STUDY

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The performance of the Package Travel Directive and broader consumer protection issues in the implementation of passenger rights

Policy Department for Economic, Scientific and Quality of Life Policies
Directorate-General for Internal Policies
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Abstract

This study evaluates the implementation and enforcement of the Package Travel Directive (PTD) in the EU with a focus on ten EU Member States. It identifies areas for improvement, such as adapting the definition of package travel to accommodate evolving industry trends, addressing pre-contractual information gaps, improving payment practices, tackling challenges in the digital environment, enhancing enforcement mechanisms, promoting alternative dispute resolution, and increasing consumer awareness. The study aims to enhance the PTD's effectiveness, protect travellers' rights, and foster a consumer-friendly package travel market in the EU.

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
APR	Air Passengers Regulation
DSA	Digital Services Act
CPC	Consumer Protection Coordination Regulation
EC	European Commission
EP	European Parliament
EU	European Union
LTA	Linked Travel Agreement
MD	Modernisation Directive
ODR	Online Dispute Resolution
OTA	Online Travel Agent
PTD	Package Travel Directive
GDP	Gross Domestic Product
UCTD	Unfair Contract Terms Directive
UCPD	Unfair Commercial Practice Directive

EXECUTIVE SUMMARY

The executive summary provides a comprehensive overview of this study, which has been conducted **on the implementation and enforcement of the Package Travel Directive (PTD)** within the European Union (EU). The study has a specific focus on ten selected Member States: Czech Republic, Finland, France, Germany, Greece, Italy, the Netherlands, Poland, Romania, and Spain[1].

The research has been developed by employing **various methodologies**, including desk research, comparative legal research, and both quantitative and qualitative research methods. Interviews have been conducted with national consumer protection authorities, alternative dispute resolution (ADR) bodies, as well as with stakeholders from the PTD tourism industry and consumer associations.

This study aims to evaluate the effectiveness of the PTD, identify areas for improvement, and highlight best practices that can be widely shared across the EU. It delves into various aspects of the PTD, including the definition of package travel services, linked travel arrangements, package travel contracts, liability of organisers and retailers, the use of vouchers, handling of insolvency cases, the interplay between the PTD and the Air Passengers Regulation (APR), and the challenges posed by **digital environments**.

Within the implementation of the PTD, it is crucial to update **the definitions of package travel service** and **linked travel agreements** (LTAs), and to adapt them to the evolving travel industry. The traditional concepts do not fully encompass the modern travel industry, with its fragmented nature and an involvement of multiple intermediaries in the physical and virtual worlds. Additionally, emerging forms of travel arrangements, such as dynamic packaging through **online booking intermediaries**, continue to pose challenges in determining what constitutes a package.

Concerning **package travel contracts**, this study acknowledges the convenience they offer, but has identified gaps and uncertainties in the pre-contractual information and contract execution. To enhance consumer protection, this study emphasises the importance of developing comprehensive pre-contractual information forms, such as the 'Key Information Document', visual aids, and infographics, as well as re-evaluating the full pre-payment business model. By encouraging responsible business practices and ensuring sufficient compensation mechanisms, the liability of organisers and retailers can be clarified, resulting in a fairer distribution of responsibilities.

In addition, this study highlights the issue of the **full prepayment** by the consumer within the context of package travel contracts. While prepayment is a common practice in the travel industry, it can expose consumers to potential risks, especially in cases of service disruption, cancellations, or insolvency of travel providers. Addressing this issue requires careful evaluation of the full pre-payment business model and an exploration of alternative payment structures that provide greater safeguards for consumers. By finding a balance between the needs of travel providers and the protection of consumer interests, this study aims to promote fair and transparent payment practices within the package travel sector.

This study also highlights the challenges associated with the implementation of the PTD in **digital environments**. The research identifies several key issues related to the implementation of the directive in the digital environment. Specifically, it examines, the lack of transparency and accuracy of information provided by digital platforms, complexities in implementing the PTD in dynamic

[1] The proposed selection of countries has been based on several criteria we found to be potentially relevant for capturing the differences between the Member States. These criteria include market value of packaged travel, presence of a dedicated ADR body, and EU region (East, West, North, South, Central), country size (small, large).

packaging scenarios, challenges in managing user reviews and feedback to ensure authenticity, risks associated with data protection and privacy, difficulties in allocating liability and responsibility among intermediaries, cross-border compliance challenges, and the obligations and duties of online booking intermediaries under the EU legal framework.

To address these issues and ensure the protection of travellers' rights, this study suggests best practices and possible improvements for online booking intermediaries. These include providing clear and user-friendly pre-contractual information; optimising websites for mobile devices and accessibility; facilitating access to independent traveller reviews; establishing feedback channels for reporting inaccuracies; and improving overall industry practices.

Effective enforcement mechanisms are essential in upholding travellers' rights and promoting compliance with the PTD.

Enforcement of the PTD primarily lies with **national consumer protection authorities** in each Member State. In some jurisdictions, public enforcement is carried out by national and regional consumer protection authorities. The coexistence of different enforcement bodies at national and regional levels can lead to coordination problems and undermine the effectiveness of the PTD. They have the power to require clear and complete information from package travel organisers, review contracts for fairness, and monitor and sanction unfair commercial practices. The penalties imposed for non-compliance can vary between Member States, resulting in different levels of protection for travellers' rights.

Private enforcement allows individual travellers to assert their rights through legal action. Consumer associations can also initiate collective redress actions. However, the effectiveness of private enforcement varies across jurisdictions, and travellers may face challenges in providing evidence and evaluating the cost-effectiveness of legal action. Collective redress mechanisms have the potential to address consumer disputes and seek remedies, particularly when individual claims are small in value. However, the use of collective redress remains limited in the 10 selected jurisdictions, largely due to procedural factors and national laws. Cross-border enforcement involves enhanced complexities such as additional costs, procedural differences, and challenges in enforcing judgments across different jurisdictions. Better collaboration among Member States is necessary to ensure consistent enforcement and interpretation of the PTD.

The use of **ADR** in enforcing the PTD is limited but has the potential to offer a quicker and more cost-effective way to resolve disputes. Many Member States have established national ADR schemes, and some have designated travel ombudsman services or specialised ADR (the Netherlands, for example). However, the effectiveness of ADR and ODR systems is still limited, and further development could enhance travellers' protection, particularly in relation to OTAs and other intermediaries. Therefore, enhancing ADR mechanisms, specifically by considering mandatory and specialised ADR in the jurisdictions that are facing complaints for breaches of the PTD, as well as improving cross-border enforcement and ensuring adequate protection of travellers' rights in the digital environment are fundamental for effective implementation of the PTD.

To address **market practices** and their key shortcomings, this study employs a comprehensive methodology, examining both compliant and non-compliant practices. By identifying common market practices and potential shortcomings, regulatory interventions can be tailored to improve consumer protection and promote fair competition in the package travel market.

Moreover, the study assesses **the economic impact of the PTD** on package travel prices. By considering the effects of digitalisation on the market, pricing factors influenced by the directive, and

trends in the package travel industry, this study provides valuable insights into the relationship between the PTD and consumer costs.

Consumer awareness of their rights is fundamental to effective consumer protection. This study evaluates general consumer awareness as well as specific knowledge regarding different rights and obligations granted by the PTD. It also examines the enforcement of these rights to identify gaps and areas for improvement, ensuring that consumers can exercise their rights effectively.

In conclusion, this study provides a comprehensive evaluation of the implementation and enforcement of the PTD in the EU, with a specific focus on the Czech Republic, Finland, France, Germany, Greece, Italy, the Netherlands, Poland, Romania, and Spain. In this way, it aims to enhance the performance of the PTD, improve consumer protection, and foster a thriving and consumer-friendly package travel market within the EU.

1. IMPLEMENTATION OF THE PACKAGE TRAVEL DIRECTIVE

KEY FINDINGS

The implementation of the PTD needs updating to match the evolving travel industry, which involves multiple intermediaries and OTAs.

- Current definitions of package travel services and LTAs are inadequate for the modern travel industry, especially with the rise in dynamic packaging through online booking platforms;
- Gaps and uncertainties exist in pre-contractual information and contract execution in package travel contracts, requiring improvements to the pre-contractual information forms and a revaluation of the full pre-payment business model.

Implementing the PTD in digital environments also presents challenges such as a lack of transparency, complexities in dynamic packaging, managing user reviews, data protection risks, liability allocation, and cross-border compliance challenges.

1.1. Overview

The European Commission published a report on the application of the Package Travel Directive (PTD) in the Member States on March 1st 2021. The report took stock of the experience gained with the application of the PTD across the Member States since its entry into application in July 2018. It presented preliminary results of the assessment of national measures transposing the directive[2].

The PTD has been transposed into the national legislation of the Member States[3]. However, differences in interpretation and implementation have arisen since 2018, leading to inconsistencies and legal uncertainties, especially when a package involves multiple countries. These shortcomings can make it challenging for travellers to understand their rights and seek redress. On this basis, this study specifically evaluates the performance of the PTD by investigating the implementation of the directive and the enforcement of travellers' rights in the EU and, particularly, in 10 selected Member States (i.e., the Czech Republic, Finland, France, Germany, Greece, Italy, the Netherlands, Poland, Romania, and Spain).

Our main aim involves identifying and analysing the main gaps in the performance of the PTD, as well as establishing best practices and possible solutions that could be widely shared in the EU.

The preliminary findings presented in chapter 1 and chapter 2 are drawn from desk research and interviews with national consumer protection agencies, representatives from the travel industry and consumers associations.

1.1.1. Clarifying and updating the notion of "package travel service"

Art. 2 defines the scope of the PTD, and Art. 3 contains, among others, definitions of package travel services and linked travel arrangements (LTA). Both desk research and interviews with key stakeholders

[2] EC Commission, 2021, Report to the European Parliament and the Council on the application of Directive (EU) 2015/2302 of the European Parliament and of the Council on package travel and linked travel arrangements, COM/2021/90 final, European Commission, Brussels. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2021%3A90%3AFIN.

[3] Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, OJ L 326, 11.12.2015, p. 1–33, Official Journal of the European Union. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L2302.

regarding Art. 2 and 3 have confirmed that these two definitions of the PTD need to be further clarified and updated.

1.1.2. Package travel services

First of all, the traditional definition of "**package travel services**" (Art. 3 (2) PTD) may not fully encompass the fact that the travel industry has become more fragmented in the aftermath of Covid-19, with multiple intermediaries involved in the booking process. This new landscape of travel service providers increases the complexity of identifying the travel organiser that is finally responsible for the performance of the package (i.e., Art. 13 of the PTD). Further, it makes ensuring proper consumer protection difficult, particularly in cases of financial failures or service disruption[4]. At the same time, it is also difficult for the travel organiser to obtain redress from its intermediaries along the booking process, as this has not been addressed in the PTD.

Second, despite the PTD trying to adapt the concept of package travel to emerging forms of travel arrangements, there are concerns it still does not capture them fully: with the growth of online booking platforms and the ability of the consumer to customise travel components individually, it has become more challenging to determine what constitutes a "package"[5]. For example, by relying on **dynamic packaging**, travellers can create their own travel packages by combining individual travel services[6]. In this case, travellers often use online platforms or travel portals that provide tools and options to select and book different travel services individually. These platforms typically offer a range of options and prices for each component, giving travellers the flexibility to choose what suits them best.

However, the PTD does not deal with intermediaries, nor establish clear responsibilities[7]. Thus, it appears necessary to clarify the rules applicable to OTAs and other intermediaries according to the provisions of the directive[8].

Finally, travel organisers and their representatives have noted that the application of the notion of "**travel services**" has proven to be particularly difficult in practice with respect, for example, to the cases of ecotourism[9], rural tourism, sports clubs and tourist cards[10].

1.1.3. Rethinking the notion of LTAs

Art. 3(5) defines the notion of the 'linked travel arrangement'. It refers to at least two different types of travel services purchased 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 trader facilitates:

- on **a single visit** or contact with their point of sale, the separate selection and separate payment of each travel service by travellers; or

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4 BEUC, 2021, *The Package Travel Directive: BEUC's position on how to regain consumers' trust in the tourism sector.* Available at: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf.

5 BEUC, 2021.

6 Luzak, J., 2016 *'Vulnerable travellers in the digital age'* 5(3) EuCML, 133-134.

7 de Vries A., 2016, Travel intermediaries and responsibility for compliance with EU travel law: a scattered legal picture, 5(3) EuCML, 119-125.

8 Other challenges to the package travel industry have also been identified. For example, travellers are increasingly seeking personalised and experiential travel. They desire authentic and immersive experiences rather than standardised itineraries. This trend has prompted travel operators to offer more diverse and niche packages, catering to specific interests, such as adventure, eco-tourism, wellness, cultural experiences and sustainable and responsible travel practices (customisation and experiential travel).

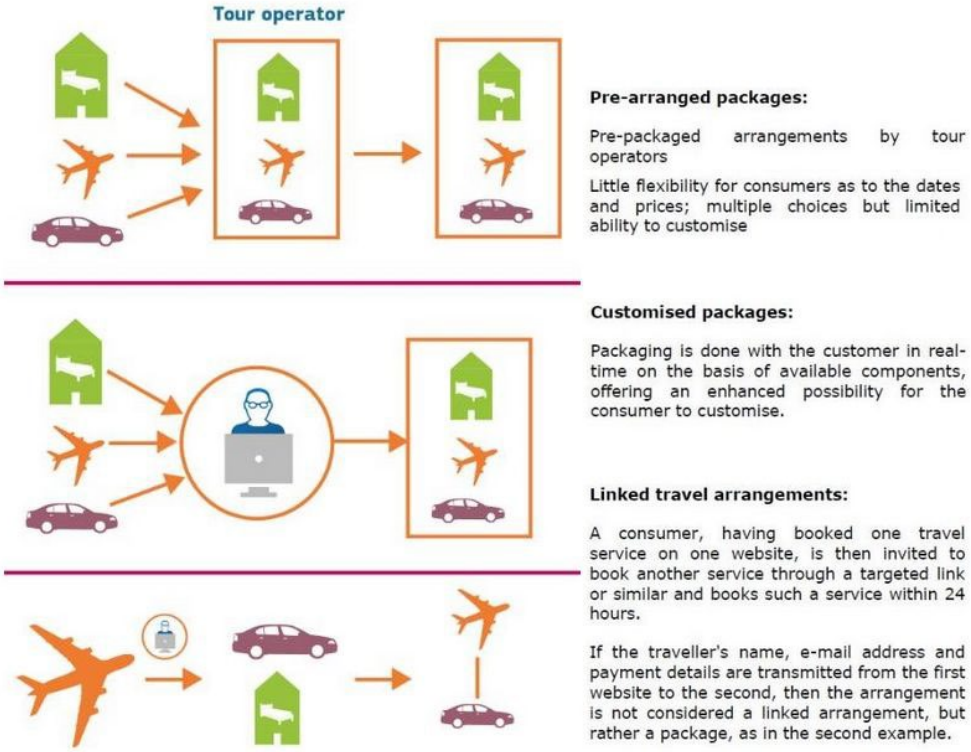
9 ECJ, Case-476/99, Lommers v. Minister van Landbouw, Natuurbeheer en Visserij, [2002] ECR I-2891 813.

10 ETTSA, 2018, *Industry Guidance on Travel Package Directive*, 28, about the notion of other travel services.

- **in a targeted manner,** the procurement of at least one additional travel service from another trader where a contract with such other trader is concluded at the latest 24 hours after confirmation of the booking of the first travel service.

The figure below taken from the above-mentioned report from the European Commission (2018), clearly shows the difference between LTAs, pre-arranged and customised packages.

Figure 1: Differences between LTAs and pre-arranged packages



Source: European Commission, 2014.

Thus, LTAs may involve linked contractual agreements and multiple intermediaries, making it challenging for travellers to have full transparency regarding the terms, conditions, and specific services included in the LTA[11].

Consumers[12] and business representatives[13] consider the definition of an LTA to be difficult to apply in practice and thus consumers are generally unsure whether their booking is a package or an LTA.

Our study confirms that, while this provision aims to provide consumer protection for non-traditional package arrangements, there are specific problems and challenges associated with LTAs. It is also worth noting that travellers are scarcely aware of the specific characteristics and implications of LTAs,

[11] According to the PDT, LTAs occur when: during a single visit or contact with their point of sale, a trader facilitates the separate selection and separate payment of each travel service; a trader facilitates (in a targeted manner) the booking of at least one additional travel service from a second trader, where the second contract is concluded within 24 hours after the confirmation of the first.

[12] BEUC, 2021.

[13] ETOA, 2021, *Package Travel regulation and related protection frameworks*, European Tourism Association. Available at: https://www.ectaa.org/Uploads/documents/Package-Travel-Paper-DEF4-digital.pdf.

leading to confusion about their rights and the level of protection they are entitled to (see section 5.3 regarding consumer awareness of the types of rights and obligations granted by the PTD)[14].

Consumers and business representatives have confirmed in their interviews that **the definition of a linked travel service is difficult to apply in practice**[15]. First, it is worth noting that, determining whether a travel arrangement qualifies as an LTA can be complex and may require careful examination of the timing and purpose of the linked services[16].

In addition, LTAs may have limitations on the cancellation or modification of individual components within the arrangement. If travellers need to change or cancel part of the LTA, they may face restrictions, penalties, or difficulty in obtaining refunds. Third, LTAs only apply to linked services purchased through a "**single point of sale**". Representatives of traders have noted that, in the digital environment, the terms "single visit" and "contact with a point of sale" need to be better defined or clarified if operators are to comply.

Similarly, facilitating in a "**targeted manner**" needs to exclude general advertising and focus on situations where a second transaction is facilitated through an offer for sale to the traveller[17]. Therefore, the requirements applicable to LTAs need further clarity.

In LTAs, **different service providers may be responsible for different parts of the trip**, leading to potential difficulties in assigning liability and resolving disputes. If issues arise with one component of the LTA, consumers may face challenges in determining which party is accountable and seeking appropriate redress.

Finally, travellers face **financial risks** in LTAs, particularly in cases of insolvency or financial difficulties of any of the service providers involved.

To overcome such limitations**, the definition and scope of an LTA needs to be carefully addressed in a review of the PTD**. It is also important to stress here that **the retailer should play a more active role in providing advice and clarifications from the travel organiser** regarding the scope of coverage, rights, and responsibilities associated with the specific arrangement. The same applies to online "retailers" of package travel services and LTAs[18].

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[14] de Leeuw et al., 2019, *The implementation of Directive 2015/2302. Dutch re*flection, in C. Torres, J. Melgosa Arcos, L. Jé gouzo, V. Franceschelli, F. Morandi & F. Torchia (eds.), *Collective Commentary about the New Package Travel Directive*, Estoril, Portugal: ESHTE. Available at: https://static1.squarespace.com/static/61b1d7f85160ff274a1c9f6e/t/61cedbab9673080e2f9a3e86/1640946603851/The+New+Package+Travel+Directive_2+prova_com+emendas_novembro_26_11+pa%CC%81ginas+863+-+886.pdf.

[15] ETOA, 2021.

[16] ETTSA, 2018, Industry Guidance EU Package Travel Directive.

[17] Recital 12 of the PTD clarifies that the publication of links that merely inform travellers in a generic way about other tourist services should not be considered as facilitation of a related tourist service.

[18] Art. 3 (2) (9) PTD: The 'retailer' means a trader other than the organiser who sells or offers for sale packages combined by an organiser.

1.2. Package travel contract

1.2.1. Overview

Art. 3(3) of the PTD provides the definition of a "package travel contract"[19]. In addition, Art. 7 of the PTD rules on the content of the contract and the documents to be supplied before the start of the package. It offers convenience to travellers by bundling multiple services together, such as transportation, accommodation, and activities. There are, however, many gaps and uncertainties concerning both pre-contractual information and contract execution that still need to be addressed[20].

1.2.2. Developing a Key Information Document and a Visual Aid

Art. 5 of the PTD states that, before the traveller is bound by any package travel contract or any corresponding offer, the travel organiser and, where the package is sold through a retailer, also the retailer, shall provide the traveller with the standard information by means of the relevant form (see Annex 1 for package travel contracts and Annex 2 for LTAs).

According to this study, **pre-contractual information forms** are crucial to ensure travellers rights. Information provided should include essential information such as details on price and payment, passport and visa requirements, travellers' rights, insurance, changes and termination, data protection and dispute resolution[21].

Our analysis of the information and data provided by stakeholders confirms that there are various shortcomings in compliance with the current requirements. In particular:

- Pre-contractual information often involves **lengthy forms** with complex terms and conditions that are also provided in legal and technical language. Travellers may find it difficult to comprehend them, leading to a lack of understanding or awareness of their rights and obligations;
- Travellers are generally **overwhelmed with excessive information**, making it difficult to identify and focus on the most important details. This can result in consumers missing crucial information that may affect their decision-making or rights.

In addition, OTAs may fail to provide clear information to travellers when purchasing package travel. This lack of clarity emerges, for example, in the placement of such information at the end of the reservation process, just before payment, and often in small font. As a result, consumers may complain they are not aware they have purchased a package (see section 3.3 which contains a summary of the website sweeps).

Thus, it is strongly advisable that the EU Parliament promote a review of Annex 1 and Annex 2 with respect to both the format and the content, with a specific view to including **key and essential information** (for example, pricing, termination, availability of insurance schemes and ADR schemes)[22]. Precisely:

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[19] "Package travel contract" means a contract on the package as a whole or, if the package is provided under separate contracts, all contracts covering travel services included in the package.(Art 3 (3).PTD.

[20] Loos, M., 2016, *Precontractual Information Obligations for Package Travel Contracts*, EuCML, 3/2016, 125-130. Available at: https://ssrn.com/abstract=2859378.

[21] Loos, M., 2016, Precontractual Information Obligations for Package Travel Contracts, EuCML, 3/2016, 125-130. Available at: https://ssrn.com/abstract=2859378.

[22] See, for example, EC "Guidelines on the key information documents (KIDs) for packaged retail and insurance-based investment products (PRIIPs)", OJ C 218, 7.7.2017, 11–14. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017XC0707%2802%29.

- **Key-information form**: improve the language and the format of the pre-contractual information form to make it easily understandable for consumers and to standardise the format across the industry in the EU;
- **Visual aids and infographics**: promote the utilisation of visual aids, infographics, or diagrams to supplement written information;
- **Adopt a technological approach**: embrace technological advancements to enhance pre-contractual information. For example, interactive online tools can guide travellers through the key information, allowing them to customise and compare packages based on their preferences and needs[23].

1.2.3. Reconsidering the "Full Pre-payment business model"

The pre-payment of the package travel service can be problematic if the travel organiser or service provider fails to fulfil their obligations. Firstly, travellers may need to rely on financial protection measures, such as **insolvency protection schemes** or travel insurance, to recover their pre-paid amounts. However, the effectiveness and coverage of these measures can vary, and consumers may not always be fully reimbursed, or not reimbursed in time allowing them to still make use of their travel funds in a given calendar year. Secondly, unforeseen events, such as natural disasters, political unrest, or pandemics can disrupt travel plans and lead to cancellations or rescheduling. The latter may also delay or hinder reimbursements of pre-paid sums to consumers.

This analysis confirms that the pre-payment of package travel services poses serious concerns. Precisely:

- **When travellers pre-pay for package travel services,** they assume the risk of paying for services upfront without experiencing or verifying their quality. If the travel organiser or service provider fails to deliver the promised services or goes bankrupt, consumers may face difficulties in obtaining refunds or recovering their pre-paid amounts. Further, they may not have access to their funds for a long period of time, until such refunds are processed;
- **Pre-payment removes the consumers' ability to retain control over their funds** until they have received the services. Once the payment is made, consumers may find it challenging to negotiate or modify the terms of the agreement, especially if issues or changes arise before or during the trip.

Thus, the pre-payment exacerbates the financial impact of such situations, as travellers may have already paid for services they cannot utilise and/or they may struggle to obtain timely refunds, or make alternative arrangements. In this respect, consumer associations have stressed the need **to fix the maximum percentages for pre-payment,** as well as to introduce payment schedules. This, while limiting contractual freedom, would limit the risk for consumers and would also make insolvency protection cheaper for travel organisers.

According to the **package travel industry,** limiting the percentage of full prepayment in package travel contracts would have an impact on the costs for package travel operators. When consumers make a prepayment for their travel arrangements, it provides operators with upfront funds that can be used to cover various costs associated with organising and delivering the package. By limiting the percentage of full prepayment, operators may face challenges in securing the necessary funds to finance their operations. If they are unable to receive a substantial prepayment, they may need to seek

[23] See, for example, the aims of the "Enftech project" that has been established in 2022 to explore how digital technology can be used more effectively to boost enforcement efforts. More details at https://www.enftech.org. See also Lippi, M. et al. , 2019, *CLAUDETTE: an automated detector of potentially unfair clauses in online terms of service*, *Artificial Intelligence and Law* 27, 117 - 139.

alternative sources of funding, such as loans from banks or financial institutions. Accessing external financing options often comes with associated costs, such as interest payments or transaction fees.

These additional expenses can potentially increase the overall operational costs for package travel operators. Moreover, relying on bank financing or other sources of external funding introduces financial risks for operators. They may need to provide collateral or meet certain criteria to secure loans, which can further impact their financial stability. Additionally, the increased reliance on external funding sources may also result in higher administrative costs, which could be passed on to consumers through higher package travel prices (see section 4.4 that specifically addressed the impact of the PTD on prices of package travel services).

Thus, it is important to strike a balance between protecting consumers **by limiting prepayments** appropriately and ensuring that package travel operators have the necessary resources to deliver their services effectively. Regulatory frameworks should consider the potential financial implications and find ways to mitigate risks for both consumers and operators. This may involve implementing safeguards, such as appropriate insolvency protection measures or alternative payment structures that provide security for consumers, while maintaining the financial viability of package travel operations.

1.2.4. Termination and right of withdrawal

Art. 12 of the PTD deals with the termination of the package travel contract and the right of withdrawal before the start of the package. It ensures the ability of the traveller to terminate the package travel contract at any time before the start of the package. Where the traveller terminates the package travel contract under this paragraph, the traveller may be required to pay "an appropriate and justifiable termination fee" to the organiser.

