

Abstract

Protection of consumers – customers against the insolvency of tour operators – in EU law

This thesis examines the legal regulation of consumer protection in the cases of the bankruptcy of travel agencies. In the event of the insolvency of a travel agency, a problem arises as to who will ensure that the consumers are repatriated from summer resorts and their expenses for the unperformed travel services are reimbursed. This issue was first dealt with by Directive No. 90/314 on package travel. The Directive 90/314 will be analyzed in the second chapter of this paper. The Directive leaves a large margin of discretion for national legislators as to how they achieve the required consumer protection standard. However, the EU Member States must ensure that consumers recover the entire loss they have incurred due to the failure of tour operators to provide services. The Member States have come up with a number of implementation solutions – *e.g.* insurance of the guarantee for the case of insolvency, bank guarantee or guarantee fund of the travel operators. This implementation into national legal systems is described in the third chapter of this thesis. That chapter further introduces the Czech implementation affected in Act No. 159/1999 Coll. This Act has opted for insurance of travel agencies as the means of ensuring consumer satisfaction in the event of the insolvency of tour operators. This thesis deals with the reasons behind this particular choice, as well as its consequences. With regard to the consequences, the extensive Czech national case law related to the extent of the liability of insurance companies in securing compensation for consumers is also summarized in the third chapter.

The fourth chapter of the paper analyses a new Directive No. 2015/2302 on package travel and linked travel arrangements. The new scope of the Directive embodies an effort to modernize the Directive and to reflect on the advent of the internet, technology, and the increase of online purchases of travel services. Thus, the focal point of this thesis is its fourth chapter, which analyses in detail the standard of consumer protection envisaged by the Directive 2015/2302 for the cases of the bankruptcy of travel service providers. The level of consumer protection in Directive 2015/2302 is consequently compared with that of the Directive 90/314. The rules contained in the Directive have to be properly transposed into national law and should be applied as of July 2018. The fifth chapter of the paper, therefore, deals briefly with the planned transposition of the new directive into Czech national law.

As such, this thesis is divided into 5 chapters and it presents a comprehensive analysis of how the legal instruments for consumer protection in the event of bankruptcy of a tour operator have developed. It also summarises the implications of past development on the current state of play and it suggests future prospects for the area.