

**Government Decree No 473/2017 of 28 December 2017
amending Government Decree No 213/1996 of 23 December 1996 on Travel Organisation and Agency Activities**

On the basis of the authorisation given in Section 12(1)(g) of Act CLXIV of 2005 on trade and acting within its scope of duties defined in Article 15(1) of the Basic Law, the Government orders the following:

Section 1 Section 1 of Government Decree No 213/1996 of 23 December 1996 on travel organisation and agency activities (hereinafter referred to as the 'Government Decree') is replaced by the following:

'Section 1 (1) This Decree shall apply to those engaged in the pursuit of the activities of travel organisers and retailers in the territory of Hungary, and to traders facilitating linked travel arrangements (hereinafter referred to collectively as "travel companies").

(2) For the purposes of this Decree, the following definitions shall apply:

a) *package travel*: means the concept defined in point 6 of Section 2 of Government Decree No 472/2017 of 28 December 2017 on contracts relating to travel services, in particular on contracts relating to package travel and linked travel arrangements, subject to the exception specified in Section 13;

b) *linked travel arrangement*: means the concept defined in point 10 of Section 2 of Government Decree No 472/2017 of 28 December 2017 on contracts relating to travel services, in particular on contracts relating to package travel and linked travel arrangements, subject to the exception specified in Section 28;

c) *traveller*: means the person defined in point 37 of Section 2 of Act CLXIV of 2005 on trade (hereinafter referred to as the "Trade Act").'

Section 2 The following Section 2/A is added to the Government Decree:

'Section 2/A Commercial activities facilitating linked travel arrangements in Hungary may only be pursued by those who comply with the Trade Act and meet the conditions laid down in this Decree, and who have notified the Government Agency of their activities.'

Section 3 Section 8(3) of the Government Decree is replaced by the following:

'(3) The value of the financial security shall be the following percentage of the net sales revenue from the respective activities by 31 December of the year when the guarantee contract is concluded with the credit institution or the insurance contract is concluded and the cash deposit is placed:

a) 3 % of the net sales revenue accounted for under Act C of 2000 on accounting that arises from the sale of package travel to travellers in Hungary, compiled by the travel organiser, started in Hungary and not involving the crossing of the Hungarian border, but at least HUF 500 000;

b) for travels or holidays which are not covered by point a):

ba) 12 % of the net sales revenue accounted for under Act C of 2000 on accounting that arises from the sale of package travel to travellers in Hungary, compiled by the travel organiser, but at least HUF 5 million, provided that no travel service specified in Section 2(9)(a) of Government Decree No 472/2017 of 28 December 2017 on contracts relating to travel services, in particular on contracts relating to package travel and linked travel arrangements is included in the compiled package travel in the period covered by the financial security,

bb) 12 % of the net sales revenue accounted for under Act C of 2000 on accounting that arises from the sale of package travel to travellers in Hungary, compiled by the travel organiser, but at least HUF 7 million, provided that a travel service specified in Section 2(9)(a) of Government Decree No 472/2017 of 28 December 2017 on contracts relating to travel services, in particular on contracts relating to package travel and linked travel arrangements is also included in the compiled package travel in the period covered by the financial security, and it is carried out by road, rail or water transport or by scheduled flight or flights, at least,

c) with regard to travels or holidays from Hungary to foreign countries or from abroad to foreign countries, 20 % of the net sales revenue accounted for under Act C of 2000 on accounting that arises from the sale of package travel to travellers in Hungary, compiled by the travel organiser, but at least HUF 50 million,, provided that in the period covered by the financial security

ca) a non-scheduled (charter) flight is used when compiling the package travel, irrespective of the airport of departure on the route,

cb) the travel organiser's liabilities arising from the guaranteed contract under paragraph (11) exceed 25 % of the annual revenues arising from its travel organisation activity.'

Section 4 Section 8(9) of the Government Decree is replaced by the following:

'(9) The financial security must cover the expenses, advance payments and fees set out in Section 10(1) in each period. If the amount of advance payments and participation fees paid by travellers for package travels and linked travel arrangements, which have not yet been performed by the travel company, exceed the amount of revenue underlying the proven financial security by at least 10 %, the travel company must increase the amount of financial security within seven days on the basis of the relevant advance payments and participation fees, and must provide evidence of this to the Government Agency without delay. In this case, the provisions of Section 8(3) are relevant to the calculation of the amount of financial security, with the difference that any reference to net sales revenue in those provisions must be understood as the amount of advance payments and participation fees paid by travellers for package travels and linked travel arrangements.'

