GIURETA
Rivista di Diritto dell'Economia, dei Trasporti e dell'Ambiente

Vol. XXIV
2026

# Consumer Protection within the Package Travel Contracts in the EU and Experiences of Transposition in a Candidate Country: the Case of Albania

*Ersida Teliti, Arber Gjeta, Massimiliano Musi* *



1. – The gradual integration of the European Union's Internal Market, alongside the implementation of the four fundamental freedoms, the continuous expansion of the tourism industry, and labour policies granting workers the right to paid annual leave, led to an increasing need for regulatory intervention in the tourism sector. As travel and leisure activities became more accessible to a wider portion of the population, the role of public authorities in establishing clear rules and safeguards for consumers gained significant importance. In this context, where package travel arrangements, organised holidays, and all-inclusive tours have become widely used forms of leisure consumption, the European Union has consistently recognised consumer protection as a key priority within its internal market agenda, pursuing

* Although this article is the result of joint research and study by the authors on the individual legal issues illustrated, the development and drafting of paragraphs 3 and 5 are to be attributed to Ersida Teliti, Associate Professor at the University of Tirana, those of paragraphs 1 and 4 are to be attributed to Arber Gjeta, Associate Professor at the University of Elbasan, and those of paragraphs 2 and 6 are to be attributed to Massimiliano Musi, Full Professor at the Alma Mater Studiorum University of Bologna.



*Rivista di diritto dell'economia, dei trasporti e dell'ambiente, vol. XXIV – 2026*
*ISSN 1724-7322*

this objective through numerous legislative measures and policy initiatives aimed at ensuring transparency, fairness, and legal certainty for travellers.

Various sociological and psychological theories in tourism have been developed to explain motivation, including classifications based on preferences for familiarity versus novelty and perspectives that view motivation as dynamic and shaped by life stages and social influences. Overall, travel decisions are driven by multiple, evolving motivations, such as relaxation, escape, and social interaction, which can be broadly categorized into leisure, professional, and visiting friends and relatives' purposes [1]. While neither policymakers nor tour operators can be responsible for travellers' personal or emotional satisfaction, they play an important role in structuring and organising the framework for travel services [2]. Through properly regulated package travel, package holidays, tours, and consumer protection mechanisms, they help create conditions that enable individuals to enjoy safe and reliable travel experiences.

Tourism was not the focus of the provisions of the first treaties that created the European Community. There was no reference to it in the treaties that created the European Coal and Steel Community, Euratom, and the European Economic Community. With the accession of mainly coastal states to the Community, one of whose main economic sectors was tourism, the Community's policies were revised accordingly. The European Union increasingly adapted its policy framework to reflect the sector's economic importance, particularly through initiatives aimed at supporting coastal and maritime tourism and enhancing competitiveness across member states [3]. The Maastricht Treaty was the first act that the European Community listed tourism as one of the areas that needed to be intervened to have coordinated and common policies

[1] For different theories in needs and motives, behavior or activity, goals or satisfactions in tourism see: P. Mason, *Tourism impacts, planning and management,* London, 2020, 8-10.

[2] In the case Jarvis v Swan Tours Ltd., 1973, UK, the Court of Appeal addressed the issue of breach of contractual obligations, particularly in contracts aimed at providing enjoyment, such as holiday agreements. It found that the tour operator not only failed to fulfill its obligations in accordance with the promises and representations made but also caused the claimant a loss of enjoyment and emotional distress. Consequently, the court recognized that the fundamental purpose of the contract was to provide pleasure and allowed recovery of damages for both loss of enjoyment and the distress suffered. On this case see: Court of Appeal, UK, Jarvis v Swan Tours Ltd., 1973.

[3] European Commission, *A European Strategy for more Growth and Jobs in Coastal and Maritime Tourism*, 2014, COM (2014) 86 final.

in the function of the European common market, in the field of tourism too [4].

The main role and importance of tourism were recognised by the Treaty on the Functioning of the European Union, namely the Treaty of Lisbon. Article 6 of this document defines the European Union's right to exercise competencies to undertake actions to support, coordinate, or supplement the actions of the Member States in the field of tourism [5].

Although the European Union had not explicitly defined tourism as a field of action in which member states would undertake common policies, in other related fields, the Union had begun to act, adopt acts, and oblige member states to harmonise national legislation. The Union had, meanwhile, acted in several fields closely related to tourism, such as consumer protection, transport, culture, and environmental protection [6].

In April 2010, the Madrid Declaration [7], under the motto "Towards a

[4] Also, Maastricht Treaty, article 3 provided that the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out there in…(t) measures in the spheres of energy, civil protection and tourism. Treaty on European Union OJ C 191, 29.7.1992, 1–11 s.

[5] Title XXII, Article 195 of the Treaty on the Functioning of the European Union establishes that tourism falls within a supportive competence of the Union, whereby EU action is intended to complement, rather than replace, national policies. In this context, the Union's role is primarily to enhance the competitiveness of tourism enterprises, foster a supportive business environment, and strengthen cooperation between Member States through the exchange of best practices. Furthermore, any measures adopted under the ordinary legislative procedure are designed to reinforce these objectives while explicitly excluding harmonization of Member States' laws and regulations, thereby preserving national autonomy in tourism policy. Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012, 47–390 s.

On this topic see: I. Torres-M.D. Teruel-Serrano-M. José Viñals, *Tourism policy in the European Union: progress, challenges and prospects,* in *Journal of Policy Research in Tourism, Leisure and Events,* 2025, 1-21; M. Gastri-F. Casolari, *Il turismo nel Trattato di Lisbona: un personaggio non più in cerca di autore*, in *Rivista italiana di diritto del turismo,* 1, 1, 2011, 7-20.

[6] R. Arcarons-I. Simon, *El proceso de convergencia de las politicas turisticas de la Union Europea,* in *Derecho y Turismo, Ediciones Universidad de Salamanca,* 2004, 54 s.; F. J. Melgosa Arcos, *Introduction. The protection of tourists in the European Union,* in C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli-F. Morandi, F. Torchia eds., *Collective Commentary about the New Travel Package Travel Directive*, Estoril, 2020, 52-53 s.

[7] Council of the European Union, *Information note Madrid Declaration (2010), "Towards a socially responsible tourism model"*, in Brussels, 18 May 2010, 9864/10.

On this topic see: F. Ferri, *Il turismo nella programmazione finanziaria UE per il periodo 2014-2020: (molti) limiti e (qualche) potenzialità,* in *Rivista Italiana Di Diritto Del Turismo*, 15, 2015, 348-357 s.

socially responsible tourism model", stressed the importance and need for creating a socially responsible tourism model in Europe, promoting sustainability, competitiveness, and cooperation between Member States within the framework of the Lisbon Treaty. This declaration highlights the Union's commitment to improving access to tourism for individuals with reduced mobility as well as those who are socially and economically disadvantaged. It also stresses the need to optimise the use of tourism infrastructure over longer periods, support the extension of tourism activity across regions throughout the year, and reinforce a shared sense of European identity and citizenship. In addition, it underscores the growing significance of innovation, research, and information and communication technologies in enhancing the competitiveness of the EU tourism sector, particularly in a global market shaped by highly informed consumers and rapid technological advancement.

At different times, and across different acts, directives, or regulations, the European legislator has regulated various aspects of consumer contracts related to tourism, until it prioritised and harmonised the legislation on tourist packages and the contracts related to them. If a large part of the market consists of leisure products and services, and if modern industrial society is willing to spend most of its time and money on improving physical well-being, relaxation, entertainment, and the fulfilment of intellectual, cultural, and religious needs, the main issue is ensuring adequate protection of such demands and needs within the contractual framework.

This article aims to analyse the main developments in the legislation in the field of package travel within the European Union and the challenges of protection, and a special focus will be devoted to the practice of the Court of Justice of the European Union. This court has played a fundamental role in laying the foundations for consumer protection in these packages and in expanding the scope of application and the institution of compensation for damages, especially damage caused by the disruption of holidays.

Also, special focus will be placed on the legal framework and policies of the Albanian state regarding the protection of package travel consumers.

2. – The concept of tourism has changed significantly nowadays, moving from luxury travels to affordable tourism for solo tourists. Package travel and

tours could still be considered the best way to sell destinations, especially for "lazy tourists" or those who want to save time [8].

This approach to the market, the change in mentality, and the way tourism is offered and developed certainly require greater protection in all its aspects. Consequently, the changing nature of tourism demand, combined with the structural challenges identified in EU policy (such as global competition, technological change, and seasonality), underscores the need for enhanced legal and consumer protection frameworks. As tourism products become more varied and widely accessible, ensuring adequate protection for travellers in all aspects of the tourism experience becomes increasingly essential within a modern, competitive, and evolving market environment [9].

Efforts to establish a Single European Market and to promote global trade liberalisation necessitate strong consumer protection measures to ensure that cross-border transactions and access to new sources of supply are not undermined. At the same time, the emergence of new technologies, including e-commerce and digital information systems, has introduced additional challenges for consumer protection frameworks. As a result, consumer protection has become a central and increasingly significant policy area within the European Union [10].

The adoption of Directive 90/314/EEC marked a key step in strengthening consumer protection within the EU tourism sector. Its main purpose was to extend protection beyond the main contracting party, covering also transferees and members of a travel group, ensuring that consumers were safeguarded regardless of how the package was booked or used. In this way, the

[8] The concept of the tourist has evolved significantly over time, alongside changes in behavior and preferences. These developments have been reflected in the emergence of new forms of tourism and in the way tourism services are delivered. Consequently, the legal framework has also adapted, through continuous improvements and the development of case law, particularly in the jurisprudence of the Court of Justice of the European Union.

On this topic see: J.M. Pung-J. Gnoth-G. del Chiappa, *Tourist transformation: Towards a conceptual mode,* in *Annals of Tourism Research*, 81, 2020, 102885.

[9] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *Europe, the world's No 1 tourist destination, a new political framework for tourism in Europe*, Brussels, 30.6.2010 COM/2010/0352 final.

[10] F. McDonald, *Consumer protection policy in the European Union*, in *European Business Journal* 12, 1, 2000 39 - 46 s.

Directive contributed to the harmonisation of national laws across Member States, while also supporting the development of a more consistent and integrated internal market for tourism services [11].

At the same time, it helped shape important principles regarding consumer rights, especially in relation to withdrawal and compensation in cases of non-performance or poor performance of package travel contracts. Over time, these principles have been reinforced through case law and interpreted alongside relevant international instruments regulating transport and tourism, including the Warsaw Convention, the Berne Convention, the Athens Convention, and the Paris Convention. Taking together, these international uniform rules have played an essential role in defining liability and compensation standards within EU tourism law [12]. Overall, this legal framework is primarily designed to support the sustainable development and governance of contemporary tourism across Europe. Within this system, directives play a particularly significant task in shaping tourism-related activities, alongside other EU instruments that directly or indirectly regulate the sector [13].

According to this Directive, a contract means the agreement linking the consumer with the organiser or retailer. A package involves pre-arranged combinations of transport, accommodation, and other services for over 24

[11] Council Directive 90/314/EEC of 13 June 1990 *on package travel, package holidays and package tours,* OJ L 158, 23.6.1990, 59–64.

