

New package travel law affects air carriers

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On 1 July 2018 the EU Package Travel Directive (2015/2302/EC) entered into force in Germany. Germany implemented the directive by updating its travel legislation in the Civil Code. As the directive pursues maximum harmonisation and leaves national legislature little room to deviate, the Civil Code adopted most of its provisions.

Overview

The new law provides that anyone offering at least two travel services is considered a 'package organiser' (Section 651a(1) of the Civil Code). This new regime applies to traditional tour operators and air carriers, which may be regarded as package organisers if they offer travel services in addition to flights.

Air carriers commonly offer additional travel services (eg, rental cars) on their websites during online booking. Such carriers may be classified as package organisers. If so, they have several obligations, such as ensuring that the package is provided as offered (Section 651i(1) of the Civil Code).

Further, package organisers must fulfil the information requirements outlined in Section 651d(1) of the Civil Code in connection with Article 250 of the Introductory Act to the Civil Code.

Where applicable, package organisers must inform travellers, before concluding the contract, about the following:

- the package's main components;
- the organiser's contact details;
- the travel price;
- payment options;
- the passport and visa requirements for entering the state of destination, including the estimated time that is required to obtain a visa;
- options to terminate the contract (with appropriate compensation); and
- options to conclude travel cancellation insurance.

Package organisers must also ensure that in the event of insolvency, the travel price is reimbursed to the traveller (Section 651r of the Civil Code).

Section 651t of the Civil Code states that package organisers cannot request or accept payments before the end of the package travel if:

- there is no existing insurance against the organiser's insolvency; or
- the insolvency insurer provided no contact details.

Package organisers that request or accept payment contrary to this provision may be fined up to €30,000 (Section 147b(2) of the Trade Regulation Act).

Comment

In light of Germany's adoption of the EU Package Travel Directive, air carriers should review their travel offers, both online and through travel agencies, as being classified as a package organiser could expose them to additional obligations and liability.

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