Our analysis on the application of Art. 12 confirms that travellers may encounter several problems when it comes to the termination of package travel contracts.

The terms and conditions of package travel contracts may have **unclear or ambiguous cancellation policies**, making it challenging for travellers to understand their rights and obligations. This lack of clarity can lead to disputes and disagreements between travellers and travel organisers regarding the appropriate **cancellation procedures and associated fees**[24]. Travellers may, therefore, find themselves facing significant financial penalties when trying to cancel a trip[25].

- Some package travel contracts may restrict or prohibit travellers from **reselling or transferring their bookings to another person**. This limitation can prevent travellers from recovering their costs by selling their package to someone else or by transferring the booking to a friend or family member, which Art. 9 of the PTD aims to facilitate;
- Terminating a package travel contract often involves **communication with the travel organiser** or service provider. Travellers may face difficulties in reaching the appropriate contacts, receiving timely responses, or obtaining written confirmation of the termination. Without proper documentation, travellers may struggle to prove that they have terminated the contract and may encounter challenges in seeking refunds or resolving disputes. Travellers may have made non-refundable deposits or **full pre-payments** upon booking the package. If they decide to terminate the contract, they may lose these deposits, resulting in financial loss even if they cancel within a reasonable timeframe.

[24] BEUC, 2021.

[25] Dutch Foundation for Consumer Complaints Boards, Travel Disputes Committee, 2021, *Decision on 27 May 2021*. Available at: https://www.degeschillencommissie.nl/uitspraken/consument-vindt-in-rekening-gebrachte-annuleringskosten-onredelijk/.

Our suggestions to address these gaps are as follows:

- **Improving the clarity of cancellation policies in the key-information document;**
- **Implementing more standardised cancellation procedures across the travel industry in the EU** to reduce ambiguity and confusion. These procedures should outline the steps travellers need to follow to cancel their trip and the timeline within which they can do so without incurring excessive penalties;
- **Developing clear guidelines on how to transfer or resell bookings** within the terms of the contract, this will benefit both travellers and travel organisers;
- Travel organisers should provide easily **accessible and responsive communication channels**, such as those facilitated through technologies (e.g., apps) for travellers who wish to terminate their package travel contracts. The termination of a contract should not block a consumer's access to the app nor the details of the terminated contract. Travel organisers should always provide consumers with a confirmation of their termination on a durable medium.

Additionally, our research (see section 3.4 on non-compliant market practices) shows that OTAs and other intermediates do not always comply with Art. 12 of the PTD in charging **appropriate cancellation fees**. In some cases, they can apply a 100% cancellation fee, even when cancellations are made well in advance and there is a chance to resell the package. To address this, **clear guidelines should be established with respect to cancellation fees based on the timeline in question**. Currently, delays in reimbursing customers are common, and the mandated 14-day reimbursement limit may also be ignored (Art. 12(4) PTD).

1.2.5. The notion of "unavoidable and extraordinary circumstances"

Art. 12(2) states that travellers shall have the right to terminate the package travel contract before the start of the package without paying any termination fee in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and significantly affecting the performance of the package, or which significantly affect the carriage of passengers to their destination. In the event of termination of their package travel contract, the traveller shall be entitled to a full refund of any payments made for the package but shall not be entitled to additional compensation[26]. However, during the pandemic, **the lack of a specific time frame for cancellation** led to disputes, and traders refusing full refunds[27].

Our analysis shows that there are some challenges and potential problems travellers may face concerning the right to terminate package travel contracts in extraordinary circumstances.

- Package travel contracts often require travellers to make **non-refundable deposits** or incur certain **fees** upon booking. If travellers exercise their right to terminate, they may still be liable for these non-refundable amounts, resulting in financial loss even if they cancel for extraordinary circumstances;

[26] On the interpretation of the notion of "unavoidable and extra-ordinary circumstances", see Supreme Court of the Czech Republic, 19 January 2023, 33 Cdo 1553/2022-98 and District Court Prague 3, 10 June 2021, 20 C 325/2020-66; Constitutional Court of the Czech Republic, 17 August 2021, ÚS 1738/21.

[27] Borek, D.; Puciato, D., 2023, Extraordinary and Unavoidable Circumstances in Tourism under COVID-19 and Post Pandemic Times—Casus Poland as Example of Sustainability Management, Sustainability 15, 2416. Available at https://doi.org/10.3390/su15032416.

- While travellers may be entitled to a refund when they cancel their reservation for package travel services, the amount refunded may be subject to certain conditions or **cancellation fees**. These fees can be significant, particularly if the cancellation occurs closer to the departure date;
- **Obtaining refunds for cancelled package travel services** can sometimes be a lengthy and complex process. Travellers may need to follow specific procedures, submit documentation, or navigate communication with the travel organiser or service provider to receive their refund. Delays or difficulties in obtaining refunds can be frustrating and time-consuming for travellers;
- In some cases, travellers may have arranged **additional services**, such as travel insurance or visa applications, through third-party providers. These services may have their own cancellation policies and fees that are separate from the package travel contract. Travellers should be aware of these potential fees and cancellation policies when considering terminating the contract. Furthermore, different travel service providers may interpret the notion of extraordinary circumstances differently, exposing consumers to uncertainty.

In this respect, this study questions and highlights the need to clarify the notion of extraordinary circumstances in the context of a **prolonged crisis,** like Covid-19.

This study recognises that the current understanding and application of extraordinary circumstances have been tested and challenged during the pandemic. The nature of the crisis and its significant impact on the travel industry and travellers' rights have raised concerns among the stakeholders about the interpretation and scope of extraordinary circumstances. There is a need for further clarification to address these uncertainties and inconsistencies that have arisen, particularly in relation to the rights and protections afforded to travellers during such prolonged crises[28].

Through the provision of clearer guidance and defining the parameters of extraordinary circumstances in the context of prolonged crises, we suggest that travellers' rights and legal certainty can be better upheld under the PTD[29].

1.3. Performance of the Package Travel Contract

Art. 13 defines the rules of responsibility for the performance of the travel package. It ensures that the organiser is responsible for the performance of the travel services included in the package travel contract, irrespective of whether those services are to be performed by the organiser or by other travel service providers. Art. 14 of the PTD specifies that:

- The traveller is entitled to an appropriate price reduction for any period during which there is a lack of conformity, unless the organiser proves that the lack of conformity is attributable to the traveller;
- The traveller shall be entitled to receive appropriate compensation from the organiser for any damage which the traveller sustains as a result of any lack of conformity. Compensation shall be made without undue delay.

[28] CJEU, 2023 Case C-540/21, 08.06.2023, European Commission v Slovak Republic. Available at https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0540.

[29] CJEU, 2023, Case C-407/21, 08.06.2023, Union fédérale des consommateurs - Que choisir (UFC - Que choisir) and Consommation, logement et cadre de vie (CLCV) v Premier ministre and Ministre de l'Économie, des Finances et de la Relance. Available at https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62021CJ0407.

These provisions intend to protect travellers and ensure their rights are upheld[30]. By grounding on the analysis of case law from the 10 selected Member States, as well desk and empirical research, this study identifies the following problems and possible improvements[31].

1.3.1. Establishing clear responsibilities

Establishing clear responsibilities of travel organisers, retailers, and other relevant parties can help avoid disputes. This could involve setting specific standards for service provision, safety, and liability, ensuring that each party understands their obligations[32]. We suggest that EU institutions should provide clear guidelines on the implementation of the PTD. This guidance would assist travel organisers in understanding and complying with the requirements set forth in the directive. Such guidance would promote consistency and clarity, benefiting both the travel industry and consumers in their interactions within the package travel market.

1.3.2. Encourage responsible business practices

Encouraging travel organisers and retailers to adopt voluntary codes of conduct or industry standards can promote responsible business practices. This may include a commitment to fair treatment of customers, clear contractual terms, and transparent processes for resolving disputes. Art. 14 requires the organiser to compensate "without undue delay", this issue should be better clarified. In addition, Art. 16 states that organisers shall give "appropriate" assistance without undue delay to the traveller in difficulty.

1.3.3. Enhancing effective enforcement

Travellers may face challenges in pursuing claims against travel organisers and retailers. The process of seeking compensation can be complicated, involving lengthy procedures, evidence requirements, and legal hurdles. This can deter travellers from pursuing their rights or make it difficult for them to access appropriate channels for resolution. Even when liability is established, the enforcement of compensation or resolution can be a significant problem. Travel organisers or retailers may not fulfil their obligations, they may dispute the claim, or delay the resolution process. This can lead to prolonged and frustrating experiences for travellers seeking redress. Ensuring effective enforcement of compensation and resolution outcomes is crucial. This can be achieved by **establishing stronger regulatory oversight and by providing adequate resources to enforce decisions**. Collaboration between consumer protection agencies, industry associations, and judicial systems can help improve the enforcement of consumer rights.

1.3.4. Enhancing cooperation in cross-border disputes

In cases where the travel organiser or retailer is based in a different jurisdiction than the consumer, **cross-border disputes** can further complicate matters. Differences in laws, regulations, and legal systems can make it challenging for travellers to effectively pursue their claims or seek resolution.

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[30] For example, the Article 7:510(8) of the Dutch Civil Code stipulates that if the non-conformity has significant consequences for the implementation of the package, and the organiser has not resolved the issues within a reasonable period, the traveller 1) may terminate the agreement, and 2) is entitled to a price reduction and compensation. If no alternative arrangements can be offered, or the traveller rejects the alternatives (because they are not equivalent), the traveller is entitled to a price reduction or compensation (option 3). The traveller is entitled to repatriation without additional costs in all three cases.

[31] For example, the art. 7:513 of the Dutch Civil Code specifically contains the obligation for the organiser to provide help and assistance to the traveller.

[32] For instance, the Italian Court of Cassation, VI, order no. 3150 of 2 February 2022, has clarified that, in the case of the purchase of all-inclusive travel packages from a tour operator, the travel agency, a mere intermediary, is not liable for damages resulting from managerial and organisational failures, unless the customer proves that it was aware of them or was able to foresee them using due diligence.

Collaboration between countries and international organisations can facilitate the harmonisation of regulations and standards across borders. This can simplify the claims process for consumers traveling internationally and ensure consistent protection regardless of the location of travel organisers[33].

1.4. The use of vouchers for package travel

Art. 12 of the PTD provides that, if a package holiday contract is cancelled due to "unavoidable and extraordinary circumstances" by the traveller or the organiser, holiday makers **have the right to get a full monetary reimbursement of any payments made for the package within a maximum of 14 days after the termination of the contract**.

This provision was particularly relevant during the **Covid-19 pandemic, when numerous travel plans were disrupted, and travel operators faced financial difficulties due to mass cancellations**. It is important to note that the provision of vouchers as an alternative to cash refunds is not expressly ruled under the PTD. Thus, each EU Member State has had the discretion to determine the conditions and duration for which vouchers can be offered. The purpose is to ensure a fair balance between consumer protection and the financial viability of travel businesses.

During the Covid-19 pandemic, several countries, including those in the EU, implemented temporary measures or issued guidelines allowing the use of vouchers[34]. These measures aimed to address the exceptional circumstances caused by the pandemic and the unprecedented number of travel cancellations. In fact, the pandemic caused significant financial strain on the travel industry, with many operators facing cash flow issues[35]. By offering vouchers instead of immediate cash refunds, travel organisers aimed to mitigate the financial burden and potential insolvency that could result from numerous refund requests.

In the aftermath of the pandemic, the use of vouchers by package travel organisers appears to be less frequent. However, **divergences remain in the approach to vouchers across the 10 selected Member States**. This divergence may lead to travellers not receiving the same level of protection in the 10 selected jurisdictions. The analysis in this report confirms the need **to set minimum validity standards for vouchers in the EU**. They should be voluntary, insolvency protected and come with a minimum validity time[36].

Finally, while vouchers have been utilised during the pandemic to mitigate the immediate impact on the travel industry, it is important **to reassess their usage** and potential long-term implications. The balance between consumer protection and supporting the viability of travel businesses should be evaluated, considering evolving circumstances and legal frameworks (see section 1.1.7. about digital environments).

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[33] BEUC, 2022, STRENGHTENING THE COORDINATED ENFORCEMENT OF CONSUMER PROTECTION RULES The revision of the Consumer Protection Coordination (CPC) Regulation. Available at https://www.beuc.eu/sites/default/files/publications/BEUC-X-2022-135_Strengthening_the_coordinated_enforcement_of_consumer_protection_rules.pdf.

[34] For example, the Art. 61 of the Emergency Act of Greece derogated from the obligation to reimburse under the PTD because of the COVID-19 crisis (if they are offered vouchers, the passengers have to agree to this solution). The European Commission launched infringement proceedings by sending letters of formal notice to Greece for being in violation of EU rules protecting rights of travellers. The infringement procedure against Greece has been closed by the European Commission on October 30th, 2020, because the national emergency measure has expired.

[35] Loos, M., 2021, *One Day I'll Fly Away…: Voucher Schemes*, Journal of European Consumer and Market Law, vol. 10, issue 3, pp. 122-124.

[36] European Commission, 2020, Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic C/2020/3125, OJ L 151, 14.5.2020, p. 10–16. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020H0648.

1.5. Insolvency and Insurance Schemes

Pursuant to Art. 17 of the PTD, travellers purchasing a package must be fully protected against the insolvency of the travel organiser. The directive requires Member States to ensure that organisers established in their territory provide security for the repayment of all amounts paid by, or on behalf of travellers insofar as the services cannot be provided due to insolvency.

There are two main approaches to implementing Art. 17 of the PTD[37]

- **Mandatory insurance schemes.** They require travel organisers to obtain an insolvency insurance (a private scheme) to cover potential losses in case of insolvency. For example, in Germany, travel organisers are required by law to provide insolvency protection for their customers. They can do so by obtaining an insurance policy or by joining a guarantee fund. The guarantee funds are established and managed by various organisations, such as the German Travel Association (DRV) and the German Tourism Association (DTV)[38];
- **Public funds.** They protect travellers in the case of insolvency of the travel organiser and refer to financial protection measures put in place by governments or relevant authorities to safeguard consumers' funds when a travel organiser or service provider goes bankrupt or becomes insolvent. These funds are designed to provide a safety net for travellers and help them recover their pre-paid amounts or arrange alternative travel arrangements. For example, France has introduced a fund, i.e., *the Association Professionnelle de Solidarité du Tourisme* (APST). It is a fund that offers financial protection to travellers in case of the insolvency of a travel company. It is mandatory for French travel organisers to contribute to the APST or provide alternative forms of financial protection[39].

This study confirms that certain critical issues have not been resolved in the aftermath of the pandemic with respect to the issue of insolvency[40]:

- Insolvency can result in the cancellation or disruption of a planned trip. Travellers may face uncertainty regarding alternative arrangements or refunds, leading to significant inconvenience, stress, and disappointment;
- Even if insurance schemes are in place, travellers may encounter challenges in obtaining timely refunds or alternative arrangements for their travel services. The process of claiming refunds or making alternative arrangements can be complex, requiring extensive documentation and communication with insolvency administrators or insurance providers[41];
- If the travel organiser is based in a different country to the consumer, cross-border complexities can further complicate matters in cases of insolvency. Travellers may need to navigate different legal systems, languages, schemes and public funds, which can hinder their ability to assert

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37 Spanish Regions have adopted different approaches at regional level. Thus, there is not a national scheme, and this may cause differences and inconsistencies in protecting travellers' rights.

38 German Tourist Association, n.d., Available at: https://www.germany.travel/en/trade/global-trade-corner/dtv-german-tourism-association.html.

39 Association Professionnelle de Solidarité du Tourisme (APST), n.d. Available at https://www.apst.travel.

40 European Parliament, 2019, *Resolution of 24 October 2019 on the negative effects of the Thomas Cook insolvency on EU tourism (2019/2854(RSP))*. Available at https://www.europarl.europa.eu/doceo/document/B-9-2019-0120_EN.pdf.

41 For example, it has been reported that, Greek travel agencies usually do not provide clients with the insurance contract, or the conditions provided therein. In most cases, the insurance contract is also not countersigned, which also creates difficulties to the group travel packages or the travellers, given that the consumers usually have not been informed about their rights. Specifically, a fine of €1,000 is imposed on travel agencies who have concluded the insurance contract but have not notified it to the competent department of the Ministry of Tourism.

their rights and recover their losses. This level of complexity and uncertainty exists in practice despite mutual recognition of insolvency protection, pursuant to Art. 18 of the PTD.

There is a consensus between representatives of consumer associations and trade associations on the importance of establishing **common criteria and best practices for mandatory insurance schemes in the EU**. It is highly recommended that travellers obtain comprehensive travel insurance that includes insolvency protection. This type of insurance would provide coverage and ensure that travellers are eligible for refunds or alternative arrangements in the unfortunate event of the travel operator's insolvency. The significance of adequate insurance coverage has also been emphasised by certain national consumer protection authorities (for example, Spain). By implementing standardised and mandatory insurance schemes with clear guidelines, the rights of consumers can be better safeguarded, and travellers can have greater confidence and security when making their travel bookings.

1.6. The interplay of PTD with the Air Passengers Regulation

The PTD and the Air Passengers Regulation (APR)[42] are two separate legal frameworks that aim to protect the rights and interests of travellers, but they focus on different aspects of travel[43].

The APR specifically focuses on the rights of air passengers. It establishes certain rights and compensation entitlements for passengers traveling on flights departing from an airport within the European Union (EU) or for passengers traveling to an airport within the EU, albeit in the latter case the operating air carrier has to be a European air carrier. The air passengers enjoy their rights in limited situations, including flight delays, cancellations, and denied boarding. The APR aims to protect passengers' rights and ensure a high level of consumer protection in air travel[44].

While the PTD and the APR are separate regulations, our analysis confirms that they interplay in certain situations. Precisely:

- **In cases where a flight is booked as part of a package**, the rights and protections provided by the APR would apply to the air travel component of the package. This means that passengers would be entitled to compensation or assistance in accordance with the APR if they experience flight delays, cancellations, or denied boarding, while the PTD may come into play if the flight disruption affects the overall package holiday. Furthermore, passengers may currently turn to travel organisers to claim costs related to cancelled flights, if these are part of a package, with travel organisers than able to seek redress from air carriers pursuant to Art. 13 of the APR[45];
- **In cases where a flight is booked separately to a package**, the rights and protections under the APR would still apply to the flight portion of the travel.

If a traveller experiences issues related to both package travel services and air travel, they may be able to seek remedies and **exercise their rights under both the PTD and the APR**, depending on the specific circumstances. However, the PTD allows consumers to cancel their package and receive a full refund "*in the event of unavoidable and extraordinary circumstances*". Currently, this right does not exist

[42] 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 flights, OJ L 046, 17/02/2004, p. 1 -8.

[43] CJEU, 2019, *Case C-163/18, 10 July 2019, HQ and Others v Aegean Airlines SA*, CJEU. Available at: https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62018CJ0163.

[44] Kouris, S., 2020, *Study on the current level of protection of air passenger rights in the EU: final report: study contract*, Publications Office, European Commission, Directorate-General for Mobility and Transport. Available at https://data.europa.eu/doi/10.2832/529370.

[45] CJEU, 2018, case HQ and Others (C-163/18) ECLI:EU:C:2019:585.

in the APR. This creates a disparity regarding the right to reimbursement depending on the service booked (package vs single air service).

Thus, the analysis shows that travellers are rarely aware of the two different sets of provisions and how they interplay[46]. This lack of clarity was particularly apparent during the pandemic, and it still contributes to undermining the enforcement of the PTD, and indeed of the APR.

This study suggests some possible improvements. For example:

- **Aligning the definitions and terminology used in both the PTD and APR** can promote clarity and consistency (for example, replacing the notion of "tour operator" with "travel organiser");
- **Develop clear guidelines and communication materials that outline the rights and obligations of travellers** under both provisions;
- **Enhance cooperation and communication between the national authorities** responsible for enforcing the PTD and the APR regulation.

1.7. The implementation of the PTD in digital environments

1.7.1. Bookings made by online intermediaries: gaps and possible risks.

As previously noted, technology has played a crucial role in transforming the package travel industry. Online booking platforms, mobile apps, virtual reality experiences, and artificial intelligence are being utilised to enhance the booking process, customer service, and overall travel experience[47]. User-friendly online platforms and apps enable consumers to browse, compare, and book package travel options conveniently. These platforms can provide detailed information, pricing transparency, and customer reviews, thus empowering consumers to make well-informed choices. However, implementing travellers' rights in the digital environment presents several legal risks that need to be carefully considered. The study has identified the **following gaps and possible risks**[48].

1.7.2. Lack of transparency and accuracy of information

According to the PTD, OTAs and other intermediaries shall ensure that the information provided to travellers is transparent, accurate, and comprehensive. This includes details about the individual services, pricing, terms, cancellation policies, and any associated risk. Achieving consistency and reliability in presenting this information across different providers and packages can be challenging. Scholars have clearly noted that there are many new unfair terms in consumer contracts concluded online[49]. Therefore, while online environments create new opportunities, they also create challenges for achieving transparency, which requires more interdisciplinary insight[50].

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[46] Art.12(4) of the PTD specifies that organisers are responsible for reimbursement in case of cancellation. Articles 5 and 8 of the Air Passenger Rights Regulation 261/2004, require airlines to reimburse the consumer in case of flight cancellation.

[47] Helberger, N., Lynskey, O., Micklitz, H.-W., Rott, P., Strycharz, J., 2021. *EU Consumer Protection 2.0: Structural asymmetries in digital consumer markets*. BEUC, Brussels. Available at https://pure.uva.nl/ws/files/62051712/beuc_x_2021_018_eu_consumer_protection.0_0.pdf.

[48] Lodder, A. R. and Morais Carvalho, J., 2022, *Online Platforms: Towards An Information Tsunami with New Requirements on Moderation, Ranking, and Traceability,* EBLR, 33, 4, 20, Available at http://dx.doi.org/10.2139/ssrn.4050115.

[49] Loos M. Luzak J., 2021, *Update the Unfair Contract Terms directive for digital services*. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2021/676006/IPOL_STU(2021)676006_EN.pdf.

[50] Luzak J. et al., 2023, ABC of Online Consumer Disclosure Duties: Improving Transparency and Legal Certainty in Europe, JCP, forthcoming.

1.7.3. Dynamic packaging and pricing complexities

Digital platforms allow for dynamic packaging, which involves the combination of different travel services from various providers to create a personalised package. However, implementing the PTD in dynamic packaging scenarios can be complex due to the involvement of multiple parties, varying terms and conditions, and the need to ensure compliance with consumer protection regulations. For example, AI-generated pricing strategies may lead to dynamic pricing, making it difficult for consumers to make informed purchasing decisions.

1.7.4. Misleading user reviews and feedback

Digital platforms often feature user reviews and feedback, which can influence consumer decision-making. Managing the authenticity, accuracy, and reliability of user-generated content is important to provide reliable information to potential travellers. Platforms need to implement adequate measures to verify and moderate reviews, ensuring they are trustworthy and unbiased.

1.7.5. Risks for Data protection and privacy

Digital platforms handle a vast amount of personal data during the booking process. Ensuring compliance with data protection regulations, such as the EU General Data Protection Regulation (GDPR), is essential to protect consumer privacy and maintain the trust of users. Implementing robust data security measures and obtaining informed consent for data processing are critical considerations.

1.7.6. Gaps in enforcing consumers' rights

Digital platforms often act as intermediaries, facilitating the sale of package travel services rather than being the direct organisers. Determining the allocation of liability and responsibility between the platform, the travel organiser, and other service providers can be complex, particularly when issues arise during the trip. Clear contractual arrangements and effective communication among all parties are crucial to avoid disputes and ensure proper consumer protection.

1.7.7. Specific issues related to cross-border cases

Digital platforms can enable cross-border transactions, where travellers from one country may book packages from organisers based in another country. Ensuring compliance with the PTD's provisions across different jurisdictions and addressing any disparities or conflicts with national laws can be a challenge for digital platforms operating in multiple national markets of package travel services.

1.7.8. The EU Legal Framework applicable to OTAs and other intermediaries

The EU legal framework for consumer protection in digital markets also applies to the online booking intermediaries of package travel services. Specifically:

- Modernisation Directive ("MD")[51];
- Unfair Commercial Practices Directive ("UCPD");
- Consumer Rights Directive ("CRD"); and

[51] 2019, Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules, OJ L 328, 18.12.2019, p. 7–28 at https://eur-lex.europa.eu/eli/dir/2019/2161/oj.

- Unfair Contract Terms Directive ("UCTD")[52].

Depending on the circumstances of the case, these provisions interplay with other EU legislation:

- the EU AI Act Proposal[53];
- the Digital Services Act providing rules that are applicable the online booking intermediaries[54]; and
- the GDPR with respect to the protection of the data of the travellers[55].

In the context of this study, the DSA may apply to OTAs and other intermediaries. In particular:

- Under the DSA, OTAs may be classified as digital service providers (DSPs) if they meet certain criteria. DSPs are subject to specific obligations and responsibilities outlined in the DSA, including transparency requirements and risk management measures;
- The DSA introduces due diligence obligations for DSPs, which may apply to OTAs. These obligations require DSPs to take measures to detect and mitigate illegal content or activities taking place on their platforms. OTAs may need to implement systems and procedures to address issues such as fraudulent listings, misleading information, or unlawful practices on their platforms;
- The DSA emphasises transparency requirements for DSPs. OTAs and other intermediaries may be required to provide clear and easily accessible information to consumers regarding their services, including details about prices, terms and conditions, and any potential conflicts of interest;
- The DSA aims to enhance user trust and provide effective mechanisms for complaint handling and redress. Online travel agents may be required to establish mechanisms to address user complaints, resolve disputes, and provide access to independent dispute resolution options.

It is too early to assess the effectiveness of the DSA and its interaction with the above-mentioned law provisions and, particularly, whether the new obligations to inform consumers will significantly enhance the transparency and the clarity of the information. Thus, there is still a lot of uncertainty in this respect. Overall, while the goal is to coordinate provisions for an effective system of protection for travellers, it is crucial to acknowledge the potential complexities and challenges that may arise, including the risk of gaps and uncertainties in their enforcement by the courts.