[12] EU tourism law is not a single, unified legal code, but rather a fragmented and evolving framework composed of Treaty provisions, secondary legislation (directives and regulations), and extensive case law. This structure reflects the EU's broader constitutional limits in the field of tourism, where competence is largely supportive rather than harmonising, meaning that Member States retain primary authority while the Union intervenes mainly to coordinate and complement national action. As a result, EU tourism law has developed in a piecemeal manner, often shaped by sector-specific need, particularly consumer protection, transport regulation, and internal market integration, rather than through a single coherent legislative strategy.

On this topic see: J. Estol-F. Xavier, *European tourism policy: Its evolution and structure*, in *Tourism Management* 52, 2016, 230-241.

[13] European legislation in the field of tourism constitutes a structured system of binding legal norms applicable to both the European Union and its Member States. The manner in which these norms take effect at national level varies depending on their legal form: in fact, while regulations and certain decisions are directly applicable and do not require further transposition, directives generally require implementation before they become fully effective within individual Member State. V. Manikateva, *European regulations in the field of tourism*, in *Научни трудове (Международно висше бизнес училище Ботевград*. *Online,* 17, 2025, 42-56.

hours, or includes overnight accommodation. This prearranged combination must be sold or offered at an inclusive price. The Directive defines a consumer as any person who takes or transfers the package. Organisers and retailers are defined as people involved in arranging and selling packages [14].

From the earliest EU initiatives in this field through to the adoption of Directive 2015/2302, the European Union has progressively expanded its regulatory framework to strengthen consumer protection across multiple modes of transport, including air, rail, road, and maritime services. This evolution reflects a clear policy choice to reinforce passenger rights, particularly through the consolidation of compensation mechanisms in cases of cancellation, delay, or non-performance of travel services. However, while this development appears comprehensive on paper, its practical effectiveness is more complex. The expansion of consumer rights has often been reactive rather than proactive, shaped by fragmented case law and sector-specific regulations rather than a fully coherent and unified legal strategy. Moreover, although the EU has extended protection to areas such as timeshare contracts and broader tourism-related services, significant disparities remain in enforcement and interpretation across Member States, which can undermine legal certainty for consumers. At the same time, these legislative developments highlight a broader tension within EU tourism and transport law, the balance between market liberalisation and effective consumer protection.

While the European Union aims to promote a competitive and well-functioning internal market, it shall simultaneously safeguard consumers from potential vulnerabilities arising within an increasingly complex and cross-border travel system [15]. In this context, Directive 2015/2302 serves

[14] On this topic see: I. Dumitru, *Difficulties in Interpretation and Application of Directive 90/314/EEC on Package Travel, Package Holidays and Package Tours,* in *Rev. Universul Juridic,* 2016, 91.

[15] The concept of consumer and traveller vulnerability differs significantly between EU and non-EU countries, and in this regard the case of Brazil deserves to be mentioned. In the EU, it was only after Directive 2015/2302 that travellers were more clearly integrated into consumer law, especially in relation to package travel and digital booking systems. The EU generally assumes the average consumer is reasonably informed, but still recognises them as the weaker party, while vulnerability applies mainly to specific groups with particular personal characteristics. In contrast, Brazilian law treats all consumers as inherently vulnerable, without creating a separate legal category for travellers, a concept sometimes described as "hyper-vulnerability." From a tourism perspective, travellers are particularly exposed due to being outside their usual legal and cultural environment, creat-

both to consolidate earlier consumer protection measures and to recognise the need to modernise existing legal frameworks. It reflects the EU's response to the evolving realities of contemporary tourism, particularly the rise of digital platforms and the growing interconnectedness of global travel markets.

The preamble of Directive 2015/2302, paragraph (2), underlines the importance of tourism in the economy of the Union. The internet has become an increasingly important medium for offering or selling travel services, combining traditional pre-arranged packages offered in the traditional market with consumer requests. Many of those combinations of travel services were clearly not covered by Directive 90/314/EEC. The scope of the Directive was to adapt the implementation to consider these developments, to enhance transparency, and to increase legal certainty for travellers and traders.

Directive 90/314/EEC created space and freedom for Member States in its transposition, leading to differences in implementation and, consequently, different levels of protection. The establishment of the single European common market, the guarantee of the free movement of goods and services, and the freedom of establishment, stemming from the TFEU, are among the principles underlying the need to draft a new directive in the field of travel packages. To guarantee equality in this relationship, to fully benefit from the opportunities of the Internal Market, and to ensure a higher level of consumer protection, the European legislator deemed it necessary to draft a new legal framework. New forms of offline and online trade, along with the wide range of offers and choices, have created difficulties in distinguishing between consumers and representatives of businesses or professionals who buy packages through the same booking channels as consumers. This is necessary for the circle of subjects requiring protection, but also their distinction from companies or organisations that make travel arrangements based on a general agreement, often concluded for numerous travel arrangements for a specified period, for instance, with a travel agency, has made it necessary to refer to these persons protected under this Directive as "travellers". The legislator has

ing both external and jurisdictional vulnerability. This makes international travellers a special category of consumers requiring enhanced legal protection in both systems. M. G. S. Lima, *Traveller vulnerability in the context of travel and tourism contracts. A comparison of Brazilian and EU law*, Cham, 2018, 149 – 197.

justified this choice with the need to avoid confusion with the definition of the term "consumer" used in other EU legislation [16].

The European Union has aimed for full transposition of acts by Member States within the framework of private law. Despite the will to establish the same level of provision and protection in aspects of private law related to unfair commercial practices, unfair contract terms, intellectual property, product liability, consumer contracts, electronic commerce, in a general perspective, harmonisation is fragmented in specific sectors [17].

The use of a legal instrument in these sectors, such as a directive, does not imply unification and equal treatment in all Member States, but only harmonisation. This creates facilities for States to transpose in different ways, including different provisions, from those of specific codes, mainly the Civil Code.

The EU has gradually shifted from a strategy of minimum harmonisation to one of maximum harmonisation in certain areas, including health, consumer protection, and environmental law. This shift is justified by the purpose of ensuring a high level of protection, particularly in light of new scientific developments [18]. Interestingly, scholarly debate in this area tends to split into two main camps, distinguished by whose interests are being safeguarded and the perspective from which protection is approached.

[16] J. Luzak underlines that the old Package Travel Directive adopted an unusual approach within EU consumer law by defining a consumer in Article 2(4) as "*a person who takes or agrees to take the package.*" This meant that consumer status depended on the type of contract rather than the purpose of the transaction. This differs from the general EU approach, where a consumer is usually defined as a natural person acting for purposes outside their trade or profession, with emphasis placed on the transaction's purpose. As a result, the former directive also covered mixed-purpose travel, including both private and business elements, giving it a broader scope of protection than other consumer instruments.

This approach has largely been maintained under Directive 2015/2302, although the concept of the "traveller" was introduced in Article 3(6) to clarify terminology and avoid legal uncertainty. Despite this change, the Directive remains part of the EU consumer acquis, as confirmed by its legal basis in Article 114 TFEU, which aims to ensure a high level of consumer protection while supporting the internal market. The recitals further show that the reform was intended to reduce legal fragmentation and improve cross-border consumer choice, rather than reduce protection (J. Luzak, *Vulnerable travellers in the digital age*, in. *J. Eur. Consumer & Mkt*. L., 5, 2016/ 130 s.e.

[17] P. J. Garcia Saura, *Article 4, Level of Harmonisation,* in C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli-F. Morandi-F. Torchia eds., *Collective Commentary about the New Travel Package Travel Directive*, Estoril, 2020, 203 s..

[18] Saura, *Article 4, Level of Harmonisation*, cit., 204.

Scholars who prioritise consumer protection generally advocate for maximum harmonisation, aiming to ensure that all EU Member States provide a uniform level of protection. This approach strengthens consumers, recognising them as the weaker party in the legal relationship with traders. In contrast, those who focus on the interests of traders and sellers argue that even minimum harmonisation creates sufficient legal certainty and stability within the internal market [19]. As noted in the literature, maximum harmonization may require Member States with higher existing levels of consumer protection to adjust their national legislation downward to comply with the uniform EU standard [20]. Stephen Weatherill, in his analysis of minimum and maximum harmonization in EU consumer law, highlights a key tension between allowing regulatory diversity and ensuring legal uniformity across Member States. He explains that minimum harmonization gives countries the freedom to maintain or introduce higher levels of consumer protection, which supports national autonomy and can strengthen consumer rights. However, this flexibility can also lead to differences between legal systems and result in fragmentation within the internal market. By contrast, maximum harmonization requires Member States to apply the same set of rules, which improves legal certainty and makes cross-border trade more straight-

[19] Mak examines EU consumer protection law by distinguishing between minimum and maximum harmonisation. He highlights the ongoing tension between national flexibility and the desire for legal uniformity within the internal market. Under a minimum harmonisation approach, EU rules only set basic standards of protection. Member States can adopt or keep more protective national provisions. While this can strengthen consumer protection in some countries, it also results in different legal standards and varying levels of protection across the EU. In contrast, maximum harmonisation requires Member States to apply uniform rules without deviation. Its main goal is to improve legal certainty, reduce regulatory differences, and support cross-border trade. However, this may lower protection in areas that previously had higher national standards, raising concerns about a potential weakening of consumer rights. This tension is particularly evident in tourism law, especially within the Package Travel Directive framework. Efforts to harmonise rules aim to create a more coherent and efficient internal market for travel services. However, these efforts also raise broader questions about how to balance market integration with the need to maintain a consistently high and effective level of consumer protection across Member States (V. Mak, *Review of the consumer acquis: towards maximum harmonization?* in *European Review of Private Law*, 17(1), 2009).

[20] Also see Mak, *Review of the Consumer Acquis*, cit.; S. Weatherill, *EU Consumer Law and Policy*, 2nd edition, Cheltenham, 2013; G. Howells, H.-W. Micklitz, T. Wilhelmsson, *European Consumer Law,* Farnham, 2006.

forward. At the same time, it can limit the ability of some countries to maintain stronger consumer protection standards than those set at the EU level. Weatherill presents this as an ongoing policy dilemma in EU law, where the need for a well-functioning internal market must be balanced against the goal of ensuring strong and effective consumer protection [21].

Differences in national implementation, the delayed adaptation of the legal framework, and the evolving case law of the Court of Justice of the European Union raised doubts about the adequacy of the protection granted to consumers and travellers under Directive 90/314/EEC on package travel. The jurisprudence of the Court of Justice of the European Union contributed to strengthening consumer protection by requiring Member States to ensure a higher level of safeguards. Through its interpretations, the Court expanded the scope of application of Directive 90/314/EEC on package travel and clarified that organisers and sellers may be held liable for compensating damages resulting from failures in the performance of the travel package [22].

To ensure a very high level of consumer protection, and as a result of the lack of uniformity in the practices of the Member States and the experience created by Directive 90/314/EEC on package travel, Directive (EU) 2015/2302 on package travel and linked travel arrangements mentions in its preamble several legal acts of the European Union, as well as international agreements relating to tourist packages and linked travel arrangements, which form part of this regulatory area.

