

# Consumer affairs

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## PACKAGE TRAVEL LEGISLATION

### Council Directive [90/314/EEC](#) of 13 June 1990 on package travel, package holidays and package tours

#### Objective

To increase and harmonise the level of consumer protection in relation to package tours and package travel.

#### Relevance for the hospitality industry

Under the current package travel Directive, a retailer/organiser of package tour is liable in case of improper performance of the contractual obligations, even if those obligations were to be performed by another services supplier (e.g. a hotel), but without prejudice of its right to sue those other suppliers of services.

Moreover, hoteliers are considered as tour organisers if they provide accommodation in combination with a transport service or other tourism services accounting for a substantial portion of the package. In such cases, they are subject to specific rules in terms of obligation of information, content of the contract, liability, etc.

#### State of progress

Directive adopted on 13 June 1990. Member States were given until 31 December 1992 to adopt the necessary transposition measures. A report on the transposition and on the implementation of the Directive was issued in November 1999 by the European Commission.

In July 2007, the Commission released a working document, accompanied by a consultation, in order to prepare a revision of the Directive. The Commission launched a new consultation in November 2009, in order to gather stakeholders' opinions on the existing problems and preferred solutions in order to identify preferred policy options. The consultation closed on 7 February 2010. The replies to the consultation will be used to carry out an impact assessment. A proposal for a revision of the existing Directive should be issued at the end of 2010 or early 2011.

#### Content

A "tour organiser" is defined as *"the person who, other than occasionally, organises packages and sells or offers them for sale, whether directly or through a retailer"*. A "package tour" consists of two of the following three elements: transport, accommodation and other tourist activities not ancillary to the above two but accounting for a substantial portion of the package. However, meals, fitness facilities and excursions are not considered as part of a package, in so far as these do not constitute a significant portion of the package and are not sold at an inclusive pre-negotiated price.

Tour organisers/retailers must provide specific pre-contractual information to the consumers as well as other information before the start of the journey. Specific rules apply in case of alteration of the contract before or after the departure.

Retailers/organisers of package tour are liable in case of improper performance of the contractual obligations even if those obligations were to be performed by another services supplier, but without prejudice of their right to sue those other suppliers of services.

The organiser and/or retailer shall provide sufficient evidence of financial security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency.

For a summary of the package travel Directive you can visit the [SCADPlus](#) website (European Commission).

### **HOTREC position**

The combination of accommodation and tourism services other than transport should not be covered by the future Directive. Moreover, it should be made clear that the “transport” element should not cover transport to or from local points of interest, from or to the hotel. Furthermore, hotels should not be asked to provide evidence of financial security for refunds as they always have tangible assets to cover risks of insolvency.

See HOTREC reply to the Commission consultation on the revision of the package travel Directive (D-1007-280-EB).

### **Official references**

Consumer Affairs Council, 13 April 2000, Conclusions, Press Release [7707/00](#).

Report on the implementation of Directive 90/314/EEC on package travel, package holidays and package tours, November 1999, [SEC \(1999\) 1800 final](#).

Council Directive [90/314/EEC](#) of 13 June 1990 on package travel, package holidays and package tours, O.J. L 158 23.06.90.

#### See also

European Commission [consultation](#) on the revision of the package travel Directive, November 2009

European Commission [study](#) on consumer detriment in the area of dynamic packages, November 2009, prepared by London economics

Aff. C-168/00, S. Leitner vs. TUI Deutschland. Judgement of the European Court of Justice, 12 March 2002.

Aff. C-400/00, L. Gonçalves Garrido vs. Club-Tour. Judgement of the European Court of Justice, 30 April 2002.

European Parliament own-initiative report on the general aspects of consumer protection policy and, in particular, consumer information and evaluation with regard to the application of Directive 90/314/EEC, ([2001/2136\(INI\)](#)), Rapporteur MEP Philip Bushill-Matthews.

Commission [Working Document](#) on the Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.

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