1.7.9. Best practices, codes of conducts

Our research also confirms that **the adoption of standards, best practices and codes of conduct as particularly effective** in preventing and mitigating legal risks. Research shows that they promote

[52] 1993, *Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts*, OJ L 95, 21.4.1993, p. 29–34. Available at *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31993L0013*.

[53] 2021, Proposal for a Regulation of the European Parliament and the Council laying down harmonised rules on artificial intelligence, COM/2021/206 final. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0206.

[54] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L 277, 27.10.2022, p. 1–102 at https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AL%3A2022%3A277%3ATOC&uri=uriserv%3AOJ.L_.2022.277.01.0001.01.ENG.

[55] 2016, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, OJ L 119, 4.5.2016, p. 1–88 at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679.

compliance with the above-mentioned provisions and, thus, the protection of travellers' rights in the EU[56].

Accordingly, we note that, according to the **DSA**, **OTAs** and other intermediaries are now required to develop standards and best practices with the aim of:

- Ensuring that pre-contractual information is easily accessible online, in a clear and user-friendly manner and format, as previously noted;
- Optimising websites and booking platforms for mobile devices and providing responsive design to accommodate travellers with different accessibility needs;
- Facilitating access to independent travellers' reviews and ratings for package travel organisers and retailers (according to the above-mentioned DSA). This can assist travellers in evaluating the quality, reliability, and reputation of the packages offered;
- Establishing feedback channels for travellers to report inaccuracies, omissions, or issues related to pre-contractual information. This can help identify and rectify shortcomings, as well as improve travel industry practices.

[56] Griffin, R. and Vander M., Carl, 2023, *Codes of Conduct in the Digital Services Act: Exploring the Opportunities and Challenges*. Available at https://ssrn.com/abstract=4463874 or http://dx.doi.org/10.2139/ssrn.4463874.

2. THE ENFORCEMENT OF THE PTD

KEY FINDINGS

- Enforcement of the PTD is primarily the responsibility of national consumer protection authorities in the EU Member States.
- Public enforcement is carried out by these authorities, who review contracts and sanction unfair practices.
- Private enforcement allows travellers to seek legal action for PTD breaches. However, both public and private enforcement face challenges such as limited deterrence, as well as length and cost of proceedings.
- Collective redress mechanisms and ADR are limited in their effectiveness because of a lack of consumer awareness (section 3.3.) and varying participation levels of travel organisers and associations in the 10 Member States.
- Improved collaboration among Member States and enhancements to ADR and online dispute resolution (ODR) systems are needed to strengthen the protection of travellers' rights.

Cross-border enforcement is complicated by different legal frameworks and costs.

The enforcement of the PTD is primarily the responsibility of national consumer protection authorities in the Member States. This study shows that each Member State has designated one or more national and regional enforcement bodies to oversee compliance and handle consumer complaints related to the PTD[57]. Clearly, the coexistence of **different enforcement bodies at national and regional levels** may cause problems concerning coordination among the competent authorities, which can undermine the effectiveness of the PTD[58].

2.1. Public enforcement

The **public enforcement of the PTD** is primarily carried out by regulatory authorities designated by the selected EU Member States. These authorities are responsible for monitoring and enforcing compliance with the directive within their respective jurisdictions. They can investigate complaints, conduct inspections, and impose penalties for non-compliance.

From a comparative analysis conducted, it has emerged that national and regional consumer protection authorities play a central role in protecting travellers' rights. Overall, it has emerged that they have the power to:

- review the terms and conditions of contracts between travellers and package travel organisers under the UCTD; and
- monitor and sanction the unfair commercial and advertising practices of package travel organisers to prevent misleading or deceptive advertisements under the UCPD. It is important

[57] Please note that Germany has not established a national consumer authority to deal with the public enforcement of consumers' rights.

[58] The Spanish Regions are competent to enforce the PTD together with two national authorities, i.e., the Ministry of Consumption and the Ministry of Tourism.

to note that by the transposition of the MD[59], if package travel organisers adopt **unfair terms in contracts** and/or engage in **unfair or deceptive practices**, the national consumer protection authority can impose fines as a deterrent. These penalties may play a deterrent effect in case of non-compliance and help to protect future travellers. However, within the framework of the MD[60] the amount of the penalties can vary across Member States and, thus, there is a different level of protection of travellers' rights[61].

2.2. Private enforcement

Private enforcement can involve consumers seeking legal remedies through the courts or ADR. These legal avenues provide consumers with the means to claim compensation for breaches of the PTD and seek redress for any harm suffered. In the selected Member States (for example, Germany and Italy) consumer associations play an essential role in enforcing the PTD. They inform and educate consumers about their rights, aid in resolving disputes with travel organisers, and even initiate legal action on behalf of consumers if necessary.

Our analysis confirms that the extent and effectiveness of private enforcement varies across the 10 selected jurisdictions[62]. Private enforcement allows individual travellers to assert their rights under the PTD through legal action, for example through seeking compensation for non-performance or deficient performance of the package travel services. Specifically, travellers can bring contractual claims against the travel organiser or retailer for any breaches of the PTD provisions, seeking remedies such as refunds, damages, or specific performance under national contract laws[63].

This study confirms that the effectiveness of private enforcement in the context of the PTD can depend on various factors, such as the civil and administrative procedures in place in each jurisdiction we have examined, the functioning of collective redress mechanisms, the accessibility of legal assistance via consumer associations and the organisation of the legal profession.

We also note that the effectiveness of private enforcement suffers from many shortcomings in the 10 selected Member States. Specifically, private enforcement may require travellers to bear the burden of proof to establish the non-compliance of the travel organiser or retailer with the PTD. This can involve providing evidence of the infringements in the package travel services and demonstrating how the PTD provisions were violated. Additionally, travellers may need to consider the potential legal costs, as well as time investment associated with private enforcement and evaluate the cost-effectiveness of pursuing legal action based on the potential remedies sought.

2.2.1. Collective Redress

Collective redress could play a significant role in addressing consumer disputes and seeking remedies in the context of the PTD. Such mechanisms bring together multiple travellers facing similar issues or

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59 Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 as regards the better enforcement and modernisation of Union consumer protection rules, OJ L 328, 18.12.2019, 7-28. Available at: https://eur-lex.europa.eu/eli/dir/2019/2161/oj.

60 Art. 13, 3 and 4 of the MD states that the maximum fine imposed following a coordinated action will be at least 4 % of the trader's annual turnover in the Member State concerned. If information on the trader's annual turnover is not available, the maximum amount of fines will be at least €2 million.

61 Communication from the Commission to the EU Parliament and the Council, New Consumer Agenda Strengthening consumer resilience for sustainable recovery, COM/2020/696 final. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0696.

62 In Germany, for example, consumers are usually bringing actions before the civil courts for protecting their rights, also with respect to the infringements of the PTD.

63 Pavillon C., 2019, Private Enforcement as a Deterrence Tool: A Blind Spot in the Omnibus-directive, University of Groningen Faculty of Law Research Paper No. 30/2019. Available at http://dx.doi.org/10.2139/ssrn.3418907.

breaches of their rights under the PTD[64]. By holding travel organisers and retailers accountable for their actions, collective redress contributes to raising standards, improving consumer protection, and fostering fair and transparent practices in the package travel sector[65].

According to the analysis conducted for this study, it appears that collective redress of travellers' rights under the PTD remains very limited in the 10 selected jurisdictions. Very few cases have been reported before the national courts. This is mainly due to national procedural laws, and various factors that are, generally, undermining the potential of this mechanism in the EU. Finally, it remains to be seen how Directive (EU) 2020/1828 will be used in practice and whether it will help with effective enforcement of consumer protection[66].

2.2.2. Cross-border enforcement of the PTD

Public enforcement also involves cooperation and coordination among regulatory authorities across EU Member States. This allows for the exchange of information, best practices, and the harmonisation of enforcement efforts. Thus, ensuring consistent application of the PTD throughout the EU.

In this respect, our analysis also confirms that cross-border cases involve different EU jurisdictions, which can complicate the process of asserting and enforcing consumer rights. Travellers may need to navigate unfamiliar legal frameworks, language barriers, and procedural differences when seeking redress[67].

In this respect, the **review of the CPC** (Consumer Protection Cooperation) regulation will play a crucial role in enhancing cross-border protection for travellers[68]. This review presents an opportunity to strengthen and improve mechanisms for cooperation among consumer protection authorities across different countries. By addressing the challenges and gaps in current regulations, the review can facilitate better coordination and collaboration in handling cross-border consumer issues related to travel. Ultimately, an updated CPC Regulation will contribute to a more robust framework for safeguarding the rights and interests of travellers, ensuring consistent protection across borders.

2.2.3. Costs and complexities

Pursuing cross-border cases can involve **additional costs** for travellers, including legal fees, translation services, travel expenses, gathering evidence or documentation across borders, and potential court and lawyers' fees. These costs can discourage travellers from pursuing their claims, particularly, if the potential recovery or compensation is not significant.

2.2.4. Procedural issues

According to EU Law, consumers generally have the right to litigate cases at the court where they are domiciled. This principle is based on the concept of protecting the weaker party in a consumer

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64 Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02020L1828-20230502.

65 Hornkohl, L., 2022, Up- and Downsides of the New EU Directive on Representative Actions for the Protection of the Collective Interests of Consumers – Comments on Key Aspects, EuCML, 5. Available at http://dx.doi.org/10.2139/ssrn.3838586.

66 Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC, OJ L 409, 4.12.2020, 1–27.

67 BEUC, 2022.

68 European Commission, 2023, *Review of the Consumer Protection Regulation*. Available at https://commission.europa.eu/law/law-topic/consumer-protection-law/consumer-protection-cooperation-regulation_en.

transaction, ensuring convenience and accessibility for consumers when seeking legal remedies. This mandatory rule significantly helps in overcoming the problem of finding the relevant jurisdiction[69].

Notwithstanding this, even if a traveller successfully obtains a judgment or decision in one jurisdiction, enforcing that judgment in another EU jurisdiction can be challenging, especially with the growing relevance of online booking operators. Differences across EU jurisdictions, recognition and enforcement procedures, potential language barriers and costs can hinder the effective enforcement of judgments obtained in cross-border cases.

To overcome such difficulties, there is a need to encourage better collaboration among the Member States to ensure a more consistent enforcement and interpretation of the PTD. This could involve sharing best practices, exchanging information, and coordinating efforts to address challenges that arise when travel packages involve multiple countries[70].

2.3. Alternative dispute resolution (ADR)

2.3.1. Overview

In the context of our research, ADR refers to processes and methods that aim to resolve disputes outside of traditional court litigation. It typically involves a neutral third party who assists the disputing parties in reaching a mutually acceptable resolution. ADR methods commonly include mediation, arbitration, negotiation, and conciliation. ADR offers some advantages, such as flexibility, confidentiality, and the opportunity for parties to actively participate in the resolution process. It can also help maintain relationships between consumers and travel organisers by providing a less adversarial environment for resolving conflicts.

This study shows that the use of ADR remains very limited in enforcing the PTD. Results confirm that some travel organisers may not be signed up for ADR services, and consumers may not be aware of them or may not utilise ADR for resolving their complaints in case of a breach of the PTD. ADR schemes **may not be binding for the parties**, and this undermines their effectiveness, unless the EU has passed two directives to enhance its adoption in the Member States[71].

We have observed some convergence among stakeholders (i.e., consumer associations, travel industry representatives) concerning the need to enhance the use of ADR in Member States, particularly in those that deal with a significant amount of PTD related complaints, by making it mandatory for travel organisers and OTAs.

In fact, stakeholders tend to agree that ADR can provide an alternative to individual and collective litigation, offering travellers and businesses a quicker and potentially more cost-effective way to resolve disputes.

The limited utilisation of ADR in enforcing the PTD raises concerns about the accessibility and effectiveness of dispute resolution mechanisms for consumers and businesses in the travel industry. Furthermore, it is apparent that a lack of awareness, as well as limited participation among travel organisers and consumers with ADR options contributes to this limited adoption (see section 5.4).

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[69] The Brussels I Regulation (recast) establishes specific rules to determine jurisdiction in consumer contracts. It states that a consumer may bring proceedings against the other party in the courts of the member state where the consumer is domiciled. This applies regardless of the domicile of the other party, provided that the seller or service provider directs its activities to the consumer's country.

[70] BEUC, 2019.

[71] Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (ADR Directive), OJ L 165, 18.6.2013, 63–79. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0011.

However, recognising the potential benefits of ADR, the EU has taken steps to promote this use in Member States. Two directives have been passed to enhance the adoption of ADR schemes, aiming to ensure that travel organisers and online travel agencies are registered for ADR services. Making ADR mandatory for these entities could significantly improve its utilisation in resolving PTD-related complaints.

To enhance the use of ADR for PTD enforcement, it is important to raise awareness among consumers about the availability and benefits of ADR schemes. Moreover, travel organisers and OTAs should be encouraged to register for ADR services and actively promote their utilisation to consumers.

One potential option to enhance the use of ADR in enforcing the PTD is to make it mandatory for travel organisers and OTAs. This approach has garnered support from some stakeholders, including consumer associations as well as those representing the travel industry. By mandating ADR for these entities, it would ensure that they are actively engaged in resolving disputes and upholding the rights of consumers. Mandatory ADR can provide a cost-effective solution for both parties involved in the dispute. Litigation can be a lengthy and expensive process, often dissuading consumers from seeking redress. By making ADR mandatory, it would encourage the use of a more streamlined and potentially less costly alternative, allowing disputes to be resolved efficiently and at a lower cost. However, it is essential to consider potential challenges and concerns associated with mandatory ADR. Some may argue that it restricts the freedom of choice for businesses and consumers, as it imposes a specific dispute resolution mechanism. Therefore, balancing the benefits of mandatory ADR with the need to preserve individual autonomy and flexibility in dispute resolution should be carefully considered.

2.3.2. National ADR Schemes

There are some shortcomings in the implementation of ADR schemes in Member States, such as the lack of consumers' awareness about their existence and the ways in which they can access these schemes, as well as the limited participation of travel organisers with ADR schemes[72]. Nevertheless, these schemes are available to resolve package travel disputes under the PTD. Travellers can approach these ADR bodies to seek resolution and obtain remedies, such as compensation or refunds.

2.3.3. Specialised ADR schemes

Two of the selected jurisdictions have established a specialised ADR body for the enforcement of travellers' rights under the PTD or, more generally, travel services[73].

In this respect, we note that consumer representatives are favouring the setting up of independent specialised ADR schemes for travel services and the PTD[74] in the EU Member States that are significantly

[72] Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee, 2019, on the application of Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes, COM/2019/425 final. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1569491348132&uri=COM%3A2019%3A425%3AFIN.

[73] Specialised ADR scheme for travel services and APR are available in Germany (The Schlichtungsstelle für den öffentlichen Personenverkehr e.V. Söp) and the Netherlands (Stichting Geschillencommissies voor Consumentenzaken or Consumer Dispute Boarda). In Germany, the ADR body is specialised in managing complaints about air passengers' rights. In the Netherlands, the Foundation of Consumer Dispute Boards oversees a general council and more than 50 sector dispute resolution councils. The rules of procedure for these sector councils are agreed upon by the trade association and consumer organisation relevant to each retail sector. One of the councils specifically deals with travel services including PTD services. The members of their trade association are required to participate in the sector council proceedings and comply with their decisions. Compliance is further ensured through a system managed by the professional association. If a professional fails to pay a sum of money ordered by the board of directors to a consumer, the consumer can directly claim the amount from the professional association.

[74] See, for example, the case of the specialised council within the Foundation of Consumer Dispute Board in The Netherlands, ft. 85.

exposed to claims by travellers[75]. In addition, consumer representatives also support the idea that ADR decisions should be binding on traders. In their view, such a mandatory system of specialised ADR at least in the Member States that deal with many complaints about the breach of the PTD could provide travellers with an effective enforcement alternative to court action[76].

2.3.4. ADR in Cross-border Cases

The European Consumer Centres (ECCs)[77] that are established in each Member State, provide information, advice, and assistance to travellers involved in cross-border disputes. ECCs can guide travellers on the available ADR mechanisms, including those specifically related to the PTD, and help facilitate communication between travellers and businesses across borders.

2.3.5. Online Dispute Resolution (ODR)

The European Commission has developed the ODR, an online platform that allows travellers and businesses to resolve disputes related to online purchases across borders[78]. While the ODR platform does not focus exclusively on package travel, it can also be utilised for cross-border disputes involving package travel services[79]. This study shows that ODR systems are not very effective to date, while, according to both consumer associations and industry representatives, their development could significantly enhance the protection of travellers' rights, particularly with respect to the growing relevance of OTAs and other online intermediaries.

From our analysis, it seems that the enforcement of the PTD could benefit from technological advancements: online platforms and digital tools can streamline complaint procedures, facilitate information sharing, and enhance transparency in the travel industry.

[75] BEUC, 2022, *Alternative dispute resolution for consumers: time to move up a gear*. Available at: https://www.beuc.eu/sites/default/files/publications/beuc-x-2022-062_adr_position_paper.pdf.

[76] Loos M., 2021.

[77] The European Consumer Centres Network (ECC-Net). Available at https://www.eccnet.eu/consumers.

[78] Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), OJ L 165, 18.6.2013, 1-12. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0524.

[79] Calliess, Gralf P. and Heetkamp, S.J., 2019, *Online Dispute Resolution: Conceptual and Regulatory Framework, TLI Think*! Paper 22/2019. Available at http://dx.doi.org/10.2139/ssrn.3505635.

3. MARKET PRACTICES AND KEY SHORTCOMINGS OF THE PTD DIRECTIVE

KEY FINDINGS

The majority of travel organisers analysed during the websites' sweep seem not to comply with all of the information requirements stipulated in Art. 5 of the Directive, in particular as regards informing customers that they are protected according to the PTD.

Travel organisers often do not provide customers with the ability to transfer a contract, in some cases not even in exchange for a fee, even though they should have this right according to the PTD. Another instance of lack of compliance is when it comes to reimbursement terms (14 days after the contract is terminated).

The directive lacks precision in defining certain terms, and sets vague requirements, increasing legal uncertainty. When it comes to the cancellation/termination fee, it is difficult to assess in practical terms what the "appropriate" fee mentioned by the directive is.

To address the abovementioned issues, and to improve, in general, the effectiveness of the PTD in protecting travellers, it may be advisable:

- that all travel websites show at the beginning of the reservation process, in large font, that travellers are protected according to the PTD;
- to allow travellers not to pay for the whole package in advance, as is often the case, but to pay a percentage. In this way, the amount to be reimbursed in case of termination of the contract would be lower;
- to put the burden of proof on the travel organiser to prove the extent to which they cannot re-use the cancelled services in order to assess the fee they would be entitled to charge to travellers; and
- to update liability provisions, taking into account the presence of travel intermediaries, given that the PTD was issued when there were no travel intermediaries.

3.1. Overview

The aim of the exercise performed under task 1 was to sweep the websites of travel companies (**travel organisers**) to see how they present their **package travel** offers, and assess their **level of compliance** with certain obligations from the PTD. In parallel, 11 consumer organisations from different Member States were interviewed to further corroborate and complement the results found in the websites' sweep. The website sweep aimed to assess if each website, when trying to book a **package travel contract**, presents the information that is mandated by the PTD. Furthermore, given the obligation to present the information "in a clear, comprehensible and prominent" manner, as set out in Art. 5(3) of the PTD, part of the assessment has focused on **how** the information was presented. Therefore, for each travel website, the sweep checked whether the travel organisers provided the following information and in which manner:

- Total price of the package;
- Any additional fees/charges;

- Cancellation reimbursement fee and deadline (i.e., how long in advance it is possible to cancel to get partial reimbursement, and how long in advance it is possible to cancel to get a full reimbursement);
- Passport, visa, and health requirements;
- Travel insurance requirements - termination of the contract by the traveller or assistance (including repatriation) in the event of accident, illness, or death;
- Insolvency protection;
- Traveller's right to transfer the contract;
- Mechanisms to solve disputes (ADR, ODR, mediation);
- Travellers being informed that they are protected according to the PTD.

For each of the abovementioned categories it was assessed:

- Whether the information is provided;
- How many clicks from the search page the information is provided;
- The clarity (qualitative assessment) with which the information is provided[80].

3.2. Methodology to assess market practices of travel organisers (websites sweeps) and key shortcomings

Overall, 30 websites have been analysed to assess the market practices that travel companies (travel organisers) put in place for travellers who want to book holidays online, and their key shortcomings under the PTD directive. The sweeps have focused on two types of **package travel contracts[81]:**

- **Flight Plus Accommodation** packages, which are packages of 2 travel services, the return flight to a certain destination, and the hotel/apartment/other accommodation type where the traveller will stay in that destination. 27 websites offering this type of package were analysed;
- **Flight Plus Car Rental** packages, which are also packages of 2 travel services, namely the return flight to a certain destination and a rented car that the traveller will get a hold of once arrived at the destination. 3 websites offering Flight Plus Car Rental packages were analysed.

Moreover, only 'Travel Packages', as per definition from the PTD, have been analysed. Linked Travel Arrangements (LTAs) have not been analysed due to the fact that an actual travel service needs to be purchased in order to receive a linked travel service (most likely, a website link sent via email), so that the two services would constitute a Linked Travel Arrangement. This, of course, was beyond the scope of our study, given that the research conducted stops immediately before any travel service/package is actually purchased.

[80] Moreover, for the category travel insurance requirements - termination of contract by traveller or assistance (including repatriation) in the event of accident, illness, or death it was assessed whether the information is provided directly on the website, or in separate documents. For the category customers being informed that they are protected according to the PTD it is assessed whether the information is provided directly on the website, or in the terms and conditions. For both categories, the fact that the information is provided directly on the website contributes to compliance with "clear, comprehensible and prominent" communication mandated by the directive.

[81] The rationale behind is that these are the most common types of packages offered by travel websites (traders), in particular the first category (flight plus accommodation).

The table below presents the websites analysed.

Table 1: number of websites analysed, by country

Member State	Website	Sector	Package offered
CZ	letuska.cz	Air Travel	Flight Plus Accommodation
CZ	blue-style.cz	Air Travel	Flight Plus Accommodation
CZ	invia.cz	Air Travel	Flight Plus Accommodation
DE	check24.de	Air Travel	Flight Plus Accommodation
DE	fluege.de	Air Travel	Flight Plus Accommodation
DE	Eurowings.com	Air Travel	Flight Plus Car
EL	aegeanair.com	Air Travel	Flight Plus Accommodation
EL	Esky.gr	Air Travel	Flight Plus Accommodation
ES	Vueling.com	Air Travel	Flight Plus Car
ES	Viajeselcorteingles.es	Air Travel	Flight Plus Accommodation
ES	Iberia.com	Air Travel	Flight Plus Accommodation
EU	Booking.com	Accommodation and hotel	Flight Plus Accommodation
EU	Ryanair.com	Air Travel	Flight Plus Car
EU	Transavia.com	Air Travel	Flight Plus Accommodation
EU	Norwegian.com	Air Travel	Flight Plus Accommodation
FI	tui.fi	Air Travel	Flight Plus Accommodation
FI	ebookers.com	Air Travel	Flight Plus Accommodation
FI	airbaltic.com	Air Travel	Flight Plus Accommodation
FR	govoyage.com	Air Travel	Flight Plus Accommodation
FR	Expedia.fr	Accommodation and hotel	Flight Plus Accommodation
IT	Expedia.it	Accommodation and hotel	Flight Plus Accommodation

Member State	Website	Sector	Package offered
IT	Edreams.it	Air Travel	Flight Plus Accommodation
NL	Tui.nl	Air Travel	Flight Plus Accommodation
NL	cheaptickets.nl	Air Travel	Flight Plus Accommodation
NL	d-reizen.nl	Accommodation and hotel	Flight Plus Accommodation
PL	esky.pl	Air Travel	Flight Plus Accommodation
PL	wakacje.pl	Air Travel	Flight Plus Accommodation
PL	itaka.pl	Air Travel	Flight Plus Accommodation
RO	vola.ro	Air Travel	Flight Plus Accommodation
RO	esky.ro	Air Travel	Flight Plus Accommodation

Source: Authors' elaboration.

Websites have been chosen according to their market share[82] and whether they offer package travel contracts or not. For the former criterion, both Statista and SimilarWeb data were considered. In particular, for a website to be considered in the research sample, it needed to be in the top 5 of its domain (Air Travel/Accommodation/Other) according to at least either Statista or SimilarWeb. The latter criterion was assessed manually by visiting each website.

Some popular travel websites could, unfortunately, not be part of the analysis, since they do not offer package travel. The most prominent example is Airbnb, which is very popular in several Member States (around 10% market share in Spain, as well as Italy and Greece). Other popular websites (e.g., Skyscanner, Trivago) could not be analysed because they are just "intermediaries" that redirect the person who wants to purchase travel services to websites of other travel organisers. Therefore, the exercise performed under this task is not applicable to these websites (for example, they do not show price of packages, cancellation fees, etc.) because they just redirect customers to other websites, which are the ones ultimately presenting such information.

To corroborate the findings of the websites sweeps, 11 consumer organisations were interviewed and asked, among other things, what were the main shortcomings of the PTD, whether the directive has been useful so far and whether travellers are aware of it, and how to improve the effectiveness of the PTD in protecting travellers. The table below lists the organisations interviewed (in ANNEX 2 is instead presented the list of questions asked to them):

[82] The market share is defined as the percentage of traffic sent to each player (SimilarWeb definition) and the share of people using a certain website out of total people interviewed that booked some holiday online in the past 12 months (Statista definition).

Table 2: list of consumer organisations interviewed

Member State	Consumer organisation's name
CZ	Czech Consumer Organisation (Dtest)
DE	Federation of German Consumer Organisations
EL	Consumer Association the Quality of Life - E.K.PI.ZO**
ES	OCU - Organisation of Consumers and Users
EU	Bureau Européen des Unions de Consommateurs (BEUC)
FI	Consumers' Union of Finland
FR	UFC Que Choisir
IT	Altroconsumo*
NL	Consumentenbond
PL	Polish Consumer Federation*
RO	InfoCons*

Source: Authors' own elaboration.

* Organisations that sent their feedback in written form.

** Consumer Association the Quality of Life (EL) did not share any feedback, oral or written, but rather communicated that they share BEUC's point of view.

