



Information on insolvency protection for package holiday bookers

In order to protect travelling parties from the adverse financial impact of insolvency, travel package organisers (hereinafter: tour operators) established in EU Member States and in States party to the agreement on the European Economic Area (Norway, Iceland and Liechtenstein) engaging in the sale of travel packages are obliged to provide security for the refund of all payments made by travelling parties for travel services booked. A travel package receives insolvency protection, irrespective of the product description, if it encompasses at least two types of travel services, for instance transport and accommodation.

Regulations governing insolvency protection also apply to tour operators from “third countries” (i.e. those which are neither EU member states nor states party to the agreement on the European Economic Area) selling travel packages in EU member states or in states party to the agreement on the European Economic Area. Said tour operators must take the regulations governing insolvency protection in each respective state into account.

Travelling parties must have a right to insolvency protection irrespective of their place of residence at the time of booking, of the point of departure or sale and of which country the institution providing

compensation in the event of insolvency is established in. Individual countries are free to determine their own national insolvency protection rules and regulations. However, domestic rules must meet the following minimum requirements:

- Insolvency protection provided to travelling parties must be effective and free of charge,
- Insolvency protection must cover the costs of return travel as booked and, if necessary, accommodation costs prior to return,
- Refunds for travel services that have not been rendered must be provided without undue delay by the company in charge of insolvency protection at the travelling party's request.

It is the responsibility of the national authorities of each country to ensure that the tour operators established in their country follow the rules on insolvency protection.

In Germany, compulsory insolvency protection is governed by the provisions set out in Sec. 651r of the Civil Code (*BGB – Bürgerliches Gesetzbuch*) pertaining to the travel industry. They stipulate that tour operators established in Germany and those based in third countries that provide travel packages online must ensure that, if a tour operator enters insolvency before travel services have been performed in their entirety, travelling parties are refunded for travel services or parts thereof which are cancelled.

As of 1 November 2021, the tour operator can, as a rule, only satisfy this requirement by concluding a contract of guarantee with a travel guarantee fund authorised to operate its business under the Act on the Protection against Insolvency by Travel Guarantee Funds (*Reisesicherungsfondsgesetz*). Since 1 November 2021, such contracts can be entered into solely with the German Travel Guarantee Fund (*Deutscher Reisesicherungsfonds – DRSF*). Only tour operators who achieved a turnover of less than 10 million euros in the previous financial year may, in the following financial year, also comply with this obligation by taking out an insurance policy with an insurance provider or a financial institution.

Compensation claims which can no longer be met due to a tour operator becoming insolvent must be taken up by the travelling party with the company providing insolvency protection. Said company will also refund the travelling parties any amounts paid out-of-pocket to the travel services provider for services which had already been booked, such as the cost of return travel and/or overnight stays up until that point.

Proof that the tour operator has entered into a contractual agreement with a company providing insolvency protection is given to the travelling party by means of an insurance certificate issued upon conclusion of the package travel contract.

In the event that German law is applicable to the travel package contract, the insurance certificate must meet certain formal requirements (see template below).

The only aspects which the tour The insurance certificate states the name and address of the company providing insolvency protection.

Insurance certificate template

visit www.gesetze-im-internet.de:
Sicherungsschein für Pauschalreisen
(Insurance certificate for package travel –
in German only)