet determined, the approximate time of departure and return, the duration and places of intermediate stops and transport connections;
 - (iii) the location, main features and tourist category of the accommodation;
 - (iv) whether meals are provided and, if so, the meal plan;
 - (v) visits, excursion(s) or other services included in the total price agreed for the package;
 - (vi) the language(s) in which the activities will be carried out and
 - (vii) whether access for persons with reduced mobility is guaranteed throughout the trip or holiday;
 - (b) the trading name, the geographical address of the organiser and, where applicable, the retailer, as well as their telephone number and e-mail address;
 - (c) the total price of the package inclusive of taxes and, where applicable, of all additional fees, charges and other costs or, where those costs cannot reasonably be calculated in advance, the fact that the traveller may have to bear such additional costs;
 - (d) the arrangements for payment and, where applicable, the existence and the conditions for deposits or other financial guarantees to be paid or provided by the traveller;
 - (e) the minimum number of persons required for the package to take place and a time-limit of at least 20 days before the start of the package for the possible cancellation if that number is not reached;
 - (f) general information on passport and visa requirements, including approximate periods for obtaining visas, for nationals of the Member State(s) concerned and information on health formalities;
 - (g) confirmation that the services constitute a package within the meaning of this Directive.

2. The information referred to in paragraph 1 shall be provided in a clear and prominent manner.

Article 5

Binding character of pre-contractual information and conclusion of the contract

1. Member States shall ensure that the organiser may not change the information made known to the traveller pursuant to points (a), (c), (d), (e) and (g) of Article 4, unless the organiser reserves the right to make changes to that information and communicates any changes to the traveller in a clear and prominent manner before the conclusion of the contract.
2. If the information on additional charges, fees or other costs referred to in point (c) of Article 4 is not provided prior to the conclusion of the contract, the traveller shall not bear those fees, charges or other costs.
3. At or immediately after the conclusion of the contract, the organiser shall provide the traveller with a copy of the contract or a confirmation of the contract on a durable medium.

Article 6

Content of the package travel contract and documents to be supplied before the start of the package

1. Member States shall ensure that package travel contracts are in plain and intelligible language and, in so far as they are in writing, legible.
2. The contract or the confirmation of the contract shall include all the information referred to in Article 4. It shall include the following additional information:
 - (a) special requirements of the traveller which the organiser has accepted;
 - (b) information that the organiser is:
 - (i) responsible for the proper performance of all included travel services;
 - (ii) obliged to provide assistance if the traveller is in difficulty in accordance with Article 14;
 - (iii) obliged to procure insolvency protection for refund and repatriation in accordance with Article 15, as well as the name of the entity providing the insolvency protection and its contact details, including its geographical address;
 - (c) the details of a contact point where the traveller can complain about any lack of conformity which he perceives on the spot;
 - (d) the name, geographical address, telephone number and e-mail address of the organiser's local representative or contact point whose assistance a traveller in difficulty could request or, where no such representative or contact point exists, an emergency telephone number or the indication of other ways of contacting the organiser;
 - (e) information that the traveller may terminate the contract at any time before the start of the package against payment of an appropriate compensation or a

reasonable standardised termination fee if such fees are specified in accordance with Article 10 (1);

- (f) where minors travel on a package that includes accommodation, information enabling direct contact with the minor or the person responsible at the minor's place of stay;
 - (g) information on available alternative and online dispute resolution mechanisms
3. The information referred to in paragraph 2 shall be provided in a clear and prominent manner.
 4. In good time before the start of the package, the organiser shall provide the traveller with the necessary receipts, vouchers or tickets, including information on the precise times of departure, intermediate stops, transport connections and arrival.

Chapter III

Changes to the contract before the start of the package

Article 7

Transfer of the contract to another traveller

1. Member States shall ensure that a traveller may, after giving the organiser reasonable notice on a durable medium before the start of the package, transfer the contract to a person who satisfies all the conditions applicable to that contract.
2. The transferor of the contract and the transferee shall be jointly and severally liable for the payment of the balance due and for any additional fees, charges or other costs arising from the transfer. Those costs shall not be unreasonable and in any case shall not exceed the actual cost borne by the organiser.