In this context, Recital 48 of Directive 2015/2302 explains that the introduction of the Directive required adjustments to the wider EU consumer protection framework. It clarifies that Regulation (EC) No 2006/2004 remains applicable to infringements of the Directive, ensuring that enforcement mechanisms continue to function effectively across Member States. The Recital also

[21] S. Weatherill, *The fundamental question of minimum or maximum harmonisation*, in S. Garben-I. Govaere eds., *The Internal Market 2.0*, Oxford, 2020.

[22] Recital 23 of Directive 2015/2302 explains that the Directive 90/314/EEC allowed Member States a degree of discretion in deciding whether liability for the proper performance of a package rested with retailers, organisers, or both. This flexibility, however, created legal uncertainty in some jurisdictions regarding which party was ultimately responsible for fulfilling the travel services included in the contract. To address this issue, the Directive clarifies that, as a general rule, the organiser bears responsibility for the performance of the package travel contract, unless national legislation specifically provides for shared liability between the organiser and the retailer.

acknowledges that, since Directive 2011/83/EU does not fully cover contracts previously regulated under Directive 90/314/EEC, amendments were needed to preserve legal consistency within EU consumer law [23].

As a result, Directive 2011/83/EU continues to apply to individual travel services that form part of linked travel arrangements, provided they are not excluded from its scope. It also extends certain consumer rights to package travel contracts, thereby helping to ensure a more coherent and consistent level of protection across different types of travel arrangements within the EU legal framework.

The development of EU tourism law has been shaped by a combination of legislative evolution, case law, and practical experience in the internal market. The application of Directive 90/314/EEC, Directive 2015/2302, and the Court of Justice of the European Union case-law, have shown that there are still differences in how Member States apply and enforce EU rules in practice. These differences are not always visible itself but become clearer in practice. This became particularly noticeable during the COVID-19 pandemic, when problems such as delayed refunds, insolvency protection gaps, and weak coordination between national authorities placed significant pressure on the existing legal framework. These challenges highlighted that, despite harmonisation efforts, the tourism sector remains vulnerable to fragmentation in enforcement and interpretation across the EU. Based on these issues and the need to provide better consumer protection, the European Commission has proposed reforms to strengthen the current framework in package travel. The main purpose of these changes is to improve clarity in the rules, reinforce protection for travellers, and make enforcement more consistent across Member States. This means that national authorities will need to cooperate more closely and manage cross-border cases more effectively. Legally, it also suggests a shift towards more uniform rules, leaving less space for different national harmonisation.

Overall, the direction of reform reflects an attempt to balance two important objectives: on the one hand, maintaining a functioning and competitive

[23] 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, OJ L 326, 11.12.2015, 1–33.

internal market for tourism services, and, on the other, ensuring that travellers receive a higher and more consistent level of protection in practice [24].

3. – Consumer protection constitutes an area in which the European Union has established binding legal obligations for traders throughout their relationship with consumers. While traditional continental contract law theories have generally not attributed full legal effect to elements such as advertising, marketing, and publicity, the European Union has intervened to enhance consumer protection and to address the imbalance between the parties [25]. In this context, traders are required to provide complete, clear, and accurate information, including that conveyed through advertising and marketing practices, ensuring that such information can produce legal consequences. Furthermore, Directive (EU) 2015/2302 on package travel and linked travel arrangements clarifies in paragraph 20 of its preamble that it does not override national contract laws for issues it does not specifically regulate.

Information constitutes one of the primary mechanisms through which the European Union aims to strengthen consumer protection [26]. Within

[24] Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/2302 to make the protection of travellers more effective and to simplify and clarify certain aspects of the Directive, COM/2023/905 final. See D. Borek, *Implications of the proposed changes to the tourism directive 2015/2302–administrative and legal perspective*, in S. Baltova, A. Cholakova (Eds.), *Икономически растеж, бизнес перспективи, пазарно позициониране в условията на криза*. Международно висше бизнес училище, 2024, 294 - 309 s.

[25] De Elizalde states that advertising is only a legal offer if it clearly shows intent to be bound and includes definite terms like price and product. Otherwise, it's just an invitation to treat, meaning it invites negotiation rather than forming a contract. Even with public ads (like catalogues), changes in price or availability show why they're usually not binding offers. The law often treats them as invitations unless clearly stated otherwise. However, consumers may reasonably rely on detailed ads, which can make things less clear. Consumer law focuses on whether advertising itself can create a contract or only support one after it's formed. Generally, it does not force a contract to exist, it protects freedom of contract. Instead, advertising usually works as a supplement to a contract. Once, a contract is made, consumers can rely on what was advertised if it influenced their decision. In short, advertising is binding only if it meets the requirements of an offer. If not, it is just an invitation to treat, though its content can still matter later. Misleading or unfair advertising isn't solved by forcing a contract, but by rules on unfair competition.

F. de Elizalde, A*dvertising as a source of terms-At the crossroads between contract and consumer law*, in J. *Eur. Consumer & Mkt. L.* 6, 2017, 80 - 84 s.

[26] Research in social and behavioral sciences highlights several problems with the idea that simply giving people information leads to informed choices. Under the Theory of Informed Con-

the framework of this Directive, retailers are expected to ensure that consumers are provided with comprehensive and accessible information, regardless of the method through which the package is offered or purchased. While the requirement that such information be clear, accurate, binding, and properly updated, it reflects a broader effort to address the imbalance between traders and consumers. At the same time, particular attention should be given to vulnerable travellers, although in practice the extent to which traders effectively meet this obligation may vary, especially in complex or cross-border transactions [27].

The directive clearly defines its scope of application, applying to packages offered for sale or sold by traders to travellers, as well as to linked travel arrangements facilitated by traders for travellers. It excludes short trips without overnight stays, occasional non-profit offers to limited groups, and business travel arrangements. The directive itself refers to the national legal framework governing contractual relations in relation to the validity, conditions, and effects of contracts for that part not covered by it [28].

The Directive provides a higher level of consumer protection, a development acknowledged both within European Union legal instruments and in

sent, valid consent requires that a person receives, understands, and agrees to information. However, even when all legal information is provided, consumers may still struggle to understand it or make rational decisions. Studies have shown that many assumptions about how people make decisions are flawed, calling into question how effective current consent models really are. While informing users and obtaining their consent may meet legal standards for data use, it doesn't necessarily mean that consent is meaningful or truly informed. The current system relies heavily on disclosures, but for these to work, people must be willing to read and able to understand them. This depends both on consumer factors (like motivation, knowledge, and biases) and on how the information is presented (its clarity and completeness). Social and behavioral research shows that these factors, along with technological complexity, create real challenges for making informed consent genuinely effective.

N. Helberger-O. Lynskey-H.W.Micklitz-P. Rott-M. Sax-J. Strycharz, *EU consumer protection 2.0. Structural asymmetries in digital consumer markets, Joint Report* from EUCP2. 0 Project BEUC, 2021, 29-31 s.

[27] Luzak, *Vulnerable travellers in the digital age*, cit., 130 s.; Mima, *Traveller vulnerability in the context of travel*, cit., 149-197 s.

[28] See article 2 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, OJ L 326, 11.12.2015,. 1-33.

academic literature. In particular, it strengthens protection in the context of linked travel arrangements [29], where a combination of travel services, such as accommodation together with another tourist service, like a guided tour or a concert ticket, qualifies as a linked arrangement only if the additional service accounts for at least 25% of the total value of the trip or constitutes a significant and essential component of it.

3.1 –The European legislator has expressly established the obligation of the organiser or retailer to provide comprehensive pre-contractual information in the context of package travel or related travel arrangements. This standardised information must include the main characteristics of the travel services, details of the organiser or retailer, the total price inclusive of applicable taxes and the payment arrangements, as well as information concerning passport and visa requirements. In addition, it should specify the minimum number of participants required for the trip to take place, the conditions for contract termination prior to its commencement, and any additional costs, including those related to optional or mandatory insurance [30].

The obligation to provide information extends beyond the pre-contractual stage, as the information supplied at this phase is binding and forms an integral part of the contract concluded between the organiser or retailer and the traveller. Essential elements, such as the main characteristics of the travel services, the total package price, the method of payment, the conditions, and the deadline for terminating the package before it takes place, cannot be changed unless the parties express their will in a clear and unambiguous manner. The organiser or retailer cannot impose additional costs, taxes, or

[29] A linked travel arrangement, under Directive (EU) 2015/2302, refers to a situation where a traveler books at least two different travel services for the same trip through related transactions, but without forming a full package. These services are bought separately, often from different providers, yet are connected, for example, when a second service is booked within 24 hours through a referral. While it's not a package holiday, the Directive still provides some limited protection to the travel.

Also see F. J. M. Arcos, *The tourist protection in the Directive (EU) 2015/2302 of 25 November*, in C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli-F. Morandi-F. Torchia (ds.) *Collective Commentary about the New Travel Package Travel Directive*, Estoril, 2020, 62-69.

[30] See annex I of 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, *OJ L 326,* 11.12.2015, 1-33.

other financial obligations on the traveller that were not disclosed in advance in the pre-contractual phase [31].

The organiser or retailer should provide all the information in a clear, comprehensible, and prominent manner [32]. The contract should not only incorporate the information provided in the pre-contractual phase but also include detailed and comprehensive provisions concerning the travel arrangements, the party responsible in cases of lack of conformity during the performance of the package, and the available mechanisms for alternative dispute resolution [33].

[31] Under the Package Travel Directive 1990, traders were already required to give travellers key information before a contract is concluded. This included details such as the main features of the trip, pricing and payment terms, minimum group size, cancellation conditions, and practical requirements like passports, visas, and health formalities. At the time, brochures, the main marketing tool, had to present this information clearly, accurately, and in a way that was easy to understand, and their content was binding on the organiser or retailer. The Directive also required that information not be misleading, although this later became less relevant with the introduction of the Unfair Commercial Practices Directive. Unlike the newer Directive 2015/2302, the 1990 rules did not explicitly require information to be presented prominently, nor did they generally oblige organisers to provide their own contact details, only those of local representatives or emergency contacts. However, such contact details could still be required under the Unfair Commercial Practices Directive where the communication qualifies as an "invitation to purchase," meaning it includes enough detail (such as price and key features) to allow the consumer to make a decision.

M. Loos, *Precontractual information obligations for package travel contracts*, in *J. Eur. Consumer & Mkt. L.* 5, 2016, 125-130 s.

[32] The Court of Justice has clarified that an "invitation to purchase" exists once a commercial communication provides enough detail about a product and its price for a consumer to make a decision. It is not necessary for the ad to include a direct way to buy or be linked to an actual purchase opportunity. This means that when the key features of a package travel and its price are clear enough for the consumer to decide, all material information must be provided. Under the Unfair Commercial Practices Directive, the organiser's contact details are explicitly considered material. If this information is missing, it may amount to a misleading omission, especially where an average consumer would need it to make an informed choice. Since contact details help identify the contracting party, a careful consumer would likely consider them important before agreeing to a contract. For that reason, leaving out such details in an invitation to purchase can reasonably be seen as misleading.

CJEU 12 May 2011, case C-122/10 Konsumentombudsmannen/Ving Sverige [2011] ECR I-3903, CLI:EU:C:2011:299, point 33.

