



Council of the
European Union

Brussels, 9 September 2015
(OR. en)

Interinstitutional File:
2013/0246 (COD)

11257/1/15
REV 1 ADD 1

CODEC 1090
CONSOM 138
MI 511
TOUR 10
JUSTCIV 185

"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft Directive of the European Parliament and of the Council 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
(first reading)
- Adoption
a) of the Council's position at first reading
b) of the statement of the Council's reasons
= Statements

Statement by Belgium, Estonia, Ireland, Malta, the Netherlands and Slovakia

1. We do acknowledge that the old package travel directive is in need of revision due to enormous changes in the travel market. We support the improvement of consumer protection, where needed, e.g. in the field of dynamic packages. We also support insolvency protection where packages are concerned.
2. However, we do have questions regarding the way this revision has worked out. Regulation needs to be smart and self-explanatory and must be enforceable. We have strong doubts whether this is the case with this proposal.

3. A first point we want to raise regards the level of harmonization. The directive states that the target is maximum harmonization. In reality however there are numerous enabling clauses inserted allowing all kinds of derogations or choices. This is not the way forward to create an internal market for package travels.
4. A second point is that, although we acknowledge that there is a difference between a package, a linked travel arrangement (LTA) and single travel services, the real problem is that providers and/or consumers might not be aware of the fact that they are selling/buying a package, a LTA or none or both. However, in the two former cases all kinds of legal rights and obligations are becoming applicable and in those cases a provider has to take out insolvency protection. To make things more complicated, different protections apply depending on the product sold which in the end might even result in the same protection being taken out twice, which has of course a bearing on the price the traveller has to pay.
5. Another point is that the tourist industry consists mainly of a great number of small and medium sized enterprises (SMEs). These SMEs will bear the brunt of the problems connected with packages, LTAs and travel services sold separately. In special cases they might even be obliged to take out insolvency protection on behalf of a far larger provider than themselves. Regarding this point, a level playing field with third country operators is also important. Yet the mandatory insolvency protection requirement for third country operators is unenforceable and consequently may distort competition. Furthermore, the proposal's potential for negative impact on airline services is also a concern, in particular for Member States whose tourism sector is more dependent on air transport. Given all this we fear that this proposal will not contribute to a more thriving tourist industry.

6. In our view, aspects of this proposal are at odds with the aims of the Digital Single Market Strategy which seeks to overcome barriers to the full utilization of the internet and digital technologies for the benefit of consumers and businesses alike. The proposal risks stifling innovation and hindering the competitiveness of our tourism sector, ultimately creating higher prices and less choice for consumers.
7. All the above indicates that the compromise proposals do not contribute to a workable and enforceable solution. Nor is it contributing to a thriving and flourishing tourist industry, an industry dominated by SMEs. Therefore we cannot support this proposal.

Statement by Austria

Clear, simple, practical and necessary legislation should lie at the core of EU policy making. This is especially important for small and medium sized enterprises which usually do not have the means for an advanced legal expertise and therefore often struggle to keep track of legislative changes. In that sense, smart regulation plays a crucial role for our economic framework conditions.

The tourism sector contributes a substantial share to the Austrian GDP and is therefore of utmost economical importance. We still have severe doubts on the final text and we fear that it provides severe ramifications for small and medium sized accommodation providers.

Service providers offering accommodation often deal with customer decisions for certain separate services after the customer has already agreed to pay the accommodation without a certain offer by the service provider. These issues have frequently been raised by AT on a technical and political level, also in writing. However, the final wording is still not clear enough.

Therefore Austria cannot support the proposed draft directive.
