



REPUBLIC OF ALBANIA

COUNCIL OF MINISTERS

DECISION

No. 65, dated 21.1.2009

ON THE CONTRACTS OF THE HOLIDAY TRAVEL PACKAGES

Pursuant to Article 100 of the Constitution and Article 61 of Law No. 9902, dated 17.4.2008 "On Consumer Protection", with the proposal of the Minister of Economy, Trade and Energy, the Council of Ministers

DECIDED:

1. The contracts of the holiday travel packages, based on Articles 46 and 47 of Law 9902, dated 17.4.2008 "Consumer Protection", are regulated according to the definitions set forth in this decision.
2. For the purposes of this decision:
 - a) "Organizer" is the trader, who organizes holiday travel packages and sells or offers them for sale, whether directly or through a retailer;
 - b) "Retailer" (below 'the seller') is the trader who sells or offers for sale holiday travel packages, put together by the organizer;
 - c) "Consumer" means the person who takes or agrees to take the holiday travel package (the principal contractor), or any person in whose behalf, the principal contractor agrees to purchase the package, or any person, to whom the principal contractor or any of the other beneficiaries transfers the package;
 - ç) "The contract of the holiday travel package " is the agreement linking the consumer to the organizer and / or the retailer.

3. When the organizer or the retailer makes available to the consumer a material prepared in writing (brochure, leaflets, etc.), it shall indicate in a legible, comprehensible and accurate manner, in addition to the information specified in Article 47 of Law No. 9902, dated 17.4.2008 “On Consumer Protection”, the following information:

a) The date of the start and the end of travel;

b) The main features of the accommodation, its approval and tourist classification under the rules of the host country;

c) The deadline for informing the consumer, in the event of cancellation of the holiday travel package, whether a minimum number of participants is required for the development of this holiday travel package;

ç) General information on the health formalities, required for journey and stay;

d) The name of the insurance company, which the organizer has an insurance contract with, in accordance with article 40 of this decision.

4. The organizer or the retailer of holiday travel package is responsible for the information provided in accordance with the article 3 of this decision, and the organizer or the retailer shall not change it, unless:

a) The changes in the information contained in the brochure are clearly communicated to the consumer before conclusion of the contract, and the possibility of alteration has been anticipated and expressly stated in brochure;

b) The changes are made later following an agreement between the parties to the contract of the holiday travel package.

5. Before conclusion of the contract of the holiday travel package the organizer and / or the retailer must communicate to the consumer, in writing, all the terms of the contract and give him a copy of these terms.

6. The provision under article 5 of this decision shall not preclude the conclusion of the contract or making of the reservation at the last minute.

7. The organizer and / or the retailer, through the holiday travel package contract, commits to provide the consumer with a holiday travel package against the payment at the established price.

8. The holiday travel package contract is concluded in writing and a copy of it shall be given to the consumer.

9. The holiday travel package contract contains the following elements:

a) The date and the place of conclusion of the contract;

b) The name and the address of the organizer and / or the retailer;

c) The means, characteristics and categories of transport to be used, the dates, the times and the places of departure and return;

ç) The location of accommodation, when it is included in the holiday travel package, the tourist category or the degree of comfort, its main features and its approval with the rules of the host country and the meal plan;

d) The type and the classification of the food service (catering) and the entertainment venues, the number and the type of the meals that are included in the holiday travel package;

dh) The deadline for informing the consumer, in the case of cancellation of the holiday travel package , whether a minimum number of participants is required for the development of this holiday travel package;

e) The itinerary of the holiday travel package;