[33] In accordance with Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR), OJ L 165, 18.6.2013, 63–79, and Regulation (EU) No 2024/3228 of the European Parliament and of the Council of 19 December 2024 repealing Regulation (EU) No 524/2013, and amending Regula-

Another aspect that reflects the enhanced and more effective approach to consumer protection is the allocation of the burden of proof. In cases of non-compliance with the obligation to provide information under the provisions of this Directive, the burden rests with the trader, thereby strengthening the position of the consumer and ensuring greater legal certainty. The CJEU case law on package travel tends to place the evidential burden mainly on the organiser, in its practice. Once the consumer shows that there has been non-performance or raises a credible complaint about poor performance, it is then up to the organiser to prove that the contract was properly carried out or that they can rely on an applicable defence [34]. This approach is also supported by the principle of effectiveness in EU law, which ensures that national procedural rules do not make it too difficult in practice for consumers to enforce their rights under the Package Travel Directive.

Directive (EU) 2015/2302 offers better protection for consumers in many aspects compared to Directive 90/314/EEC. In contrast to this directive, the new directive recognises the right to withdraw from or terminate the contractual relationship if the price of the package increases by 8% [35]. The reduction of the threshold reflects a broader legislative intent to enhance transparency, improve legal certainty, and provide more effective protection for consumers within the framework of package travel contracts. In the event of a price reduction, the organiser is entitled to deduct actual administrative costs from the refund due to the traveller [36]. At the traveller's request, the organiser must provide proof of these administrative costs.

A special focus is also given to price reductions, where the consumer is recognised as having this right. In this case, the organiser may deduct actual, non-refundable administrative costs from this amount, for which the burden of proof also falls on him. In this context, in the spirit of transparency and

tions (EU) No 2017/2394 and (EU) No 2018/1724 with regard to the discontinuation of the European Online Dispute Resolution Platform (Text with EEA relevance) PE/103/2024/INIT, OJ L, 2024/3228, 30.12.2024.

[34] See: CJEU, Case C-400/00, *Club-Tour, Viagens e Turismo* (2002); Case C-83/10*, Azienda Agricola Disaro Antonio and Others (*2011*);* Case C-189/11, *Allianz Hungária Biztosító* (2013)

[35] Article 2, paragraph 2 of the Directive (EU) 2015/2302.

[36] See more: D. Klasic , *Legal Aspects of Package Travel Contracts,* in Z. Primorac-C. Bussoli-N. Recker eds., *Economic and Social Development, 16th International Scientific Conference on Economic and Social Development – "The Legal Challenges of Modern World", Book of Proceedings*, Split, 2016, 23 s.

consumer information, these costs must be notified to the consumer in advance and may be part of the contractual information.

In accordance with the general principles of contract law, regardless of the form of the contract, whether it is a standard contract or not, the Directive categorically prohibits the organiser from unilaterally changing the conditions unless this right is expressly provided for by the contract or the change is clearly communicated in a prominent manner using a durable medium.

3.2. – Directive (EU) 2015/2302 reflects a balanced approach between consumer protection and the legitimate interests of traders. On the one hand, it strengthens the traveller's contractual autonomy by allowing termination of the package travel contract at any time before the start of the package. This right is accompanied by the possibility of imposing reasonable fees, thereby ensuring the organiser's compensation for potential losses. One of the most important rights is the right of the traveller to withdraw without penalty in cases of unavoidable and extraordinary circumstances, which significantly affect either the performance of the package or the transport to the destination[37]. On the other hand, the Directive preserves the organiser's interests by allowing contract termination under specific conditions, such as failure to reach the minimum number of participants[38] or the occurrence of extraordinary circumstances, provided that the traveller is informed in advance. The strict obligation to refund payments within 14 days further en-

[37] Withdrawal rights give consumers the option to cancel a contract after it has been concluded, without any obligation to proceed with performance. This reflects the idea that the consumer's decision-making process may have been imperfect at the time of contracting, even if this is not certain. The consumer can exercise the right to withdraw for any reason, including simply changing their mind or finding a better offer elsewhere, regardless of whether they fully understood or intended to be bound by the contract. From an economic perspective, withdrawal rights are usually assessed in terms of efficiency. Understanding withdrawal rights requires balancing these costs against the benefits they provide to consumers, such as improved protection and flexibility in decision-making.

H. Eidenmuller, *Why withdrawal rights?* in *European Review of Contract Law,* v, n, 2011, 1-24.

[38] Failure to reach the minimum number of participants in the contract is considered a ground for termination of the contractual relationship before its start, provided that the consumer has been informed in advance about this requirement and the minimum number needed.

See C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli-F. Morandi-F. Torchia (eds.), *Collective Commentary about the New Travel Package Travel Directive*, Estoril, 2020, *passim*.

hances legal certainty and financial protection for the consumer. These provisions illustrate the Directive's attempt to reconcile flexibility and fairness, ensuring a fair allocation of risks while maintaining a high level of consumer protection within the internal market.

3.3. – The organiser is responsible for the proper performance of all services included in the package, regardless of whether these services are carried out directly by the organiser or by third-party providers [39]. In the event of a lack of conformity, the traveller is required to inform the organiser without undue delay. Upon notification, the organiser must take immediate measures to restore this right to the traveller, except when this is impossible, or there are disproportionate consequences.

In these conditions, the legislator has recognised several rights to the traveller, depending on the possibility of remedying the situation. These rights include the provision of alternative arrangements at no additional cost, reimbursement of expenses where services are not delivered as agreed, and, where appropriate, the right to terminate the contract without incurring any further charges [40].

Article 14 of Directive (EU) 2015/2302 recognises the right of travellers to a price reduction during the period in which the services provided are not in conformity with the contract. The European Union has laid down that

[39] Each Member State, when implementing the Directive, sought to harmonise its rules within the national legal framework, particularly with regard to the organiser's liability in cases of non-performance or improper performance. In such cases, the organiser is generally held responsible and must offer appropriate remedies, such as remedying the problem, providing an alternative solution, or granting a price reduction and/or compensation where applicable. The Directive aims to ensure a high and consistent level of consumer protection across Member States, while still allowing national law to regulate the detailed mechanisms of liability and enforcement.

See *ex pluris*, Corres-JMelgosa Arcos-LJeguoso-VFranceschelli-FMorandi-FTorchia (eds.), *Collective Commentary*, cit.

[40] The mechanism of civil remedies and sanctions applicable to the organiser that does not ensure the provision of the contracted tourist services is one that takes into account the situation that the tourist finds any "lack of conformity" after the beginning of the tourist trip. On the other hand, the legal framework of the organiser responsibility is a particular one, with a special character, and must be applied with priority over the provisions of the general law, respectively of the Civil Code. This is because, in accordance with the principle of law specialia generalibus derogant, no general rule can remove from the application a special rule.

I. Dumitru, *Responsibility of the Organizing Travel Agency for the Inadequate Provision of Tourist Services* in *Perspectives of Law and Public Administration,* V, I, 2019, 328-334.

the minimum limitation period for claiming this right in the Member States shall be at least two years.

This right must be made known to travellers immediately, and compensation must be granted without delay. However, compensation is not granted if the organiser demonstrates that the problem was caused by the traveller, by an unrelated third party in an unforeseen or unavoidable way, or by unavoidable and extraordinary circumstances. This directive allows for some limits on compensation, especially when international conventions are in place. The compensation is limited to three times the total price of the package, excluding personal injury or damage caused intentionally or with negligence. Furthermore, the traveller's rights under this directive coexist with those under other EU regulations and international conventions, although double compensation is not permitted.

In a preliminary ruling, the CJEU interpreted Article 14(3)(b) of Directive (EU) 2015/2302, which deals with situations where an organiser may escape liability if a lack of conformity is caused by a third party outside the travel services and is both unforeseeable and unavoidable. The case *C-469/24 (Tuleka)* concerned a package holiday where travellers did not receive the agreed services due to demolition and construction works at the hotel. The organiser argued that it should not be liable because the disruption resulted from extraordinary circumstances. The Court clarified that, for the exemption to apply, the organiser must show that the problem is attributable to a third party and that it was unforeseeable and unavoidable. Importantly, it is not necessary to prove any fault on the part of that third party, and national rules cannot impose such a requirement.

The Court also explained that compensation in cases of non-conformity can amount to a full refund where the defects are so serious that the package loses its purpose for the traveller, even if some services were still provided. However, this compensation is not punitive; its aim is simply to restore the balance of the contract and compensate the consumer for the loss suffered. It was made clear that actions by public authorities, such as demolition works, do not automatically qualify as "unavoidable and extraordinary circumstances." This is especially the case where such events were foreseeable or where the organiser could have anticipated them and taken preventive steps, meaning liability is not automatically excluded [41].

[41] CJEU, C-469/24 (Tuleka Case), judgment of 23 October 2025.

For the first time, a case concerning a package travel contract performed in Albania has been brought before the Court of Justice of the European Union. This development illustrates how the Court, in line with its objective of ensuring a high level of consumer protection, extends the application and effects of EU law even when the contractual services are carried out outside the territory of the European Union [42]. The case highlights that the protective framework established under Directive (EU) 2015/2302 on package travel is not strictly limited by the geographical location where the services are performed. Instead, what matters is the legal connection to the EU, such as the organiser's place of establishment or the applicability of EU law to the contract.

The EU legal framework has addressed the issue of excluding the organiser or retailer's liability to avoid responsibility for non-compliance with obligations in various consumer contracts, citing "unavoidable and extraordinary circumstances." Case C-578/19, X v. Kuoni Travel Ltd. [43], concerns the liability of the organiser of package travel for very serious damage caused by a hotel employee during the holiday, where civil liability and criminal liability arise. The Court of Justice of the EU clarified that, under Directive 90/314/EEC, the organiser bears contractual liability for the proper performance of all services included in the package, even when these are performed by other suppliers, such as the hotel. It emphasised that an employee of the supplier cannot be considered a "service provider" himself, but his actions are treated as actions of the supplier, making the organiser liable towards the consumer. Furthermore, the Court ruled that the organiser cannot be excluded from liability by relying on the exclusion for "unforeseeable or unavoidable events," since the actions of the supplier's employees fall within the sphere of control of the latter. Consequently, even a criminal act such as rape, if related to the performance of the contracted services, may constitute improper performance of the package travel contract. The court also emphasised that exclusions from liability must be interpreted narrowly to guarantee a high level of protection for the consumer. In conclusion, the travel

[42] See G. Betlem, *Public and private transnational enforcement of EU consumer law*, in *European Business Law Review*, 18, 4, 2007, 683-708.

The Author suggests that although EU law has made significant progress in developing a cooperative system of enforcement, ensuring fully effective and smooth cross-border consumer protection remains a long and ongoing process.

[43] CJEU case C-578/19, X v. Kuoni Travel Ltd.

organiser cannot avoid liability for damage caused by the employees of its suppliers and must compensate the consumer for any non-performance or improper performance of the contract.

The concept of "unavoidable and extraordinary circumstances" has been developed through CJEU case law over time. The COVID-19 pandemic clearly fell within this category, and its unprecedented impact led the European Union to issue specific guidelines to address its consequences in the context of travel and consumer protection.

