

PASSENGER AND HOLIDAY MAKERS' RIGHTS

How to ensure upcoming reforms fill the gaps?

Passengers Rights Regulations and the Package Travel Directive (PTD) give important protections for consumers. But the pandemic, market developments, and the emergence of multimodal journeys have highlighted the need to update existing rules and create new protections.

In 2021, the European Commission announced a new initiative called 'Better protection for passengers and their rights'. BEUC welcomed it as it focused on long-standing issues for consumers: lax enforcement, the need for rules for online intermediaries, the lack of airline insolvency protection for standalone air tickets, no right for consumers to cancel their standalone tickets in extraordinary circumstances, or the lack of passenger rights in multimodal transport. The Commission also announced a review of the PTD.

Here are seven key points for policymakers to ensure better consumer protection, correct structural problems, and to create a more resilient travel industry.



1

STRONGER ENFORCEMENT

Travellers' basic rights are often not respected, and consumers face difficulties enforcing them. Innovative solutions to empower and better protect them are needed. Making reimbursement/compensation claims is often too complicated, time consuming and with too many obstacles for consumers. This is why automatic refund and compensation schemes are needed. It would reduce the administrative burden for consumers, airlines, and enforcement bodies (NEBs) – as recommended by the EU Court of Auditors. Participation in alternative dispute resolution (ADR) schemes should also be mandatory and their decisions – and those of NEBs – should be binding on airlines, tour operators and intermediaries. They should apply equally to all travellers on the flight or the package who suffered the same disruption. Those flouting the rules should face deterrent sanctions (e.g., fines based on turnover).¹

2

CLEAR RULES ON INTERMEDIARIES

The pandemic further highlighted lack of rules for online intermediaries and the direct consequences on consumers. Travellers are ping-ponged between traders for their refunds. Currently, some consumers are still waiting for refunds for cancelled flights in 2020. A review of passenger rights regulations and the PTD should introduce a joint and several liability between the online intermediaries and the transport operators, allowing consumers to direct their claim to both actors. Further rules and liability for intermediaries toward consumers should also be introduced (e.g., who is responsible for compensation claims, information or rerouting).

3

MULTIMODAL PASSENGER RIGHTS

The new initiative will consider introducing a multimodal passenger rights framework, which is positive. Currently, when consumers combine different modes of transport, **they are not protected for the whole journey by harmonised rights**. They are fully dependent on ticket terms and conditions and potential agreements between operators. This leaves consumers in the dark about key protections: which operator should provide information and re-routing options in case of disruption, etc. Multimodal passenger rights are essential to promote multimodality but should be regulated by law, not by inter-company agreements.

¹ Similar constructions already exist in multiple consumer protection legislation like the Directive (EU) 2019/2161 as regards the better enforcement and modernisation of Union consumer protection rules, the Digital Services Act (DSA), GDPR, etc.

4

A CONSISTENT APPROACH ON INSOLVENCY PROTECTION

When airlines go bust, passengers can be left stranded and without a refund. There were [87 airline insolvencies](#) from 2011-2019, affecting 5.6m consumers. On average, passengers lost €431, 87% of which was not recoverable because there are no mandatory protection schemes. The pandemic further highlighted the fragility of airlines, many of whom would probably have gone bankrupt without significant [state aid](#). To protect consumers, a mandatory insolvency protection mechanism should be introduced in aviation, as the [European Parliament](#) and the [European Court of Auditors](#) have repeatedly called for. Inspiration can be drawn from the Danish insolvency protection [scheme](#) for airlines, and from the [package travel sector](#) where such mechanisms have long been in place.

5

THE RIGHT TO CANCEL AT NO COST IN CASE OF “EXTRAORDINARY CIRCUMSTANCES”

As in the PTB, Passenger Rights Regulations should allow consumers to cancel their ticket and receive a full refund at no cost “in the event of unavoidable and extraordinary circumstances” and against a reasonable cancellation fee otherwise. Currently, such a right does not exist, and consumers are at the mercy of airlines’ T&Cs and goodwill. During the pandemic, many consumers lost money because they did not benefit from such cancellation rights but complied with national authorities’ recommendations not to travel (e.g. travel warnings). The two parties goes online.

6

MINIMUM RULES FOR VOUCHERS

Currently, if a standalone transport ticket is cancelled and passengers opt for a refund, it should be monetary unless passengers expressly agree otherwise. But many operators offer vouchers instead while EU law does not set clear rules on their validity. This led to [frustration for consumers](#) during the pandemic. BEUC recommends putting into law the Commission’s [Recommendation on vouchers](#), to define minimum validity rules.

7

RETHINKING THE FULL PRE-PAYMENT BUSINESS MODEL

Successive crises have shown the need to review the full consumer pre-payment business model. Thresholds for pre-payment and payment schedules are needed, limiting the risk for consumers and making insolvency protection cheaper for traders. BEUC welcomes that the European Commission is considering further limiting [holidaymakers’](#) pre-payments. The Commission should replicate the exercise for standalone tickets and look to phase out the current pre-payments model or examine alternatives to better protect travellers’ prepayments (e.g., “escrow” schemes).

RELEVANT PAPERS:

BEUC [accompanying paper](#) to BEUC’s response to the European Commission’s public consultation on the Better Protection of Passengers and their Rights Initiative.

BEUC [position paper](#) on the Package Travel Directive (2021).

BEUC [position paper](#) on the Air Passenger Rights Regulation (2019).