

JOURNAL OF LAWS OF THE REPUBLIC OF POLAND

Warsaw, 30 December 2017

Item 2507

REGULATION OF THE MINISTER FOR DEVELOPMENT AND FINANCE¹

of 27 December 2017

on the minimum level of the bank guarantee or insurance guarantee required in connection with the activity carried out by tour operators and businesses facilitating the procurement of linked travel arrangements²

The following provisions are hereby laid down pursuant to Article 12(1) of the Package Travel and Linked Travel Arrangements Act of 24 November 2017 (Journal of Laws, item 2361):

§ 1. This Regulation lays down the minimum level of the bank guarantee or insurance guarantee referred to in Article 7(2)(1) of the Package Travel and Linked Travel Arrangements Act of 24 November 2017, with regard to the activities carried out by tour operators and businesses facilitating the procurement of linked travel arrangements.

§ 2. The following types of activities are distinguished in order to determine the minimum level of the bank guarantee or insurance guarantee:

- 1) organisation of package travel using air charters in the European states listed in the Annex to this Regulation and in non-European states, except paragraph 6;
- 2) organisation of package travel in non-European states, using means of transport other than air charters;
- 3) organisation of package travel in non-European states if no transport service is provided;
- 4) organisation of package travel in the European states listed in the Annex to this Regulation using means of transport other than air charters, except paragraph 6;
- 5) organisation of package travel in the European states listed in the Annex to this Regulation if no transport service is provided, except paragraph 7;
- 6) organisation of package travel in states sharing a land border with Poland (in the case of Russia - within the Kaliningrad region and on Polish territory), if transport service is provided;

¹ The Minister for Development and Finance heads the government department responsible for financial institutions pursuant to Section 1(2)(4) of the Prime Ministerial Regulation of 13 December 2017 specifying the remit of the Minister for Development and Finance (Journal of Laws 2016, item 2331).

² Within its regulatory scope, this Regulation implements 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 of 11 December 2015, p.1).

- 7) organisation of package travel in states sharing a land border with Poland (in the case of Russia - within the Kaliningrad region and on Polish territory), if no transport service is provided;
- 8) facilitation of the procurement of linked travel arrangements in non-European states if transport service is provided;
- 9) facilitation of the procurement of linked travel arrangements in non-European states if no transport service is provided;
- 10) facilitation of the procurement of linked travel arrangements in the European states listed in the Annex to this Regulation if transport service is provided, except paragraph 12;
- 11) facilitation of the procurement of linked travel arrangements in the European states listed in the Annex to this Regulation if no transport service is provided, except paragraph 13;
- 12) facilitation of the procurement of linked travel arrangements in states sharing a land border with Poland (in the case of Russia - within the Kaliningrad region and on Polish territory), if transport service is provided;
- 13) facilitation of the procurement of linked travel arrangements in states sharing a land border with Poland (in the case of Russia - within the Kaliningrad region and on Polish territory), if no transport service is provided.

§ 3. 1. The annual revenue obtained from activities conducted by:

- 1) tour operators shall be understood as revenue obtained exclusively from the organisation of packages, including revenue negotiated by travel agents, declared for the period of the following 12 months for which the bank guarantee or insurance guarantee is to be concluded;
- 2) businesses facilitating the procurement of linked travel arrangements shall be understood as revenue obtained exclusively from activities to facilitate the procurement of linked travel arrangements declared for the period of the following 12 months for which the bank guarantee or insurance guarantee is to be concluded.

2. The annual revenue in the case of:

- 1) mergers of travel companies conducting the activities of tour operators or businesses facilitating the procurement of linked travel arrangements shall be the sum of the declared revenue of the merged travel companies;
- 2) travel companies conducting the activity of tour operators or businesses facilitating the procurement of linked travel arrangements assuming the liabilities of another travel business arising from package tour contracts or contracts for the provision of tourist services forming part of linked travel arrangements concluded by that travel company shall be the sum of the declared revenue of the travel business and the declared revenue arising from the assumed liabilities;
- 3) travel companies using a brand or trademark of another travel company shall be the sum of the declared revenue of these travel companies.

3. The annual revenue referred to in points 1 and 2 declared for the period of the following 12 months for the purpose of determining the minimum level of the bank guarantee or insurance guarantee may not be lower than the annual revenue in the financial year preceding the year in which the bank guarantee or insurance guarantee was concluded.

§ 4. If the tour operator or a business facilitating the procurement of linked travel arrangements is simultaneously conducting more than one of the types of activity referred to §2, the minimum level of the bank guarantee or insurance guarantee is established at the level of the highest percentage or the highest level of the bank guarantee or insurance guarantee.