ë) The visits, excursions or other services, which are included in the overall price and which have been agreed upon to be included in holiday travel package;

f) The specific requirements which the consumer has made known to the organizer or the retailer, when the final booking is made and which the parties have both accepted;

g) The full and final price of holiday travel package, in Lek, for all services provided in the contract;

gj) The calendar and the type of payment;

h) The information on the possibility of revising the price, the procedure and manner of its recalculation, under the cases provided in article 16 of this decision, and the information for each expected tax or fee, that may be chargeable for certain services (fees at ports for ship boarding and deductions, fees at airports, tourist taxes) when such costs are not included in holiday travel package;

i) The deadline, by which the consumer is given the right to withdraw from the contract, without being liable to any costs and compensation;

j) The amount of indemnity, that the consumer is obliged to pay to the organizer and / or retailer, if the consumer withdraws from the contract after the deadline, according to the letter "i" of this article;

k) The period, when the consumer shall notify the organizer and / or the retailer, before departure, of his intention to transfer the final booking to a third person and the deadline by which the consumer shall notify the organizer and / or the retailer about the fact that he has transferred his holiday travel package to a third party;

l) The minimum number of participants required to organize the holiday travel package and the deadline by which the consumer shall be notified and holiday travel package can be canceled if this number is not reached;

m) The obligation to notify the consumer of his rights as provided under paragraphs 19 and 22 of this decision;

n) The periods within which the consumer may make any complaint concerning failure to perform or the improper performance of the holiday travel package contract;

nj) The name and the address of the insurer, with which the organizer has concluded an insurance contract with, in accordance with paragraph 40 of this decision.

10. The organizer and / or the retailer of holiday travel package, in the case of failure to perform of the contract of this package, is not allowed to refer to the absence of one of the elements of the contract provided in article 9 of this decision.

11. The contract of the holiday travel package shall not contain unfair contractual provisions, under the article 27 of the Law "On Consumer Protection".

12. The organizer and / or the retailer of holiday travel package shall provide the consumer, in writing or in any other appropriate form, before the contract is concluded, with general information on visa and passport applicable requirements and in particular on the periods for obtaining them, as well as with information on the health formalities required for the journey and the stay.

13. The organizer and / or the retailer of holiday travel package shall provide the consumer, in writing or any other appropriate form, in good time, but no later than 7 days before the start of the journey, with the following information:

a) The name of the company, the address and the telephone number of its local representative in the country of visit or, failing that, the contact information of the local agencies in the country of visit, on whose assistance a consumer in difficulty could call. Where no such agencies exist, the consumer must be provided with an emergency telephone number or any other information that will enable him to contact the organizer and / or the retailer;

b) The times and places of intermediate stops and transport connections of the journey, as well as details of the place to be occupied by the traveler, e.g. cabin or a berth in a ship, sleeper compartment on train;

c) The information on the insurance policy, in compliance with the holiday travel package contract, according to the point 40 of this decision;

d) The ability of direct contact with the minor or the person responsible for the minor, at the place of stay, in the case of journeys or stays abroad by minors;

d) The ability of optional conclusion of an insurance policy to cover the cost of cancellation by the consumer or the cost of assistance, including repatriation, in the event of accident or illness.

14. When the period between the conclusion of the contract and the start of the journey is less than 7 working days, the information provided in the article 12 of this decision shall be provided at the time of the conclusion of the contract.

15. The information specified in the articles 3, 9, 12 and 13 of this decision shall be provided in Albanian.

16. The price laid down in the contract of the holiday travel package shall not be subject to revision unless the contract expressly provides for the possibility of revision and the contract how the revised price is to be calculated. In this case, the variations are solely allowed for:

a) The cost of transportation including the cost of fuel;

b) The dues, taxes or tariffs chargeable for the use of certain services under the contract (fees at airports, ports and / or other fees);

c) The exchange rate, applied to the holiday travel package contract within the period of the conclusion of the contract and the date of departure.

17. During the 20 days prior to the departure date stipulated in the contract, the price stated in the holiday travel package contract shall not be increased.

18. The increase of the price of the holiday travel package shall be justified economically and in proportion to the increase absorbed by the costs.