Article 8

Alteration of the price

1. Member States shall ensure that prices are not subject to revision, unless the contract expressly reserves the possibility of an increase and obliges the organiser to reduce prices to the same extent as a direct consequence of changes:
 - (a) in the cost of fuel for the carriage of passengers,
 - (b) in the level of taxes or fees on the included travel services imposed by third parties not directly involved in the performance of the package, including tourist taxes, landing taxes or embarkation or disembarkation fees at ports and airports, or
 - (c) in the exchange rates relevant to the package.
2. The price increase referred to in paragraph 1 shall not exceed 10% of the price of the package.
3. The price increase referred to in paragraph 1 shall be valid only if the organiser notifies the traveller of it with a justification and calculation on a durable medium at the latest 20 days prior to the start of the package.

Article 9
Alteration of other contract terms

1. Member States shall ensure that, before the start of the package, the organiser may not unilaterally change contract terms other than the price, unless:
 - (a) the organiser has reserved that right in the contract,
 - (b) the change is insignificant and
 - (c) the organiser informs the traveller in a clear and prominent manner on a durable medium.
2. If, before the start of the package, the organiser is constrained to alter significantly any of the main characteristics of the travel services as defined in point (a) of Article 4 or special requirements as referred to in point (a) of Article 6(2), the organiser shall without undue delay inform the traveller in a clear and prominent manner on a durable medium of:
 - (a) the proposed changes and
 - (b) the fact that the traveller may terminate the contract without penalty within a specified reasonable time-limit and that otherwise the proposed alteration will be considered as accepted.
3. Where the changes to the contract referred to in paragraph 2 result in a package of lower quality or cost, the traveller shall be entitled to an appropriate price reduction.
4. If the contract is terminated pursuant to point (b) of paragraph 2, the organiser shall refund all payments received from the traveller within fourteen days after the contract is terminated. The traveller shall, where appropriate, be entitled to compensation in accordance with Article 12.

Article 10
Termination of the contract before the start of the package

1. Member States shall ensure that the traveller may terminate the contract before the start of the package against payment of an appropriate compensation to the organiser. The contract may specify reasonable standardised termination fees based on the time of the termination and the customary cost savings and income from alternative deployment of the travel services. In the absence of standardised termination fees, the amount of the compensation shall correspond to the price of the package minus the expenses saved by the organiser.
2. The traveller shall have the right to terminate the contract before the start of the package without compensation in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and significantly affecting the package.
3. The organiser may terminate the contract without paying compensation to the traveller, if:
 - (a) the number of persons enrolled for the package is smaller than the minimum number stated in the contract and the organiser notifies the traveller of the termination within the period fixed in the contract and not later than 20 days before the start of the package; or

- (b) the organiser is prevented from performing the contract because of unavoidable and extraordinary circumstances and notifies the traveller of the termination without undue delay before the start of the package.
4. In cases of termination under paragraphs 1, 2 and 3, the organiser shall reimburse any undue payment made by the traveller within fourteen days.

Chapter IV

Performance of the package

Article 11

Liability for the performance of the package

1. Member States shall ensure that the organiser is responsible for the performance of the travel services included in the contract, irrespective of whether those services are to be performed by the organiser or by other service providers.
2. If any of the services are not performed in accordance with the contract, the organiser shall remedy the lack of conformity, unless this is disproportionate.
3. Where a significant proportion of the services cannot be provided as agreed in the contract, the organiser shall make suitable alternative arrangements, at no extra cost to the traveller, for the continuation of the package, including where the traveller's return to the place of departure is not provided as agreed.
4. If it is impossible for the organiser to offer suitable alternative arrangements or the traveller does not accept the alternative arrangements proposed because they are not comparable to what was agreed in the contract, the organiser shall, insofar as the package includes the carriage of passengers, provide the traveller at no extra cost with equivalent transport to the place of departure or to another place to which the traveller has agreed and shall, where appropriate, compensate the traveller in accordance with Article 12.
5. As long as it is impossible to ensure the traveller's timely return because of unavoidable and extraordinary circumstances, the organiser shall not bear the cost for the continued stay exceeding EUR 100 per night and three nights per traveller.
6. The limitation of costs referred to in paragraph 5 shall not apply to persons with reduced mobility, as defined in Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air²⁸, and any person accompanying them, pregnant women and unaccompanied children, as well as persons in need of specific medical assistance, provided the organiser has been notified of their particular needs at least 48 hours before the start of the package. The organiser may not invoke unavoidable and extraordinary circumstances to limit the costs referred to in paragraph 5 if the relevant transport provider may not rely on such circumstances under applicable Union legislation.
7. If the alternative arrangements result in a package of lower quality or cost, the traveller shall be entitled to a price reduction and, where appropriate, damages in accordance with Article 12.