§ 5. The minimum level of the bank guarantee or insurance guarantee for travel companies which conduct an activity referred to in §(2) and which accept payment exclusively upon completion of the package travel or linked travel arrangements shall be:

- 1) 6.0 % of the annual revenue obtained from the activity referred to in §2(1), but not less than the equivalent of EUR 74 500;
- 2) 5.0 % of the annual revenue obtained from the activity referred to in §2(2), but not less than the equivalent of EUR 25 000;

- 3) 2.5 % of the annual revenue obtained from the activity referred to in §2(3), but not less than the equivalent of EUR 12 500;
- 4) 3.5 % of the annual revenue obtained from the activity referred to in §2(4), but not less than the equivalent of EUR 14 000;
- 5) 2.0 % of the annual revenue obtained from the activity referred to in §2(5), but not less than the equivalent of EUR 7000;
- 6) 1.5 % of the annual revenue obtained from the activity referred to in §2(6), but not less than the equivalent of EUR 2250;
- 7) 1.0 % of the annual revenue obtained from the activity referred to in §2(7), but not less than the equivalent of EUR 1150;
- 8) 2.5 % of the annual revenue obtained from the activity referred to in §2(8), but not less than the equivalent of EUR 12 500;
- 9) 1.5 % of the annual revenue obtained from the activity referred to in §2(9), but not less than the equivalent of EUR 6250;
- 10) 2.0 % of the annual revenue obtained from the activity referred to in §2(10), but not less than the equivalent of EUR 7000;
- 11) 1.0 % of the annual revenue obtained from the activity referred to in §2(11), but not less than the equivalent of EUR 3500;
- 12) 1.0 % of the annual revenue obtained from the activity referred to in §2(12), but not less than the equivalent of EUR 1150;
- 13) 0.5 % of the annual revenue obtained from the activity referred to in §2(13), but not less than the equivalent of EUR 600.

§ 6. The minimum level of the bank guarantee or insurance guarantee for travel companies which conduct an activity referred to in §2 and which request prepayment for future package travel or future linked travel arrangements up to 30 days prior to the start of the package travel or to the provision of linked travel arrangements or which request such prepayment in an amount corresponding to up to 30 % of the price of the package travel or linked travel arrangements shall be:

- 1) 12.0 % of the annual revenue obtained from the activity referred to in §2(1), but not less than the equivalent of EUR 149 000;
- 2) 10.0 % of the annual revenue obtained from the activity referred to in §2(2), but not less than the equivalent of EUR 50 000;
- 3) 5.0 % of the annual revenue obtained from the activity referred to in §2(3), but not less than the equivalent of EUR 25 000;
- 4) 7.0 % of the annual revenue obtained from the activity referred to in §2(4), but not less than the equivalent of EUR 28 000;
- 5) 3.5 % of the annual revenue obtained from the activity referred to in §2(5), but not less than the equivalent of EUR 14 000;
- 6) 3.0 % of the annual revenue obtained from the activity referred to in §2(6), but not less than the equivalent of EUR 4500;
- 7) 1.5 % of the annual revenue obtained from the activity referred to in §2(7), but not less than the equivalent of EUR 2250;
- 8) 5.0 % of the annual revenue obtained from the activity referred to in §2(8), but not less than the equivalent of EUR 25 000;
- 9) 2.5 % of the annual revenue obtained from the activity referred to in §2(9), but not less than the equivalent of EUR 12 500;
- 10) 3.5 % of the annual revenue obtained from the activity referred to in §2(10), but not less than the equivalent of EUR 14 000;

- 11) 2.0 % of the annual revenue obtained from the activity referred to in §2(11), but not less than the equivalent of EUR 7000;
- 12) 1.5 % of the annual revenue obtained from the activity referred to in §2(12), but not less than the equivalent of EUR 2250;
- 13) 1.0 % of the annual revenue obtained from the activity referred to in §2(13), but not less than the equivalent of EUR 1150.