19. If the organizer, finds prior to the departure that he is constrained to alter significantly any of the essential terms of holiday travel package contract, the organizer and / or the retailer shall notify the consumer as quickly as possible to enable him to make appropriate decisions and in particular:

a) On to accept the addition of an annex to the contract which specifies the alterations made to the contract and their impact on the established price,

b) To withdraw from the contract, without penalty.

20. Every alteration of price at a value greater than 5% of the established price provided in the contract is a fundamental change.

21. The consumer shall inform the organizer or the retailer of the holiday travel package of his decision, in accordance with article 19 of this decision, within three days from the date of obtaining the notification, but no later than the day of departure.

22. If the consumer withdraws from the holiday travel package contract, in accordance with letter "b" of article 19 of this decision, or if, for whatever cause other than the fault or error of the consumer, the organizer cancels the package before the agreed date of departure, the consumer shall be entitled to one of the following options:

a) The provision of a substitute holiday travel package of equivalent or higher quality where the organizer or retailer is able to offer such a substitute;

b) The provision of a substitute holiday travel package, of a lower quality. In such case the organizer or the retailer shall refund the consumer with the difference in price between the canceled holiday travel package and the holiday travel package being offered;

c) The refund of all sums paid by the consumer, based on the holiday travel package contract, within 7 days from the date of obtaining the notification, in accordance with article 21 of this decision.

23. In the cases specified in article 22 of this decision, the consumer has the right to seek compensation from the organizer or the retailer for all damages suffered, tangible or intangible, for non-performance of the contract of the holiday travel package, except where:

a) The cancellation of the holiday travel package is on the grounds that the number of persons enrolled for the holiday travel package is less than the minimum number required. In this case the consumer shall be properly informed by the organizer and / or retailer about the cancellation within the period indicated in holiday travel package contract;

b) The cancellation of the holiday travel package is for reasons of *force majeure*;

24. Exceeding the capacity of the final booking for the travel is not considered *force majeure*.

25. The consumer is entitled to transfer his rights and obligations under the holiday travel package contract to a third party, if all conditions of the package are satisfied. In such a case, the consumer shall give notice to the organizer or retailer, before the date of departure, for the purpose of transferring his booking to a third party within the period indicated in the contract.

26. The consumer who transfers his rights and obligations under the contract of the holiday travel package and the person who receives the transferred holiday travel package shall be responsible, jointly and separately, for payment of the balance due to the organizer or the retailer of the holiday travel package and for any additional costs arising from the transfer.

27. The consumer must communicate any failure of performance of the holiday travel package contract when he perceives on the spot to the supplier of services concerned and to the organizer and / or the retailer in writing or any another appropriate form, at the earliest opportunity. This obligation must be stated clearly and explicitly in the contract. The notification shall be in writing or in another appropriate form, such as fax, e-mail or other technical means, which ensures its capability to be reintroduced at request.

28. The supplier of services concerned and the organizer and / or the retailer of the holiday travel package or their local representative must make prompt efforts to satisfy the consumer within the shortest period of time possible and to find an appropriate solution.

29. The organizer and / or the retailer of holiday travel package are responsible to the consumer for the proper performance of the obligations under the contract of the holiday travel package, regardless of the fact that such obligations are to be performed by the organizer and / or the retailer or from other suppliers of services.

30. The organizer and / or the retailer of holiday travel package may file a claim against its subcontractors in the case of non-performance of the obligations under the holiday travel package contract by the subcontractors.

31. The organizer and / or the retailer of holiday travel package are responsible for all damages caused failure of performance or inadequate performance of the holiday travel package contract, except for the case when the failure of performance or inadequate performance of the holiday travel package contract is caused by:

a) The consumer;

b) The actions of a third party who is not related to the provision of the contracted services, which are unforeseeable or unavoidable;

c) The consequences of force majeure or an event, which the organizer and / or its subcontractors, with all due care, cannot prevent or avoid.

