

European Insolvency Protection Implementers' Views on Package Holiday Directive Progress

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Introduction

European holidaymakers have benefited from the protections provided by Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (PTD) for over twenty years. A key part of this protection is against the insolvency of holiday sellers and holiday providers, and different Member States have developed a range of different systems to allow businesses to provide the protection required. This means that insolvency protection is provided in various ways, from mutual funds to bank guarantees and insurance products, and is managed by a variety of different organisations, from government agencies to commercial entities.

In order to ensure that the experience of these different stakeholders ('the implementers') in the provision of insolvency protection informs the ongoing development of the new Directive, two workshops have been held: the first, in November 2013 produced a report¹ of recommendations based on the original proposal. The second workshop, in October 2014, considered the progress that had been made through the co-decision process and potential solutions to current concerns. The outcome of the second workshop is captured in this report, which contains a number of messages on which there was broad agreement between attendees and a number of recommendations and conclusions, highlighted in the text, where there was a firmer consensus of opinion. 'Broad agreement' does not mean that every implementer held the view. Where only one or a few held the view, the text indicates this. The views represent the outcome of the workshop, and are not intended to represent the views of individual organisations or Member States. Full details of organisations represented at the event can be found at Annex A.

Our hope is that these messages and recommendations will inform the further development of the Directive towards agreement and the implementation process that will follow.

1 <http://www.caa.co.uk/application.aspx?catid=33&pagetype=65&appid=11&mode=detail&id=6023>

Context

The existing and proposed Directives are justified by the protection they give to consumers and the assistance they give to the creation of an effective internal market. The proposed Directive is best judged by assessing how far it sustains and builds upon the current legislation's effectiveness in these areas.

As part of the workshop, attendees reviewed the extent to which changes in the Directive proposed in EU Parliament and Council Working Groups had begun addressing some of the concerns the implementers identified in their first workshop. All attendees recognised that there has been considerable progress with some of these issues; in particular proposals to ensure that businesses selling directly into Member States from non-EEA countries are subject to the Directive, and requirements for the provision of information about insolvency protection at the time of booking.

Where it was felt more work was needed, the workshop focussed on what the implementers could suggest to legislators, and how we might work together as a group to address these concerns. The following broad themes emerged:

- Scope;
- Standards of insolvency protection;
- Mutual recognition and trans-border sales; and
- Information requirements.

In each of these areas, attendees identified a number of common concerns and potential ways of addressing them.