3.3. Summary of the website sweep: most common market practices

It must be noted that the findings presented in this section are based on the author's interpretation of the data collected. Such findings are, presented by category analysed, are:

- **Total price of the package:** 27 out of 30 websites show the total price of the package, while only 3 websites, the 3 offering a Flight Plus Car rental packages, show separate prices, which is not compliant with the PTD. The average number of clicks needed in the reservation process to obtain the information (when available) is close to 0, meaning that the price is the first thing displayed after launching a search for a package. Regarding the clarity of the information, in 23 cases the total price per person is shown more clearly than the total price, while in 4 the latter is shown more clearly (i.e., in bigger font and/or brighter colour) than the former. Additionally, in 2 cases a loyalty price (i.e., a lower price applicable to loyal customers) is shown much more clearly than the price applicable to general customers;
- **Any additional fees/charges:** 15 out of 30 websites show information about the additional fees not included in the package travel contract, on average 1 click after the search results'

page. In 6 out of these 15 cases the information stands out, with the amount of each additional fee (e.g., car parking) spelled out together with an asterisk/separate section further remarking that the fee is additional. In 9 out of 15 cases the information about the fee being additional to the price is indicated, but it does not stand out (e.g., the font is the same as the one of other information and/or no extra section is provided). However, 15 websites do not show information about additional fees and actually do not offer any additional service. If that is the case, of course they do not need to show additional fees;

- **Cancellation reimbursement fee and deadline:** 13 out of 30 websites inform the travellers about cancellation fees and deadlines. However, 10 out of 13 only show the cancellation policy for either the accommodation or the flight, and not for the whole package. This undermines the clarity of information for the potential travellers, who might not understand why it is the case that the cancellation policy is shown only for one item of the package if their purpose is to buy the whole package holiday. Moreover, they might also be led to believe they have the right to cancel only one service rather than the whole package. According to Art. 5 of the PTD, travel websites should present cancellation information for the whole package. On average, the cancellation reimbursement fee and deadline are shown 2 clicks after the search results' page. Regarding the 17 remaining websites, it appears that they do not allow at all for cancellation;
- **Passport, visa and health requirements:** only 2 websites show information on passport visa and health requirements of the country of destination (all websites analysed offer international travels);
- **Travel insurance requirements - termination of contract by traveller or assistance (including repatriation) in the event of accident, illness, or death:** 20 out of 30 websites offer the traveller the possibility to buy travel insurance in case of termination of the contract by the traveller or, in case the traveller has a health-related issue during the holiday. The information is shown on average 4 clicks after the search results' page. 2 main issues are encountered with respect to this category. The first is that the 3 websites offering Flight Plus Car rental provide separate insurances, one for the flight and one for the rental car, and not a combined insurance for the package. The customers, whose aim is to buy a travel package, might not understand that this is the case or why they need to buy 2 separate insurances. This is not optimal when it comes to clarity of information. Another element that undermines the clarity is that often, the websites show only vague pieces of information, while the full information is provided in separate, technical insurance documents which are often not user-friendly and not easy to read for travellers;
- **Insolvency protection:** only 6 out of 30 websites present information on insolvency protection, on average after 5 clicks into the reservation process. However, some websites present a trust mark where they mention that they belong to a travel association which has a guarantee fund, although the link to the insolvency protection is often not easy to grasp. The information is in all cases provided at the very end of the reservation process, immediately before the payment. Moreover, it is provided in smaller font than the one used in all other stages of the reservation process, in all cases but one, where it is presented in highlighted font;
- **Travellers' right to transfer the contract:** no website shows information on the traveller's right to transfer the contract;
- **Out-of-court dispute resolution mechanisms (ADR, ODR, mediation):** no website shows information on mechanisms to solve disputes;

- **Customers being informed that they are protected according to the PTD:** in 8 out of 30 websites it is not mentioned at all that the customer buying the package travel is protected by the PTD. In 11 websites, this protection is mentioned just in the very technical and non-user-friendly terms and conditions, while it is mentioned directly in the webpage of only 11 websites. In these websites, the information is mostly provided just at the very end, immediately before the payment (on average 5 clicks after the search results' page) in small font, which may obscure its clarity. Only in 1 website it is shown in big font, standing out, at the very beginning of the reservation process, that the customers who buy the package travel are protected according to the PTD.

ANNEX 1 of this document includes a table with the full analysis of each website, for the categories *Total Price of the Package, Cancellation Reimbursement fee and deadline, Customers being informed that they are protected according to the PTD*. The complete table of the analysis for all the categories is shown in a the Excel file found in ANNEX 3.

3.3.1. Cross country comparison

The current sub-section provides a cross-country comparison of travel websites market practice. A full cross-country comparison was not possible as for each country only 2 or 3 websites have been analysed, which is not a big enough sample size to draw meaningful conclusions at country level for each of the categories presented above (total price of the package; additional fees and so on). Rather, a more meaningful sample was obtained by grouping countries into Euro Area (DE, EL, ES, FI, FR, IT, NL) and Non-Euro Area countries (CZ, PL, RO)[83]. The next table shows the results of the comparison:

[83] The 4 EU-wide websites have not been considered in this part of the analysis as it might be that a certain EU-wide website is used in both a Euro Area and a Non-Euro Area country.

Table 3: Market practices of travel websites: cross-country analysis

Category	Euro Area			Non-Euro Area		
	The information is provided	How many clicks before the information is provided (average)	The information is clear (qualitative assessment)	The information is provided	How many clicks before the information is provided	The information is clear (qualitative assessment)
the total price of the package	89%	0.0	13%	100%	0.3	25%
any additional fees/charges	44%	1.3	38%	75%	1.2	50%
cancellation reimbursements fee and deadline	67%	2.4	25%	0%	N.A.	N.A.
passport, visa and health requirements	11%	3.5	100%	0%	N.A.	N.A.
travel insurance requirements - termination of contract by traveller or assistance (including repatriation) in the even of accident, illness, or death	78%	4.1	93%	50%	2.3	75%
insolvency protection	28%	5.8	0%	13%	3.0	0%
traveller's right to transfer the contract	0%	N.A.	N.A.	0%	N.A.	N.A.
mechanisms to solve disputes (ADR, ODR, mediation)	0%	N.A.	N.A.	0%	N.A.	N.A.
Are consumers informed about their rights according to the PTD?	78%	5.0	64%	63%	4.6	20%
All categories	44%	3.2	47%	33%	2.3	34%

Source: Author's elaboration. A cell is highlighted in green if the corresponding category of a certain group performs better than the other group.

The table above presents several insightful patterns. Firstly, websites of Euro Area countries show more information overall than the websites of non-Euro Area countries (**44%** of the total information required under the PTD for the former, and **33%** for the latter). The clarity also appears higher for the former group of countries: out of all websites that show a certain piece of information, **47%** of Euro Area websites do so in a clear way, compared to only **34%** of non-Euro-Area countries.

As regards the number of clicks needed before visualising certain information, non-Euro Area countries' websites appear to outperform Euro-Area countries' websites (**2.3** vs **3.2** average clicks respectively). However, this statistic might be misleading: the lower number of clicks needed might not be an indicator of better compliance with the PTD. In fact, it is reasonable to assume that this lower number of clicks is due to the fact that such websites present fewer pieces of information (33% vs 44% of total information required by the PTD).

Other useful insights that stem from the table are the following:

- As regards **a certain piece of information being presented or not,** Euro Area countries outperform non-Euro Area countries in 5 out of 9 categories, with the biggest gap relating to *cancellation reimbursements fee and deadline;* 67% of Euro Area websites analysed present this information, compared to 0% of non-Euro Area websites. Regarding the 2 categories where non Euro-Area countries outperform Euro Area countries, the biggest gap can be seen within; *any additional fees/charges*, with 75% of non-Euro Area countries' websites presenting the information, while the share for Euro Area countries is only 44% (the other category is *total price of the package,* provided in 89% of cases by Euro Area countries and in 100% of cases by non-Euro Area countries*)*. Finally, for 2 categories, namely *the traveller's right to transfer the contract,* and *mechanisms to solve disputes (ADR, ODR, mediation)* for both groups, the share of websites showing this piece of information is 0%;
- Concerning **the number of clicks needed to view a certain piece of information**, non-Euro Area countries outperform Euro Area countries in 4 out of 9 categories, with the biggest gap of 2.8 clicks on average when it comes to *insolvency protection*. Only in 1 case do Euro Area countries' websites do better than non-Euro Area countries' websites, namely for *the total price of the package* where 0 clicks are needed on average for the former group of websites, while 0.3 are needed for the latter. The remaining 4 categories are simply not comparable, as no websites, either for Euro Area countries or non-Euro Area countries, present these pieces of information;
- Regarding **the clarity of information provided**, Euro Area countries outperform non-Euro Area in 2 out of 9 categories, with the biggest gap concerning the clarity with which consumers are informed about their rights, according to the PTD (64% of all Euro Area websites that inform customers about their protection according to the PTD do so in a clear way, vis-à-vis 20% of non-Euro Area websites). In 2 other categories, non-Euro Area websites lead, with the most significant gap concerning the clarity with which *additional fees* are shown (50% of non-Euro Area websites that display this piece of information provide it in a clear manner, as opposed to 38% of Euro Area websites). Finally, 5 categories are not comparable since for both groups of countries, the information for those categories is not presented at all, hence an assessment of clarity is not possible.

As pointed out at the beginning of this sub-chapter, a full analysis by country for each of the categories would not be extremely meaningful, given that the sample size of websites for each country is quite small (2 or 3 websites per country). Rather, more meaningful results by country can be achieved by grouping the categories together and assessing how much information is presented overall, by websites of a certain country. The following table presents these results:

Table 4: Market practices of travel websites: cross-country analysis – all categories

Country	The information is provided - all categories	How many clicks before the information is provided (average) - all categories	The information is clear - all categories
Czech Republic	33%	2.6	56%
EU	31%	2.4	36%
Finland	41%	3.1	45%
France	56%	3.8	40%
Germany	44%	2.5	58%
Greece	44%	2.2	13%
Italy	61%	3.8	36%
Netherlands	41%	2.8	55%
Poland	37%	1.6	30%
Romania	28%	2.3	0%
Spain	30%	2.3	25%
Average	**40%**	**2.7**	**36%**

Source: Author's elaboration. The top and bottom 3 countries for each category are highlighted in green (4 in the column *The information is provided* , as Germany and Greece have an equal score) and red respectively.

By considering all the categories together, Italian, French, German and Greek travel websites show the most information (61%, 56%, 44%, and 44% respectively of all information required). The worst performers are instead EU-wide websites, Spain, and Romania (31%, 30%, and 28% respectively). Regarding the *all-categories-average of clicks needed to get to a certain piece of information*, the top performers are Poland, Greece, Romania, and Spain (1.6, 2.2, 2.3, and 2.3 average clicks needed), and the worst performers are instead Italy, France, and Finland (3.8, 3.8, and 3.1 respectively). It is worth reiterating that few clicks needed are not necessarily a positive thing, since it might simply mean that websites are very lean when it comes to information provided (moreover, websites that do not show a certain piece of information at all are of course not included in the computation of the average). Finally, regarding the share of information provided in a clear way, out of total information provided, Germany, Czech Republic, and The Netherlands perform better than the other countries, with 58%, 56%, and 55% respectively providing clear information. On the other hand, the worst performers for this variable are Spain, Romania, and Greece, with only 25%, 13% and 0% respectively, of total information displayed presented in a transparent manner.

3.4. Non-compliant market practices and potential shortcomings of the PTD

The majority of **travel organisers analysed during the website sweeps seem to not comply with all information requirements stipulated in Art. 5 of the Directive**. The website sweeps found that no information on the *traveller's right to transfer the contract* or on the *mechanisms to solve disputes* is presented on any website. As regards *informing customers that they are protected according to the PTD*, several websites do not comply with this obligation either. Among the ones which do provide this information, only 1 website out of 22 does so at the beginning of the reservation process. All the others do it, often in small font, just before the payment is made, which is likely to obscure the clarity. It would

be advisable that all travel websites should show this information at the beginning of the reservation process, in big font, so that travellers can be protected according to the PTD.

The cross-country analysis performed has shown that that Euro Area countries' websites generally outperform non-Euro Area countries, as explained in Section 3.3.1.. In terms of individual countries, the top performers in terms of quantity of information provided are Italy, France, Germany and Greece, while the the worst performers are instead EU-wide websites, Spain, and Romania. The countries whose websites present information in the clearest way are Germany, Czech Republic, and The Netherlands. On the other hand, the least clear websites are Spanish, Romanian, and Greek websites

Consumer organisations consulted stated that **one of the most common complaints that they receive from customers concerns a lack of transparency**: customers are **often not aware that they are buying a package, or of their rights thereafter**.

Consumer organisations also confirmed that travel organisers often do not comply with giving the right to customers to transfer the contract, sometimes not even in exchange for a fee, while this should be the case according to the PTD. Another instance of the lack of compliance as regards **reimbursement terms**. According to Art. 12(4) of the PTD "*the organiser shall provide any refunds… without undue delay and in any event not later than 14 days after the package travel contract is terminated*". This does not appear to happen in some cases according to customer organisations. A potential **solution** to this would be to not require travellers to pay in advance for the whole package, as it is often the case, but just a percentage. In this way, the amount to be reimbursed would be lower and the travel organiser will have less liquidity constraints in refunding the customer within the 14-day time period. However, this raises concerns regarding a potential increase in price of package travel services. The increased need for liquidity by travel organisers to refund customers within 14 days may entail an increase in the prices of package travel services.

Another problem of the directive when it comes to its effectiveness in protecting travellers relates to the **24 hour rule for linked travel arrangements (LTAs)**. When travel organisers *"through linked online booking processes, facilitate in a targeted manner the procurement of at least one additional travel service from another trader, where a contract is concluded at the latest 24 hours after the confirmation of the booking of the first travel service"*, the combination of these services constitutes an LTA. In this situation a travel organiser would wait just few minutes after the 24 hours to facilitate the procurement of an additional service, thus circumventing the directive. Potential solutions to this issue recommended by consumer organisations would be either to consider an LTA in the same way as package travel, or to keep them separate but change their definition, starting with the deletion of the 24 hours provision.

General recommendations made by consumer organisations to increase compliance with the PTD are the following:

- Promoting the use of ADR. ADR is a great tool which avoids resorting to a judge to solve disputes, especially when the amount of money at stake is low. Further recommendations on the use of ADR are provided in chapter 6;
- Imposing fines to non-compliant travel organisers. By the transposition of the MD, if package travel organisers adopt unfair terms in contracts and/or engage in unfair or deceptive practices, the national consumer protection authority can impose fines as a deterrent (see chapter 2.1 for further information).

The directive **lacks precision in defining certain terms, and it sets vague requirements, increasing legal uncertainty**. For instance, when it comes to the cancellation fee, the PTD says that before the traveller is bound by any package travel contract it must be communicated to them "*information that*

the traveller may terminate the contract at any time before the start of the package in return for payment of an appropriate termination fee". It is difficult to assess in practical terms what "appropriate" means and this makes it difficult to assess whether the termination fees applied are compliant with the PTD. Several consumer organisations claim that many travel organisers often apply a 100% cancellation fee, leveraging on the subjectivity of what is considered "appropriate". **It would be advisable** to put the burden on the travel organiser to prove the extent to which they cannot re-use the cancelled services, and the related fee they would be entitled to charge to travellers. Another instance is that according to the PTD, all "*The information…* (*total price of package*, *additional fees/charges*, *cancellation reimbursement fee and deadlines* etc.) …*shall be provided in a clear, comprehensible and prominent manner*". Once again, it is difficult to assess in practical terms what a "clear, comprehensible and prominent manner" is, which leaves room for presentation of the information in a misleading manner. Similarly, as regards travel services other than accommodation, such as the carriage of passengers by bus, rail, water or air, as well as rental of motor vehicles or certain motorcycles. These services are considered as part of a package only if in combination "*account for a significant proportion of the value of the package or linked travel arrangement… 25 % or more of the value of the combination"*. It is difficult to quantify when the 25% threshold is met. For instance, it is extremely difficult to estimate the value of spa treatments, for example. This makes the provision difficult to enforce.

In addition to the above-mentioned issues, consumer organisations identified several additional gaps in the current framework. The following **recommendations**, based on consumer organisations' feedback, could be made in the PTD to improve consumer protection to address these further issues:

- Since the PTD was issued when there were no travel intermediaries, it is advisable to now update the provisions on liability by taking into account their presence as well. In general, to avoid a "ping pong" of responsibility when it comes to, for instance, reimbursements, it is advisable to clarify the steps for travellers to follow to get a refund;
- It is advisable to include in the PTD the right for a traveller to terminate the contract at zero cost if a travel warning is issued by an authority (e.g., Ministry of Health, or Ministry of Domestic Affairs) of the destination country;
- As it has been noted that in some countries, travellers have received refunds only several years after the insolvency of the travel organiser, it is recommended to impose a time limit for the processing of refunds. It could be helpful in this sense to allow travellers not to pay the whole price of the package in advance, as is often the case, but just a percentage of the cost. In this way, the amount to be reimbursed would be lower and there would be fewer liquidity constraints to refund the customers. However, the risk is that travel organisers could raise the prices of package travel to increase their available liquidity;
- Finally, in the case of LTAs, travellers are currently not protected by the PTD as regards the right to cancel and be reimbursed upon payment of an appropriate termination fee. However, they are entitled to full reimbursement in case of insolvency of the travel organiser. This generates a huge difference in the treatment between a traveller who has purchased an LTA and who cancelled, for instance, the day before an insolvency of a travel organiser, who has no right to reimbursement, and a traveller who did not, and is therefore entitled to full refund. A potential solution to this issue would be to protect customers by making them entitled to a refund in case of cancellation of an LTA.

4. THE ECONOMIC IMPACT OF PTD ON PRICES OF PACKAGE TRAVEL

KEY FINDINGS

The analysis in this section provides an evaluation of the various price driving factors of package travel and assesses the overall economic impact of the PTD on these prices. The research in this section shows that prices in the package travel industry are rising. This is highly likely to be primarily driven by factors such as the recent high inflation environment, as well as lasting effects on the tourism market from the Covid-19 pandemic. Despite this, this analysis highlights a number of channels through which prices may have been affected by the PTD.

Firstly, misalignment in the allocation of risk within the package travel value chain means that package travel providers are facing potential large financial outlays to cover refunds to customers. This occurs with little responsibility on behalf of the travel service providers to refund pre-paid deposits. Covering these costs, or mitigating these risks, is an additional financial weight which is likely to be passed to the consumer through higher package travel prices. According to expert stakeholders, it is therefore advisable to review and align **the PTD and the legislation applicable to other travel service providers such as the APR**.

More generally, compliance with the financial protection requirements of the PTD, requires package travel providers to take on costly mitigation measures to protect themselves. They therefore purchase insurance, join a guarantee fund or employ a combination of measures to provide protection in the case of insolvencies or large-scale cancellations in instances such as Covid-19. These costs can constitute a substantial cost to the organiser, which will be integrated into the overall price of the travel package. Furthermore, options and practices vary across Member states, it is and it therefore **advisable to establish common criteria and best practices for mandatory insurance schemes in the EU**.

While it has been indicated by stakeholders that these protections are necessary, it has been also been noted, that in the post Covid-19 environment, prices have risen and there is are a lack of insurance providers in the market. Consideration should therefore be given to what constitutes exceptional circumstances and, the circumstances under which operators are responsible. Additionally, the prevalence and feasibility of solutions such as state guarantee funds could be considered.

4.1. Overview

The aim of ask 4 was to provide an evaluation of the influence of different factors on package travel pricing and assess the overall economic impact of the PTD on the prices of package travel.

The PTD requires that package travel organisers provide consumers with clear and accurate information about the holidays they sell, as well as financial protection in the event of their insolvency. It also sets out minimum standards for the performance of the services included in the package holiday and gives consumers the right to cancel their booking and receive a refund. This task provides an analysis of the price driving factors within the package travel markets, and analyses which of these PTD requirements have had an impact on package travel prices.

4.2. Methodology

The analysis in this section is conducted using a triangulation method of data collected through a comprehensive literature review, interviews with experts and industry stakeholders and a descriptive statistics analysis of the trends in the market using available data.

The existing literature explored in this section on price trends within the package travel industry was reviewed[84], with a focus on those related to the parts of the market that the 2018 PTD aimed to address. The most recent data on package travel expenditure, prices and the overall package travel market was assessed, while identifying what trends can be observed over the time period. Furthermore, a number of targeted expert and stakeholder interviews were conducted with industry and consumer associations focusing on extracting expert opinion on the changes in package travel prices for consumers and the contributing impact of the PTD. This data then fed into the triangulation analysis which informed the conclusions of this section.

4.3. Market Trends

Tourism is an important economic activity both within the EU and globally. It has far-reaching and significant impacts on economic growth, employment and social development[85]. Directly preceding the pandemic, in 2019, EU residents spent an estimated €479 billion on tourism[86]. Package holiday travel among the EU27 accounted for 9% of tourism with an expenditure share of approximately 21%[87]. While this is a substantial decrease from the 23% market share attributed to package travel in 2013, there is some evidence that in the wake of Covid-19, as well as increased global uncertainty regarding geopolitical tensions and climate change, that demand is picking up for package travel, as individuals turn to package travel for a number of reasons. One of these reasons is the increased security that it can bring in uncertain times. In 2020, 81% of EU-27 consumers showed a large scale of trust in package holiday and tour service providers, based on the Market Monitoring Survey[88].

The package travel economy, like all tourism-related products, suffered severe losses throughout the Covid-19 pandemic, and even now in 2023 is being impacted by high energy prices and persistent high inflation. It is, therefore, important to note that changes in the market, such as fluctuations in consumer demand and other factors influencing the prices of package travel, cannot easily be attributed to the implementation of the PTD in 2018. In the context of this report, price developments are, therefore, considered to be the result of many contributory factors affecting consumer demand, costs for suppliers and ultimately package prices for consumers. The section below aims to identify trends in the package travel market since 2017 and looks forward to forecasts up until 2025.

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84 Henn, K., Islam, C.-G., Schwind, P., & Wieland, E., 2019, Measuring price dynamics of package holidays with transaction data, EURONA - Eurostat Review on National Accounts and Macroeconomic Indicators, 95. Available at: https://cros-legacy.ec.europa.eu/system/files/euronaissue2-2019-article4.pdf.

85 Lupiáñez-Villanueva, F., Montealegre Olaya, A., Bogliacino, F.et al., 2020, *Behavioural study on advertising and marketing practices in travel booking websites and apps – Final report*, Publications Office, European Commission. Available at https://data.europa.eu/doi/10.2818/728775.

86 Eurostat, 2023, *Expenditure by duration, purpose, main destination of the trip and expenditure category*. Available at: https://ec.europa.eu/eurostat/databrowser/view/tour_dem_extot/default/table?lang=en.

87 Eurostat, 2017, *Expenditure by type of trip arrangement*, Available at: https://ec.europa.eu/eurostat/databrowser/view/TOUR_DEM_EXORG__custom_6422969/default/table?lang=en.

88 European Commission, 2020, *Market Monitoring Survey*, Available at: https://commission.europa.eu/strategy-and-policy/policies/consumers/consumer-protection-policy/evidence-based-consumer-policy/market-monitoring_en.

4.3.1. Package travel market developments

In the EU, tourism is a significant contributor to the overall economy. In 2019, before the Covid-19 pandemic hit, tourism contributed by an estimated €572 billion or 5% of gross value added (GVA) to the economy. For some Member States, it is a more important economic contributor than for others. Croatia and Portugal had the highest contributing shares in 2019 (11% and 8% respectively), whereas Luxembourg had the lowest share in the EU (3%)[89].

Additionally, tourism was one of the sectors most affected by the Covid-19 pandemic as all parts of the value chain were impacted. Eurostat estimates based on 2020 data that for approximately half of EU countries the total direct GVA dropped by €184 billion, down 32% on 2019[90]. The European tourism market has been recovering strongly from the severe impact of the pandemic. In 2022, it is estimated that Europe reached 80% of its pre-pandemic (2019) level of international tourist arrivals, driven by strong intra-regional demand. Globally in 2022 this was estimated to be 66%[91].

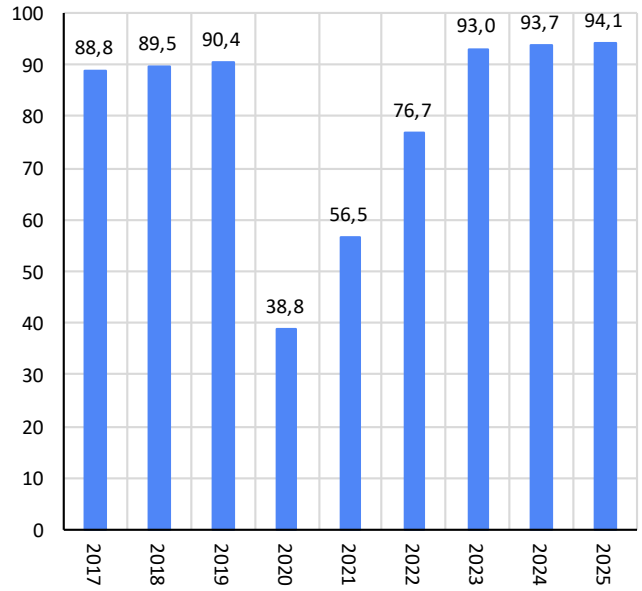
The number of users of package travel naturally also fell sharply during the pandemic, dropping by 58% between 2019 and 2020. However, the industry has also recovered strongly in 2021 and 2022, and is projected to continue to grow in 2023, with a higher number of users projected for this year than in 2019 (Figure 2). The number of users is projected to stabilise in 2024, with an approximate growth level of 1.2% in the following two years, reaching approximately 94.1 million users by 2025.

[89] EUROSTAT, 2023, *Tourism: €572 billion gross value added in the EU*. Available at: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/wdn-20230414-1.

[90] EUROSTAT, 2023, *Tourism: €572 billion gross value added in the EU*. Available at: https://ec.europa.eu/eurostat/web/products-eurostat-news/w/wdn-20230414-1.