The Commission Notice "Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with Covid-19" states that the EU provides the most comprehensive system of passenger rights worldwide, covering air, rail, bus and coach, as well as maritime transport [44]. Although these guidelines do not apply to Directive (EU) 2015/2302 on package travel and linked travel arrangements, they confirm that passengers retain the right to a refund of the ticket price or re-routing at a later date, depending on what suits the passenger [45].

Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic [46]. This recommendation was adopted in the context of the COVID-19 pandemic, which caused an almost complete disruption of travel both in Europe and worldwide. Due to restrictions and widespread cancellations, a significant number of travellers requested refunds, while transport and tourism companies faced serious financial difficulties and liquidity shortages. Under European Union law, travellers retained the right to a full cash refund in the event of cancellation. However, the Recommendation sought to encourage the use of vouchers as a more flexible alternative, without undermining this right. For vouchers to be considered reliable and attractive, they needed to be protected against the insolvency of organisers or

[44] Commission Notice Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with Covid-19 2020/C 89 I/01 C/2020/1830 OJ C 89I, 18.3.2020, 1-8.

[45] Passenger rights, in relation to various forms of transport, are not the subject of this paper.

[46] Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic C/2020/3125 OJ L 151, 14.5.2020, 10–16.

carriers and to have a minimum validity period of 12 months. Even where vouchers were valid for longer, travellers should still have the possibility to request a refund after 12 months. They should also be transferable without additional cost and, where possible, usable for services of the same or equivalent quality as the original booking. Importantly, the acceptance of vouchers remained entirely voluntary [47].

The Recommendation further highlighted the importance of cooperation among stakeholders in the tourism and transport sectors, as well as the need for transparency and clear information for travellers. It also encouraged Member States to support the sector through financial measures.

Overall, the aim was to strike a balance between protecting consumer rights and ensuring the economic stability of travel operators by promoting a practical and sustainable solution in a time of crisis.

For consumer protection, the directive provides that the consumer is entitled to the same rights as when addressing the organiser or retailer directly. On the other hand, to maintain the balance in the market between consumer protection and the economic interests of the organiser or retailer, they are entitled to charge a reasonable fee for traveller's assistance if the difficulty is caused intentionally by the traveller or through the traveller's negligence.

These provisions also apply to linked travel arrangements, to guarantee better protection for consumers and travellers.

3.4. – The Directive (EU) 2015/2302 obliges Member States to ensure that travel organisers provide effective financial guarantees to protect travellers in the event of insolvency. The guarantees aim to cover the refund of all payments made for services not performed and, where transport is included, also ensure repatriation. The protection must be comprehensive and realistic, considering advance payments and potential repatriation costs. It applies re-

[47] The pandemic significantly changed global tourism by making risk awareness a key factor in how people choose to travel. As a result, future tourism management will need to place greater emphasis on health protection, crisis preparedness, and sustainable practices in order to build resilience in the sector. The study demonstrates that COVID-19 reshaped tourist behaviour by placing risk perception at the centre of travel decisions, and it underlines the importance of adapting the industry in terms of service delivery, safety measures, and long-term sustainability.

M. K. Rahman-A.I. Gazi-M.A. Bhuiyan-A. Rahaman, *Effect of Covid-19 pandemic on tourist travel risk and management perceptions*, in *Plos one,* 2021, 16(9):e0256486.

gardless of the traveller's residence, departure point, or place of purchase, ensuring uniform protection across the EU. In cases of insolvency, travellers are entitled to free repatriation, if necessary, accommodation before return, where required, and/or prompt refunds for unperformed services [48]. The directive also establishes mutual recognition of insolvency protection across Member States. This means that protection provided in the organiser's country of establishment must be accepted throughout the EU. To support this, Member States must cooperate through designated central contact points, exchange relevant information, and respond quickly to verification requests. There is no difference in the legal regime, if the package travel contract is purchased physically or through online means of communication [49].

Unlike package organisers, traders facilitating linked travel arrangements are liable only for the services they provide. They must ensure refunds of payments received in case of insolvency and, where responsible for transport, also cover repatriation. They are not responsible for the performance or insolvency of other service providers involved. However, they must clearly inform travellers that full package protection does not apply. If this obligation is breached, or if insolvency protection is not provided, the trader may be held to the same level of liability as a package organiser, including responsibility for the performance of the combined services [50].

[48] The Covid-19 pandemic revealed clear weaknesses in the current Package Travel Directive, especially in times of crisis. Issues with refunds, gaps in insolvency protection, and unclear rules on vouchers showed that the framework was not fully equipped to handle large-scale disruptions. In response, the European Commission began revising the Directive to strengthen passenger rights and improve protection when travel organisers become insolvent. Unlike standard travel insurance, which covers unexpected events during a trip, travel guarantee insurance focuses specifically on insolvency. Its role is to ensure travellers are either refunded or not left stranded abroad. This protection is usually provided through insurance, guarantee funds, or similar financial mechanisms. While Member States can choose how to organise these systems under Directive (EU) 2015/2302, they must ensure full protection for travellers.

A.Mićović, I*nsurance contract and protection of travellers against insolvency of package travel organisers* in *BizInfo Blace*, 16(2), 2025, 107-115.

[49] Furthermore see I. Gonzales Cabrera, *The regulation of the dynamic package in the Directive (EU) 2015/2302: A missed opportunity for the European Legislator?,* in C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli-F. Morandi-F. Torchia eds., *Collective Commentary about the New Travel Package Travel Directive*, Estoril, 2020, 143 s.

[50] M. Mc Donald, *Linked travel arrangements and their protection under the new Package Travel Directive,* in C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli, F. Morandi-F. Torchia eds.,

According to the Report on the application of the Directive (EU) 2015/2302 on package travel [51], Member States have adopted different approaches to insolvency protection. In several cases, this protection is organised by the tourism sector itself through private mechanisms, such as guarantee funds, insurance schemes, bank guarantees, or combinations of these. Other Member States rely on public systems, establishing guarantee funds managed by public authorities, and others have introduced mixed models, where private arrangements are complemented by public funds or administered through public–private structures [52]. These differences reflect the fragmented nature of insolvency protection in the EU.

4. – In recent years, tourism has developed in diverse forms, responding to the varying needs of consumers and travellers. Many individuals travel to escape stress, daily routines, or general fatigue, while others undertake journeys for business purposes, which have increased significantly in the context of greater mobility and reduced internal borders within the Union. In this environment, travellers, often with limited time and high expectations, but also "lazy" ones, rely on organisers or retailers to provide combined travel services, such as transport, accommodation, and other tourist services, typically within the meaning of a package under the Package Travel Directive. Although organisers and retailers cannot guarantee the personal or spiritual satisfaction of travellers, they are legally bound to perform the contract

*Collective Commentary about the New Travel Package Travel Directive*, Estoril, 2020, 153 s.

[51] Report from the Commission to the European Parliament and the Council on the provisions of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements applying to online bookings made at different points of sale, SWD/2019/270 final

[52] Financial protection of travellers in the event of tour operator insolvency is not limited to one country but remains a common challenge across many EU Member States. Studies and legal analyses show that national systems differ significantly in how they secure refunds, repatriation, and overall consumer protection when organisers become insolvent.

Furthermore, see: J. T. Dougall, *The package travel insolvency fund regulations – the Maltese perspective*, in V. Franceschelli-F. Morandi-C. Torres (ds.) *Sustainable Tourism Law,* Lisbon, 2017, 253-262; D. Grant-S. Mason-S. Bunce, *Holiday Law: The Law Relating to Travel and Tourism*, 6th ed, London, 2018; K. Marak, *Financial Securities for Tour Operators in Case of Insolvency Resulting from the Directive 2015/2302 of the European Parliament and of the Council which are in Force in Poland,* in *Eurasian Journal of Social Sciences* 11, no. 1, 2023, 26-37.

properly and to deliver the services as agreed, in accordance with their obligations under consumer protection law.

Under the Package Travel Directive, a travel service refers to several types of services, including the carriage of passengers, accommodation that is not part of transport or intended for residential use, the rental of vehicles, and other tourist services that do not form an inherent part of these core services [53]. A package exists when at least two different types of travel services are combined for the same trip or holiday. This may occur where an organiser organises the combination under a single contract, or where services are offered together in a way that presents them as one overall product, for example, through a single booking process, a total price, or linked online bookings. A package travel contract is the legal agreement that covers the package as a whole. Where the package is provided through multiple contracts, this term also refers to the set of all contracts relating to the travel services included in the package.

For a variety of reasons, including time efficiency, the speed of air transport, and the prevalence of last-minute travel, many travel packages are offered and sold through air travel services. In such cases, where a flight is delayed or cancelled, the performance of the package is directly affected. As a result of this non-performance or improper performance, travellers may be entitled to rights under both the Package Travel Directive (EU) 2015/2302 and the Regulation (EC) No 261/2004 [54]. These instruments operate alongside each other to ensure that travellers are adequately protected, addressing both the package travel contract with the organiser and the specific rights arising from the air transport service itself. The Regulation No 261/2004 establishes specific rights for air passengers in cases of delay, cancellation, and denied boarding, and the Package Travel Directive addresses the contractual relationship between the traveller and the organiser of a package.

The discussion is in cases where air transport is part of a package, how are the two instruments operating, to guarantee better consumer protection?

A flight disruption can activate entitlements under Regulation No 261/2004,

[53] See article 3, paragraph (1), (2) and (3) Package Travel Directive.

[54] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) - Commission Statement OJ L 46, 17.2.2004, 1-8.

thereby implicating the airline, and from the other side, it represents a failure to perform under Package Travel Directive, that gives the right to traveller to ask for price reduction or contract termination against organizer or retailer. This dual layer of protection ensures that travellers are not left without remedies and reinforces a high level of consumer protection within the EU legal framework.

The case C-163/18, HQ, IP, JO v Aegean Airlines SA, judgment of 10 July 2019 [55], concerns the interpretation of Article 8(2) of Regulation (EC) No 261/2004 in relation to Directive 90/314/EEC, following the cancellation of a flight forming part of a package tour. The passengers had booked through a tour organizer that later became insolvent and failed to reimburse the cost of the tickets. They were entitled reimbursement directly from the airline. The Court of Justice of the European Union held that where passengers have a right to reimbursement from the organizer under the Directive, they cannot also claim that reimbursement from the air carrier under Regulation No 261/2004. This exclusion applies even if the organizer is insolvent. The Court ruled that the article 8(2) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, must be interpreted as meaning that a passenger who, under Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours, has the right to hold his tour organizer liable for reimbursement of the cost of his air ticket, can no longer claim reimbursement of the cost of that ticket from the air carrier, on the basis of that regulation, even where the tour organizer is financially incapable of reimbursing the cost of the ticket and has not taken any measures to guarantee such reimbursement [56].

The case C-215/18, Libuše Králová v Primera Air Scandinavia A/S, judgement of 26 March 2020 [57]**,** concerns whether a passenger who booked a package holiday can claim compensation for a long flight delay from the operating airline under Regulation (EC) No 261/2004, even though no dir-

[55] CJEU, C-163/18, HQ, IP, JO v Aegean Airlines SA, judgment of 10 July 2019.