²⁸ OJ L 204, 26.7.2006, p. 1.

Article 12
Price reduction and compensation for damages

1. Member States shall ensure that the traveller is entitled to an appropriate price reduction for:
 - (a) any period during which there was lack of conformity; or
 - (b) where the alternative arrangements as referred to in paragraphs 3 and 4 of Article 11 result in a package of lower quality or cost.
2. The traveller shall be entitled to receive compensation from the organiser for any damage, including non-material damage, which the traveller sustains as a result of any lack of conformity.
3. The traveller shall not be entitled to price reduction or compensation for damages if:
 - (a) the organiser proves that the lack of conformity is:
 - (i) attributable to the traveller,
 - (ii) attributable to a third party unconnected with the provision of the services contracted for and is unforeseeable or unavoidable, or
 - (iii) due to unavoidable and extraordinary circumstances or
 - (b) the traveller fails to inform the organiser without undue delay of any lack of conformity which the traveller perceives on the spot if that information requirement was clearly and explicitly stated in the contract and is reasonable, taking into account the circumstances of the case.
4. Insofar as international conventions binding the Union limit the extent of or the conditions under which compensation is to be paid by a provider carrying out a service which is part of a package, the same limitations shall apply to the organiser. Insofar as international conventions not binding the Union limit compensation to be paid by a service provider, Member States may limit compensation to be paid by the organiser accordingly. In other cases, the contract may limit compensation to be paid by the organiser as long as that limitation does not apply to personal injury and damage caused intentionally or with gross negligence and does not amount to less than three times the total price of the package.
5. Any right to compensation or price reduction under this Directive shall not affect the rights of travellers under Regulation (EC) No 261/2004²⁹, Regulation (EC) No 1371/2007³⁰, Regulation (EU) No 1177/2010³¹ and Regulation (EU) No 181/2011³². Travellers shall be entitled to present claims under this Directive and under those Regulations, but may not, in relation to the same facts, cumulate rights under different legal bases if the rights safeguard the same interest or have the same objective.
6. The prescription period for introducing claims under this Article shall not be shorter than one year.

²⁹ OJ L 46, 17.2.2004, p.1
³⁰ OJ L 315, 3.12.2007, p. 14
³¹ OJ L 334, 17.2.2010, p. 1
³² OJ L 55, 28.2.2011, p.1

Article 13

Possibility to contact the organiser via the retailer

Member States shall ensure that the traveller may address messages, complaints or claims in relation to the performance of the package directly to the retailer through which it was purchased. The retailer shall forward those messages, complaints or claims to the organiser without undue delay. For the purpose of compliance with time-limits or prescription periods, receipt of the notifications by the retailer shall be considered as receipt by the organiser.

Article 14

Obligation to provide assistance

Member States shall ensure that the organiser gives prompt assistance to the traveller in difficulty, in particular by:

- (a) providing appropriate information on health services, local authorities and consular assistance, and
- (b) assisting the traveller in making distance communications and alternative travel arrangements.

The organiser shall be able to charge a reasonable fee for such assistance if the situation is caused by the traveller's negligence or intent.

Chapter V

Insolvency protection

Article 15

Effectiveness and scope of insolvency protection

1. Member States shall ensure that organisers and retailers facilitating the procurement of assisted travel arrangements established in their territory obtain a security for the effective and prompt refund of all payments made by travellers and, insofar as carriage of passengers is included, for the travellers' effective and prompt repatriation in the event of insolvency.
2. The insolvency protection referred to in paragraph 1 shall take into account the actual financial risk of the relevant trader's activities. It shall benefit travellers regardless of their place of residence, the place of departure or where the package or assisted travel arrangement is sold.

Article 16

Mutual recognition of insolvency protection and administrative cooperation

1. Member States shall recognise as meeting the requirements of their national rules transposing Article 15 any insolvency protection obtained by an organiser or a retailer facilitating the procurement of assisted travel arrangements under the rules of its Member State of establishment transposing Article 15.
2. Member States shall designate central contact points to facilitate the administrative cooperation and supervision of organisers and retailers facilitating the procurement of assisted travel arrangements operating in different Member States. They shall notify the contact details of these contact points to all other Member States and the Commission.