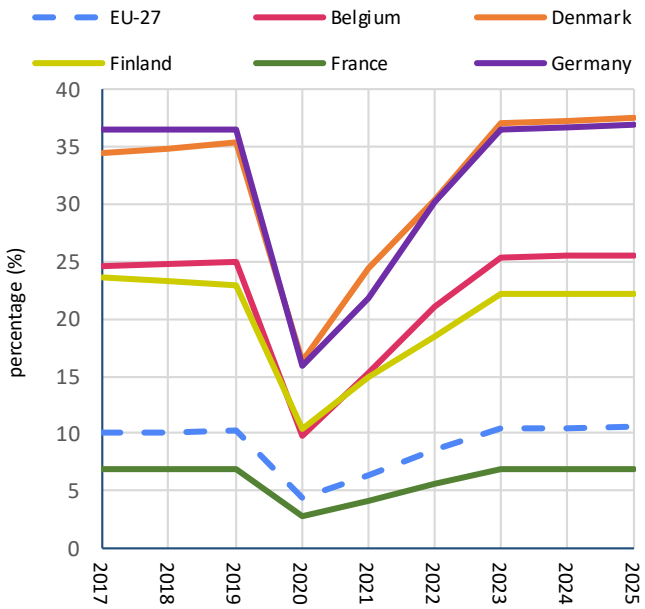
[91] UNTWO, 2023, *Tourism on track for full recovery as new data show strong start to 2023*. Available at: https://www.unwto.org/news/tourism-on-track-for-full-recovery-as-new-data-shows-strong-start-to-2023#:~:text=New%20Data%20from%20UNWTO%3A%20What%20We've%20Learned&text=Overall%2C%20international%20arrivals%20reached%2080,continued%20to%20show%20its%20resilience.

Figure 2: Users of package travel



Source: Statista Market insights 2022.

Figure 3: User penetration rates



Source: Statista Market insights 2022.

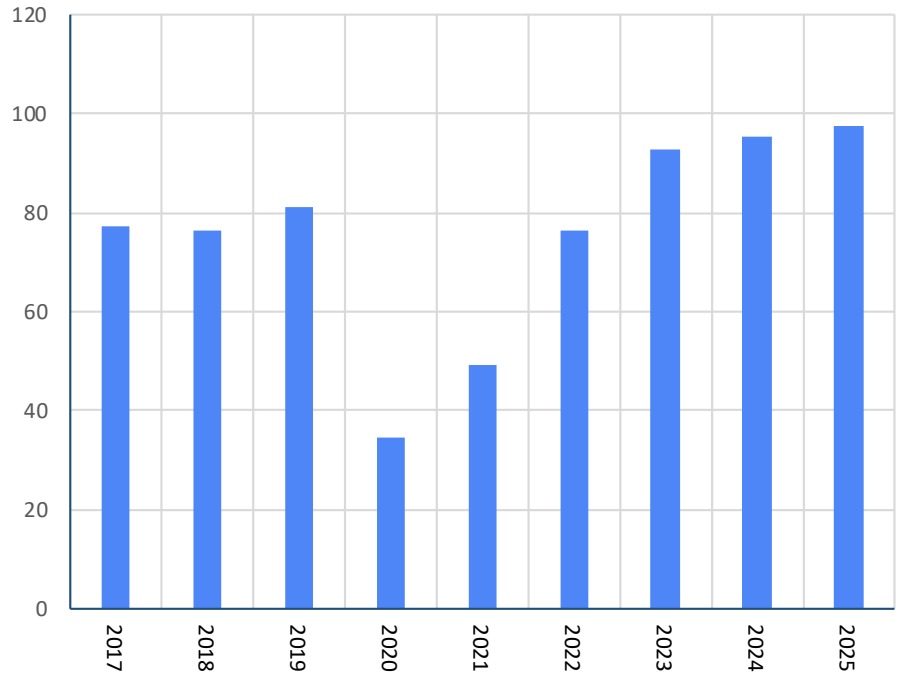
Another way to view the consumer market for package travel is through penetration rates[92]. (Figure 3) shows a selection of EU member states and the penetration rate of package travel within that market. In 2022, Denmark and Germany had the highest penetration rate of 30.4% and 30.1% respectively, while the EU27 average was 8.6%. These statistics indicate a strong post pandemic recovery in demand from EU consumers, which is relatively consistent across Member States.

[92] The share of active paying customers (or accounts) from the total population of the selected market (market segment, region) for each year.

Revenue developments

In the EU, directly preceding the pandemic, the revenue from package travel[93] was approximately €81 billion (Figure 4). At the lowest point of the pandemic in 2020, revenue fell to €34.7 billion, and has been recovering since, growing by 42% and 55% in 2021 and 2022 respectively. Recent projections from Statista estimate that EU revenue from the package holiday segment will continue to recover and grow further in 2023 reaching approximately €92.8 billion, which is a 14% increase on the 2019 level[94].

Figure 4: Annual revenue from package travel in the EU, billion euro (€)



Source: Statista 2023 (EU27).

In terms of revenue, Europe[95] is the biggest market for package travel when compared to other major regions. At approximately €96.1 billion in 2022, it had a greater revenue than the U.S. market, which had an estimated revenue of €24.9 billion or the Asia market, at approximately €70.9 billion.

Furthermore, while the average European tourist spent on a package trip in 2018 €750, this rose to EUR €790 in 2020, followed by a drop in 2021 (Figure 5). It is projected that average spending on package holidays will continue to increase in the coming years over the projection period, reaching €920 per European tourist by 2025. In terms of the EU27, this is projected to be €1060 per user[96]. This is significantly more than other global markets whis indicates that EU consumers are spending more on package travel and that this level is continuing to grow. This is also reflected in the user penetration rate, in 2022 Europe's penetration rate was 12.8% compared to 7.3% in the U.S. and 4.9% in Asia (though Asia is the fastest growing market), thus indicating that Europeans currently show the greatest engagement out of the selected regions with this type of travel).

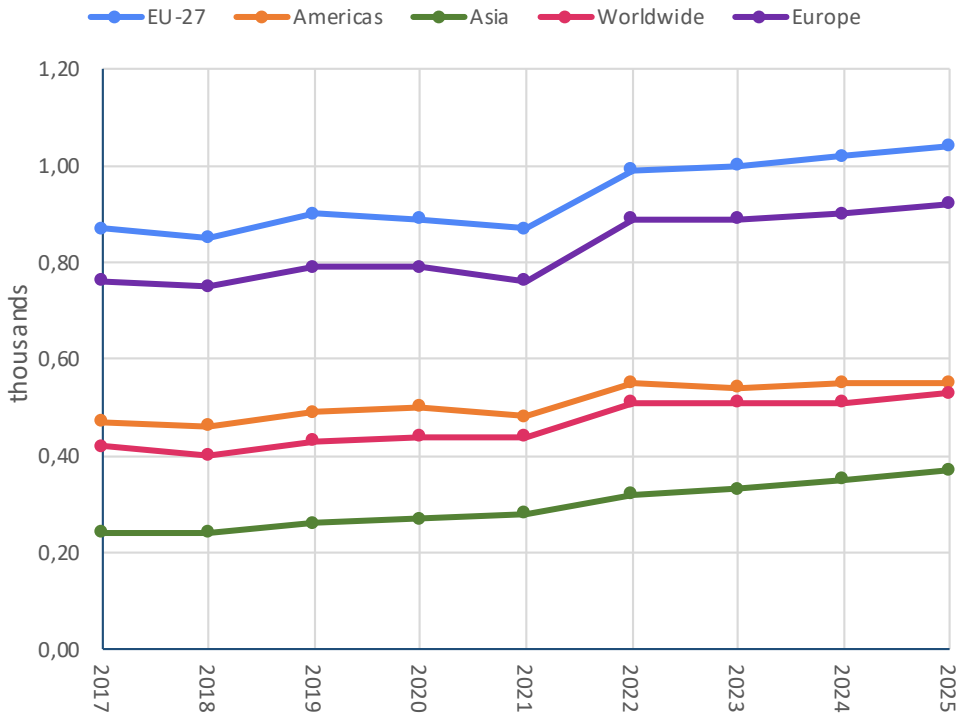
[93] Statista, 2023, *Package Holidays - Europe*. Available at: https://www.statista.com/outlook/mmo/travel-tourism/package-holidays/europe?currency=EUR.

[94] Statist, 2023, *Package Holidays - Europe*. Available at: https://www.statista.com/outlook/mmo/travel-tourism/package-holidays/europe?currency=EUR.

[95] Referring to the continent of Europe.

[96] Statista, 2023, *Package Holidays - Europe*. Available at: https://www.statista.com/outlook/mmo/travel-tourism/package-holidays/eu-27?currency=EUR.

Figure 5: Average revenue per user in the EU, in thousand (€)

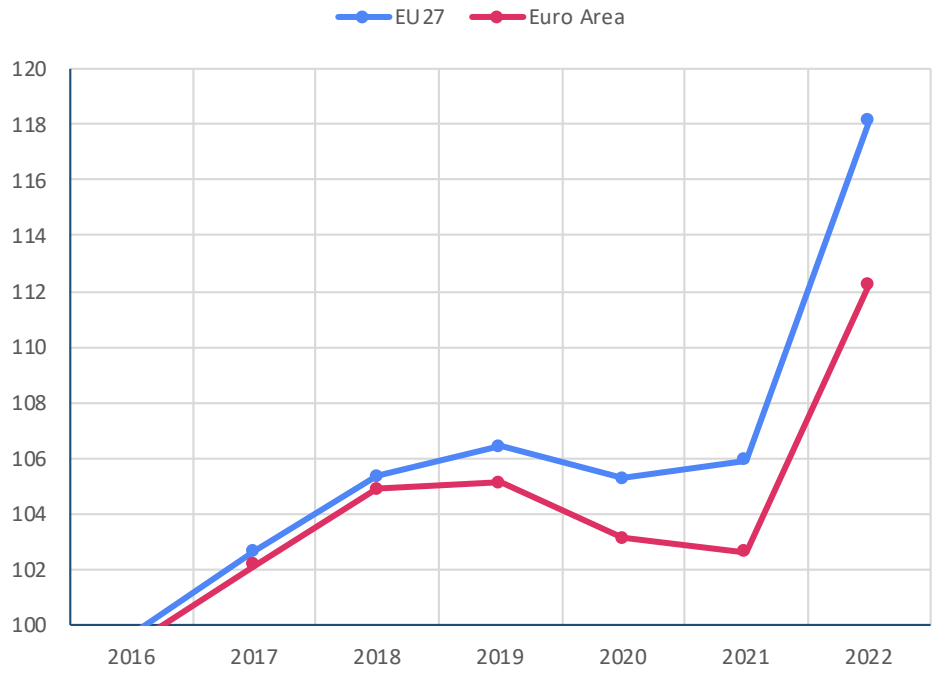


Source: Statista 2023.

4.3.2. Package travel price trends

In line with the increased revenue per user, the evolution of package travel prices depicts a similar trend. Looking at the evolution of prices using Eurostat's HCPI, data shows that overall, the price of package travel has increased since 2018 (Figure 6). As the below graph depicts, the price of package travel saw a sharp increase between 2021 and 2022. This, however, is reflective of the general global and EU wide rising energy costs and generalised rising inflation over this period, as is explored further below.

Figure 6: Indexed prices of package travel



Price increase of package travel indexed to 2015 prices.

Source: Eurostat: Harmonised consumer price index, June 2023 data - all-inclusive holidays or tours which provide for travel, food, accommodation, guides, etc. Also includes: half-day and one-day excursion tours- pilgrimages.

4.4. Package travel price dynamics

The previous section has outlined developments and trends in the package travel market and has shown that though the market is recovering well in terms of users, prices are rising. While this can be partly explained by generalised increases in inflation, this section will assess whether there is also price pressure stemming from the adoption of the PTD in 2018.

This section uses a triangulation method to analyse the above trends by first assessing what factors drive prices in package travel, and secondly, how the PTD has impacted these price driving factors.

Findings from this report have found that **price dynamics in the package travel market are complex**. This is because, as has been noted by industry experts interviewed for this report, prices are primarily driven by the price dynamics of the contributing package components. These components, notwithstanding operating within the package travel environment, have unique characteristics and also operate within their own market (air travel, hotel tourism, etc.). In this way, a variety of different types of company (travel service providers) operate within the package travel value chain. These service providers respond differently to external influences, such as developments in the market, changes in regulation and global events. Therefore, how the prices of these services contribute and impact the value chain in package travel (and ultimately package travel prices) is highly variable.

Furthermore, changes in the structure of the travel industry itself, such as the enhanced role of digitalisation as described below, can have a profound effect on consumer purchasing behaviour, as well as on the competition in the market.

The literature that discusses package travel price dynamics explores how the complexity of multiple contributing elements to the price of a package travel, leads to difficulties in the measurement and

analysis of price dynamics in the market. A paper included in EURONA[97] 2019, by Henn et al., remarks on how the inherent complexity of package travel makes it especially difficult for national statistics institutions to measure price dynamics by collecting a selection of price representatives (as is the standard statistical practice for measuring price dynamics). As package travel is made up of a number of contributing parts, they **have many price determining factors**, such as the category of the hotel, the standard of the room or the location of the departing airport. Furthermore, as expanded upon below, travel-related price elements, such as flight prices, can fluctuate seasonally[98].

4.4.1. Price driving factors

Stakeholders from industry associations interviewed for this report, have noted that the price of a travel package is made up of **the prices of the contributing elements**, plus **overheads** and **the profit margin that the package provider will earn**[99]. One expert representing travel agents and tour operators indicated that approximately 95% of the price of a package can be attributed to the combined prices of the various package elements (the flights, the accommodation, etc.). With the **additional overhead costs stemming from things such as intermediation fees, additional insurances and liability insurance to cover risks that fall on the responsibility of the organiser**.

Package travel prices are included in Eurostat's harmonised index of consumer prices (HICP), which is a measure of the change in prices of goods and services in Europe. In this context, Eurostat defines a package holiday as flights and accommodation bundled into one transaction[100]. It is recommended that package travel prices be recorded **as the total cost of the service**, i.e. the basic price of the service plus any additional costs included with the delivery, including booking fees, or debit/credit card fees[101].

Price fluctuations

Package holidays, like other tourism products, **fluctuate in price seasonally**. Eurostat indicated that seasonal patterns for both package holidays and the contributing elements such as flight prices, are also contributing pricing factors, which complicates measurement. Package holiday prices present a particular challenge to index as they are subject to a **'sliding pricing structure' which depends on how far in advance the booking is made and the level of availability at the time**[102].

Hen et al. note that, in standard statistical practice, the price of a travel package enters the HCPI in the month the holiday takes place and not in the month it is booked. Nevertheless, **the timing of a booking is an important price determinant of a package holiday**. This paper finds that the price per person per day is 3% higher than average if a booking is made 6 rather than 12 months before departure, whereas prices see a sharp drop and are cheaper 2 months before departure. This indicates that **the time a booking is made is an important price determinant**[103].

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97 Eurostat, 2019, Review on National Accounts and Macroeconomic Indicators, Issue No 2/2019.

98 Henn, K., Islam, C.-G., Schwind, P., & Wieland, E., 2019, *Measuring price dynamics of package holidays with transaction data. EURONA - Eurostat* Review on National Accounts and Macroeconomic Indicators. Available at: https://cros-legacy.ec.europa.eu/system/files/euronaissue2-2019-article4.pdf.

99 Overheads related to package travel may include taxes, insurance, marketing costs and administrative costs, and are affected by various external factors as well as commercial decisions made by the package provider.

100 In the context of the HICP, Travel and accommodation bought in separate transactions do not represent a package holiday.

101 Eurostat, 2018, *HICP methodological manual.* Available at: https://ec.europa.eu/eurostat/documents/3859598/9479325/KS-GQ-17-015-EN-N.pdf/d5e63427-c588-479f-9b19-f4b4d698f2a2.

102 Eurostat, 2018, *HICP methodological manual.* Available at https://ec.europa.eu/eurostat/documents/3859598/9479325/KS-GQ-17-015-EN-N.pdf/d5e63427-c588-479f-9b19-f4b4d698f2a2.

103 Henn, K., Islam, C.-G., Schwind, P., & Wieland, E., 2019, *Measuring price dynamics of package holidays with transaction data. EURONA — Eurostat* Review on National Accounts and Macroeconomic Indicators, 95. Available at: https://cros-legacy.ec.europa.eu/system/files/euronaissue2-2019-article4.pdf.

Outside of seasonal fluctuations and in terms of longer-term changes, in the case of the German HCPI subindex[104], it is noted that **package travel exhibits a high level of volatility**. At a level of between -9 and +14 percentage points between 2016 and 2019, according to this paper, package travel prices in the German market are more volatile than other seasonal HICP components, such as clothes or unprocessed food. In the new approach explored by the authors in this paper, transaction data covering the period of 2013-2018 are collected from the Amadeus booking system[105]. The authors employ a number of index aggregation methods[106] to calculate several experimental price indices and disaggregate by holiday destination, this allows for an analysis of movements in the overall price index for international package holidays. In this way, the authors could determine the most important destination for German travellers, which was Turkey (23%)[107], as well as other characteristics about the typical package holiday consumer. For instance, the typical consumer usually travels with one other person (64%), stays in a four-star hotel (59%), for 7 or 14 days (35% and 19%) and pays an average of EUR 93 per day per person. It was also found using a regression model that **online package holidays were on average 8.4-11.9% cheaper than offline packages bought from traditional travel agents**. The transaction-based methods all generate similar price dynamics over time[108].

Economies of scope

One of the things that make package holidays appealing both to the supplier and the consumer is that **package travel operators can benefit from economies of scope**[109]. This allows them to purchase package elements (travel services) at cheaper price than the average consumer could. In the traditional sense of a travel package, operators can purchase large amounts of inventory at low prices, allowing them to create packages that provide value to the consumer. This makes travel packages or 'bundles' an attractive option for tourism providers. However, as a stakeholder representing tourism providers pointed out, prices are also dependent on the business model at play. On the one hand, packages can be created in the traditional sense, involving a degree of customisation and intermediation on behalf of the package provider. On the other hand, there are other types of packages and linked travel arrangements sold by online platforms or online travel agents (OTAs), which may fall within the scope of the PTD and may involve very little intermediation. In the case of the latter, the products can be priced differently, as there is little to no human interaction involved and so this will affect the price of the package or a LTA.

The major players within e-travel, such as the largest OTAs are now shaping how distribution occurs. A European Commission paper on the topic, identified one of the most important developments in the travel sector in recent years, and more specifically, the e-travel sector, as consumers' increased access to information when making travel related purchases. Furthermore, consumers benefit from access to a greater amount of services at cheaper prices. These developments have also led to **changes in business models and business practices within the industry, in particular, price bundling**. In this

[104] The HICP is used to measure inflation in the context of international, mostly inner-European comparisons. Available at https://www.destatis.de/EN/Themes/Economy/Prices/Consumer-Price-Index/Methods/HVPI_e.html.

[105] Used by online travel portals as well as traditional high street travel agencies in Germany. Available at: https://amadeus.com/en/portfolio/hospitality/crs-central-reservation-system.

[106] According to the OECD, an aggregate (or composite) index is a compilation of individual indicators into a single index on the basis of an underlying model.

[107] Most popular in 2015.

[108] Henn, K., Islam, C.-G., Schwind, P., & Wieland, E., 2019, *Measuring price dynamics of package holidays with transaction data. EURONA - Eurostat* Review on National Accounts and Macroeconomic Indicators, 95. Available at: https://cros-legacy.ec.europa.eu/system/files/euronaissue2-2019-article4.pdf.

[109] Lupiáñez-Villanueva, F., Montealegre Olaya, A., Bogliacino, F.et al., 2020, *Behavioural study on advertising and marketing practices in travel booking websites and apps – Final report*, Publications Office, European Commission. Available at: https://data.europa.eu/doi/10.2818/728775.

sense price bundling refers to the purchasing of a package travel rather than individual components. The expansion of this practice digitally has led to a revolution in travel services for the consumer and the supplier. **Price bundling allows suppliers of services to increase their profits by benefitting from economies of scope** to an even greater extent[110]. They can also offer unsold products at a discounted price without effecting the consumers perceived product value. In the price bundling model, the consumer benefits from a greater variety of options. Therefore, industry suppliers of all types encourage customers to purchase bundles to save money and streamline processes[111].

A stakeholder representing a supplier of online package travel described one of the ways in which a consumer purchases a travel package on their sites – which involves the consumer following a package path. **The package path involves choosing a combination of required components. Flight & hotel etc., for which the consumer can pay for in one transaction**. In this model, the provider has contracts with the suppliers of travel services (accommodation, flights, car rental, etc.). Instead of buying specific inventory and constructing off-the-shelf packages, the operator has access to a supply database, allowing them access to products at reduced rates, which they can then bundle together in a 'package'. Hotels for instance, provide a discounted rate below the standalone retail price. Airlines provide a net fare, which is a base fare they want to receive. This fare can then be bundled with the hotel fare. The supplier of the discounted fare provides it at a lower rate on the condition that the consumer does not know the price of each element in the package, as this would discourage standalone purchases. In this model, the **consumer benefits from lower prices, as well as protections afforded by the PTD**. The supplier on the other hand benefits from an increased volume of sales.

Pricing strategies

With the aforementioned digitisation of the tourism sector, OTAs are now common sellers of package travel. Online intermediaries participate in the market in a variety of ways. Packages are sold as traditional highly-customised packages, packages customised by the consumer themselves online, and as LTAs. As is normal for **business stakeholders, pricing strategies of these intermediaries are driven by profit maximisation**.

Bookings, however, may also be made directly from the supplier, such as from a hotel's website. According to Bosworth, 2018, although hoteliers will also set prices to maximise profits in the long run, there are other factors at play. In response to another study that was done that claimed there are no measurable benefits for hoteliers who shift their booking mix from OTAs to direct distribution channels, the author argued that revenue and distribution strategies are more complex. Firstly, suppliers, such as hotels, want to maximise engagement with their guests. **Building up a customer base through repeat business or loyalty programmes** allows hotels to gather appropriate data and improve guest experiences, personalise packages, upsell and prioritise guest retention, while simultaneously using OTAs to attract new guests. It is recommended that **a dynamic pricing strategy** in which all channels are priced separately, according to demand, is best. In this way, lower prices can be offered to returning guests or loyalty program users, while retail rates on an OTA will yield a higher price to other consumers[112].

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[110] The theory of an economy of scope states the average total cost of a company's production decreases when there is an increasing variety of goods produced.

[111] Lupiáñez-Villanueva, F., Montealegre Olaya, A.,Bogliacino, F.et al.,. (n.d.). *Behavioural study on advertising and marketing practices in travel booking websites and apps*. Retrieved from European Commission, Consumers, Health, Agriculture and Food Executive Agency. Available at: https://data.europa.eu/doi/10.2818/728775.

[112] Bosworth, P., 2018, *The value of hotel-direct bookings is measured by more than numbers*. Available at: https://www.hotelmanagement.net/revenue-management/value-hotel-direct-bookings-measured-by-more-than-numbers.

Inflation

When assessing the price driving factors of a travel package, it is useful to assess price pressures in terms of inflation levels of the relevant input costs. As explored in the previous section**, overall prices of package travel are rising, and this is largely due to rising inflation in markets of the contributing tourism services**.

Package travel prices are highly responsive to rising inflation levels. One expert representing tour operators and travel agents, indicated that in their opinion, inflation is the greatest contributor to rising package travel prices in the last number of years. According to Statista's mobility market outlook, **package travel is identified as a service that is likely to face a strong negative impact (approximately -5%) from higher food and fuel prices caused by inflation**[113]. Furthermore, a paper by Kołakowska and Godlewska looks at the factors influencing the prices of travel packages in the Polish market, based on data provided by two operators in 2021. This study looks at methods of predicting trip prices on the basis of various factors and identifies a number of constant and time varying factors that contribute to the prices of tourist offers. The study found **that time varying factors have the greatest impact on the changes in trip prices, with the rate of change of currency rates and oil barrel prices emerging as the most significant**.

Economists generally agree that the recent high inflation environment in the EU is caused by a number of factors including supply chain effects in the wake of the pandemic, as well as the ongoing impacts of the war in Ukraine. In 2022 the HCPI increased by 12.3% for the 12 months of the year (Figure 5). In May 2023, the rate was 13.1% for the preceding 12 months.

In line with this, a number of categories of inflation, relevant to the package travel market should be considered when assessing the dynamics of prices.

Firstly, **energy prices have seen a significant increase since the Covid-19 pandemic**. In the year between December 2020 and December 2021 the import price for energy in the Euro Area increased by 115%, and domestic producer prices rose by 73%, following a period of relative price stability in the energy market in the preceding decade[114].

Energy prices are a major contributing factor to the price of transport services and can cause significant price pressure for transport providers in the tourism sector. For instance, **airline travel prices increased by 25% in 2022 (Figure 7)**. This was 18.4% in the 12 months preceding May 2023, indicating an easing in the inflation rate.

Supply chain disruptions caused by the war in Ukraine have also led to a rise **in food costs**, with significant impacts on tourism providers. **Restaurant prices increased by 8.8% in the 12-month period preceding May 2023**. Finally, accommodation services[115] have also experienced rises in prices increasing by 12.5% in the same 12-month period[116].

As described above, the price of a package travel is made up of the price of the contributing elements of that package, plus additional costs. Therefore, this rising inflation within the sectors of the contributing elements of a package travel will lead to greater input costs for the package travel provider overall and ultimately higher costs.

