Package travel and linked travel arrangements

2013/0246(COD) - 12/03/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 654 votes to 19 with 9 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC.

Parliaments position in first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Level of harmonisation and scope: the purpose of the directive is the achievement of a high and as uniform as possible level of consumer protection in respect of contracts on package travel and linked travel arrangements concluded between travellers and traders. Unless otherwise provided for, Member States shall not maintain or introduce, in their national law, provisions diverging from those laid down in the Directive.

Parliament stated that the scope will not cover:

- packages put together and made available by natural or legal persons which do not secure any financial gain, either directly or indirectly, from this activity;
- packages and linked travel arrangements purchased on the basis of a framework contract for business travel between a business on whose behalf the traveller is travelling and a trader;
- ancillary services provided as a subsidiary element of the package, to ensure that traders, in particular small local travel agencies, do not unwittingly become package tour organisers simply by booking transport to the point of departure, for example a rail journey to the airport of departure;
- carriage of passengers by bus, rail, water or air which includes accommodation, if the main component is clearly transport and such carriage is not combined with another travel service.

Pre-contractual information: the organiser will be required to communicate the following pre-contractual information to the traveller:

- the travel destination(s), itinerary and periods of stay, with dates, and the number of nights included;
- the approximate time of departure and return, where the exact time is not yet determined;
- the official category of the accommodation assigned by the competent body in the place in which the accommodation is located;
- the travel services provided to the traveller as a part of a group;
- the total price must be presented in the form of a detailed invoice setting out all the costs of the travel service in a transparent manner;
- information on the optional conclusion of an insurance policy to cover the costs of cancellation by the traveller or the cost of repatriation in the event of accident or illness;
- information that the traveller or the organiser may terminate the contract at any time before the start of the package and upon the payment of an applicable reasonable standardised termination fee.

Members deleted the requirement to communicate information on the language(s) in which the activities will be carried out. However, information about the trips suitability for persons with reduced mobility should be provided on request.

Where a travel contract is concluded by electronic means, the organiser shall make the traveller aware in a clear and prominent manner, and directly before the traveller places his order, of the information provided for. As regards compliance with the information requirements, the burden of proof shall be on the trader.

Moreover, before the start of the package, the traveller should also receive: i) necessary receipts, vouchers or tickets, including information on the precise times of departure, intermediate stops, transport connections and arrival; ii) all relevant contact details in case the traveller perceives any lack of conformity, and details of how the traveller should proceed; (iii) the name, geographical address, telephone number and e-mail address of a contact point whose assistance a traveller in difficulty could request.

Changes to the package, price reductions or price increases:

- Before the start of the package, the organiser may not unilaterally change significant contract terms other than the price. A change in the terms of a contract shall in particular be considered to be significant if the time of departure and return provided diverges by more than three hours from the actual time of departure or return or, if it is not within the part of the day indicated in the pre-contractual information.
- A price increase may be passed on only if it exceeds 3 % of the total cost of the package. Any price reduction which exceeds 3 % of the total cost must be passed on. In the event of a price reduction, the organiser may charge an administrative fee of up to EUR 10 per traveller. Price changes must always be justified in writing.

As the legal consequence of a price increase of more than 8 % or of a permissible, significant change to the package travel contract, in addition to the right of withdrawal with no financial penalty the traveller should also be given the option of taking up an equivalent package. If a traveller fails to reply to the letter informing him or her of the changes to the package travel contract or the price increase of more than 8 %, the package will be deemed to have been accepted at the increased price.

Termination: the Commission proposal states that the traveller may terminate the contract before the start of the package against payment of an appropriate compensation to the organiser. In the absence of standardised termination fees, the amount of the compensation shall correspond to the price of the package minus the expenses proved to have been saved by the organiser, which cannot be recovered, from the travel service providers or through alternative deployment of those services. Fees due for the termination of the contract, including administrative fees, shall not be disproportionate or excessive. The organiser shall provide a justification for the calculation of the amount of the compensation or the standardised termination fees. The burden of proof that the compensation is appropriate shall be on the organiser.

Once the travel contract has been concluded, the traveller shall have the right to terminate the contract before the start of the package without compensation in the event of unavoidable and extraordinary circumstances such as war or natural disaster. This does not apply if the traveller was already aware of the circumstances at the time of reservation.

Services included in the price: if any of the services are not performed in accordance with the contract, the organiser shall remedy the lack of conformity, provided the lack of conformity is reported by the traveller or is clear to the organiser and remedying it would not be disproportionate, unless the lack of conformity is attributable to the traveller.

Where a significant proportion of the services cannot be provided as agreed in the contract, the organiser shall make suitable alternative arrangements, at no extra cost to the traveller, for the continuation of the package, with service quality at least equivalent to that specified under the contract.

If it is impossible for the organiser to offer suitable alternative arrangements and the services agreed in the contract have not been provided, the traveller must be compensated within 14 days.

No-fault liability: the organiser should bear some measure of liability if it is not possible to ensure the travellers timely return because of unavoidable and extraordinary circumstances.

If the organiser arranges accommodation himself, he should bear the cost for up to five nights, with no ceiling applied. If the traveller is required to book accommodation, however, the organiser may limit the cost of accommodation to EUR 125 per night per traveller.

Insolvency protection: travellers must be protected against the insolvency of the organiser, the retailer or an undertaking involved in providing the assisted travel arrangements. However, in the context of insolvency, the repatriation of travellers should not necessarily take place immediately. Instead, a continuation of the trip should be offered if possible.

Formal requirements for contracts: Member States shall ensure that all contracts covered by this Directive are in plain and intelligible language and, insofar as they are in writing, legible. The language of the contract shall be the same as that of the pre-contractual information.