Section 5 The following paragraph (12) is added to Section 8 of the Government Decree:

'(12) The travel company must keep records related to the obligations under Section 8(3) and (9), which contain, per item in accordance with Section 8(3), the current amount of advance payments and participation fees paid by travellers in connection with the sale of package travels and linked travel arrangements, which have not yet been performed by the travel company, and the recognised net revenue arising from the sale of package travels and linked travel arrangements and the relevant settlement dates. The travel company must keep the data contained in these records for five years and make it readily available to the Government Agency for official controls.'

Section 6 The following Section 9/A is added to the Government Decree:

'Section 9/A (1) If the package travel or the linked travel arrangement also includes the carriage of passengers, then the travel organiser or the trader facilitating the linked travel arrangement must take out the compulsory insurance specified in Section 6/F(7) of the Trade Act for the traveller as beneficiary when concluding the package travel contract or the contract on the linked travel arrangement.

(2) The insurance taken out for the beneficiary must cover the costs linked with the measures related to travellers in emergency situation during their travel, their repatriation and involuntary stay abroad.

(3) The insurance company must inform the Government Agency in writing within two working days about the use of the cover for the insurance specified in paragraph (1) by the insurance company carrying out compensation.

(4) The insurance contract specified in paragraph (1) shall be in compliance with the provisions of this Decree if it sets out that in the event that the travel company does not ensure the repatriation of the beneficiary or the costs of his involuntary stay abroad, the insurance company shall take the measures necessary in this respect for the travel company. In order to take these measures, the travel company must place at the disposal of the insurance company in writing or electronically all the information required to take measures, in particular the identification data of the travellers concerned, and their travel, accommodation and contact data. The insurance company shall decide on the compensation method.

(5) In the case of the contracts laid down in this Section, the insurance company must be liable annually for at least 10 % of the financial security provided for in Section 8(3) and, if passenger transport is carried out with a non-scheduled airline flight, it must be liable for an amount equivalent to at least 20 % thereof.

(6) If the travel company does not place at the disposal of the insurance company all the information necessary for compensation, for reasons attributable to it in accordance with Section 10(3)(c), the Government Agency shall oblige the travel company in an order – in addition to warning it about the possibility of issuing a fine – to fully fulfil the supply of data set out in legislation within a five-day deadline. The Government Agency shall inform the insurance company concerned about any of these measures, and the Minister for Foreign Affairs about the measures taken in connection with the repatriation of travellers and their involuntary stay abroad.

(7) Travellers may enforce their claims arising from the failure of the travel company to fulfil its obligations directly at the insurance company. The insurance company may not file any complaints arising from the insurance contract against the traveller. If the insurance company satisfied the traveller's claim, the traveller's rights *vis-à-vis* the travel company shall be passed to the insurance company to the extent needed for satisfying the claim.'

- Section 7** Section 10(3)(c) is replaced by the following:
[The financial security contract shall be in compliance with the provisions of this Decree if]
'c) it sets out that in the event that the travel company failed to repay the advance payments or the participation fees, the insurance company or the credit institution shall take the necessary measures for the company. In order to take these measures, the travel company must place at the disposal of the insurance company or the credit institution, in writing or by providing electronic access, all the information required for compensation, in particular the identification data of the travellers concerned, and their travel, accommodation and contact data, and the participation fees and advance payments paid by them. The credit institution or the insurance company shall decide on the compensation method.'
- Section 8** Section 10(5) is replaced by the following:
'(5) If the travel company does not fulfil its obligations in connection with repaying the advance payment and the participation fee, the Government Agency shall take measures for the credit institution or the insurance company to use the financial security, whilst applying legal consequences in accordance with Section 11(1) and (3). If the travel company does not place at the disposal of the insurance company or the credit institution all the information necessary for compensation, for reasons attributable to it in accordance with Section 10(3)(c), the Government Agency shall oblige the travel company in an order – in addition to warning it about the possibility of issuing a fine – to fully fulfil the supply of data set out in legislation within a five-day deadline. The Government Agency shall inform the insurance company or the credit institution concerned about any of these measures.'
- Section 9** The following Section 10/A is added to the Government Decree:
'Section 10/A The value of the financial security of the trader facilitating linked travel arrangements in the form of a guarantee contract, insurance contract or cash deposit concluded with the credit institution shall be 10 % of the annual net sales revenue arising from the sale of the linked travel arrangement, or an amount equivalent to at least HUF 5 million.'
- Section 10** Section 11(1)(b) of the Government Decree is replaced by the following:
[The Government Agency shall withdraw the registration of the travel company if it]
'b) inadequately fulfils its obligation to maintain financial security, unless the breach applies only to the year prior to the period specified in Section 8(9), and the amount of financial security provided in the subsequent period is no less than the amount required by the law,'
- Section 11** The following point j) is added to Section 11(1) of the Government Decree:
[The Government Agency shall withdraw the registration of the travel company if it]
'j) fails to fulfil its certification, reporting or record keeping obligations under Section 8(6), (8), (9), (12) and (13) even on the notice of the Government Agency, and does not keep or inadequately keeps the records under Section 8(12) and (13).'
- Section 12** Section 11(7) of the Government Decree is replaced by the following:
'(7) Any travel company that has been deleted from the register by the Government Agency may no longer organise or operate any tours until a new notification about the continuation of its activities is sent; however, such travel company shall remain obligated to provide return transportation to its customers en route, and to refund – in accordance with specific other legislation – any and all advances and participation fees received for cancelled tours.'
- Section 13** The following paragraphs (4) and (5) are added to Section 11/A of the Government Decree:
'(4) If the travel company fulfils its certification and reporting obligations under Section 8(6), (8) and (9) and Section 8/A subsequently, but no later than 8 days after the deadline, the Government Agency shall issue an order warning the travel company to comply with the law. If the travel company commits this offence once again within the following two years, the Government Agency shall impose a fine determined in accordance with paragraph (3).
(5) If the travel company does not fulfil or inadequately fulfils its certification and reporting obligations under Section 8(6), (8) and (9) and Section 8/A within 8 days after the expiry of the deadline, the

