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2013/0246 (COD)

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to Article 294(6) of the Treaty on the Functioning of the European Union**

**concerning the**

**position of the Council on the adoption of a 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 and repealing Council Directive  
90/314/EEC**

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**1. BACKGROUND**

Date of transmission of the proposal to the European Parliament and to the Council 9 July 2013  
COM(2013) 512 final, 2013/0246 (COD)

Date of the opinion of the European Economic and Social Committee 11 December 2013  
INT/710 - CES5087-2013

Date of the position of the European Parliament, first reading: 12 March 2014

Date of transmission of the amended proposal: N/A

Date of adoption of the position of the Council: 18 September 2015

**2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION**

The proposal aims to modernise the rules on package travel currently contained in Directive 90/314/EEC. The inclusion of customised combinations of travel services, in particular those purchased on-line, in the scope of the new directive should increase legal certainty and transparency for both travellers and businesses, reduce consumer detriment associated with such combinations and ensure fairer competition between travel businesses.

The qualification of combinations of travel services as packages, providing full protection, as opposed to assisted travel arrangements, with limited protection in the form of insolvency protection, or single travel services depends on the way in which the booking of the relevant services is presented to the traveller. For instance, a single contract on all services, a single booking process or an inclusive or total price will lead to the creation of a package. At the same time, travellers should be given clear information on the nature of the travel product they are being offered and the kind of protection they can expect.

Moreover, the proposal aims to facilitate cross-border transactions through increased harmonisation and an explicit mutual recognition mechanism for insolvency protection. It also

intends to remove unnecessary compliance costs for businesses related to provisions outdated in the digital age (e.g. those related to information requirements in the form of brochures).

Another objective is to close legal gaps in consumer protection, e.g. through additional rights to terminate a contract and more rigid rules for price increases.

It is estimated that the new directive will double the share of protected trips from 23% to 46% in the EU travel market. By increasing the protection of consumers purchasing online travel combinations, the proposal aims to increase consumer confidence and could indirectly contribute to the Commission's aim to boost the Digital Single Market.

### **3. COMMENTS ON THE POSITION OF THE COUNCIL**

The position of the Council reflects the political agreement reached between the European Parliament and the Council in informal trilogues on 5 May 2015, subsequently endorsed by the Competitiveness Council on 28 May 2015.

The Commission supports this agreement since it is in keeping with the objectives of the Commission proposal.

The agreement maintains the differentiated approach regarding packages and linked travel arrangements (called 'assisted travel arrangement' in the Commission proposal). It preserves the substance of the definition of packages and the associated protection level, while making certain adjustments regarding the definition of linked travel arrangements and the insolvency protection granted to travellers purchasing such arrangements. At the same time, it further strengthens the transparency for travellers by adding compulsory information forms.

According to the Council position, it is clear that the new directive will be based on full harmonisation, with a few limited exceptions where, because of different legal traditions or approaches, Member States will be allowed to maintain different solutions. This concerns in particular the possibility to make retailers liable for the performance of a package in addition to organisers or to provide for a right of withdrawal for off-premises contracts, but not for online or other distance contracts.

Certain clarifications of the rules on contractual liability and remedies for lack of conformity in the performance of the contract will increase consumer protection, whereas the detailed criteria for insolvency protection regimes should ensure that the actual protection granted under the rules of the Member States will become more comparable, thereby strengthening the basis for mutual recognition.

The fact that the agreed text obliges the Commission to present a report on online-bookings made at different points of sale and in particular on point (b) (v) of point 2 of Article 3 of the draft directive already three years after its entry into force, will be challenging to fulfil due to the short period the directive will have been applicable at that point. However, the Commission acknowledges that this solution was necessary for Council and Parliament to come to an agreement and is, therefore, acceptable.

### **4. CONCLUSION**

The Commission supports the results of the inter-institutional negotiations and can therefore accept the Council's position at first reading.