§ 7. The minimum level of the bank guarantee or insurance guarantee for travel companies which conduct an activity referred to in §2 and which request prepayment for future package travel or future linked travel arrangements in an amount corresponding to more than 30 % of the price of the package travel or linked travel arrangements

- 1) 30 to 180 days prior to the start of the package travel or provision of linked travel arrangements shall be:
 - a) 17.0 % of the annual revenue obtained from the activity referred to in §2(1), but not less than the equivalent of EUR 212 000;
 - b) 15.0 % of the annual revenue obtained from the activity referred to in §2(2), but not less than the equivalent of EUR 75 000;
 - c) 7.5 % of the annual revenue obtained from the activity referred to in §2(3), but not less than the equivalent of EUR 37 500;
 - d) 10.0 % of the annual revenue obtained from the activity referred to in §2(4), but not less than the equivalent of EUR 42 000;
 - e) 5.0 % of the annual revenue obtained from the activity referred to in §2(5), but not less than the equivalent of EUR 21 000;
 - f) 4.5 % of the annual revenue obtained from the activity referred to in §2(6), but not less than the equivalent of EUR 7000;
 - g) 2.5 % of the annual revenue obtained from the activity referred to in §2(7), but not less than the equivalent of EUR 3500;
 - h) 7.5 % of the annual revenue obtained from the activity referred to in §2(8), but not less than the equivalent of EUR 37 500;
 - i) 4.0 % of the annual revenue obtained from the activity referred to in §2(9), but not less than the equivalent of EUR 18 750;
 - j) 5.0 % of the annual revenue obtained from the activity referred to in §2(10), but not less than the equivalent of EUR 21 000;
 - k) 2.5 % of the annual revenue obtained from the activity referred to in §2(11), but not less than the equivalent of EUR 10 500;
 - l) 2.0 % of the annual revenue obtained from the activity referred to in §2(12), but not less than the equivalent of EUR 3500;
 - m) 1.0 % of the annual revenue obtained from the activity referred to in §2(13), but not less than the equivalent of EUR 1750;
- 2) more than 180 days prior to the start of the package travel or provision of linked travel arrangements shall be:
 - a) 20.0 % of the annual revenue obtained from the activity referred to in Article 2(1), but not less than the equivalent of EUR 250 000;
 - b) 18.0 % of the annual revenue obtained from the activity referred to in §2(2), but not less than the equivalent of EUR 90 000;
 - c) 9.0 % of the annual revenue obtained from the activity referred to in §2(3), but not less than the equivalent of EUR 45 000;
 - d) 12.0 % of the annual revenue obtained from the activity referred to in §2(4), but not less than the equivalent of EUR 50 000;
 - e) 6.0 % of the annual revenue obtained from the activity referred to in §2(5), but not less than the equivalent of EUR 25 000;
 - f) 5.0 % of the annual revenue obtained from the activity referred to in §2(6), but not less than the equivalent of EUR 7500;
 - g) 2.5 % of the annual revenue obtained from the activity referred to in §2(7), but not less than the equivalent of

EUR 3750;

- h) 9.0 % of the annual revenue obtained from the activity referred to in §2(8), but not less than the equivalent of EUR 45 000;
- i) 4.5 % of the annual revenue obtained from the activity referred to in §2(9), but not less than the equivalent of EUR 22 500;
- j) 6 % of the annual revenue obtained from the activity referred to in §2(10), but not less than the equivalent of EUR 25 000;
- k) 3.0 % of the annual revenue obtained from the activity referred to in §2(11), but not less than the equivalent of EUR 12 500;
- l) 2.5 % of the annual revenue obtained from the activity referred to in §2(12), but not less than the equivalent of EUR 3750;
- m) 1.5 % of the annual revenue obtained from the activity referred to in §2(13), but not less than the equivalent of EUR 1900.

§ 8. The minimum level of the bank or insurance guarantee for travel companies which commence an activity referred to in §2 shall be:

- 1) the equivalent of EUR 250 000 – in respect of the activity referred to in §2(1);
- 2) the equivalent of EUR 90 000 – in respect of the activity referred to in §2(2);
- 3) the equivalent of EUR 45 000 – in respect of the activity referred to in §2(3);
- 4) the equivalent of EUR 50 000 – in respect of the activity referred to in §2(4);
- 5) the equivalent of EUR 25 000 – in respect of the activity referred to in §2(5);
- 6) the equivalent of EUR 7500 – in respect of the activity referred to in §2(6);
- 7) the equivalent of EUR 3750 – in respect of the activity referred to in §2(7);
- 8) the equivalent of EUR 45 000 – in respect of the activity referred to in §2(8);
- 9) the equivalent of EUR 22 500 – in respect of the activity referred to in §2(9);
- 10) the equivalent of EUR 25 000 – in respect of the activity referred to in §2(10);
- 11) the equivalent of EUR 12 500 – in respect of the activity referred to in §2(11);
- 12) the equivalent of EUR 3750 – in respect of the activity referred to in §2(12);
- 13) the equivalent of EUR 1900 – in respect of the activity referred to in §2(13).

