



EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data
protection authority

24 January 2024

Opinion 7/2024

on the Proposal for a Directive amending
Directive (EU) 2015/2302 to make the protection
of travellers more effective and to simplify and
clarify certain aspects of the Directive

The European Data Protection Supervisor (EDPS) is an independent institution of the EU, responsible under Article 52(2) of Regulation 2018/1725 ‘With respect to the processing of personal data... for ensuring that the fundamental rights and freedoms of natural persons, and in particular their right to data protection, are respected by Union institutions and bodies’, and under Article 52(3) ‘...for advising Union institutions and bodies and data subjects on all matters concerning the processing of personal data’.

Wojciech Rafał Wiewiórowski was appointed as Supervisor on 5 December 2019 for a term of five years.

*Under **Article 42(1)** of Regulation 2018/1725, the Commission shall ‘following the adoption of proposals for a legislative act, of recommendations or of proposals to the Council pursuant to Article 218 TFEU or when preparing delegated acts or implementing acts, consult the EDPS where there is an impact on the protection of individuals’ rights and freedoms with regard to the processing of personal data’.*

This Opinion relates to the Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of the Directive¹. This Opinion does not preclude any future additional comments or recommendations by the EDPS, in particular if further issues are identified or new information becomes available. Furthermore, this Opinion is without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Regulation (EU) 2018/1725. This Opinion is limited to the provisions of the Proposal that are relevant from a data protection perspective.

¹ COM(2023) 905 final.

Executive Summary

On 29 November 2023, the European Commission issued a Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of the Directive ('the Proposal').

The aim of the Proposal is to enhance the level of protection of consumers having regard to package travel services and to linked travel arrangements. The Proposal would provide in particular: specifications on traveller's right to terminate the travel contract due to unavoidable and extraordinary circumstances; on payments; on the content of the package travel contract; on warning concerning the travel destination; on refund of the traveller; on vouchers; and on insolvency protection to the benefit of consumers.

The EDPS notes that the Proposal would update the information to be provided to travellers concerning their (consumer) rights. The EDPS recalls that the duty to provide such information is without prejudice to the obligation of the controller to provide information to the data subject pursuant to the GDPR. The EDPS therefore recommends inserting, in the forms included in the Annexes, a reference to the data protection notice to be provided to travellers.

Contents

1. Introduction.....	4
2. General remarks	5
3. Standard information forms.....	5
4. Conclusions.....	6

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ('EUDPR')², and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING OPINION:

1. Introduction

1. On 29 November 2023, the European Commission issued a Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of the Directive ('the Proposal'). The Proposal is accompanied by two annexes related to standard information forms for package travel contracts (Annex I, Part A, B, C) and to standard information form in case of trader facilitating a linked travel arrangement (Annex II, Part A and B).
2. The Proposal takes into account the stakeholder consultations, which highlighted the need to improve the protection of travellers' advance payments and their right to a swift refund of payments already made in the event of cancellations, including in times of a major crisis; to strengthen the protection of travellers against the organiser's insolvency, including in the event of a major crisis; and to increase legal certainty and enforceability of Directive (EU) 2015/2302 ('Package Travel Directive', hence 'PTD')³ by clarifying and/or simplifying certain provisions of the PTD that might be interpreted differently or which stakeholders find difficult to apply in practice⁴.
3. The Proposal aims at strengthening consumer protection in relation to package travel services in particular by clarifying the definition of 'package' and of 'linked travel arrangement'. The Proposal also contains specifications on traveller's right to terminate the travel contract due to unavoidable and extraordinary circumstances; on payments; on the content of the package travel contract; on warning concerning the travel destination; on refund of the traveller; on vouchers; on insolvency protection; on rights of redress and refunds from service providers to organisers⁵.

² OJ L 295, 21.11.2018, p. 39.

³ Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, OJ L 326, 11.12.2015, p. 1-33.

⁴ COM(2023) 905 final, p. 7.

⁵ COM(2023) 905 final, p. 13-15.

4. The present Opinion of the EDPS is issued in response to a consultation by the European Commission of 16 November 2023, pursuant to Article 42(1) of EUDPR. In this regard, the EDPS recommends adding in a separate recital, as per standard practice, that ‘the European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on ... [EDPS Opinion date]’.

2. General remarks

5. The EDPS recognises the importance of enhancing consumer’s rights having regard to package travel services⁶ and linked travel arrangements⁷.
6. The EDPS observes that the Proposal entails the processing of personal data, notably of the traveller’s contact details (in particular her or his name, payment details and email address)⁸. The EDPS further recalls that also the official title of a legal person (the trader) can constitute personal data, in particular when it identifies one or more natural persons⁹.

3. Standard information forms

7. The EDPS notes that the Proposal would replace Annex I to the PTD in order to provide travellers with clearer information on their rights. Annex II to the PTD would be replaced to take into account the new definition of linked travel arrangement¹⁰.
8. The EDPS recalls that the specifications of the information to be provided to travellers concerning their (consumer) rights are without prejudice to the obligation of the controller to provide information to the data subject pursuant to the GDPR. The EDPS therefore recommends inserting in the forms a reference to the data protection notice to be provided to travellers in accordance with the GDPR.

⁶ Article 1 of the Proposal, amending Article 3 of the PTD, definition (2).

⁷ Article 1 of the Proposal, amending Article 3 of the PTD, definition (5).

⁸ COM (2023) 905 final, recital 8, referring to the traveller’s name, payment details, email address or any other of the traveller’s personal data.

⁹ Judgment of 9 November 2010, *Volker und Markus Schecke and Eifert* (C-92/09 and C-93/09, ECR 2010 p. I-11063) ECLI:EU:C:2010:662, paragraphs 52 and 53.

¹⁰ ¹⁰ COM(2023) 905 final, p. 16.

4. Conclusions

9. In light of the above, the EDPS makes the following recommendations:

(1) to insert a recital specifying that ‘the European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on ... [EDPS Opinion date]’;

(2) to insert in the forms provided under Annex I and II of the Proposal a reference to the data protection notice to be provided to travellers in accordance with the GDPR.

Brussels, 24 January 2024

(e-signed)

Wojciech Rafał WIEWIÓROWSKI