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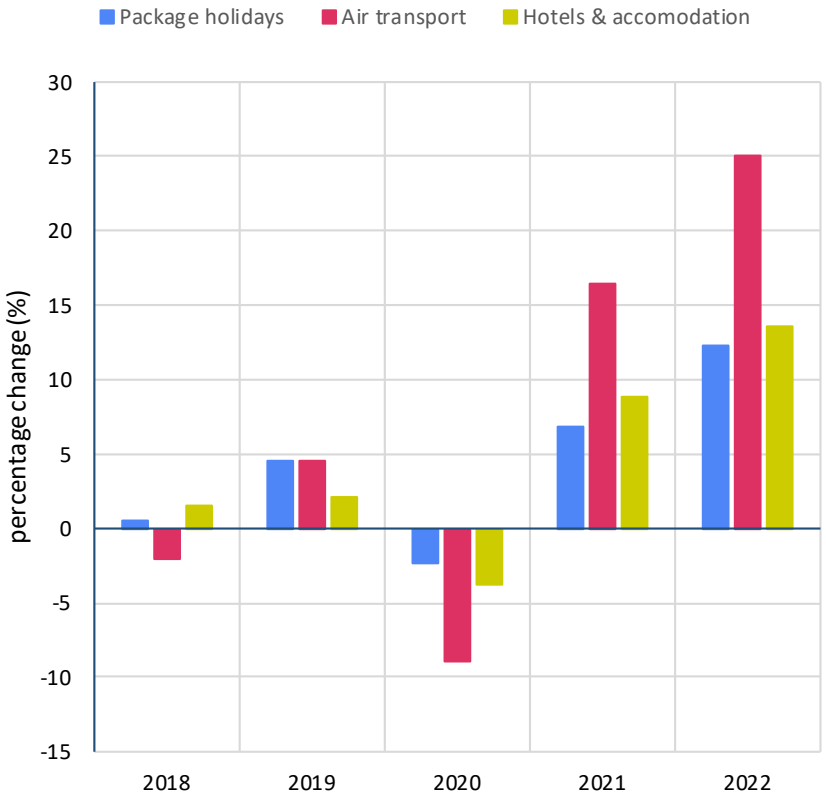
[113] Statista, 2022, *Product and Methodology*, Statista Mobility Market Outlook.

[114] Eurostat, 2022, *Energy prices on the rise in the euro area in 2021*, Eurostat. Available at: https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20220210-2.

[115] Hotels, motels and similar accommodation.

[116] Statista, 2023. Available at: https://www.statista.com/topics/9662/impact-of-inflation-on-travel-and-tourism-worldwide/#topicOverview.

Figure 7: Harmonised consumer price index (HCPI) rate of change



Source: Eurostat: HICP – monthly data (annual rate of change in the preceding 12 months) December data.

Overhead Costs

Overheads are costs which are additional to the cost of the contributing elements (travel services) of a package travel.

According to stakeholders, these costs typically consist of taxes, insurance, admin costs, marketing costs, etc. Overhead costs are varied and depend on the type of package travel being sold. For instance, a stakeholder representing an association of tourism providers described the price of a package travel as typically consisting of the cost of all the contributing parts plus a gross margin, reflecting overheads, and **that an important component of these overheads is determined by the work involved in creating the package**. If a package travel is highly customised for instance, the level of labour involved in customising this package will make it more expensive. Additionally, marketing costs or additional admin requirements will add to the price.

Overheads, which will apply to all providers of package travel, include those facilitating the financial protection requirements of the PTD. These include insurances for cases of insolvency, as well as extreme global incidents causing travel cancellations, such as Covid-19. This is expanded upon further below.

4.4.2. Consumer purchasing behaviour

While package travel has been an important subsection of the travel sector for many years, the internet has expanded how it can be done and who can participate in the concept. Online travel agents (OTAs) and other online booking intermediaries are now important players in meeting demand in the package

travel industry. A European Commission's paper[117] explores some of the challenges related to the commercial practices of online travel booking, as well as some of the associated changes in consumer behaviour. **New technologies and innovations are now crucial in driving competition within the European tourism sector**. Platforms that allow consumers to access information on destinations and prices have given consumers a greater insight into their travel purchases than ever before, and allow them to easily compare destinations, providers and prices. As a result of these changes, **a highly competitive landscape has developed for travel providers, including OTAs, independent suppliers and tour operators**.

Industry stakeholders have indicated that **consumers of package travel are extremely responsive to changes in price**. A stakeholder representing online package travel providers noted that, even a small increase in the price of a package, could deter a consumer from making that purchase. This is particularly true if they can purchase the contributing elements of the package separately, for a cheaper price. This stakeholder also stated that this would come at the expense of the benefits the consumer would gain from purchasing the elements as a package, such as the consumer protection of the PTD.

Experts agreed that when additional costs are taken on by providers, these costs are passed to consumers. An expert representing online travel providers noted that when package suppliers face **additional costs of complying with the requirements of the PTD, these costs are indeed often passed to consumers**.

Despite this, it is also apparent that **consumer demand is responsive to changes in price and, therefore, if the price is made too high, providers may lose a customer**. Two stakeholders noted that **consumer demand is primarily driven by cost**. Therefore, **if the cost of a package gets too high, this will have an impact on the likelihood of the consumer making the purchase, despite the fact that there may be other benefits to purchasing the package, such as consumer protection**. One interviewee representing online travel providers noted that consumer awareness of the PTD is not high, and even a small change in price can affect a purchasing decision. Another stakeholder representing tour providers echoed this point, stating that price is first priority for consumers booking a package. If the price of a package is to rise, even by a small percentage, it is likely a consumer will look to book with another provider or purchase the elements separately. This comes at the cost to the consumer of the protection the package would have provided them.

4.5. Exogenous shocks and the effects of Covid-19

The Covid-19 pandemic had a far reaching and severe impact on the global economy in 2020. As it is shown in the previous section, the pandemic led to a sharp decline in demand for package travel.

The prevalence of lockdowns and travel bans globally meant that the tourism industry was one of the sectors most severely hit as both output and demand experienced a severe decline. Findings from a paper by Kökény, L., Kenesei, Z., & Neszveda, indicate that the impact on tourism was strong due to restrictions and lockdowns creating a supply shock, which was compounded and extended due to the uncertainty and fear of the infection creating a shock of demand. This, in turn, led to lower travel prices, as airlines and hotels tried to increase demand with discounted fares and rates[118]. This downward pressure was also present in the package travel market.

[117] Lupiáñez-Villanueva, F., Montealegre Olaya, A., Bogliacino, F.et al., 2020, *Behavioural study on advertising and marketing practices in travel booking websites and apps - Final report*, Publications Office, European Commission. Available at: https://data.europa.eu/doi/10.2818/728775.

[118] Kökény, L., Kenesei, Z., & Neszveda, G., 2022. Impact of COVID-19 on different business models of European airlines. Current issues in tourism, 25(3), 458-474.

In a study which examined the effects of Covid-19 on the Chinese economy, the authors found price effects on both the supply and demand side of the market. The decrease in demand in the wake of Covid-19 had a downward effect on prices, while supply side factors led to an increase, increased cost of about supply, etc. However, they found the demand side was stronger leading to an overall decrease in prices[119].

In the wake of Covid-19, as we have seen, demand has recovered strongly pandemic. One stakeholder representing travel providers indicated that post Covid-19, due to the increased uncertainty, package travel operators are generally seeing an increase in demand, as it provides a more certain option to consumers. However, supply factors have continued to weigh, leading to an overall increase in prices.

Furthermore, **the tourism sector is highly vulnerable to elevated levels of uncertainty in the population, as well as a prevalence of global risks**. In a study covering economic uncertainty and tourism expenditures, it was shown that ***outbound tourism expenditures are negatively affected by a rise in uncertainty in economic policies***. This study also describes how *political uncertainty*, as well as events such as *terror attacks, natural disasters and war*, have an impact on if and when people are willing to travel, and can greatly affect tourism demand and expenditure[120].

Stakeholders indicated when interviewed that **the Covid-19 pandemic exposed flaws in the application of the PTD in times of great uncertainty or unforeseen global events**, relating to the **misalignment of risk in the package travel value chain**. According to a stakeholder representing package travel providers, large expenditures borne by package travel operators were damaging to the market and have in many cases contributed to rising prices as operators try to regain working capital. This exposed the need to redefine *in what circumstances refunds should be widespread*, when an event is severe and ongoing. This stakeholder also highlighted the need for public funds to help with this pressure.

4.6. The PTD's impact on prices

While the PTD has added additional protection for consumers who purchase package travel, there are channels in which it may also have had an impact on price dynamics. The previous section has described the factors which influence the prices of package travel. This section will review these price determining factors in the context of the PTD and assess how it has impacted prices since its implementation in 2018.

A review of the literature, as well as interviews with industry experts and stakeholders, have revealed a number of channels in which the PTD may be leading to price changes for consumers. As described above, stakeholders interviewed for this report[121] have indicated that **because margins in the package travel industry are relatively low, when providers take on additional costs, these costs are highly likely to be passed onto the consumers through higher prices**.

According to a stakeholder representing a large provider of package travel, these additional costs are primarily *increased insurance costs, refunds to consumers and repatriation requirements*. Further, a misalignment of risk allocation with other players in the value chain, primarily airlines, means that if something goes wrong in the value chain, the tour operator is responsible for these risks. Consequently, it is apparent that these costs are passed to consumers through higher prices (this is

[119] Wang, C., Meng, X., Siriwardana, M., & Pham, T., 2022. *The impact of COVID-19 on the Chinese tourism industry*. Tourism Economics, 28(1), 131-152. Available at https://doi.org/10.1177/13548166211041209.

[120] Akadiri, S.S., Alola, A.A., Uzuner, G., 2020, Economic policy uncertainty and tourism: evidence from the heterogeneous panel. Curr. Issue Tour, 23(20), 2507-2514.

[121] Based on interviews with stakeholders from travel agencies associations as well as large package travel providers.

further explained below). Despite this, the package travel market has recovered strongly post Covid-19, with consumers showing a strong level of trust in the industry. This indicates there may be some factors driving a more competitive market.

A number of these influences are explored below.

4.6.1. Misalignment of financial risk allocation

One of the main issues leading to price pressure in package travel that has emerged in this analysis is **a misalignment in the dispersion of financial risk in the package travel value chain**, particularly regarding unforeseen cancellations and refunds to consumers. This misalignment of risk allocation is leading to an uneven dispersion of responsibility regarding the cost of cancellations and refunds on the side of the package travel organiser. Stakeholders from the industry have indicated that this is leading to an overall increase in the cost of doing business in the package travel market, which is being **passed to consumers through higher prices, to mitigate the cost of this risk**.

All contributing travel services within package travel feed into the value chain of the package and ultimately its price. The EU states that one party must be responsible to the consumer for the performance of the package, this is the package travel organiser[122]. As described by a stakeholder representing package travel providers, it is sensible to have one party being responsible for the performance of a package, for the sake of the consumer. However, **the concentration of risk on the package travel organiser makes the business of packaging financially precarious** and may even discourage operators from participating in the market.

In a paper that addresses the PTD by the Dutch Ministry of Economic Affairs and Climate, the author describes the typical package holiday industry value chain. When package travel is purchased, a consumer often pays the package travel organiser a deposit or a proportion of the cost of the package up front. The percentage is dependent on the package itself[123]. As it has been described above, the majority of the price of a package is driven by the costs to the operator of the contributing travel services. Once a consumer pays a deposit, the money, therefore, flows through the value chain. These funds are used by the package travel organiser as working capital and to pay the suppliers, such as airlines, further down the chain. In the event of disruption somewhere in the chain (i.e., one of the travel services cannot be performed due to extreme events or bankruptcy) under the PTD, **the package travel organiser is responsible for refunding the consumer within 14 days**. They must also repatriate the consumer in some instances. This is where the misalignment of risk allocation is within the value chain. The redress options are not robust enough to oblige the travel service providers to repay the advanced payments (e.g., the airline) to the package travel organiser. This misalignment of risk allocation for different players in the value chain means that operators may face delays in getting refunded by airlines, and in some cases may not get refunded at all. Consequently, the total cost of the cancellation will fall on the package travel organiser. If these risks materialise, operators face large cash outflows, as was the case during the Covid-19 pandemic.

As highlighted earlier, due to the small profit margins in the package travel market (particularly for SMEs), these costs will need to be recuperated, in order for the operator to remain competitive in the market, which is likely to cause operators to increase consumer prices. The channel through which prices increase may vary, however according to a stakeholder representing travel agents and tour operators it is often through higher insurances (further explored below) which will translate into higher

[122] Panteia, 2023; for the ministry of economic affairs and climate: Understanding funding, package travel sector.
[123] Panteia, 2023, for the ministry of economic affairs and climate: Understanding funding, package travel sector.

fixed cost and overall higher prices. Furthermore, it may also lead to a reduced ability on behalf of the operator to offer the usual discounts associated with 'bundling' travel services. A stakeholder representing a large package travel operator indicated that these costs are often offset against the discount they receive from the travel service provider. Therefore, the discount they can give for a package, as compared to standalone purchases, is reduced, making it less attractive to the consumer.

A position paper on the PTD by two industry associations[124] provides a further example of this. The paper describes the issue of misalignment in the legal framework when it comes to the cancellation of flights. In the case of a package purchase that includes a flight, when the consumer pays their deposit for the package, the supplier will pay the full flight fee, as it is standard. If an unavoidable and extraordinary circumstance is to occur, under the PTD the consumer can cancel their package, and the organiser of the package must reimburse the consumer. However, if the flight takes place, the airline is under no obligation to refund the airfare to the organiser, which means they bear the brunt of this cost. In fact, according to the ECTAA, there are many instances in which **package travel organisers are unable to receive refunds for flight tickets, whilst they must reimburse consumers under the PTD within 14 days. This puts significant cost pressure on package travel organisers, and, in particular, creates a financial risk for SME operators**.

A stakeholder from a large provider of online travel packages also reinforced this point, noting that an **inability to get a refund for a prepaid package element is a massive cost**, which will indeed be added back into the cost of package travel. This stakeholder also described that in normal instances, where extraordinary incidents happen on rare occasions, this is more manageable. However, in the case of Covid-19, or a similar ongoing event, the risk borne by the supplier is not economically viable. It is not feasible to manage the refund requirements. Furthermore, *if a loan is required to manage financial outlays, given the rising price of capital prices will be driven even further, or suppliers will exit the market*.

The consulted stakeholders also discussed the impact of the Covid-19 pandemic on the package travel market. It is apparent that the pandemic exposed some underlying issues with the PTD. Throughout the pandemic, at times, airlines were flying to destinations, even if restrictions were in place in that area. In this instance, because the flight could technically go ahead, the package organiser will obtain no refund for the price of the flight, meaning they must take on the cost of that refund. According to a stakeholder representing online travel package providers, **the costs of refunds over the pandemic has contributed to prices rising in the market**.

Furthermore, as previously mentioned, *package travel operators use prepayments for working capital, whose part goes towards the purchasing of travel services in bulk so that operators can keep prices low*[125]. The aforementioned disruption of the chain interrupts the cash flow of package travel organisers, in particular small operators, meaning that they are put under additional financial strain and may have to raise their prices.

Industry experts have agreed that **a solution to this issue is the alignment of the legal frameworks and financial protection requirements** between package travel organisers and airlines. As noted by an expert representing online package travel providers, if the issue of aligning the PTD with the passenger rights framework was better addressed, it would be likely to have positive impacts on costs and, in turn, consumer prices.

[124] ECTAA and EU travel tech.

[125] EU Commission, 2021, Report from the Commission to the European Parliament and the Council on the application of Directive (EU) 2015/2302. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0090&rid=1.

4.6.2. Increased financial protection costs

More generally, **increased supplier prices may pass to the consumer through the higher costs of enhanced financial protection requirements**. Industry stakeholders have described how compliance with the financial protection requirements of the PTD requires package travel providers to take on costly insurance or other mitigation measures to protect themselves (as described in section 1.5 on Insolvency and Insurance Schemes).

Therefore, package travel providers purchase insurance, bank guarantees, join guarantee funds or employ a combination of measures to provide protection in the case of insolvencies or, in the case of large-scale cancellations such as during Covid-19. These costs will vary depending on the type of insurance or risk mitigation strategy used by the provider (or the standard set within each Member State). These costs may involve entry fees into a fund, ongoing financing of a fund/insurance costs, reinsurance costs or bank guarantees. These measures constitute a substantial cost, which according to industry stakeholders is likely to be integrated into the overall price of a travel package.

Insolvency protection prices for operators vary depending on how it is organised in each Member State and the insurance company or fund they work with. A stakeholder representing a large package travel provider noted that in the EU it is generally a package operator will pay an entry or subscription fee and then, depending the provider, will pay per package or an amount dependent on their turnover. If there is a large insolvency in the market, this price is likely to rise. The other case in which operators insure against is the need to make refunds in the case of cancellations due to exceptional circumstances.

As described earlier in section 1.5, while some Member States have public guarantee funds (e.g., Finland and Portugal) others rely on private guarantee funds, insurance companies or a combination of public and private resources[126]. In the case of large-scale pay outs, such as the case of the Thomas Cook company, guarantee funds will have to make large pay outs. This makes insurance more expensive in the long term, which will drive prices further. While **stakeholders agreed that protection is necessary, there is concern that the addition of various instances of risk that need to be covered under the PTD further drives up the cost of insurance, making it more difficult to find insurers willing to cover the risk**. Additionally, more consideration should be given to extreme cases such as the Covid-19 pandemic.

A stakeholder representing digital providers of package travel described how providers are taking on additional insurance costs to protect themselves against different types of risk that are provided for under the PTD. One of these is the protection against airline insolvencies. Under the PTD, organisers are obliged to provide guarantees for the reimbursement of all sums paid by travellers to the extent that the relevant services are not performed due to **the organiser's insolvency** (Art. 17). This guarantee also covers the repatriation of travellers if passenger transport is included in the package. ECTAA & EU travel tech, in their position paper[127], have also identified the cost of insurance as an added cost for suppliers. They also noted that a **scarcity of insurance providers in the market is also pushing up premiums**. It was indicated that even before the pandemic it was difficult for package travel organisers to find providers of liability insurance to cover the financial risk of a package. Post Covid-19, it has been noted that many insurers have left the market, meaning that insurance is more

[126] EU Commission (2021), Report from the Commission to the European Parliament and the Council on the application of Directive (EU) 2015/2302. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0090&rid=1 Council on package travel and linked travel arrangements https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0090&rid=1.

[127] ECTAA & EU Travel tech, 2022, *The PTD, how do we make it fit for purpose*. Available at: https://www.ectaa.org/Uploads/documents/Package-Travel-Paper-DEF4-digital.pdf.

expensive, when it can be found, and these obligations are costly for suppliers. In some Member States, travel providers are part of a guarantee fund[128].

4.6.3. Competition

In a well-functioning market, new suppliers can easily enter and exist in the market, and will do so as long as they can produce and sell their product or service for a price that exceeds their costs, allowing them to make a profit. In the package travel market, it has been noted by industry stakeholders that profit margins are small and therefore, when costs rise, they can easily exceed the point at which operators will make a sufficient profit. In line with this, research has indicated contrasting effects of the PTD on competition in the package travel market. On one side, the financial responsibility for refunding consumers is particularly challenging for small operators. According to SMEunited, the current rules are leading to providers bearing the full risk and burden at crisis time. According to their input letter, the reasoning for this is that the definition is too broad leading small businesses into the role of tour operator, meaning they must take on any associated increased costs[129]. This makes it difficult for these operators to exist and make profits in the market. According to a stakeholder representing package travel operators, including SMEs, **one of the biggest shortcomings of the PTD is that it has helped to drive growth outside of the package travel industry as some smaller operators cannot take on the risks associated or feel they may face liquidity issues**. Consequently, if these players are driven out of the market, less companies exist in the market overall for consumers to choose from, leading to overall higher prices. On the other hand, increased price transparency and consumer trust may put pressure on package travel operators to lower prices to attract more customers as is explored below.

4.6.4. Other pressures

An additional way in which costs may have increased for the consumer, is from **the formula in which fees are calculated in the case of cancellation of the package**. BEUC noted that under the PTD, consumers may be required to pay 'an appropriate and justifiable termination fee to the organiser'[130]. If not outlined in the contract, a formula is followed to calculate the termination fee for the consumer. This is the price of the package minus the cost savings and income the supplier would receive from the alternative deployment of the travel service. According to the BEUC, the actual costs are reasonable, although **the criterion concerning the income from alternative deployment of the travel services is not clear and is too subjective, leading the consumer to pay a higher amount than necessary for the termination of the package in some cases**[131].

Downward pressures

Some price pressures have also emerged in this analysis that indicate downward pressure on prices in the package travel market. These pressures stem from i**ncreased transparency and consumer confidence, which may put pressure on providers to be more competitive in the market**.

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[128] ECTAA & EU Travel tech (2022). *The PTD, how do we make it fit for purpose*; ECTAA & EU Travel tech. Available at: https://www.ectaa.org/Uploads/documents/Package-Travel-Paper-DEF4-digital.pdf.

[129] SMEunited, 2021, input to the EC roadmap on the revision of the PTD. Available at: https://www.smeunited.eu/admin/storage/smeunited/20210914-sc-response-to-ec-roadmap-on-ptd.pdf.

[130] BEUC, 2021, Position paper on how to regain consumers' trust in the tourism sector. Available at: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf.

[131] BEUC, 2021), Position paper on how to regain consumers' trust in the tourism sector. Available at: https://www.beuc.eu/sites/default/files/publications/beuc-x-2021-115_package_travel_directive_beuc_s_views_on_how_to_regain_consumer_trust_in_the_tourism_sector.pdf.

4.6.5. Savings from reduction of consumer detriment

According to research of the European Commission, the rules implemented in July 2018 under the PTD were expected to reduce costs to consumers by about 430 million a year [132]. While data is not available to measure this exact figure, trends analysed earlier in this section have shown a strong rebound in the package travel market in terms of user penetration rates, as well as a high level of consumer trust in the market.

The PTD, as described, has in some instances led to consumers receiving refunds for package travel that could not go ahead due to disturbances caused by Covid-19 or other global events. The directive has also led to many travellers getting repatriated in cases of insolvency. Though, as mentioned, this has led to increased costs, and price pressures from the side of the package travel organiser, it could have also increased the purchasing power of consumers (potentially used for further travel). It may have also created a higher perceived trust on behalf of the consumer in the package travel market.

In 2021, 81% of consumers indicated a strong level of trust in the package travel market according to the EU market monitoring survey, with 91% indicating they had had a positive purchasing experience. Though these results cannot be directly attributed to the implementation of the PTD, it does indicate a **high level of satisfaction and trust,** as well as an increased likelihood of consumers purchasing package travel in the future.

Furthermore, the PTD obliges organisers to provide **clearer information for travellers** on the type of travel product they are buying, as well as the corresponding level of protection. Studies that have investigated the impact of transparency and increased information availability on competition have typically found that increased transparency aids the functioning of the market and will lead to lower prices for the consumer[133]. This is in line with a paper discussed earlier by the European Commission that highlighted consumers' increased access to information stemming from the digitalisation of the industry. This paper noted how **increased access to information when making travel related purchases, allows consumers to better compare travel options**[134]. While the PTD is not responsible for the digitisation of the industry, it should mean that more digital providers are included under the PTD, obliging them to provide clearer information to consumers. Despite this, however, industry experts interviewed for this study were not convinced the OTD has had the desired impact on price transparency. Furthermore, as explored earlier in this report, while consumers may now have access to more information regarding their travel purchase, this in fact often leads to increased complexity for the consumer. Compliance with information obligations has therefore overall been rather low. Consequently, the contributing impact on the market is likely to be low and may require further examination.

4.6.6. Overall impact on prices

In summary, this section has outlined what factors drive prices in the package travel market and has outlined the potential ways in which the PTD has contributed. As we observed in section 4.3, overall, **the prices of package travel are increasing**. However, with the significant impact of Covid-19 on the market it is not possible to directly attribute this to the PTD. The drivers of package travel prices are complex and diverse, findings have shown that the prices are primarily driven by the prices of travel services within the package. These services have a high degree of seasonality and are also highly

[132] EU Commission, 2018. Available at: https://commission.europa.eu/system/files/2018-06/factsheet_package_holidays_2018.06_en_web.pdf.

[133] Arvid N, 1999, *Transparency and Competition*, Stockholm school of economics.

[134] Lupiáñez-Villanueva, F., Montealegre Olaya, A., Bogliacino, F.et al., 2020.

influenced by inflation levels. **The channel through which the PTD has had an impact on operator costs, and, therefore, consumer prices, is largely through overhead costs. These include refund and repatriation requirements of consumers, as well as insurance costs**. Interviewees have indicated that due to small margins on profits for providers, the increased costs outlined in this section are highly likely to be passed to consumers as higher prices over time. However, the analysis also indicates that consumers in the market are highly responsive to changes in price, therefore, providers are unlikely to raise prices above the level at which consumers would achieve a lesser price by buying a package compared to purchasing standalone travel services. It is more likely in this instance that the operator would exit the market or stop selling packages. This is of detriment to the market as it would damage competition by discouraging participation of providers. It would also harm consumers, as by purchasing standalone items they are no longer under the protection of the PTD. On the other hand, **in terms of downward pressures, the analysis indicates that the PTD's provisions may have contributed to increased transparency and consumer confidence, which may lead to increased competition among travel providers**, however more work is needed on this topic.

Overall, since the 2018 PTD changes were implemented (see section 1.1), the market has been affected by various extreme events and unforeseen circumstances. While the pandemic ultimately pushed down prices, the high inflation environment in the subsequent years has had a price-increasing effect. The analysis in this section has shown through a triangulation of data channels that the main channel in which the PTD has impacted prices in this time is through high costs taken on by package travel organisers, which in turn are passed to consumers through higher prices. Despite this, however, it is apparent that due to the pandemic and other global factors, such as the war in Ukraine, these costs have been larger than would be the case otherwise.

5. CONSUMER AWARENESS

KEY FINDINGS

In general, consumers appear aware of their rights as granted by the PTD, though awareness of the details might be lacking. For example, consumers might know that they get special documentation when booking package travel but do not know which pieces of information to look out for.

Consumers seem generally able to spot issues with price changes or non-conformity of services. Allowing them to be proactive and demanding of their rights.

However, enforcement of their rights can be difficult and lengthy as they are stalled or "ping-ponged" between providers and contact points.

Overall, consumer awareness of the PTD appears similar or slightly worse compared to awareness of passenger rights. Standardised information provision on a key information document similar to the one used in insurance services could improve the situation.

5.1. Introduction

Chapter 5 assesses consumer awareness regarding their rights granted by the PTD. As the PTD grants a large range of rights, the chapter looks at how aware consumers are of these rights in general terms and, as regards to specific rights and obligations stipulated by the PTD. It also assesses the main barriers consumers face in exercising their rights.