32. For the cases that refer to letters "b" "c" of article 31 of this decision, the organizer and / or the retailer of holiday travel package shall provide prompt assistance to the consumer.

33. The holiday travel package contract may stipulate a maximum limit of liability to the organizer and / or the retailer for the damages suffered by the consumer as the result of non-performance or inadequate performance of the holiday travel package contract. In this case, the maximum limit of liability to the organizer and / or the retailer, which shall be agreed upon by the parties in the contract, shall not exceed the amount equal to triple the price of the holiday travel package.

34. When the liability of the subcontractors, contracted by the organizer and / or the retailer, for damages caused by non-performance or inadequate performance of services, in accordance with the holiday travel package contract, is limited by an international agreement, which is ratified by the Republic of Albania, the holiday travel package contract may stipulate a limitation to the liability of the organizer and / or the retailer, in accordance with the terms of the international agreement.

35. The provisions of the articles 33 and 34 of this decision do not apply to damages that result from non-performance or inadequate performance of services included in holiday travel package and cause personal injuries.

36. Without excluding the provisions of the articles 33 and 34 of this decision, the holiday travel package contract should not contain any provisions that free the organizer and / or the retailer from liability according to the articles 29 and 31 of this decision.

37. Where, after the departure, a significant portion of the services contracted for is not provided, or the organizer perceives that he will be unable to procure a significant portion of the services to be provided, the organizer shall make suitable alternative arrangements, at no extra additional cost to the consumer, for the continuation of the holiday travel package, and compensate the consumer for the difference between the services offered and those supplied.

38. If the organizer of the holiday travel package does not make appropriate arrangements, in accordance with the article 37 of this decision, for the continuation of the holiday travel package, the consumer can seek compensation for the additional expenses, which he has incurred.

39. If it is not possible to make appropriate arrangements as provided in the article 37 of this decision, or when these arrangements, for justified reasons, are not acceptable to the consumer, the organizer shall:

a) Provide the consumer, at no extra cost and with equivalent transport back to the place of departure or to another return-point to which the consumer agreed;

b) Compensate the consumer for the damages.

40. The organizer of the holiday travel package shall conclude a compulsory insurance contract that

covers his liability to damages suffered as a result of obligatory failure, including cases of insolvency and bankruptcy.

The insurance contract is signed with an insurance company, in accordance with the provisions set forth in the legislation in force, concerning the insurance and the renewal of insurance, and it covers:

- a) Refund of all sums paid by the consumer, in accordance with the holiday travel package contract;
- b) The compensation of the difference in the case when only a portion of the contracted services of the holiday travel package have been performed;
- c) The coverage of expenses incurred for the return of the consumer to the place of departure.

41. When the organizer or the retailer of the holiday travel package is not able to provide the consumer with a valid insurance contract, in accordance with the article 40 of this decision, the consumer has the right to withdraw from the holiday travel package contract, without any expense or penalty.

42. The withdrawal of the consumer from the holiday travel package contract, in accordance with article 41 of this decision, shall be made in writing to the organizer or the retailer, before the departure.

43. The insurance contract, in accordance with article 40 of this decision, shall be concluded to a 1-year term, and no later than 30 days before the end of the term, the contract can renewed or a new contract can be concluded.

44. The conditions and the procedures for concluding an insurance contract and the liability limits of this contract, in accordance with article 40 of this decision, are determined by the joint guidance of the Minister of Economy, Trade and Energy and the Minister of Finance, with the proposal of the Financial Supervisory Authority.

45. The provisions of this decision will also apply to cases when the organizer and / or the retailer of the holiday travel package proposes or launches various components of the same holiday travel package, billed as separate invoices.

46. The Minister of Economy, Trade and Energy, Minister of Tourism, Culture, Youth and Sports and Minister of Finance are entrusted to enforce this decision.

This decision shall enter into force after its publication in the Official Journal and it extends its effects 3 months after entry into force.

PRIME MINISTER

Sali Berisha