3. The central contact points shall make available to each other all necessary information on their national insolvency protection schemes and the identity of the body or bodies providing insolvency protection for a particular trader established in their territory. They shall grant each other access to any inventory listing organisers and retailers facilitating the procurement of assisted travel arrangements which are in compliance with their insolvency protection obligations.
4. If a Member State has doubts about the insolvency protection of an organiser or of a retailer facilitating the procurement of assisted travel arrangements which is established in a different Member State and is operating on its territory, it shall seek clarification from the Member State of establishment. Member States shall respond to requests from other Member States at the latest within 15 working days of receiving them.

Chapter VI

Assisted travel arrangements

Article 17

Information requirements for assisted travel arrangements

Member States shall ensure that, before the traveller is bound by any contract or any corresponding offer for assisted travel arrangements, the trader facilitating the procurement of assisted travel arrangements shall state in a clear and prominent manner:

- (a) that each service provider will be solely responsible for the correct contractual performance of its service; and
- (b) that the traveller will not benefit from any of the rights granted by this Directive exclusively to package travellers, but will benefit from the right to a refund of pre-payments and, insofar as carriage of passengers is included, to repatriation in case the retailer itself or any of the service providers becomes insolvent.

Chapter VII

General provisions

Article 18

Particular obligations of the retailer where the organiser is established outside the EEA

Where the organiser is established outside the EEA, the retailer established in a Member State shall be subject to the obligations laid down for organisers in Chapters IV and V, unless the retailer provides evidence that the organiser complies with Chapters IV and V.

Article 19

Liability for booking errors

Member States shall ensure that a retailer who has agreed to arrange the booking of a package or assisted travel arrangements or who facilitates the booking of such services shall be liable for any errors occurring in the booking process, unless such errors are attributable to the traveller or to unavoidable and extraordinary circumstances.

Article 20
Right of redress

In cases where an organiser or, in accordance with Articles 15 or 18, a retailer pays compensation, grants price reduction or meets the other obligations incumbent on it under this Directive, no provision of this Directive or of national law may be interpreted as restricting its right to seek redress from any third parties which contributed to the event triggering compensation, price reduction or other obligations.

Article 21
Imperative nature of the Directive

1. A declaration by an organiser that he is acting exclusively as a provider of a travel service, as an intermediary or in any other capacity, or that a package within the meaning of this Directive does not constitute a package, shall not absolve the organiser from the obligations imposed on organisers under this Directive.
2. Travellers may not waive the rights conferred on them by the national measures transposing this Directive.
3. Any contractual arrangement or any statement by the traveller which directly or indirectly waives or restricts the rights conferred on travellers pursuant to this Directive or aims to circumvent the application of this Directive shall not be binding on the traveller.

Article 22
Enforcement

Member States shall ensure that adequate and effective means exist to ensure compliance with this Directive.

Article 23
Penalties

Member States shall lay down the rules on penalties which enforcement bodies may impose on traders for infringing the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 24
Reporting by the Commission and review

By [5 years after its entry into force], the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. The report shall be accompanied, where necessary, by legislative proposals to adapt this Directive to developments in the field of traveller rights.

Article 25
Amendment of Regulation (EC) No 2006/2004 and Directive 2011/83/EU

1. Point 5 of the Annex to Regulation (EC) No 2006/2004 is replaced by the following:

'5. Directive [this Directive] of the European Parliament and of the Council of [date of adoption] on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC (OJ [...])'.

2. Point (g) of Article 3(3) of Directive 2011/83/EU is replaced by the following:

'(g) on packages as defined in Article 3(2) of Directive [...] of the European Parliament and of the Council of [date of adoption] on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU and repealing Council Directive 90/314/EEC (OJ [...])', with the exception of Article 8(2), Article 19, Article 21 and Article 22.

Chapter VIII

Final provisions

Article 26

Repeals

Directive 90/314/EC is repealed as of [18 months after the entry into force of this Directive].

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the table in Annex I to this Directive.

Article 27

Transposition

1. Member States shall adopt and publish, by [18 months after the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.
2. They shall apply those provisions from [18 months after the entry into force of this Directive]
3. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 28

Entry into force

This Directive shall enter into force on the [twentieth day following that of its publication in the *Official Journal of the European Union*].