[56] *Ibid.*

[57] CJEU, C-215/18, Libuše Králová v Primera Air Scandinavia A/S, judgement of 26 March 2020.

ect contract exists between them, and how jurisdiction should be determined under Regulation (EC) No 44/2001. The Court of Justice held that an operating air carrier can be sued for compensation under Regulation No 261/2004 even in the absence of a contract, because it is responsible for performing the flight and is considered to act on behalf of the contracting party (the travel agency). The Court also confirmed that such a claim qualifies as a "matter relating to a contract" under Article 5(1) of Regulation No 44/2001, since the airline's obligations arise from the package travel contract and involve a freely assumed obligation. It ruled that the special jurisdiction rules for consumer contracts in Articles 15 to 17 of Regulation No 44/2001 do not apply in this situation because those provisions require a direct contractual relationship between the consumer and the defendant, which was absent here. Even though the flight formed part of a package holiday under Directive 90/314/EEC does not change this conclusion. The passenger cannot rely on consumer jurisdiction rules, but she can still bring proceedings under the general contract-based jurisdiction rules. In conclusion, the passenger is entitled to compensation from the operating air carrier under Regulation No 261/2004, and the claim falls within contractual jurisdiction, but not within the scope of consumer jurisdiction provisions. The Court hereby rules that the Regulation (EC) No 261/2004 must be interpreted as meaning that a passenger on a flight which has been delayed for three hours or more may bring an action for compensation under this regulation against the air carrier, even there is no contract between the passenger and the air carrier, but the flight in question forms part of a package tour covered by the Directive 90/314/EEC. The Court also confirmed that under Regulation No. 44/2001, a passenger is entitled to claim for compensation against an operating air carrier falls under "matters relating to a contract," even if no direct contract exists between them and the flight was part of a package travel agreement with a third party, but the Articles 15 to 17 of this Regulation do not apply in such cases [58].

The Court emphasised that EU law clearly allocates responsibility for reimbursement to the organiser, while the airline remains liable only for com-

[58] This Regulation is no longer in force. Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, OJ L 12, 16.1.2001, 1-23.

pensation and assistance under Regulation No 261/2004. The EU legal framework draws a clear line between the responsibilities of organisers and air carriers, ensuring consumer protection and safeguarding traders' economic interests while avoiding double compensation.

In the joined cases C-402/07 and C-432/07 [59], the Court of Justice of the European Union interpreted the Regulation No 261/2004 in a way that provides a high level of consumer protection and strengthens passengers' rights. Instead of relying on a strict distinction between "delay" and "cancellation," the Court focused on the actual inconvenience suffered by passengers, closing a gap that airlines could have used to avoid liability. From the consumer's perspective, this approach improves fairness, increases legal certainty, and ensures more equal treatment.

5. – Until the last decade of the 20th century, package travel in Albania was still an unknown notion, the prerogative of a very narrow social stratum, which gradually began to combine travel with other ancillary services.

In recent years, tourism in Albania has undergone major changes. The abolition of visas in the Schengen area, the entry of low-cost airlines into the European and Albanian markets, and the development of technology have influenced the growth of solo travellers, but also the transformation of the traditional concept of travel packages [60]. The increased number of entities licensed as tour operators in Albania, but also the marketing of Albania in the European market, has influenced the increase in competition, as well as the improvement and increase of services in order to maintain the position in this market. This type of service is provided in Albania mainly by small and medium-sized enterprises, that faces a lot of challenges in the market in terms of standards, protection and services.

[59] CJEU, joined cases C-402/07 and C-432/07, Christopher Sturgeon, Gabriel Sturgeon and Alana Sturgeon v Condor Flugdienst GmbH (C-402/07) and Stefan Böck and Cornelia Lepuschitz v Air France SA, judgment of 19 November 2009.

[60] According to INSTAT data, tourism in Albania has grown significantly in recent years, with foreign arrivals exceeding 10 million in 2023 and continuing to rise in 2024. This increase has been reflected in the hospitality sector as well, where employment levels, accommodation capacity, and the number of tourism-related businesses have all expanded. Overall, the data point to steady and sustained development of tourism and related services in the country.

See: INSTAT, *Regional Statistical Yearbook,* 2024

While the European legislator aimed for further consumer protection in relation to travel package contracts, the Albanian legislator guarantees similar protection, but by referring to the Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours. Under the process of EU integration [61], in the sector of tourism, Albania has committed to fully implement Directive 2015/2302 through an ambitious plan of acquis reception but, still, has not undergone a deep reform in the sector [62].

In Albania, the travel package is governed by different legal acts that make it difficult for consumers to be clear one the legal bases for claiming their rights. These acts remain unchanged over the years and provide different definitions, even though their main aim is to guarantee consumer protection and consumer rights as the weakest party in this legal relationship.

Travel package contracts are ruled by:

1. Law no. 9902, dated 17.04.2008 "On consumer protection", as amended (articles 46–47 )[63]
2. Law No. 93/2015 "On Tourism", as amended [64]
3. Decision of the Council of Ministers No. 65, dated 21.01.2009 "On package travel contracts" [65]
4. Civil Code, articles on Contract of carriage / Transport, Hotel Contract, etc. [66]

5.1. – Consumer protection in Albania in the field of package tours remains fragmented. In addition to the lack of full legal approximation with Directive 2015/2302, the regulation of package tours is dispersed across vari-

[61] On the new methodology of EU enlargement process see A. Gjeta, *EU law, enlargement process and the burden of legal harmonization in Albania*, Elbasan, 2024, *passim*.

[62] Gjeta, *EU law*, cit., 111-116. See as an example in Italian legislation M. Musi, *Commento all'articolo 40 "Modifica di alter condizioni del contratto di pacchetto turistico"*, in V. Cuffaro-A. Barba-A. Barenghi eds., *Codice del Consumo e norme collegate*, Milano, 2023, 1347-1359.

[63] Law no. 9902, dated 17.04.2008 "Per mbrojtjen e konsumatoreve", as amended, published in Official Journal no. 61, dated 07.05.2008.

[64] Law no. 93/2015 "Per turizmin", as amended, published in Official Journal no. 164, dated 21.09.2015.

[65] Decision of the Council of Ministers No. 65, dated 21.01.2009 "On package travel contracts", published in Official Journal no. 8, dated 09.02.2009.

[66] Albanian Civile Code, adopted with the Law no. 7850, dated 29.07.1994, as amended.

ous legal acts [67]. As part of the civil law system, Albania applies a hierarchical structure of legal norms, determined by the adopting authority and the majority required for their approval [68]. The purpose of these acts is to properly inform the consumer at all stages of the transaction to decide in the protection of economic interests.

Article 46, Law no.9902/2008 "On Consumer Protection", as amended, defines travel package contracts as contracts that a) provide or offer to provide the consumer, at an all-inclusive price, a pre-arranged combination of at least two of the following types of services: I) transport; ii) accommodation; iii) other tourist services, not directly related to transport or accommodation and which constitute a significant part of the package; and b) cover a period of time of no less than 24 hours, which includes accommodation, at least for one night.

The parties of this contract are named exclusively consumer and trader, according to the law provisions. So, not all travel contracts are covered by the provisions of the Consumer Protection Law, but only those that qualify as package travel contracts [69].

Meanwhile, Law no. 93/2015 "On tourism" defines package travel, under the article 4/ paragraph 21 as a pre-arranged combination of not fewer than two types of travel services, such as transport and accommodation, or any other tourist service, for the purpose of the same trip or holiday, lasting more than 24 hours, where (a) those services are combined by a licensed tour operator, at the request or according to the selection of the traveller, before the conclusion of the contract relating to this combination of services; or (b) whether separate contracts are concluded with individual providers of travel services, those services: (I) are sold at a single point of sale through a single booking process; (ii) are offered or sold at an inclusive or total price; (iii) are advertised or sold under the term "package" or a similar designation; (iv) are combined after the conclusion of a contract by which the tour operator entitles the traveller to choose among different options of travel services; or (v) are purchased from licensed service providers through linked online

[67] Furthermore see: H-W. Micklitz*, Paper on gap analyses of Chapter 28: Legal framework of consumer protection in the Republic of Albania and its alignment with consumer acquis,* Internal Raport, METE and GIZ, Tirane, 2012.

[68] Furthermore see: L. Omari-A. Anastasi, *E drejta kushtetuese*, Tirana, 2017.

[69] N. Dollani, *Ligji per mbrojtjen e konsumatoreve, Teksti me Shpjegime,* Tirane, 418-419 s.

booking processes, where the traveller's name and other necessary data for completing the booking are transmitted to other service providers no later than the confirmation of the first service.

The law is harmonised with Directive 90/314/EEC, and, due to EU Integration obligations, the Ministry of Tourism, Culture and Sports is now responsible for harmonising this law with Directive 2015/2302. There is also another act, respectively, the Decision of Council of Ministers no. 65, dated harmonised with the Directive 90/314/ EEC, and now, due to EU Integration obligations, the Ministry of Tourism, Culture and Sports is responsible for harmonising 21.01.2009 "On package travel contracts", that underlines that package travel contract is the agreement concluded between the consumer and the organizer and/or retailer [70].

All legal acts are largely based on the Law "On consumer protection"; however, from a non-lawyer's perspective, there is considerable confusion regarding the definitions and the fragmentation of legal regulation across different acts.

The same situation is on defining the parties of this contract. According to the Decision of Council of Ministers, a consumer is the person who receives or agrees to receive the travel package (main contractor), or any person on whose behalf the main contractor agrees to purchase the package, or any person to whom the main contractor or any other beneficiary transfers the package. From the other side, due to the extension of the scope of application, the Law "On tourism" rules that a traveller is an individual who moves between different countries, outside their usual residence, for various reasons and duration. In the case of packages, the traditional concept of consumers is exceeded, by offering greater protection to natural persons, professionals, etc. who travel, excluding travel on the basis of a general agreement, as well as the visitor [71].

The same situation is on the definition of the other party in a package travel contract. So, the Law "On consumer protection" refers mostly to the trader, and the Law "On tourism" also defines tourist service providers and

[70] V. Franceschelli and C. Torres underlines that package travel contract is a broad definition for a tourist contract that includes any possible combination of the mention elements. V. Franceschelli-C. Torres, *Article 3 Definitions* in C. Torres-J. Melgosa Arcos-L. Jeguoso-V. Franceschelli-F. Morandi-F. Torchia (eds.), *Collective Commentary*, cit, 111 s.

[71] Law "On tourism", article 4, paragraph 49 states that visitor is any person who travels to a country other than his usual residence, for less than 1 year, and who does not intend to undertake activities remunerated from in the country visited.

tourist operators. The Decision of the Council of Ministers defines an organisation, a retailer, and/or a travel agency.

The traveller, who becomes the consumer–tourist, is placed at the centre of tourism activity, which differs from other elements associated with it by transforming the experience into a product of ultimate enjoyment, something that only a natural person can truly experience. The use of the package travel constitutes the cornerstone of the concept of the consumer–tourist, despite the existence of different terms used in this context, such as buyer, visitor, consumer, main contractor, assignee, etc. [72].