§ 9. The minimum level of the bank or insurance guarantee for travel companies which accept payment exclusively upon completion of the package travel or linked travel arrangements and which commence an activity referred to in §2 shall be:

- 1) the equivalent of EUR 125 000 – in respect of the activity referred to in §2(1);
- 2) the equivalent of EUR 45 000 – in respect of the activity referred to in §2(2);
- 3) the equivalent of EUR 22 500 – in respect of the activity referred to in §2(3);
- 4) the equivalent of EUR 25 000 – in respect of the activity referred to in §2(4);
- 5) the equivalent of EUR 12 500 – in respect of the activity referred to in §2(5);
- 6) the equivalent of EUR 3750 – in respect of the activity referred to in §2(6);
- 7) the equivalent of EUR 1900 – in respect of the activity referred to in §2(7);
- 8) the equivalent of EUR 22 500 – in respect of the activity referred to in §2(8);
- 9) the equivalent of EUR 11 250 – in respect of the activity referred to in §2(9);
- 10) the equivalent of EUR 25 000 – in respect of the activity referred to in §2(10);
- 11) the equivalent of EUR 6250 – in respect of the activity referred to in §2(11);
- 12) the equivalent of EUR 1900 – in respect of the activity referred to in §2(12);
- 13) the equivalent of EUR 950 – in respect of the activity referred to in §2(13).

§ 10. Each payment made by the traveller in respect of a future package or linked travel arrangement shall be regarded as constituting prepayment as referred to in §6 and 7.

§ 11. In the second year of activity of the entities referred to in §8 and 9 the minimum level of the bank or insurance guarantee may not be lower than in the previous year.

§ 12. For travel companies which requested to be removed from the register of tour operators and traders facilitating the procurement of linked travel arrangements and were subsequently re-entered within three years of having been removed, the minimum level of the bank or insurance guarantee may not be lower than in the year when the travel company was removed from the register.

§ 13. If the declared annual revenue on the basis of which the minimum level of the bank guarantee or insurance guarantee has been determined is exceeded, the minimum level of the bank guarantee or insurance guarantee referred to in §5-7 and §11 is increased pro rata to the increase of the declared revenue referred to in §3, which was the basis for determining the minimum level of the bank guarantee or insurance guarantee.

§ 14. The amounts referred to in §5-9 are determined on the basis of the mean euro exchange rate published by the National Bank of Poland for the first time in the year in which the bank or insurance guarantee was concluded.

§ 15. The provisions of this Regulation shall apply to bank guarantees or insurance guarantees concluded after the date of entry into force of this Regulation.

§ 16. This Regulation shall enter into force on 1 July 2018.³

For the Minister for Development and Finance: *W. Janczyk*
Annex to the Regulation of the Minister for
Development and Finance of 27 December 2017
(item 2507)

³ The scope of this Regulation was previously covered by the Regulation of the Minister for Finance of 19 April 2013 on the minimum level of the bank guarantee or insurance guarantee required in connection with activity carried out by tour operators and travel agencies (Journal of Laws, item 511), which shall be repealed on 1 July 2018 following the entry into force of the Package Travel and Linked Travel Arrangements Act of 24 November 2017 (Journal of Laws item 2361).

TERRITORIES OF EUROPEAN STATES, EXCLUDING STATES SHARING A LAND BORDER WITH POLAND (IN THE CASE OF THE RUSSIAN FEDERATION - WITHIN THE KALININGRAD REGION)

	Name
1.	Albania
2.	Andorra
3.	Austria
4.	Belgium
5.	Bosnia and Herzegovina
6.	Bulgaria
7.	Croatia
8.	Montenegro
9.	Denmark (excluding Greenland)
10.	Estonia
11.	Finland (including the Åland Islands)
12.	France (excluding the overseas territories)
13.	Gibraltar
14.	Greece
15.	Spain (excluding the Canary Islands, Ceuta and Melilla)
16.	Ireland
17.	Iceland
18.	Kosovo
19.	Liechtenstein
20.	Luxembourg
21.	Latvia
22.	Macedonia
23.	Malta
24.	Moldova
25.	Monaco
26.	The Netherlands (excluding the overseas territories)
27.	Norway (excluding Svalbard and Jan Mayen)
28.	Portugal
29.	Russia (the European part excluding the Kaliningrad region)
30.	Romania
31.	San Marino
32.	Serbia
33.	Slovenia
34.	Switzerland
35.	Sweden
36.	Turkey (the part west of the Dardanelles and Bosphorus)
37.	Vatican City
38.	Hungary
39.	Great Britain (including Northern Ireland, the Isle of Man and the Channel Islands, but excluding the overseas territories)
40.	Italy
41.	Faroe Islands