Government Agency shall give notice to the travel company to fulfil its obligation within 8 days, and at the same time it shall impose a fine determined in accordance with paragraph (4). If the travel company fails to fulfil its obligation even after notice was given, the Government Agency shall apply Section 11(1)(j).'

Section 14 The following paragraphs (3) and (5) are added to Section 12 of the Government Decree:

'(3) In order to facilitate the administrative cooperation and supervision of travel organisers and, where applicable, retailers which are operating in different Member States with regard to insolvency protection, the duties of central contact points shall be covered by the Government Agency.

(4) The Government Agency must be provided with all the necessary information on the national insolvency protection requirements, and the identity of the insurance companies or credit institutions in charge of the insolvency protection for travel organisers established in the territory of Hungary. The Government Agency shall grant access for the competent authorities of the other Member States to any available inventory listing travel organisers which are in compliance with their insolvency protection obligations. Any such inventory shall be publicly accessible, including online.

(5) The Government Agency shall reply to requests regarding the insolvency protection of a travel organiser received from a Member State as soon as possible, but within fifteen working days from the receipt of the request at the latest, taking into account the urgency and complexity of the issue.'

Section 15 The following Section 13/A is added to the Government Decree:

'Section 13/A If the traveller concludes a travel contract with a travel retailer as specified in point 26 of Section 2 of the Trade Act, the travel retailer shall pay within four working days the advance for the travel service, or a further instalment of the total fee, or the total fee to the travel organiser.'

Section 16 The following paragraph (6) is added to Section 15 of the Government Decree:

'(6) The provisions of Sections 1, 2, 8, 9, 10, 11, 12 and 15 of this Decree shall serve the purpose of compliance with the Directive 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.'

Section 17 The following Section 16 is added to the Government Decree:

'Section 16 The prior notification of the draft of Section 9/A has been carried out in accordance with Article 15(7) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.'

Section 18

- a) The term 'passenger' in Section 10(6) of the Government Decree shall be replaced by 'traveller,' the phrase 'with the passenger' shall be replaced by the phrase 'with the traveller,' and the phrase 'for the passenger' shall be replaced by the phrase 'for the traveller,'
- b) the phrase 'the passenger' in Section 11(1)(c) of the Government Decree shall be replaced by the phrase 'the traveller,'
- c) the phrase 'the passenger' in 11(1)(d) of the Government Decree shall be replaced by the phrase 'the traveller,'
- d) the term 'passengers' in 11(1)(e) of the Government Decree shall be replaced by the term 'travellers.'

Section 19

- a) Section 10(1)(a),
 - b) Section 12(2), and
 - c) Section 15(2)
- of the Government Decree shall be repealed.

Section 20 This Decree shall enter into force on 1 July 2018.

Section 21 This Decree serves the purpose of compliance with 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.

Section 22 The prior notification of the draft of Section 6 has been carried out in accordance with Article 15(7) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

Viktor Orbán (signed)

Prime Minister