All these acts, which impose ways of conduct, do not aim to protect the consumer as a single subject, but to protect the interests of a certain category, just as they are not intended to configure the model of a single contract, but to specifically regulate a certain market sector, which is closely related to tourism on the basis of consumer demand.  A package travel consists of a combination of activities that may relate to different destinations, transport services, restaurants, natural attractions, as well as cultural and archaeological elements, thus forming a set of heterogeneous components. As such, it cannot be regarded as a tangible product, but rather as an expression of consumer choice and the development of a typical product of modern societies, where services and intangible elements are increasingly valued.

The Albanian legal framework on package travel is characterized by fragmentation and inconsistencies. Due to multiple acts that overlap, this legal framework is only partially harmonized with EU acquis. This lack of coherence, particularly in the distinction between "consumer" and "traveller," and other important definitions create legal uncertainty and may undermine effective consumer protection despite the broader scope intended by the legislation [73].

[72] For more information on the definitions and meanings of these terms in Italian legislation, see: V. Franceschelli, *From tourism to sustainable tourism, An Italian Approach*, in V. Franceschelli-F. Morandi-C. Torres (eds.), *Sustainable Tourism Law*, II ed., Estoril, 2019, 53-54 s.

The Author underlines that a tourist is a consumer and, as consumer, enjoys all the protection given by Consumer Law. But, as a tourist he also enjoys personal protection, given by the special rules connected with his travel experience. We may therefore say that the tourist enjoys a kind of a "double" protection, as a consumer and as a tourist. V. Franschelli, *From tourism to sustainable tourism*, cit, 70.

[73] Micklitz*, Paper on gap analyses of Chapter 28,* cit.

5.2. – In its judgment No. 10651 of 24 April 2008, the Italian Court of Cassation [74] held that all-inclusive travel, or package travel, constitutes a distinct type of contract in which the tourist purpose plays a central role. According to the Court, the objective of leisure and enjoyment is not merely incidental but represents the determining cause of the contract, as all services and activities are designed to ensure the holiday experience promised by the travel organizer and accepted by the traveller.

In the absence of developed case law in the field of package travel, Albanian legislation seeks to align itself with the EU acquis in this area. The purpose of these legal provisions is to safeguard the consumer's right to leisure and enjoyment. Accordingly, the law regulates the relationship between the traveller and the organizer or retailer in a clear and structured manner, imposing obligations at all stages of the process, including the publicity, pre-contractual, contractual, and performance phases.

The right to information is one of the most fundamental pillars of consumer protection. This right constitutes a core element in safeguarding consumers' interests, as it empowers the consumer and/or traveller to address and reduce the informational imbalance that typically exists in the market. By ensuring access to clear, accurate, and sufficient information, the law enables consumers to make informed decisions.

In this context, Article 47 of the Law "On consumer protection" rules the obligations of the organiser or seller during the advertising phase. This provision requires that the general information provided in a brochure should be presented in a clear, detailed, and accurate manner, and that it must not be misleading [75]. The advertising or publicity phase, in addition to informing consumers, also serves an orienting function. The importance the legal framework assigns to the brochure's content also clarifies its role within the contract content. According to one view, the brochure may have the value of a proposal, as one of the stages in the conclusion of the contract, or it may be considered a public offer [76]. From this perspective, it can be argued

[74] Italian Court of Cassation no. 10651, dated 24.04.2008. Furthermore see: Franschelli, op. cit, 62 s.

[75] See article 47, Law no. 9902, dated 17.04.2008 "Per mbrojtjen e konsumatoreve", as amended.

[76] See: M. Semini, *E drejta e detyrimeve dhe kontratave. Pjesa e pergjithshme*, Tirana, 2006, 70-78 s. Articles 664– 676 of the Civil Code.

either that the brochure constitutes an offer made by the professional or that it is the consumer who makes an offer to the organiser, which is then accepted.

Italian doctrine is divided on this issue. Some authors maintain that the contract for the sale of tourist packages is concluded now the consumer makes the reservation, thereby allowing the brochure to be qualified as a public offer [77]. Other authors, in contrast, argue that the information mechanism should be understood within the framework of an invitation to offer (negotiations), to which the consumer responds with a purchase proposal [78].

The pre-contractual phase is regulated by the Decision of the Council of Ministers on package travel. During this phase, the organiser is responsible for the accuracy of the information provided and is generally prohibited from altering its content. Exceptions are allowed only in specific cases: (a) when the information in the brochure has been clearly communicated to the consumer prior to the conclusion of the contract and the possibility of such changes has been explicitly stated; or (b) when changes are made after the conclusion of the package travel agreement. Before the conclusion of the contract, the organiser or retailer is required to provide the consumer, in writing, with all the terms and conditions of the agreement, as well as a copy of those terms. This obligation ensures that the consumer is fully informed prior to giving consent. However, this requirement does not apply in cases of last-minute bookings or reservations.

The contract represents the meeting point, which in legal terminology is known as the agreement between the will of the proposer and the acceptor, being surrounded by subjective aspects, with an individual character that personalizes the agreement. Normally, the package travel contract is related to the manifestation of the will by the consumer in a standard contract model [79].

[77] Giorgia Tassoni states that when a statement addressed to the public contains all the essential elements of a contract and is directed to anyone who intends to conclude it, the presumption that it constitutes a contractual proposal, pursuant to Article 1336 of the Italian Civil Code, is overcome in the case of a travel contract. This is due to the existence of circumstances that rather qualify it as an invitation to offer. In fact, when a client enters a travel agency and books a trip, regardless of the time available to consult the brochure and to become aware of the essential contractual conditions, the client expresses a will to accept. This, consequently, leads to the conclusion of the contract, and any refusal by the tour operator assumes the characteristics of non-performance of a contract already concluded." G. Tassoni, *Il contratto di viaggio*, Milano, 1998, 177 – 183 s.

[78] L. Rossi Carleo-M. Dona, *Il contratto di viaggio turistico*, Napoli, 2010, 78-79 s.

[79] Despite efforts, the package tour market in Albania remains an informal market. This means that organizers or sellers of packages do not deliver a contract in the formal sense, but deliver spe-

The purpose of requiring the inclusion of a wide range of elements in the contract is to ensure that the traveller is adequately informed about all contractual conditions and their corresponding rights, particularly with regard to the remedies available in cases of non-performance or breach by the other party to the consumer relationship [80]. The legislator has established the obligation to provide a set of pre-contractual and contractual information with the aim of ensuring transparency and safeguarding the consumer's right to be informed, while also reinforcing traders' awareness that, in the event of

cific aspects of the contract, such as: plane tickets, vouchers or a mandate that proves the payment of the price.

[80] The Decision of the Council of Ministers "On Package Travel Contracts" in its point 9 has clearly listed the elements that this contract must contain, which are: a) date and place of conclusion of the contract; b) name and address of the organizer and/or seller; c) mode, characteristics and category of transport to be used, date, times and points of departure and return; ç) location of accommodation, when the travel package includes, tourist category or level of comfort, main features and its compliance with the rules of the host country and meal plan; d) type and level of catering and entertainment venues, number and type of meals included in the travel package; dh) deadline for informing the consumer, in case of cancellation of the travel package, if a minimum number of participants is required for the development of this package; e) the itinerary of the travel package; ë) the visits, excursions or other services that are included in the total price and that have been agreed to be included in the travel package; f) the specific requirements that the consumer has made known to the organizer or the seller when making the final reservation, and that the parties have agreed to; g) the full/final price of the travel package, in lek, for all services included in the contract; gj) the calendar and method of payment; h) information on the possibility of reviewing the price, the procedure and method of its recalculation, in the cases provided for in point 16 of this decision, as well as information on any expected taxes or fees that may be charged for certain services (port fees for embarking and disembarking ships, airport fees, tourist taxes), when such costs are not included in the travel package; i) the deadline for which the consumer is given the right to withdraw from the contract, without being liable for costs and compensation; j) the level of compensation that the consumer is obliged to pay to the organizer and/or the retailer, in the event of the consumer withdrawing from the contract, after the expiry of the deadline, according to letter "i" of this point; k) the deadline, when the consumer notifies the organizer and/or the retailer, before departure, of his intention to transfer the final reservation to a third party, as well as the deadline, by which the consumer must notify the organizer of the travel package or the retailer of the fact that he has transferred his package to a third party; l) the minimum number of participants required to develop the travel package, as well as the deadline for notifying the consumer, in case this number is not reached and the travel package may be cancelled; m) the obligation to inform the consumer of his rights, provided for in points 19 and 22 of this decision; n) the deadlines within which the consumer may file a complaint about the non-fulfillment or inadequate fulfillment of the package travel contract; nj) the name and address of the insurer with whom the organizer has concluded an insurance contract, based on point 40 of this decision.

non-compliance with this informational duty, the consumer is entitled to exercise additional rights and legal remedies [81].

This strict and precise ordering of the elements that the contract must contain, on the one hand, eases the burden of proof for the consumer and, on the other hand, favours the consumer to control the accurate fulfilment of obligations by the other party in the execution phase of the contract.

In accordance with the legal provisions of the legal framework in the European Union [82], the Albanian legal framework on package travel also has provisions for the price [83]. The Decision of the Council of Ministers provides that the price cannot be revised, except when it increases: a) transport costs including the cost of fuel; b) the amount to be paid, taxes or fees, which are charged, for the use of certain services, according to the contract (airport, port and/or other fees); c) the exchange rate, used in the package travel contract, in the period between the conclusion of the contract and the departure date. It is not allowed to be changed during the 20 days before the scheduled departure date, must be economically justified and be proportional to the changes that the costs undergo. In such a case, the consumer has the right to accept an addendum to the contract, specifying the changes made and their impact on the price or to withdraw from the contract, without penalty. In contrast to Directive (EU) 2015/2032, the current legal framework contains no provisions governing price reductions.

5.3. – The contract represents the technical instrument through which market offers take shape and legal form, to respond to the increasingly complex demands of society, in a standardised and institutionalised contract, contributing to the possibility of creating new spaces of exchange, in direct suggestions and proposals of the tourism market [84].

Law no. 9902, dated 17.04.2008, "On consumer protection", as amended, addresses package travel agreements in general terms, focusing on

[81] E. Teliti, *Instituti i shperblimit te demit ne kontratat e paketave turisti*ke, in *Jeta Juridike,* 2, 2014, 136 -137 s.

[82] As in force at the relevant time.

[83] The price is an essential element of the sales contract, according to the Albanian Civil Code. See at article 705 s.. M. Semini, *E drejta e detyrimeve dhe kontratave, pjesa e posatçme*, Tirana, 2006, 6-8.

[84] Rossi Carleo-Dona, *Il contratto di viaggio*, cit. 65.

informing consumers. The details of the terms and conditions of the contract are not set out in this law but in the Decision of the Council of Ministers. According to some provisions, the organiser or retailer must provide the consumer with clear and concise information throughout the process, before the agreement is concluded, at the time of the data entry, and before its execution [85]. The contract must be in writing, but it does not necessarily have to be written under the organisation or seller, and the consumer's signature is not given importance. This shows that the written contract is not just the moment when the parties agree, but rather a document that reflects a document that has been reached previously. The Italian Court of Cassation, in judgment no. 26422 of 3 November 2008, examined whether a travel contract must be signed by every member of a group purchasing a package holiday. It concluded that when a group plans to travel together under the same arrangements, a single contract is sufficient. Therefore, it is not necessary for each participant to sign individually, as one agreement can validly cover and bind all members of the group [86].

