
Tourism Law, framework for foreign-invested tourism business and consumer protection in Vietnam

In the European Union, travellers are protected under the rules of Directive (EU) 2015/2302 of 25 November 2015 on package travel and linked travel arrangements, the so-called "Package Travel Directive". This directive applies to pre-arranged package holidays, but also self-customized packages, where the traveller chooses different elements from a single point of sale online or offline. Crucial points regulated by the Directive are Money-back and repatriation in case of bankruptcy, clear rules on liability of tour operators / organizers, and strong cancellation rights.

In Vietnam, no legal concept of package tours is defined in the laws. Nevertheless, the laws define the role of tour operators and travel agents and their obligations towards domestic and international travelers. Under the Law on Tourism (Law No. 09/2017/QH14 dated June 19, 2017), we can understand the following fundamental rules:

1. Travel contract

Vietnamese law defines a travel contract is an agreement between the travel service provider and an enterprise, tourist or his/her representative on the execution of a tour program. Travel contracts must be made in written form.

2. Travel agencies

A travel agency is defined as a business organization or individual that sells tours designed by another tour provider (the principal) to tourists in order to earn commissions. The basis for cooperation with the principal (tour operator) shall be an agency contract. Travel agencies are not allowed to operate their own tour programs.

3. Tour operators

When a tourist buys a tour program through a travel agency, the travel contract will always be concluded between the tourist and the principal, but the contract shall also specify the name and address of the travel agency. The tour operator will be obliged to carry out the tour programs that have been sold by its travel agent and assume direct responsibility towards the tourists for tour programs sold by the travel agent. The tour operator will also sign contracts with other suppliers involved, such as transport providers or hotels.

4. Necessary licenses

According to the Law on Tourism, it is prohibited to operate a tourism business without the relevant license. For international inbound business, a special license for provision of international tours is required. It is possible for international tour operators to establish a company in Vietnam and to obtain this license. A joint venture with a local partner is required, but no limitation on the foreign shareholding applies. The Vietnam National Administration of Tourism under the Ministry of Culture, Sports and Tourism is the competent licensing authority.

Foreign investors can also invest in travel agency business in Vietnam. If an overseas tourism operator wants to cooperate with a local Vietnamese partner, it is recommended to check whether the local partner has the appropriate tourism licenses.

5. Consumer protection and liability

Under current law, a tour operator has to pay a deposit for inbound tourists to a commercial bank, cooperative bank or branch of a foreign bank established and operating in Vietnam. In case a tourist dies, has an accident, faces any risk or infringes human life and needs to be taken to the accommodation establishment or receive emergency treatment while the travel service provider fails to promptly provide funding therefor, the competent authority can decide to release the deposit to the authority in order to settle the necessary expenses. However, the mechanism for using the deposit is complicated and may not be efficient in emergency situations. Therefore, it has been suggested by industry insiders to replace this system by a mandatory insurance.

Special safeguarding duties have to be observed by tour operators and their personnel where high-risk activities are offered including paragliding, cycling, motorcycling, mountain and sand dune motorbike and car expedition; climbing, diving; white-water rafting; jet skiing; windsurfing; parasailing or cave, forest and mountain discovery.

Tourists can file complaints to the Ministry of Culture, Sports and Tourism, or lawsuits to the competent courts if a tour operator infringes on the tourist's legitimate rights and interests. However, once again according to industry insiders, the complaint mechanism is not very efficient in practice.

Finally, no comprehensive mechanism is in place yet to offer tourists specific protection against the bankruptcy risk of tour operators. This can be risky in connection with so called "pre-purchased and later-used" tours, as could be seen during the Covid-19 period, when many tours could not be realized and some operators went out of business.

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