Article 29

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I³³

Numbering of articles in Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours	Numbering of articles in this Directive
Article 1	Article 1 (modified)
Article 2 (1)	Article 3 (2) (modified) and Article 2 (2) (a)
Article 2 (2)	Article 3 (8) (modified)
Article 2 (3)	Article 3 (9) (modified)
Article 2 (4)	Article 3 (6) (modified)
Article 2 (5)	Article 3 (3) (modified)
Article 3 (1)	Deleted
Article 3 (2)	Deleted, however main parts incorporated in Articles 4 and 5 (modified)
Article 4 (1)	Article 4 (1) (modified), Article 6 (2) (modified) and Article 6 (4) (modified)
Article 4 (1)(b)(iv)	Deleted
Article 4 (2)(a)	Article 6 (2) (modified)
Article 4 (2)(b)	Article 5(3) (modified) and Article 6(1) and (3) (modified)
Article 4 (2)(c)	Deleted
Article 4 (3)	Article 7 (modified)
Article 4 (4)	Article 8 (modified)
Article 4 (5)	Article 9 (2) (modified)
Article 4 (6)	Article 9 (3) and (4) (modified) and Article 10 (3) and (4) (modified)

³³

This list is for information purposes only. When an article in the list related to this Directive is indicated as corresponding to an article in Directive 90/314/EEC, this means that at least certain elements of a rule in Directive 90/314/EEC are also to be found in this Directive, but does not mean that the wording of the relevant provisions is the same.

Article 4 (7)	Article 11 (3), (4) and (7) (modified)
Article 5 (1)	Article 11 (1) (modified)
Article 5 (2)	Article 12 (2) (3) and (4) (modified) and Article 14 (modified)
Article 5 (3)	Article 21 (3) (modified)
Article 5 (4)	Article 6 (2)(c) (modified) and Article 12 (3)(b) (modified)
Article 6	Article 11 (2) (modified)
Article 7	Article 15 (modified) and Article 16 (modified)
Article 8	Deleted
Article 9 (1)	Article 27 (1), (2) and (3) (modified)
Article 9 (2)	Article 27 (4) (modified)
Article 10	Article 29

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1 Title of the proposal/initiative
- 1.2 Policy area(s) concerned in the ABM/ABB structure
- 1.3 Nature of the proposal/initiative
- 1.4 Objectives
- 1.5 Grounds for the proposal/initiative
- 1.6 Duration and financial impact
- 1.7 Management mode(s) envisaged

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

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 - 3.2.1. *Summary of estimated impact on expenditure*
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 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a revision of the Directive on Package Travel, Package Holidays and Package Tours 90/314/EEC

1.2. Policy area(s) concerned in the ABM/ABB structure³⁴

Title 33- Justice

1.3. Nature of the proposal/initiative

☒ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to a new action following a pilot project/preparatory action³⁵

☐ The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to an action redirected towards a new action

1.4. Objectives

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

Enable individuals in their capacity as consumers and entrepreneurs in the internal market to enforce their rights deriving from Union law and therefore ensuring use of the European Judicial Area

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

Specific objective No

Simplify cross-border trade in the Internal Market and strengthen consumer confidence

ABM/ABB activity(ies) concerned

33.02

³⁴

ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

³⁵

As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

- Ensure a more competitive and fairer level playing field for the businesses operating in the travel market;
- Increase the cross-border offer of package travel services by reducing costs and obstacles to cross-border trade in the package travel market;
- Reduce consumer detriment and increase transparency for travellers who buy combinations of travel services;

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

- Increase in cross-border trade in the package travel market;
- The level of compliance costs for businesses operating in the package travel market;
- Increase in the number of consumers protected when going on holidays;
- Decrease in the number of consumers experiencing problems for different types of travel arrangements;

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

- Clarify and modernise the scope of travellers' protection when purchasing combinations of travel services for the same trip or holiday by bringing in particular on-line packages and assisted travel arrangements within the scope of the revised Directive, whilst clarifying, in a targeted manner, the scope of protection for bookings through traditional brick and mortar travel agents. This will lead to increased transparency for all market players.
- Ensuring that travellers are better informed about the travel products they are buying and grant them access to clearer remedies if something goes wrong, thus substantially reducing the detriment they suffer.
- Minimise obstacles to cross-border trade and reduce compliance costs for traders who want to sell packages across borders;

1.5.2. *Added value of EU involvement*

- The proposal will eliminate internal market fragmentation causing obstacles to cross-border trader and distortions of competition, as well as enhance the protection of consumers, taking into account new market developments.
- This objective cannot be sufficiently achieved by the Member States, given the disparities between national laws that are the reason for internal market barriers and distortions of competition. If the Member States addressed new market developments as well as regulatory gaps and inconsistencies in EU law in an uncoordinated manner, this would create even more fragmentation in the Internal Market and exacerbate the problem.

