

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

CHAPTER IV

PERFORMANCE OF THE PACKAGE

Article 13

Responsibility for the performance of the package

1 Member States shall ensure that the organiser is responsible for the performance of the travel services included in the package travel contract, irrespective of whether those services are to be performed by the organiser or by other travel service providers.

Member States may maintain or introduce in their national law provisions under which the retailer is also responsible for the performance of the package. In that case the provisions of Article 7 and Chapter III, this Chapter and Chapter V which are applicable to the organiser shall also apply *mutatis mutandis* to the retailer.

2 The traveller shall inform the organiser without undue delay, taking into account the circumstances of the case, of any lack of conformity which he perceives during the performance of a travel service included in the package travel contract.

3 If any of the travel services are not performed in accordance with the package travel contract, the organiser shall remedy the lack of conformity, unless that:

- a is impossible; or
- b entails disproportionate costs, taking into account the extent of the lack of conformity and the value of the travel services affected.

If the organiser, in accordance with point (a) or point (b) of the first subparagraph of this paragraph, does not remedy the lack of conformity, Article 14 shall apply.

4 Without prejudice to the exceptions laid down in paragraph 3, if the organiser does not remedy the lack of conformity within a reasonable period set by the traveller, the traveller may do so himself and request reimbursement of the necessary expenses. It shall not be necessary for the traveller to specify a time-limit if the organiser refuses to remedy the lack of conformity or if immediate remedy is required.

5 Where a significant proportion of the travel services cannot be provided as agreed in the package travel contract, the organiser shall offer, at no extra cost to the traveller, suitable alternative arrangements of, where possible, equivalent or higher quality than those specified in the contract, for the continuation of the package, including where the traveller's return to the place of departure is not provided as agreed.

Where the proposed alternative arrangements result in a package of lower quality than that specified in the package travel contract, the organiser shall grant the traveller an appropriate price reduction.

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The traveller may reject the proposed alternative arrangements only if they are not comparable to what was agreed in the package travel contract or the price reduction granted is inadequate.

6 Where a lack of conformity substantially affects the performance of the package and the organiser has failed to remedy it within a reasonable period set by the traveller, the traveller may terminate the package travel contract without paying a termination fee and, where appropriate, request, in accordance with Article 14, price reduction and/or compensation for damages.

If it is impossible to make alternative arrangements or the traveller rejects the proposed alternative arrangements in accordance with the third subparagraph of paragraph 5 of this Article, the traveller is, where appropriate, entitled to price reduction and/or compensation for damages in accordance with Article 14 without terminating the package travel contract.

If the package includes the carriage of passengers, the organiser shall, in the cases referred to in the first and second subparagraphs, also provide repatriation of the traveller with equivalent transport without undue delay and at no extra cost to the traveller.

7 As long as it is impossible to ensure the traveller's return as agreed in the package travel contract because of unavoidable and extraordinary circumstances, the organiser shall bear the cost of necessary accommodation, if possible of equivalent category, for a period not exceeding three nights per traveller. Where longer periods are provided for in Union passenger rights legislation applicable to the relevant means of transport for the traveller's return, those periods shall apply.

8 The limitation of costs referred to in paragraph 7 of this Article shall not apply to persons with reduced mobility, as defined in point (a) of Article 2 of Regulation (EC) No 1107/2006, and any person accompanying them, pregnant women and unaccompanied minors, as well as persons in need of specific medical assistance, provided that the organiser has been notified of their particular needs at least 48 hours before the start of the package. The organiser may not invoke unavoidable and extraordinary circumstances to limit the liability under paragraph 7 of this Article if the relevant transport provider may not rely on such circumstances under applicable Union legislation.

Article 14

Price reduction and compensation for damages

1 Member States shall ensure that the traveller is entitled to an appropriate price reduction for any period during which there was lack of conformity, unless the organiser proves that the lack of conformity is attributable to the traveller.

2 The traveller shall be entitled to receive appropriate compensation from the organiser for any damage which the traveller sustains as a result of any lack of conformity. Compensation shall be made without undue delay.

3 The traveller shall not be entitled to compensation for damages if the organiser proves that the lack of conformity is:

- a attributable to the traveller;
- b attributable to a third party unconnected with the provision of the travel services included in the package travel contract and is unforeseeable or unavoidable; or
- c due to unavoidable and extraordinary circumstances.

4 Insofar as international conventions binding the Union limit the extent of or the conditions under which compensation is to be paid by a provider carrying out a travel service which is part of a package, the same limitations shall apply to the organiser. Insofar as international conventions not binding the Union limit compensation to be paid by a service provider, Member States may limit compensation to be paid by the organiser accordingly. In other cases, the package travel contract may limit compensation to be paid by the organiser as long as that limitation does not apply to personal injury or damage caused intentionally or with negligence and does not amount to less than three times the total price of the package.

5 Any right to compensation or price reduction under this Directive shall not affect the rights of travellers under Regulation (EC) No 261/2004, Regulation (EC) No 1371/2007, Regulation (EC) No 392/2009 of the European Parliament and of the Council⁽¹⁾, Regulation (EU) No 1177/2010 and Regulation (EU) No 181/2011, and under international conventions. Travellers shall be entitled to present claims under this Directive and under those Regulations and international conventions. Compensation or price reduction granted under this Directive and the compensation or price reduction granted under those Regulations and international conventions shall be deducted from each other in order to avoid overcompensation.

6 The limitation period for introducing claims under this Article shall not be less than two years.

Article 15

Possibility to contact the organiser via the retailer

Without prejudice to the second subparagraph of Article 13(1), Member States shall ensure that the traveller may address messages, requests or complaints in relation to the performance of the package directly to the retailer through which it was purchased. The retailer shall forward those messages, requests or complaints to the organiser without undue delay.

For the purpose of compliance with time-limits or limitation periods, receipt of the messages, requests or complaints referred to in the first subparagraph by the retailer shall be considered as receipt by the organiser.

Article 16

Obligation to provide assistance

Member States shall ensure that the organiser gives appropriate assistance without undue delay to the traveller in difficulty, including in the circumstances referred to in Article 13(7), in particular by:

- (a) providing appropriate information on health services, local authorities and consular assistance; and
- (b) assisting the traveller to make distance communications and helping the traveller to find alternative travel arrangements.

The organiser shall be able to charge a reasonable fee for such assistance if the difficulty is caused intentionally by the traveller or through the traveller's negligence. That fee shall not in any event exceed the actual costs incurred by the organiser.

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- (1) Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents (OJ L 131, 28.5.2009, p. 24).