5.2. Methodology

The analysis contained in this chapter is based on **desk research** and **targeted expert and stakeholder consultations**. All consumer organisations, national legal experts and national consumer authorities contacted for other tasks, were also asked to provide insights relating to consumer awareness.

Whenever possible, experts and stakeholders were asked to specify consumer awareness relating to the different rights the PTD grants to consumers, but not all experts were able to give such detailed information. In addition to national legal experts, consumer organisations, national authorities and ADR bodies, the following stakeholders were contacted:

- **Umbrella consumer organisations**: The BEUC, EU Travel Tech and the Federation of German Consumer Organisations (vzbv), which is the umbrella organisation of the 16 German regional consumer organisations;
- **Consumer complaint handling organisations**: DE VZ Bayern, ECC-Net Italy, the AT Schlichtungsstelle (ADR body) and a representative from Travel-Net. These organisations were interviewed to gather insights on consumer awareness from persons dealing directly with consumer complaints in different MS, as well as cross-border issues;
- **Private sector organisations**: A major tour operator, and a large digital platform offering travel services including package travel were interviewed. Other private institutions were contacted but never replied (e.g., a travel insurance provider, another tour operator mainly selling online);
- **EU policymakers**: In addition to interviewing national consumer authorities, we interviewed the competent colleagues at EC DG JUST who provided inputs and further contacts.

Research conducted for this chapter indicates that data on consumer awareness is scarce. No representative survey or systematic review on the matter was found, at either national or EU level. When information on the topic is available, it appears consumer awareness is treated as a side topic, combined jointly with other topics.

Many of the contacted experts and stakeholders mentioned that their assessments were mostly based on impressions and anecdotal evidence, as systematic data on consumer awareness of the PTD is inexistent.

Therefore, it may be beneficial to assess consumer awareness in future work using a representative survey, which was beyond the scope of this present study.

5.3. General consumer awareness of their rights granted by the PTD

The views of experts regarding how aware consumers are of their rights, as granted by the PTD varies from "poor" to "alright" to "very good". This discrepancy in this assessment appears to correlate with the type institution consulted; organisations closer to consumers, such as ADR bodies, consumer organisations or experts dealing with consumer complaints, indicated that consumers clearly lack detailed knowledge of their rights. At the same time, national authorities and representatives from EC DG JUST felt that consumers were "well aware" of their rights. However, such statements were not backed by data, and rather were grounded in the fact that the law demands certain pieces of information be handed to consumers, who should thus be well-informed.

Mostly, it appears consumers understand when they are booking a travel package, and that they can distinguish it from individual travel bookings. This is especially the case when booking with large and well-established tour operators. However, this understanding can be challenged especially when OTAs and other intermediaries seem to suggest that consumers are booking a travel package, when in fact they are booking a series of individual services, or LTA. A number of stakeholders – from tour operators to ADR bodies and consumer organisations – have suggested that some booking platforms and travel organisers seem to design their customer journey in such a way that it feels like booking a package holiday, similar to when booking via established tour operators. However, in the end, the consumer would have booked a series of individual travel services and thus miss out on the augmented protection the PTD offers for packages. **The distinction between a package holiday, linked travel arrangements or click-through bookings generally seems unclear (see section 1.1.1. about the need to clarify the scope of the PTD)**[135].

In fact, several of the **legal experts** who analysed the PTD and their national transposition and enforcement, reported difficulties in understanding the difference between the different booking arrangements. Stakeholders and experts alike stipulated that given the difficult distinctions between definitions, it would, without a doubt make it difficult for consumers to understand the concepts, let alone act upon these definitions for enforcing their rights.

Among **consumer organisations** there was consensus that from a consumer's point of view the concept of "package travel" should be much vaster. From a consumer's standpoint all types of bookings originating from the same website or travel agency and regarding the same trip would be considered a "package". Consumers would not reason within the technical definitions of the PTD and thus not consider that LTAs, for example, require several bookings to be made within 24 hours. Instead in reality, a consumer might book a flight to get a good early-booker price, and then closer to the date, add a

[135] BEUC, 2022, How a revised Package Travel Directive can regain consumers' confidence in the tourism industry.

hotel and/or a rental car. Such bookings are often initiated via the same booking portal, or airline, and would from a consumer perspective seem like a travel package, when in fact they are not. Consumer representatives suggested that these booking realities and consumer perceptions could be accounted for by a vaster definition of package travel. The contacted tour operator mentioned that this would also contribute to a level-playing field, if all tour organisers had to offer similar levels of protection regardless of the booking processes.

Additionally, there appears to be a degree of misunderstanding among consumers. Consumer organisations and private sector representatives confirmed that some consumers confuse the concepts of "all-inclusive holidays" with "package holidays", and fail to appreciate that other types of travel combinations could give them a high-level of protection granted by the PTD. Some consumer organisations (NL) and ADR bodies (AT) therefore felt that there is a need to educate consumers further on the advantages of the PTD by telling them that combining flights with hotels or rental cars would give them access to a much vaster protection compared to, for example air passenger rights in isolation.

In comparison to air passenger rights, most experts felt that consumer awareness of rights granted by the PTD was comparable, or slightly worse. The most recent 2019 Eurobarometer dealing with passenger rights established that about half of respondents self-reported being aware of EU-established passenger rights. It appears that consumer awareness of air passenger rights has increased in recent years, however an understanding is still lacking regarding the finer details, or how to enforce rights in case of issues [136]. In contrast, tour operator representatives noted that it was "unlikely" there were any consumers left, not knowing about the EC 261/2004 regulation and attached compensation rights.

In addition, some experts claimed that for institutions and consumers alike it is difficult to navigate the overlaps between the PTD and air passenger rights. In particular regarding issues that arise with flights that are part of a package, it is unclear how and through whom the issue should be dealt with.

Overall, there appears to be a consensus that consumers are mostly aware that they have rights granted by the PTD, however there is a lack of awareness regarding the specifics of these rights. The same is true for air passenger rights. For example, consumers might sense that they have rights when something goes wrong during the trip, but do not know who to contact, where to complain, what to document and what they might be entitled to.

5.4. Specific awareness of the different types of rights and obligations granted by the PTD

Broadly, the PTD sets out the following types of rights and obligations for consumers (see chapter 1 about the implementation of the PTD):

- requirements on information disclosure and documentation (section 1.2.2);
- rights and obligations relating to price or service changes (before the trip) (section 1.2.3);
- termination of the contract (section 1.2.4);
- contract performance (rights during the trip) (section 1.2.5); and
- insolvency protection.

[136] European Commission, 2020, Study on the current level of protection of air passenger rights in the EU.

We look at each category in a separate sub-section hereafter. Additionally, we look at consumers' ability to **enforce their rights** and what might hinder them in the process.

5.4.1. Requirements on information disclosure and documentation

With regards to information disclosure and documentation it seems that most consumers are aware when they are about to purchase a travel package, and that this is linked to a particular type of documentation, in comparison, for example to a standalone flight or hotel booking.

The **BEUC** stated, however, that consumers are not aware of what they should receive or what they should watch out for.

Further, **German** and **Italian consumer organisations** stated that they have encountered few complaints in this area and that most issues, for example relating to who the package organiser is, were usually quick to resolve. Yet, they noted that most terms and condition documents were lengthy and not read in detail by consumers. This view was shared by many other interviewees.

This however, is a common problem across many sectors, and is not exclusive to (package) travel. It was also stated that this issue is accentuated by digital purchases of package travel compared to purchases done in travel agencies. **Consumer organisations in France and Romania** further claimed that with the PTD consumers were overloaded with information, which was sometimes non-transparent, too technical and not provided in plain language. These information practices were especially a problem when using small screens and when bookings were made on mobile devices.

Clearly, there is a mismatch between how well the information requirements stipulated by the PTD seek to inform consumers, and how well consumers are indeed informed. National consumer protection authorities have indicated that information disclosure and the related documentation are satisfactory and, thus, result in well-informed consumers. On the other hand, those dealing more directly with consumers instead stated that this was only true in theory. In practice, the documentation is not read and is often poorly understood. Several experts suggested that a standardised information document, like the key information document (KID) for insurance services, could significantly improve the situation (See chapter 1 for the legal analysis and the final chapter about recommendations and conclusions)[137]. Such an information document should especially clarify who the travel organiser and thus, main point of contact is. It could furthermore provide details of the main travel provisions and rights in case of service/price changes, as well as insolvency protection.

Regarding rights and obligations relating to price or service changes (before the trip), for most consumer organisations (e.g., from AT, EL, ES, FR, NL, and ADR bodies), there were few issues with these provisions of the PTD for consumers. They receive few complaints about price, or service changes made by travel organisers ahead of the beginning of the trip. The experts also felt that while consumers might not have good awareness of the precise details of which types of changes the PTD permits, they had a good intuition of what might be a non-conformity and how to demand their rights in this regard.

In **Germany** on the other hand, there is a significant volume of requests reaching the consumer organisation relating to price and/or service changes. It seems that consumers are unsure whether they needed to accept changed terms and what rights they might have if they were unhappy with the proposed changes. For example, consumers were unsure whether they could still travel under the initial package travel conditions. Consumers often contacted the organisation with the desire to take

[137] This view is supported by a scientific assessment using behavioural economics techniques: Spitzer et al., 2022, The standard information form for package travel contracts from a behavioural economics perspective. Measures For Better Consumer Information. Available at https://irihs.ihs.ac.at/id/eprint/6207/.

the trip under the old (lower) price and were unsure if, and how they could achieve this, after having been notified of a price increase. Consumers also do not know the magnitude of price changes that are permissible and what minor or major changes consist of in the context of the trip, and whether it gives them special rights to terminate a contract and demand refunds.

In **Romania**, it seems that there are many uncertainties relating to exchange rates for trips offered in other currencies, such as the Euro.

Private sector representatives said that price changes were unusual and would at most relate to increases in fuel prices, which made up only small parts of the overall package prices. Some consumer organisations mentioned that in recent years (meaning after the Covid-19 pandemic), changes in flight times have become more common and that it can be unclear for institutions and consumers at which point such schedule changes were so significant for consumers to be able to demand refunds or terminate contracts. For example, flight schedules might change by several hours, meaning that a 3-day trip could suffer significant loss (e. g., arrival in the evening rather than in the morning, or an earlier departure) while the same schedule change might have a more minor impact on a longer trip. However, currently there has been little guidance on when a flight change might constitute a major service change.

5.4.2. Termination of the package travel contract

A contract under the PTD can be, under certain conditions, terminated by the organiser or by the traveller.

Regarding **contract termination by travel organisers**, most interviewees (e.g., from AT, CZ, EL, ES, FR, NL) reported that the PTD was fit-for-purpose and that few complaints related to this area of package travel. There was consensus that refunds were usually offered, and consumers were otherwise quick to realise when something was non-conforming, becoming active in demanding their rights.

Regarding **contract termination by the traveller**, it appears that consumers are unaware of what "reasonable administrative fees" payable for requesting changes or withdrawing from the contract are. In **Germany**, these reasonable administrative fees seem to be dependent on the time at which changes, or contract termination are requested, and amount to 20-30% of the price for changes requested more than one month ahead of the trip, increasing thereafter. In other MS, like **France**, the consulted consumer organisation claimed that it was common practice that this "reasonable administrative fee" was 100% for any contract change or termination, at any point in time. This means that even correcting a typo or cancelling a trip 48-hours after booking, months before the planned trip, would result in a full price loss for the consumer, making this ability to request changes impracticable for consumers. The **Czech consumer organisation** confirmed this view, stating that organisers often rejected any changes to bookings. Furthermore, organisers would always find ways to deduct something from refunds, sometimes charging a 100% cancellation fee. The representative said that 100% cancellation fees should be banned by law as it was unrealistic that none of the paid money was irrecoverable for organisers.

In **Spain**, many consumers seem to find it unfair and difficult to understand that extraordinary circumstances or "force majeure" were only applicable to the travel organiser and to issues at the destination country. However, personal circumstances, such as unforeseeable illness, or death of a close relative, were not considered within the scope of extraordinary circumstances allowing a cancellation.

Reportedly, these issues have led consumers across the EU to purchase additional services like cancellation insurance policies (see also the issues discussed section 1.2.4 about the transfer of bookings to another person).

5.4.3. Contract performance (rights during the trip)

Among the experts who were able to report on the matter, there was consensus that consumers are aware that they have rights when something goes wrong during their trip, but that again they are unsure what these rights are and how to enact them.

For example, it seems to be a common problem that consumers are unsure who they should contact and who is responsible for rectifying a situation that has come up. For example, many consumers would contact their travel agency when in fact they should contact the tour operator. Contacting the wrong institution can also delay and worsen situations, for example, if a travel agency would not respond during a weekend and thus delay or forgo the possibility to remedy any issues.

Moreover, stakeholders often hear that consumers were "ping-ponged" back and forth between different parties. The interviewed tour operator on the other hand reported that possible contacts were, at least in their case, clearly signposted (e.g., representatives in-lieu, contacts on website, in app, in contract documentation). They confirmed that it was of utmost importance for organisers to remedy issues immediately, allowing travellers to resume and enjoy their trips.

Some representatives (e.g., from AT, CZ, DE) also reported that many complaints fail, because consumers do not understand that they need to flag any issues arising during the trip immediately and give the organisers the chance to remedy the situation. Instead, consumers would document issues (e.g., dirty hotel rooms) and request refunds after the trip which they might then not be entitled to, if they did not provide the chance to remedy first. Moreover, consumers are often disappointed about the magnitude of refunds they receive when their requests were granted. In fact, it was stated that little guidance exists regarding how much consumers would be entitled to. Representatives from different MS (e.g., AT, CZ, PL) referred to the "Frankfurt Table"[138], as the only (non-binding) existing guidance.

5.4.4. Insolvency protection

Since the insolvency of Thomas Cook[139], consumers are more aware that insolvency protection is an issue. However, whilst consumers roughly know that the money they give to providers is protected against insolvency, once again, they do not know which documentation they should watch out for. Minor (local) insolvency issues have shown that consumer awareness which may have been higher in the immediate aftermath of the Thomas Cook insolvency has indeed declined again. When an insolvency issue arises, phone lines of consumer organisations would be used heavily by worried customers fearing for their money.

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[138] The Frankfurt Table refers to rulings by the Frankfurt Regional Court from the 1980s on typical non-conformities in packaged travel. It serves as an orientation as to how much money package travellers can demand for various types of defects. (See for example, https://www.finanztip.de/frankfurter-tabelle/). The General German Automobile Club (ADAC) has collected rulings in the past 20 years confirming the initial rulings. Available at https://www.adac.de/-/media/adac/pdf/jze/reisepreisminderungstabelle.pdf?la=de-de.

[139] The British holiday tour operator Thomas Cook Group plc declared bankruptcy on 23 September 2019. The insolvency brought large media coverage and caused a lot of turmoil in the immediate aftermath as well as in the long run as travellers were stranded in holiday places and many consumers tried recovering their money. See for example: https://www.evz.de/en/travelling-motor-vehicles/travel-law/air-travel/thomas-cook-bankruptcy.html; https://www.theguardian.com/business/live/2019/sep/23/thomas-cook-travel-chaos-insolvency-leaves-150000-stranded-on-holidays-live-updates.

According to the BEUC, consumers fail to appreciate that most of the issues relating to insolvency of organisers is linked to the (unhealthy) industry practice of collecting pre-payments for travel services.

The French consumer organisation, as well as others, agreed with this view. They thus favour re-thinking the pre-payment practices rather than making the system of insolvency protection more elaborate. The French consumer organisation has referred to the lengthy process of processing refunds, mentioning that some Thomas Cook cases were still being processed or had been only recently resolved. This would erode consumer trust and confidence in the tourism market.

Since the above-mentioned Thomas Cook case, there have not been any (major) insolvency cases in recent years within the package travel sector. Hence, it is difficult to assess how aware consumers would have been if they had any issues relating to insolvencies.

5.5. Enforcement of rights

Findings in this chapter, which describe a fairly low consumer awareness of their rights granted by the PTD, have repercussions on their ability to enforce their rights. Unless companies enforce consumer rights proactively (e.g., automated refunds), consumers need to first be aware of having rights, before they can enact them. Authorities and consumer organisations alike mentioned that the legal framework provided by the PTD was theoretically good and sufficient, but that enforcement was an issue. Cultural and systematic differences heighten differences between the Member States: the litigation culture differed widely across the Member States, not all the Member States have dedicated ADR bodies, smaller countries seem to have more issues with cross-border travel offers (e.g., RO, CZ, AT, German-speaking regions in IT).

Representatives from **ADR bodies and consumer organisations** supporting consumers with complaints mentioned that only a biased subset of rather informed consumers reach their services[140]. It would be fair to assume that a larger group remains inactive because they do not know about their rights, do not know how they can enforce their rights, or do not care about enforcing them.

Good awareness of rights is often a prerequisite to filing a complaint. Complaining and enacting one's rights seems to be a leaking pipeline: among those who experience issues, only few are willing to complain, even fewer actually do complain and fewer again follow up on their complaints, and (if necessary) seek help to see their case through to the end. In fact, many consumers get discouraged along the way and eventually drop their complaints.

In this context, almost all experts argued that consumers are "ping-ponged" when they encountered and complained about issues. Consumers are discouraged by being handed from "person to person" or stalled with time-consuming practices (e.g., traders answering with automated messages, answering with long delays or not answering at all).

Generally, many experts, stakeholders and authors of reviewed documents have claimed a lack of compliance by companies – at least in delaying answers and ultimately refunds. This issue seems to be widespread as a common market practice in the airline sector, but is similarly an issue with package

[140] BEUC, 2022, Strengthening the coordinated enforcement of consumer protection rules, and European Court of Auditors (2018) EU passenger rights are comprehensive, but passengers still need to fight for them.

travel. Non-compliance due to delayed and refused refunds was extreme during the Covid-19 pandemic[141], but it exists beyond this large-scale emergency[142].

Consumers seem to feel that they cannot enact their rights on their own. Large players, as well as intermediaries (like booking platforms) seem to conform better when consumer complaints are backed by a consumer organisation, an ECC-net, or and ADR body.

For example, some consumer organisations (ECC-net, DE) mentioned that it sometimes suffices to add the consumer organisation's email address in carbon copy (cc) to give weight to the consumer complaint. Very informed consumers, in particular seem to use this kind of tool. According to experts, this highlights how some tour organisers are aware of consumer rights but seem to systematically try to avoid complying with them.

Those Member States who have a specialised ADR body that takes care of PTD-related cases were usually happy with their work (e.g., France), stating that they effectively helped resolve consumer issues. Yet, it was mentioned that the ADR system was flawed for consumers in cross-border cases, as the case would need to be filed in the country of the trader, which is often not identical to the home country of the consumer. Also, ADR was often too complex or too costly for consumers to take on[143].

In addition, it was also mentioned that ADR worked better at times for air passenger rights, and that the PTD was often not covered by national ADR bodies.

Finally, a representative from TRAVEL net[144], a network of various national ADR bodies who work on travel related cases, stated that awareness and usage of ADR varied immensely across countries. For example, he estimated that France, as a country with a well-established and effective ADR body, would receive significantly more claims than were justified by country and market size compared to, for example, Austria or Sweden.

Generally, there appears to be a consensus that non-compliance is too easy for the industry, as fines or other forms of punishment for misconduct are often absent or not enforced.

[141] BEUC, 2020, Covid-19 and EU travellers' rights, Evaluation of the Member States Implementation of the EU Commission Recommendation on 'vouchers'.

[142] Centre Européen des Consommateurs (FR), 2020, Le CEC France alerte sur les plateformes de réservation en ligne.

[143] BEUC, 2022, Alternative dispute resolution for consumers: time to move up a gear.

[144] Mode details at: https://soep-online.de/die-partner/.

6. KEY FINDINGS AND CONCLUSIONS

The following are key findings and recommendations derived from the study.

6.1. Harmonise and update the definitions of package travel services and LTAs

Our study shows that **the definitions of package travel services and LTAs require revision** from the EU level to adapt to the rapidly evolving travel industry. Despite the 2018 revision of the traditional "package travel" definition, which aimed to achieve this objective, our study presents compelling evidence that the revised "package travel" and newly introduced "LTA" definitions fall short of their intended purpose. They do not fully encompass the **new forms of travel arrangements** emerging in the industry, nor do they adequately address the involvement of multiple intermediaries. Furthermore, **the delineation between the two definitions is not sufficiently clear**.

Considering these shortcomings, it is crucial to update both definitions to ensure consumer protection is extended to cover emerging practices and to foster legal certainty among all stakeholders. By revising the definitions, a more comprehensive framework can be established, which accurately reflects the current landscape of the travel industry and addresses the challenges posed by new and evolving business models.

The revised definitions should cover the diverse range of travel arrangements that have emerged in recent years, such as dynamic packages and **OTAs**. It is imperative to include these variations within the definitions to ensure that consumer rights and protections extend to these types of travel arrangements. This will also promote fair competition among travel industry players and prevent regulatory loopholes that may put consumers at a disadvantage.

Additionally, the involvement of multiple intermediaries in modern travel arrangements necessitates clear guidelines and responsibilities for each party involved. The revised definitions should establish a framework that clarifies the roles and obligations of travel organisers, intermediaries, and providers, ensuring that accountability and liability are properly allocated among them. This will help establish a level playing field and enhance legal certainty for all stakeholders involved in the travel ecosystem.

Furthermore, **clear delineation between package travel services and LTAs** is essential to avoid confusion and inconsistency. The updated definitions should provide unambiguous criteria to differentiate between the two concepts, considering factors such as the level of customisation, the degree of control by the traveller, and the integration of various travel components. A well-defined distinction will facilitate effective implementation and enforcement of the regulatory framework, promoting harmonisation across EU Member States.

Thus, we recommend revising the definitions of package travel services and LTAs at the EU level to adapt to the evolving travel industry. By updating these definitions, traveller protection can be extended to cover emerging practices, legal certainty can be enhanced among all stakeholders, and consistency can be ensured across the EU. It is imperative to encompass new forms of travel arrangements and the involvement of multiple intermediaries, while providing clear delineation between package travel services and LTAs. This will create a robust regulatory framework that safeguards consumer rights, fosters fair competition, and addresses the challenges posed by the dynamic travel landscape.

In light of these shortcomings, it is crucial to update both definitions to ensure consumer protection is extended to cover **emerging practices in digital environments** and to foster legal certainty among all stakeholders. By revising the definitions, a more comprehensive framework can be established,

which accurately reflects the current landscape of the travel industry and addresses the challenges posed by new and evolving business models.

The revised definitions should consider the diverse range of travel arrangements that have emerged in recent years, such as **dynamic packages, pricing, OTAs and other intermediaries**. It is imperative to include these variations within the definitions to ensure that travellers' rights and protections extend to these types of travel arrangements. This will also promote fair competition among travel industry players and prevent regulatory loopholes that may put consumers at a disadvantage.

Additionally, the involvement of **multiple intermediaries in modern travel arrangements** necessitates clear guidelines and responsibilities for each party involved. The revised definitions should establish a framework that clarifies the roles and obligations of travel organisers, intermediaries, and providers, ensuring that accountability and liability are properly allocated among them. This will help establish a level playing field and enhance legal certainty for all stakeholders involved in the travel ecosystem, that precontractual information is essential for travellers in package travel contracts under the PTD. It enables informed decision-making, promotes transparency, protects consumer interests, clarifies rights and obligations, helps avoid disputes, and ensures compliance with legal requirements. Access to comprehensive and accurate precontractual information empowers travellers to make well-informed choices and enhances their overall experience when booking and participating in package holidays.

6.2. Pre-contractual information form

Our research confirms that pre-contractual information is essential for travellers under the PTD. It enables informed decision-making, promotes transparency, protects consumer interests, clarifies rights and obligations, helps avoid disputes, and ensures compliance with legal requirements. Access to comprehensive and accurate pre-contractual information empowers travellers to make well-informed choices and enhances their overall experience when booking and participating in package holidays[145].

Accordingly, we propose a **review of Annexes I and II of the PTD** to develop a **new pre-contractual information form** that incorporates key information for travellers in a clear and accessible manner. The objective is to enhance transparency and provide travellers with accurate details that enable them to make informed decisions and understand their rights and obligations. To achieve this, the new pre-contractual information form can include various elements such as concise textual information, visual aids, and infographics. This multi-faceted approach aims to present the essential information for travellers in a user-friendly and easily understandable format.

One crucial aspect to consider is the inclusion of information about pricing and payments. The form can provide a breakdown of the package price, clearly specifying what is included and any additional costs that travellers may incur. This can help avoid misunderstandings and ensure transparency regarding the financial aspects of the package. Visual aids, such as graphs or charts, can be employed to present this information in a visually appealing and comprehensible manner.

Another key element to incorporate is information about termination. Travellers should be provided with clear details regarding their rights to cancel or modify the package, any associated fees or penalties, and the procedures for doing so. Visual aids, such as timelines or flowcharts, can assist in illustrating these processes and making them more accessible to travellers.

[145] Loos M., 2016.

Additionally, **the pre-contractual information form can include information about insurance schemes and alternative dispute resolution (ADR) schemes**. Travellers should be informed about the availability and coverage of travel insurance, including any optional add-ons. A summary of the ADR schemes that travellers can resort to in case of disputes can also be included, outlining the process and how to access such mechanisms. Visual aids, such as icons or symbols, can be utilised to convey this information effectively.

The overall aim of designing this new pre-contractual information form is to enhance transparency, accessibility, and clarity for travellers. By presenting key information through a combination of text, visuals, and infographics, travellers will have a comprehensive understanding of pricing and payments, termination procedures, insurance schemes, and ADR options. This empowers travellers to make well-informed decisions, be aware of their rights and obligations, and navigate the package travel process with confidence.

6.3. Package Travel Contract

The research has highlighted that, when entering package travel contracts or LTAs, travellers are not adequately aware of **legal risks**. For example, changes or cancellations made by the organiser without proper justification or suitable alternatives can also pose legal risks for travellers. Lack of contractual clarity may create confusion regarding rights and responsibilities, while the insolvency of the travel organiser can result in financial loss. Disputes and legal proceedings, as well as challenges related to jurisdiction and applicable law, further add to the legal risks travellers may face.