1.5.3. *Lessons learned from similar experiences in the past*

- The adoption of the Package Travel Directive in 1990 made a significant contribution to the development of the Single Market, increasing competition and improving the overall quality of offers. The modernised Directive should bring the similar positive outcomes for consumers and businesses.
- The Consumer Rights Directive has similar objectives as the current revision i.e. reducing obstacles to cross-border trade and ensuring a high level of consumer protection. However, as the Directive will be applied in all Member States only at the latest by 13 June 2014 the lessons learnt are limited.

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

- This proposal is consistent with the objective of attaining a high level of consumer protection as it contains mandatory rules of protection of the traveller which Member States or traders cannot derogate from to the detriment of the consumer.
- The proposal is complementary to existing EU law, in particular the Unfair Contract Terms Directive (1993/13/EEC), the Unfair Commercial Practices Directive (2005/29/EC), the Consumer Rights Directive (2011/83/EU), the Regulations in the area of Passenger Rights (Regulations (EC) No. 2004/261, (EC) No. 1371/2007, (EC) No. 1177/2010 and (EC) No. 181/2011) as well as Directives 2000/31/EC on Electronic Commerce and 2006/123/EC on Services in the internal market.
- Furthermore, the proposal is also complementary to Regulation (EC) No 593/2008 (Rome I) on the law applicable to contractual obligations, and to Regulation 44/2001 (Brussels I) on the law on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters; in particular, it does not alter their references to travel packages as further outlined in Joined Cases C-585/08 and C-144/09 ('Pammer' and 'Alpenhof') by the CJEU.

1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

X Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from n to n+3,
- followed by full-scale operation.

1.7. Management mode(s) envisaged³⁶

X Centralised direct management by the Commission

☐ **Centralised indirect management** with the delegation of implementation tasks to:

- ☐ executive agencies
- ☐ bodies set up by the Communities³⁷
- ☐ national public-sector bodies/bodies with public-service mission
- ☐ persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

☐ **Shared management** with the Member States

☐ Decentralised management with third countries

☐ Joint management with international organisations (*to be specified*)

If more than one management mode is indicated, please provide details in the "Comments" section.

Comments

The implementation is not expected to require significant funds.
--

³⁶ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

³⁷ As referred to in Article 185 of the Financial Regulation.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

- By 5 years after its entry into force, the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. The report shall be accompanied, where necessary, by legislative proposals to adapt this Directive to developments in the field of traveller rights.

2.2. Management and control system

2.2.1. Risk(s) identified

- | |
|--|
| <ul style="list-style-type: none">• Late transposition of the Directive by Member States |
|--|

2.2.2. Control method(s) envisaged

- | |
|--|
| <ul style="list-style-type: none">• Standard Commission control/infringement procedures concerning the transposition and enforcement of the Directive. |
|--|

2.2.3. Costs and benefits of controls and probable non-compliance rate

- | |
|--|
| <ul style="list-style-type: none">• Standard costs related to transposition checks and possible infringement procedures. |
|--|

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

- | |
|--|
| <ul style="list-style-type: none">• Not applicable |
|--|

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Description.....]	Diff./non-diff. (38)	from EFTA countries 39	from candidate countries 40	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	33.02.01 – Rights and Citizenship – Ensuring the protection of rights and empower citizens	Diff.	NO	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

³⁸ Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations.

³⁹ EFTA: European Free Trade Association.