Albanian legislation requires that a package travel contract be concluded in writing, with the consumer receiving a copy. This regulation aims to ensure that the agreement is properly documented and that the content of the travel package is clearly defined, both in terms of the organiser's obligations and the consumer's rights. In practice, since the parties do not jointly determine the structure and terms of the contract, the requirement of a written form, imposed by law as a way of expressing consent, should not automatically be understood as a condition affecting the validity of the agreement. The legislation aims to establish an acceptable balance between the rights and obligations of the parties to the contract, and for this reason, it is also in the interest of the organiser and the seller to present the provisions required by law in a written contract, otherwise they will be held liable because the legal provisions will be directly applicable to the contractual relationship [87].

The form in consumer contracts is in the function of informing and protecting the weaker party, where the weakness is the result of information

[85] Decision of the Council of Ministers no. 65 dated 21.01.2009 "On package travel contracts", paragraph 7 – 9, 13 – 15, 19 s.

[86] Italian Court of Cassation, no. 26422, judgment of 3 November 2008

[87] Dollani, *Ligji per mbrojtjen e konsumatoreve*, cit. 420 s.

asymmetry. The form, as a mechanism of consumer protection, is in line with the principle of transparency, as it offers this contracting party clarity, recognition, and understanding of what is foreseen. The form in consumer contracts goes beyond the traditional framework as "form ad substantiam" or "ad probationem," but in consumer contracts the form refers to the clarity and understanding of the written text.

As a result, although the existence of different theories and doctrines, in these types of contracts, the form exists as an instrument of strengthening the consumer's defensive position; therefore, its absence does not intend to affect the conclusion and existence of the contract. However, beyond the perception of the form, for the purpose of validity or provability, the obligation to provide the consumer with a copy of the contract signed or stamped by the organizer or seller manifests and best responds to the requirements for transparency.

In addition to the obligation to provide information in writing or on any other durable medium, the Albanian legislator, in line with European legislation, recognizes a range of consumer protection measures, such as withdrawal from the contract, the right to transfer the contract to another person, and the right to compensation for damages, particularly those arising from non-performance or improper performance of the contract, such as caused by the loss of enjoyment of the holiday [88], or the binding insurance contract [89]. These mechanisms, all closely linked to consumer rights, reflect the objectives of European standards in the field of consumer protection as implemented in Albania.

6. – Despite the improvements, the obligation for maximum harmonisation of the European Union Directive (EU) 2015/2302 and international events that affect not only tourism but also the economy have necessitated the review and amendment of the European Union Directive (EU) 2015/2302. The purpose of these reviews is to anticipate situations of force majeure, such as the Covid-19 pandemic or cases as the bankruptcy of the organiser, to provide better protection for consumers.

In 2023, the European Commission launched a proposal for a new directive amending Directive (EU) 2015/2302 to make the protection of travellers more

[88] CJEU, C-168/00 judgement of 12.03.2002, Simone Leitner v. TUI Deutschland GmbH&Co. KG.

[89] For further information see Teliti, *Instituti i shperblimit te demit ne kontratat,* cit.,145-151.

effective and to simplify and clarify certain aspects of the directive. In the Explanatory Memorandum, the European Commission underlined the fact that Directive (EU) 2015/2302 on package travel and linked travel arrangements improved the legal framework in the function of technological developments in relation to package travel. This Directive aimed to regulate the grey areas not covered by Directive 90/314/EEC in relation to the combination of tourist services, to strengthen the rights of package travel, and to increase and guarantee fair competition of businesses operating in the package travel market.

The Commission highlighted that the COVID-19 pandemic led to widespread cancellations of package holidays, while new bookings largely came to a halt for a period of time. This caused serious liquidity problems for travel organisers, meaning that many travellers either did not receive refunds or had to wait much longer than the 14-day deadline set by the Directive. In its Recommendation 2020/648 of May 2020, the Commission also addressed the use of vouchers, encouraging their voluntary use and suggesting ways to make them more attractive, including by ensuring protection in case of the organiser's insolvency [90].

In analysing the general behaviour of the Member States of the European Union in the field of consumer protection, especially in relation to economic interests, some Member States took measures contrary to the Directive, extending the refund period or making vouchers mandatory for travellers. As a result, the Commission opened infringement proceedings against 11 Member States.

On the other hand, the revision of this Directive aims at a fuller approximation but also to guarantee the protection of the economic interests of consumers travelling, or solo travellers, when travelling within the EU or outside it, as well as a fuller approximation with acts already within the European Union such as the Consumer Protection Cooperation Regulation ('CPC Regulation'), the Representative Actions Directive ('RAD'), Regulation (EC) No 261/2004 (the 'Air Passenger Rights Regulation' or 'APRR'), etc.

The Commission's analysis of the implementation of this Directive has highlighted technical and practical issues, such as legal ambiguity, structural

[90] Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/2302 to make the protection of travelers more effective and to simplify and clarify certain aspects of the Directive, European Commission, Brussels, 29.11.2023, COM (2023) 905 final.

gaps, and excessive complexity, that require targeted reform. Addressing these issues through refined definitions, the introduction of provisions on advance payments and vouchers, clearer rules on cancellations due to unavoidable and extraordinary circumstances, and insolvency protection will enhance the Directive's effectiveness in both crises and ordinary conditions.

At the end of March 2026, the Council of the European Union approved amendments to the Package Travel Directive, strengthening consumer protection in several key areas. These changes reinforce travellers' rights to cancel contracts in cases of force majeure, confirm the organiser's obligation to refund the full price within 14 days, and allow vouchers to be offered as an alternative, with a validity of up to 12 months and the possibility of transfer. Particular attention is also given to improving consumer information, especially in situations involving the insolvency of the organiser.

7. – Offering a more comfortable experience for the tourist-consumer when travelling in the EU is a key objective for EU institutions, in line with the main goal of protecting a healthy Single Market environment. Directive 2015/2302 is implemented in all Member States to address differences in the application of Directive 90/314/EEC, and, in fact, there is a proposal for reform to enhance the protection of travellers, leading to amendments approved in March 2026.

In this scenario, while the Commission has swiftly responded to the needs of travellers through the adoption of Commission Recommendation (EU) 2020/648 of 13 May 2020, which introduced vouchers as an alternative to reimbursement for cancelled package travel and transport services during the COVID-19 pandemic, and the process of legislative reform with the approval of amendments by the Council, the situation in Albania, a candidate country which has invested mostly on tourism, is noticeably different. Travellers who had purchased package holidays were, in many cases, not only left without compensation, but were also not effectively granted their basic rights. Even in the few cases where organisers or retailers offered vouchers, these were often subject to very short validity periods, making them practically unusable for consumers.

At the same time, the government, despite its commitments within the EU integration process, did not adopt specific measures to support this sector of the economy, and the public institutions responsible for consumer protection remained largely inactive. The example is the pandemic situation, which was treated as a case of force majeure, and in practice resulted in the automatic exclusion of consumers from legal protection. Furthermore, inadequate consumer awareness in Albania has affected the behaviour of travel organisers and/or retailers. The absence of written contracts or other durable means of documentation, despite clear legal requirements, weakens more consumer protection. In cases of non-performance of contractual obligations or insolvency of the organiser and/or retailer, Albanian consumers tend to pursue criminal proceedings rather than seeking civil remedies for damages. Furthermore, the limited Albanian judicial and administrative practice has not yet clarified whether the concept of package travel extends to packages tailored to consumer demand, in line with the approach of the Court of Justice of the European Union and the broader EU legal framework.

In conclusion, it is imperative that the Albanian legislator undertakes a serious reform of consumer protection, taking advantage of the momentum of the EU integration process, at least by fully transposing Directive 2015/2302, which may suffice to address the above problematics. We are aware that, in a lengthy negotiation process, the timing of the legislator's intervention should be paramount. As we noted regarding the adoption of the EU level of protection for travel packages, Albania has not maintained the pace of harmonisation, being aligned with the protection offered by Directive 90/314/EEC. To address the issue of transposing up-to-date legislation, we are confident that the Albanian government's institutional framework is prepared to identify the need to translate and transpose the relevant in-force EU *acquis*. Yet, it is understandable that in some sectors, the intervention is transversal, covering many fields of legislation, such as the law on tourism, the law on consumer protection or Civil Code provisions. Nevertheless, in a country like Albania that has made tourism a priority, much more must be done to improve legislation, enhance institutional oversight, and strengthen judicial enforcement of consumer protection, in general and for travel packages specifically.

The actual process may be considered as an interesting momentum in order to better regulate travel packages and, in general, tourist and consumer protection as well, through proposing a Tourism Code, which should reflect the EU *acquis* regarding tourist protection, as well as take into consideration the achievements so far in Member States' legislation.

*Abstract*

Lo sviluppo del mercato interno dell'UE, delle quattro libertà, la crescita del turismo e le politiche del lavoro che garantiscono ferie retribuite hanno accresciuto la necessità di regolamentare le attività turistiche. In questo contesto, l'Unione europea ha posto una forte enfasi sulla tutela dei consumatori attraverso iniziative legislative e politiche.

I pacchetti turistici e i viaggi organizzati sono divenuti forme diffuse di svago, inducendo l'UE a introdurre obblighi vincolanti per gli operatori nei rapporti con i consumatori. Dalle prime misure fino alla direttiva 2015/2302, la normativa europea ha progressivamente rafforzato i diritti dei consumatori, inclusi il risarcimento e la tutela contrattuale nei diversi settori del trasporto.

La direttiva 2015/2302 stabilisce garanzie fondamentali nei contratti di pacchetto turistico, tra cui il diritto all'informazione, al recesso e alla risoluzione, nonché una chiara responsabilità dell'organizzatore. Tuttavia, la sua interazione con altri strumenti, come il regolamento 261/2004 sui diritti dei passeggeri aerei, solleva questioni che richiedono un'analisi approfondita.

Il contributo esamina le principali disposizioni della direttiva 2015/2302, le recenti proposte di riforma e l'impatto più ampio delle norme UE di tutela dei consumatori sugli ordinamenti extra-UE, con particolare riferimento all'Albania e al suo processo di allineamento al diritto dell'Unione.

The development of the EU Internal Market, the four freedoms, the growth of tourism, and labour policies ensuring paid holidays have increased the need for regulating tourism activities. In this context, the European Union has placed strong emphasis on consumer protection through legislative and policy initiatives. Package travel and organised tours have become widespread forms of leisure, leading the EU to introduce binding obligations for operators in their relations with consumers. From early measures to Directive 2015/2302, EU legislation has progressively strengthened consumer rights, including compensation and contractual protection across different transport sectors.

Directive 2015/2302 establishes key safeguards in package travel contracts, including rights to information, withdrawal, termination, and clear organiser liability. However, its interaction with other instruments, such as Regulation No 261/2004 on air passenger rights, raises issues requiring careful analysis.

This paper examines the main provisions of Directive 2015/2302, recent reform proposals, and the broader impact of EU consumer protection rules on non-EU systems, with particular reference to Albania and its ongoing alignment with EU law.