To mitigate, we suggest the following recommendations.

Package travel contracts and LTAs should have clear, concise, and comprehensive terms and conditions. The contractual terms should explicitly outline the scope of the package, the included services, any optional extras, cancellation and refund policies, and the rights and responsibilities of both travellers and travel organisers. It is thus crucial to promote the adoption and the sharing of the **best practices** in this respect from the travel industry in the EU.

The study suggests limiting the prevalent practice of package travel organisers asking for **full pre-payment of package travel**. While pre-payment is common, it can expose consumers to excessive risks, if there are service disruptions, cancellations, or insolvency of various travel providers in the travel supply chain. By reassessing this business model, alternatives that offer greater consumer safeguards can be explored. The study acknowledges the need to address the issue of pre-payment by consumers and suggests limiting the pre-payment and/or evaluating alternative payment structures. This evaluation aims to strike a balance between the needs of travel organisers to keep their costs manageable and the protection of consumer interests against the (long-term) loss of access to their funds, ultimately promoting fair and transparent payment practices in the package travel sector.

Our analysis also highlights the importance of reviewing issues related to the performance of package travel contracts for refunding consumers. Measures should be in place to enhance financial protection for travellers. Travel organisers should be required to provide adequate effective safeguards, such as **mandatory insurance protection schemes, or public funds**, to protect traveller funds in case of financial failure. Clear information about the financial protection scheme and the steps to access compensation should be provided to travellers in a transparent manner.

In addition to the measures mentioned above, it is important to address the issue of **vouchers** and provide further protection for travellers. Vouchers have become a common alternative to cash refunds in situations where travel plans are disrupted, such as during the Covid-19 pandemic. While vouchers can be a practical solution, the study also notes that, ensuring their reliability and protecting consumer

rights is crucial. When offering vouchers as compensation or alternative payment, it is essential for travel organisers and intermediaries to provide clear and transparent terms and conditions. These should include information on voucher validity, transferability, and any potential limitations or restrictions. This clarity ensures that travellers fully understand their rights and can make informed decisions. Establishing **guidelines** that outline the responsibilities of travel organisers and intermediaries in issuing vouchers, as well as mechanisms for dispute resolution, can help safeguard consumers.

Finally, by encouraging **responsible business practices** and establishing **sufficient compensation mechanisms for** consumers, and also for **redress claims within the travel supply chain**, the responsibilities of various stakeholders can be distributed, and package travel costs kept low.

6.4. Enhance transparency of OTAs and other intermediaries

The relevance of **Online Travel Agencies (OTAs)** and other intermediaries in the travel industry cannot be overstated. The research has shown that they now play a vital role in providing travellers with transparent and accurate information about individual travel services, pricing, terms, cancellation policies, and associated risks. This information is crucial for building trust, confidence, and facilitating comparisons among consumers. However, achieving consistency and reliability in presenting this information across different online providers and dynamic packaging scenarios can be challenging. The newly adopted Digital Services Act (DSA) offers potential solutions to address these challenges. In this paper, we explore the importance of transparency, consistency, and consumer protection in online travel booking, focusing on dynamic packaging and user reviews, and propose guidelines and measures to enhance consumer trust and confidence.

Dynamic packaging, which involves combining travel services from multiple providers to create personalised packages, presents unique challenges in implementing the PTD. To ensure compliance with consumer protection regulations, it is essential to establish European-level guidelines and standards specifically tailored to dynamic packaging scenarios. These guidelines should address issues related to varying terms and conditions, involvement of multiple parties, and the need to protect consumer rights throughout the process. By establishing clear guidelines, consumers can have confidence that their rights are protected, and consistent standards are upheld, regardless of the complexity of the package.

User reviews and feedback on OTAs often play a significant role in influencing consumer decision-making. However, the reliability and trustworthiness of these reviews can be compromised by misleading or fraudulent practices. To address this, it is crucial to implement measures to verify and moderate reviews, ensuring they are trustworthy, reliable, and unbiased. Platforms should facilitate the adoption of an EU-level code of conduct for reviews of travel services, which includes guidelines for verification, moderation, and dealing with misleading or fraudulent reviews. By taking these steps, OTAs can provide reliable information to potential travellers and enhance consumer protection, fostering a more trustworthy online travel booking environment.

The changes introduced by the **DSA** have the potential to significantly improve the market's position regarding transparency, consistency, and consumer protection in online travel booking. The DSA, with its focus on user-generated content and third-party responsibilities, offers an opportunity to address the challenges associated with user reviews and ratings. Moreover, the MD emphasises the need for OTAs and other intermediaries to take measures to combat illegal content and enforce compliance with consumer protection laws. These legislative developments should be further reviewed in a **two-year timeframe** to evaluate their effectiveness and identify areas for improvement.

6.5. Improving the Enforcement for Travellers' Rights

The Study confirms that **national and regional consumer protection authorities** have competence to oversee compliance with the PTD. They have the authority to review contractual terms and conditions, monitor advertising practices, and impose fines for non-compliance. However, there are still variations in the fines (for the breaches of **UCTD, UCPD and CRD**, under the MD, with respect to package travel services) and procedures across the selected Member States, leading to disparities in the level of protection for travellers' rights[146].

To ensure a consistent and effective enforcement approach, there is a need for the Member States to provide adequate resources and enforcement powers to these authorities. Additionally, enhancing cooperation and coordination among the enforcement bodies can address issues of non-compliance and strengthen the protection of travellers' rights.

Furthermore, the Study identifies several challenges in **private enforcement**, such as the burden of proof placed on travellers, the potential costs associated with legal action, and variations in civil and administrative procedures across domestic jurisdictions. These issues could be better addressed at national level. Enhancing the effectiveness of **ADR** may represent a possible solution.

Collective redress mechanisms have the potential to address systemic issues and breaches of travellers' rights under the PTD. By bringing together multiple travellers facing similar issues, collective redress actions can hold travel organisers and retailers accountable and contribute to raising standards and improving consumer protection. However, the study highlights that collective redress of travellers' rights under the PTD remains limited in the selected jurisdictions, mainly due to procedural factors and national laws. To unlock the full potential of collective redress, it is recommended that Member States promote its use, provide guidance and support for consumer associations, and ensure accessible and efficient mechanisms for resolving collective disputes. This will be newly possible with the implementation of the Representative Actions Directive across the EU. However, again, its effectiveness for the travel sector should be re-assessed in the coming two years.

Additionally, **cross-border enforcement of travellers' rights** presents challenges due to different legal systems, procedural differences, and language barriers. Pursuing cross-border cases can involve additional costs and complexities, discouraging travellers from seeking redress. To overcome these challenges, better collaboration among the Member States is needed to ensure consistent enforcement and interpretation of the PTD. Sharing best practices, exchanging information, and coordinating efforts can address the challenges arising from package travel involving multiple countries. Clear guidance on cross-border rights and available legal remedies, along with the support from the European Consumer Centres (ECCs), can assist travellers in navigating the complexities of cross-border disputes[147].

6.6. Promote the use of ADR and ODR

This study shows that ADR is an underutilised tool in enforcing the PTD. Although it has the potential to offer quicker and more cost-effective resolution of disputes, its use remains limited. The stakeholders agree that it has the potential to offer quicker and more cost-effective resolution of disputes between consumers, travel organisers, and agents[148].

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[146] Luzak J. A., 2016.

[147] Chen Z., 2021, *The Tango Between Art.17(3) Brussels Ibis and Art.6(4)(b) Rome I under the Beat of Package Travel Directive*, *Maastricht Journal of European and Comparative Law*, 28(6), 878–899.

[148] Torres C., et others, 2020.

However, according to our findings, the utilisation of ADR remains limited. The study emphasises the importance of promoting the use of ADR, recommending increased awareness among stakeholders and improvements to national ADR schemes' accessibility and effectiveness. Additionally, it highlights the need to raise awareness among consumers and businesses about the benefits of ADR and Online Dispute Resolution (ODR) mechanisms in resolving package travel disputes. The provision of adequate support and resources by Member States is vital to ensure consumers can access specialised ADR bodies and receive assistance throughout the process.

To promote the use of ADR, it is crucial for Member States to increase awareness among consumers. They should undertake awareness campaigns, disseminate information through various channels, and collaborate with industry associations and consumer protection organisations to promote the benefits and accessibility of ADR[149].

Also, it is important that the Member States play a crucial role in providing support and resources for consumers to access **specialised ADR bodies**. This support should include clear information on the available ADR options, their benefits, and the procedures involved. Consumers should be made aware of their rights to pursue ADR and should receive assistance in navigating the ADR process, particularly when dealing with complex travel-related disputes.

Additionally, we also suggest the Member States to consider **establishing specialised ADR bodies or specialised committees within general ADR bodies** for resolving travellers' rights issues in the national jurisdictions that are dealing with many complaints. In this respect, the Member States may consider **introducing mandatory ADR** to assure a wide participation by travel organisers and streamline dispute resolution processes and ensure more efficient and effective outcomes in enforcing the PTD. Moreover, introducing **binding ADR decisions** means that the outcome of the ADR process would be final and enforceable. This provides certainty to the parties involved, reduces the costs and delays associated with lengthy court proceedings, and promotes quicker resolutions.

[149] Recitals 43 and 49 ADR Directive; Article 7(1)(n), Article 9(3) ADR, Article 10(2) Directive.

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ANNEX 1: RESULTS OF THE WEBSITE SWEEP

The next table shows the full analysis of each website for the categories total price of the package, cancellation reimbursements fee and deadline, and customers being informed that they are protected according to the PTD. The results of the website sweep for the other categories can be found in the Excel document in ANNEX 3. The document includes also screenshot that visually show what and how the information is provided in the package travel booking process.

Table 5: Full market analysis of websites for the categories total price of the package, cancellation reimbursements fee and deadline, and customers being informed that they are protected according to the PTD

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
#	website	type of package	country	Is the information provided?	how many clicks from the search page to get the information	comment on clarity of information	Is the information provided?	how many clicks from the search page to get the information	comment on clarity of information	Is the information provided?	how many clicks from the search page to get the information	is the information provided directly on the website, or in the terms and conditions?	comment on clarity of information
1	Booking.com	Flight plus Accommodation	EU	yes	0	the price is shown only per person	yes	2	it says that the reimbursement is possible only for accommodation expenses, but not for flight expenses it would be advisable to have a combined, consistent reimbursement policy	yes	3	website	customers informed just at the very end, in small font, about their protection according to the PTD
2	Ryanair.com	Flight Plus Car	EU	no	1	separate price for flights and car rental shown	no		no information provided about cancellation of the package	no		N.A.	no. Just in the terms and conditions it is mentioned that costumers will be informed afterwards if the services they purchased are considered a package. This is inconsistent with the PTD

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
3	Transavia.com	Flight Plus Accommodation	EU	yes	0	only price per person shown		2	information on cancellation policy provided only for the hotel and not for the package. Moreover, for the hotel it is clear that some rooms are not-refundable, while the cancellation policy for other rooms is not understandable (see screenshot)	no		terms and conditions	customers are not informed that they are protected according to the PTD, unless they read the terms and conditions
4	Tui.nl	Flight Plus Accommodation	NL	yes	0	the price is shown only per person moreover, in smaller font it says that 40 extra euros need to be paid	no			no		N.A.	protection according to the PTD not mentioned even in terms and conditions
5	cheaptickets.nl	Flight Plus Accommodation	NL	yes	0	the price can be shown both per person and in total. However, the default option is per person	no			yes	0	website	immediately before search results it is shown that the customer is protected according to the PTD however, no detailed information (e.g., on cancellation

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
													deadline and fee) are shown later on in the purchasing process. Therefore, the customer knows that they are protected according to the PTD, but they are not told in which this consists.
6	d-reizen.nl	Flight Plus Accommodation	NL	yes	0	the price is shown only per person in smaller font it mentions extra fees not included in the shown price	yes	5	cancellation fee and deadline described very clearly, but just before paying	yes	5	website	customers informed just at the very end, in small font, about their protection according to the PTD
7	Vueling	Flight Plus Car	ES	no	1	separate price for flights and car rental shown	yes	2	cancellation information provided only for the flight and not for the package. No possibility of free cancellation envisaged unless "premium" option purchased	no		N.A.	no information about consumers protection according to the PTD provided.
8	Viajes el Corte Ingles	Flight Plus Accommodation	ES	yes	0	the price per person is shown more clearly than the total price	yes	1	cancellation fee and deadline described very clearly. However, they apply only to the	no		N.A.	in the website it is not mentioned that customers are protected according to the PTD directive. Not

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
									accommodation and not also to the flights				even in the ToR any reference to the PTD is made
9	Iberia	Flight Plus Accommodation	ES	yes	0	the price per person is shown more clearly than the total price	yes	4	cancellation policy for the whole package described clearly	yes	5	terms and conditions	customers informed just in the ToR about their protection according to the PTD
10	Expedia.it	Flight Plus Accommodation	IT	yes	0	the price per person is shown much more clearly than the total price they add the disclaimer that the size of the fee they receive from the facility influences the accommodations list order	yes	2	the reimbursement policy is shown just for hotel it would be advisable to show a combined (for the whole package, in this case flight + hotel) cancellation policy	yes	7	website	customers informed just at the very end, in small font, about their protection according to the PTD

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
11	Edreams.it	Flight Plus Accommodation	IT	yes	0	loyalty price shown much more clearly than standard price; also, price is shown per person	yes	2	the reimbursement policy is shown just for hotel; it would be advisable to show a combined (for the whole package, in this case flight + hotel) cancellation policy; moreover, some information about cancellation is shown clearly (i.e., the fact that the reservation is refundable or not). However, other information is shown less clearly (i.e., the cancellation deadline to be fully reimbursed)	yes	7	website	customers informed just at the very end, in small font, about their protection according to the PTD
12	aegeanair.com	Flight Plus Accommodation	EL	yes	0	the price per person is shown more clearly than the total price	yes	2	it shows clearly that the customer gets a full refund on the package if they cancel at least 15 days in advance	yes	4	terms and conditions	information is only provided in the terms and conditions (which can be accessed through a link immediately before payment)
13	Esky.gr	Flight Plus Accommodation	EL	yes	0	only price per person shown	no			to some extent	4	terms and conditions	links to **hotel booking conditions** and **flight booking conditions** shown separately immediately before payment (see screenshot) moreover, customers do not

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
													know about their rights until they click on the link of **terms and conditions** and they get until the Annex
14	govoyage.com	Flight Plus Accommodation	FR	yes	0	loyalty price shown much more clearly than standard price; also, price is shown per person	yes	1	information on cancellation policy provided only for the hotel and not for the package	yes	7	website	customers informed just at the very end, in small font, about their protection according to the PTD
15	Expedia.fr	Flight Plus Accommodation	FR	yes	0	the price per person is shown much more clearly than the total price. They add the disclaimer that the size of the fee they receive from the facility influences the accommodations list order	yes	2	the reimbursement policy is shown just for hotel. It would be advisable to show a combined (for the whole package, in this case flight + hotel) cancellation policy	yes	7	website	customers informed just at the very end, in small font, about their protection according to the PTD

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
16	check24.de	Flight Plus Accommodation	DE	yes	0	the total price is shown clearly	yes	2	information on cancellation policy provided only for the hotel and not for the package	yes	5	terms and conditions	customers informed just at the very end, in small font, not even about their protection according to PTD, but just about the existence of an EU directive. Just in the separate document it is mentioned that customers are protected according to the directive
17	fluege.de	Flight Plus Accommodation	DE	yes	0	only price per person shown	no		just cancellation insurance options is provided	yes	3	website	customers informed just at the very end, in small font, about their protection according to PTD
18	Eurowings.com	Flight Plus Car	DE	no	1	separate price for flights and car rental shown	yes	2	cancellation information provided only for the flight and not for the package. No possibility of free cancellation envisaged unless "premium" option purchased	no		N.A.	no information about consumers protection according to the PTD provided.
19	esky.pl	Flight Plus Accommodation	PL	yes	0	only price per person shown	no			yes	3	terms and conditions	information is only provided in the appendix of the terms and conditions (which can be accessed through a link immediately before payment)

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
20	wakacje.pl	Flight Plus Accommodation	PL	yes	0	only price per person shown	no			yes	5	terms and conditions	Information is only provided in the terms and conditions (which can be accessed through a link immediately before payment)
21	itaka.pl	Flight Plus Accommodation	PL	yes	1	the price per person is shown more clearly than the total price	no		just cancellation insurance options are provided	no		N.A.	
22	letuska.cz	Flight Plus Accommodation	CZ	yes	1	the total price is shown clearly	no			no		N.A.	
23	blue-style.cz	Flight Plus Accommodation	CZ	yes	0	the total price is shown clearly	no			yes	3	website	customers informed just at the very end, in small font, about their protection according to PTD
24	invia.cz	Flight Plus Accommodation	CZ	yes	1	only price per person shown	no		just cancellation insurance options are provided	yes	6	terms and conditions	Information is only provided in the terms and conditions (which can be accessed through a link immediately before payment)

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
25	vola.ro	Flight Plus Accommodation	RO	yes	0	only price per person shown	no			yes	6	terms and conditions	oddly enough, in the terms and conditions it is mentioned that the customer is protected according to Swedish law, and the supposed English version of the law is provided through a link. However, this link is to the PTD
26	esky.ro	Flight Plus Accommodation	RO	yes	0	only price per person shown	no			no		N.A.	
27	tui.fi	Flight Plus Accommodation	FI	yes	0	the total price is shown clearly	no		just cancellation insurance option is provided. On a positive note, the website allows to pay just a small share upfront and remaining big part right before the holiday starts (good from the point of view of potential reimbursement)	yes	5	website	customers informed just at the very end, in highlighted font, about their protection according to PTD
28	Norwegian.com	Flight Plus Accommodation	EU	yes	0	only price per person shown	no		just cancellation insurance option is provided	yes	6	terms and conditions	oddly enough, in the terms and conditions it is mentioned that the customer is protected according to Swedish law, and the supposed English version of the law is provided through a link. However, this link is to the PTD

General Information				The total price of the package			Cancellation reimbursements fee and deadline			Customers being informed that they are protected according to the PTD			
29	ebookers.com	Flight Plus Accommodation	FI	yes	0	the price per person is shown more clearly than the total price	yes	2	information on cancellation policy provided only for the hotel and not for the package	yes	5	website	customers informed just at the very end, in small font, about their protection according to PTD
30	airbaltic.com	Flight Plus Accommodation	FI	yes	0	only price per person shown	no	4	just cancellation insurance option is provided	yes	6	terms and conditions	oddly enough, in the terms and conditions it is mentioned that the customer is protected according to Swedish law, and the supposed English version of the law is provided through a link. However, this link is to the PTD

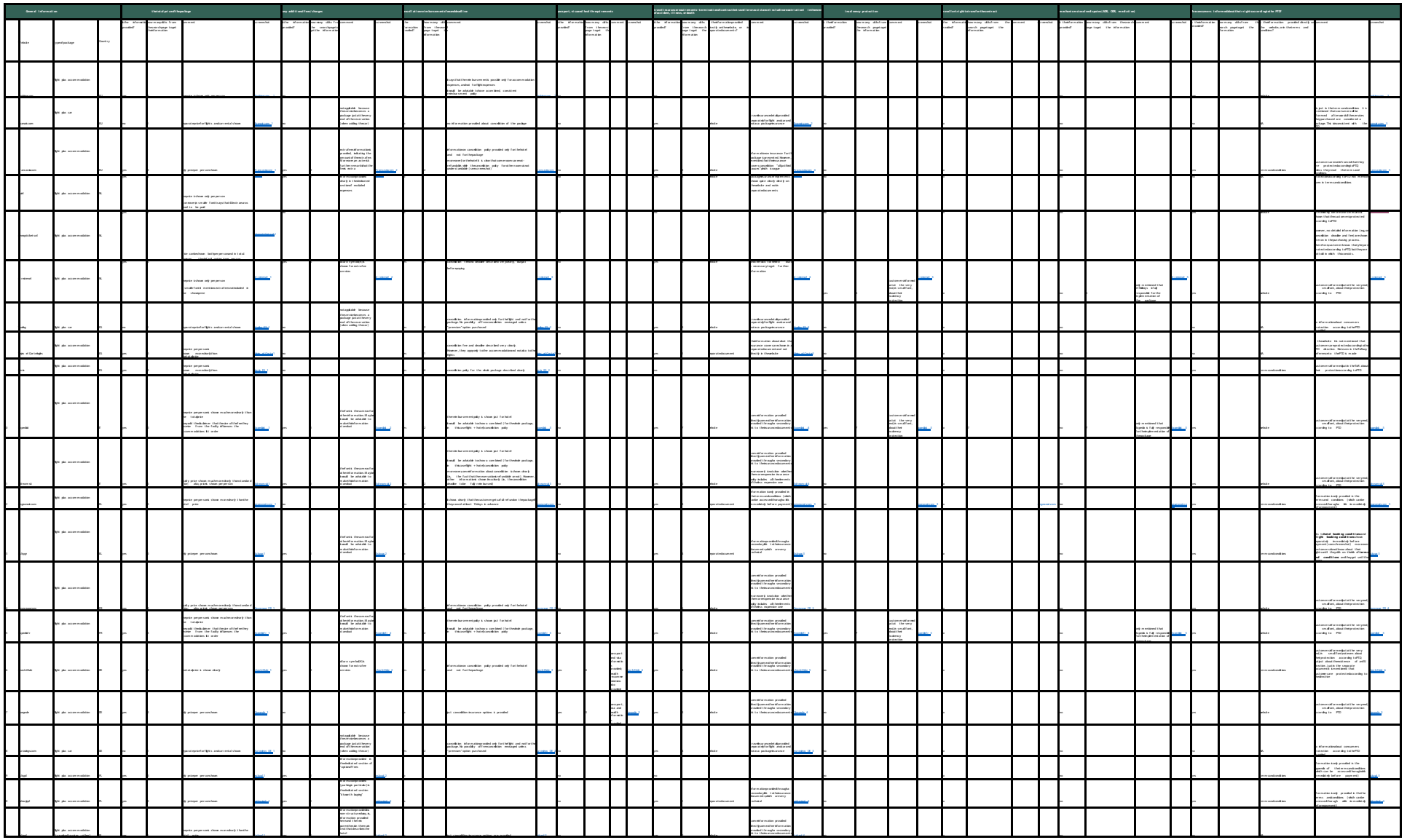
Source: Authors own elaboration based on travel websites' information.

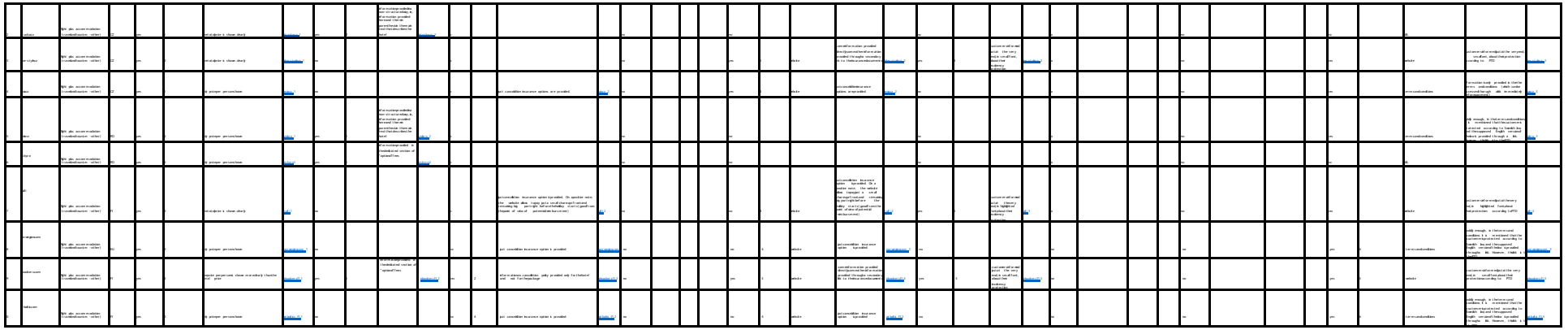
ANNEX 2: QUESTIONS ASKED TO CONSUMERS' ORGANISATIONS

The box below shows the questions asked to consumers organisations in the context of Task 1.

1. What are the **most problematic travel agencies' practices** for consumers? **What are the main issues consumers face:**
   a. when **buying or attempting to buy packaged travel** (e.g., are additional fees clearly pointed out? Is the information provided in a clear way? Is the information (e.g., on cancellation policy) provided directly or indirectly through links to other web pages? Are mechanisms to solve disputes (ADR, ODR, mediation) presented?)
   b. while **travelling with a package travel tour**?
   c. when experiencing **non-conformity, price changes, contract termination or the organiser's insolvency**?
   d. when trying to **transfer the contract**?
   e. when **exercising their rights under the PTD**?
2. Have the provisions of the PTD (or the implemented national legislation) implemented in 2018 **improved** consumers' protection?
3. Are consumers **sufficiently aware of their rights under the Package Travel Directive**?
4. Is the **concept of a package travel** (in distinction to separate flight or rail bookings and in distinction to linked travel arrangements) **understandable and familiar to consumers**?
5. What are the **main shortcomings** of the PTD (and the national legislation implementing the Directive) with regards to ensuring a high level of protection for consumers purchasing or attempting to purchase travel packages and linked travel arrangements?
6. What **recommendations** would you make to foster the effectiveness of the Package Travel Directive, and to address any gaps that you may have identified?
7. Should there be **additional provisions** on enforcement and fines in the Directive, to ensure that travel agencies respect their obligations to travellers?

ANNEX 3: EXCEL DOCUMENT SHOWING WEBSITE SWEEPS RESULTS





Source: Authors own elaboration.

This study evaluates the implementation and enforcement of the Package Travel Directive (PTD) in the EU with a focus on ten EU Member States. It identifies areas for improvement, such as adapting the definition of package travel to accommodate evolving industry trends, addressing pre-contractual information gaps, improving payment practices, tackling challenges in the digital environment, enhancing enforcement mechanisms, promoting alternative dispute resolution, and increasing consumer awareness. The study aims to enhance the PTD's effectiveness, protect travellers' rights, and foster a consumer-friendly package travel market in the EU.

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