⁴⁰ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

In view of the very limited costs of an administrative nature the annex is not filled in. The calculation was 20 % FTE of one AD official to supervise the transposition and writing the report in year n+5. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework:	Number 3	Justice, Security and citizen.....
--	-------------	------------------------------------

DG: JUST			Year ⁴¹ 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
• Operational appropriations										
Number of budget line 33.02.01	Commitments		0	0	0	0	0,200		0	0,200
	Payments		0	0	0	0	0,200		0	0,200
TOTAL appropriations for DG JUST	Commitments						0,200			0,200
	Payments						0,200			0,200

According to Article 24 of the proposal a review will take place in year n+5. It is likely that such a review will be accompanied by an external assistance or study.

⁴¹ Year N is the year in which implementation of the proposal/initiative starts.

Heading of multiannual financial framework	5	‘Administrative expenditure’
---	----------	------------------------------

EUR million (to three decimal places)

		Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
DG: JUST									
• Human resources		0,026	0,026	0,026	0,026	0,026	0,026	0,026	0,184
• Other administrative expenditure									
TOTAL DG JUST	Appropriations	0,026	0,026	0,026	0,026	0,026	0,026	0,026	0,184

TOTAL appropriations for HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0,026	0,026	0,026	0,026	0,026	0,026	0,026	0,184
--	--------------------------------------	-------	-------	-------	-------	-------	-------	-------	--------------

EUR million (to three decimal places)

		Year N ⁴²	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	0,026	0,026	0,026	0,026	0,226	0,026	0,026	0,384
	Payments	0,026	0,026	0,026	0,026	0,226	0,026	0,026	0,384

⁴²

Year N is the year in which implementation of the proposal/initiative starts.

3.2.1. Estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year 2014		Year 2015		Year 2016		Year 2017		Year 2018		Year 2019		Year 2020		TOTAL	
	OUTPUTS																	
	Type 43	Average cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Total number	Total cost
SPECIFIC OBJECTIVE NO 1 ⁴⁴ Transposition review																		
- Output											1	0,200					1	0,200
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST											1	0,200					1	0,200

⁴³

Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

⁴⁴

As described in point 1.4.2. 'Specific objective(s)...

3.2.2. Estimated impact on appropriations of an administrative nature

3.2.2.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	TOTAL
--	--------------	--------------	--------------	--------------	--------------	--------------	--------------	-------

HEADING 5 of the multiannual financial framework								
Human resources	0,026	0,026	0,026	0,026	0,026	0,026	0,026	0,184
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework	0,026	0,026	0,026	0,026	0,026	0,026	0,026	0,184

Outside HEADING 5⁴⁵ of the multiannual financial framework								
Human resources								

⁴⁵ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								

TOTAL	0,026	0,026	0,026	0,026	0,026	0,026	0,026	0,184
--------------	-------	-------	-------	-------	-------	-------	-------	--------------

The administrative appropriations required will be met by the appropriations of the DG which are already assigned to management of the action and/or which have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.2.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	2014	2015	2016	2017	2018	2019	2020
Establishment plan posts (officials and temporary staff)							
33 01 01 01 (Headquarters and Commission's Representation Offices)	0.2	0.2	0.2	0.2	0.2	0.2	0.2
XX 01 06 00 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
External staff (in Full Time Equivalent: FTE)							
XX 01 02 01 (CA, SNE, INT from the 'global envelope')							
XX 01 02 02 (CA, LA, SNE, INT and JED in the delegations)							
XX 01 04 yy	- at Headquarters						
	- in delegations						
XX 01 05 02 (CA, SNE, INT - Indirect research)							
10 01 05 02 (CA, SNE, INT - Direct research)							
Other budget lines (specify)							
TOTAL		0.2	0.2	0.2	0.2	0.2	0.2

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Standard supervisory task to see if the Member States transposes the legislation timely and correct. In year n+5 establishing a report.
External staff	Not applicable

3.2.3. *Compatibility with the current multiannual financial framework*

- ☒ Proposal/initiative is compatible the current multiannual financial framework.
- ☐ Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- ☐ Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.⁴⁶

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

[...]

3.2.4. *Third-party contributions*

- ☒ The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations cofinanced								

⁴⁶ See points 19 and 24 of the Interinstitutional Agreement.

3.3. Estimated impact on revenue

- X Proposal/initiative has no financial impact on revenue.
- ☐ Proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriation s available for the current financial year	Impact of the proposal/initiative ⁴⁷						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

For miscellaneous ‘assigned’ revenue, specify the budget expenditure line(s) affected.

[...]

Specify the method for calculating the impact on revenue.

[...]

⁴⁷

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.