

# Decrees, orders, circulars

## GENERAL TEXTS

### MINISTRY OF ECONOMIC AFFAIRS AND FINANCE

**Decree No 2017-1871 of 29 December 2017 implementing Order No 2017-1717 of 20 December 2017 transposing Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements**

NOR: ECOI1727623D

**Target groups:** operators selling trips and holidays, travellers, Atout France [France's tourism development agency].

**Subject:** Transposal of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements.

**Entry into force:** the text will enter into force on 1 July 2018.

**Note:** the Decree transposes, at regulatory level, certain provisions of the European Directive referred to above. In particular, it specifies the pre-contractual information that traders must provide to travellers and the mandatory information that must appear in sales contract for trips and holidays. The Decree also updates the declaration system for European operators exercising their activity under the freedom to provide services and removes obsolete provisions of the Tourism Code.

**References:** the Decree implements Order No 2015-1717 of 20 December 2017 transposing Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements. The Decree and the Tourism Code it amends may be consulted on the Légifrance website (<http://www.legifrance.gouv.fr>).

The Prime Minister,

Having consulted the report of the Minister for Europe and Foreign Affairs and the Minister for Economic Affairs and Finance;

Having regard to Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC;

Having regard to 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;

Having regard to the Tourism Code;

Having regard to Order No 2017-1717 of 20 December 2017 transposing Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements;

Having regard to Decree No 72-678 of 20 July 1972 laying down the conditions for applying Law No 70-9 of 2 January 1970 governing the conditions for carrying out activities relating to certain operations involving real estate and businesses;

Having regard to the opinion of the consultative committee on financial legislation and regulation of 9 November 2017;

Having consulted the Council of State (public works section),

Hereby decrees:

**Article 1.** - Section 1 of the Sole Chapter of Title I of Book II of the Tourism Code is amended as follows: :

1. Article R. 211-1 is replaced by the following provisions:

'*Article R. 211-1.* - The regulatory provisions of Titles I and II shall apply to all natural or legal persons carrying out the operations referred to in Article L. 211-1, subject to the second sentence of paragraph III, paragraph IV and paragraph V of this Article and Articles L. 211-7 and L. 211-7-3 on services sold under a general convention concluded for the organisation of business trips.

The regulatory provisions of Titles I and II shall not apply to air and rail carriers who issue the tickets referred to in Article L 211-1(V)(2) and (3) respectively.

The tickets referred to in the preceding indent shall be issued by the air or rail carriers directly or using their own automated equipment under their responsibility.

Tickets shall be issued in accordance with the legislative and regulatory texts or the international agreements on the organisation of transport.'

2. Two Articles R. 211-1-1 and R. 211-1-2 are added after Article R. 211-1, worded as follows:

'Article R. 211-1-1. - For the application of Article L. 211-2(II)(B) and (III), a travel service accounting for at least 25 % of the value of the combination shall represent a significant proportion.

'Article R. 211-1-2. - The form referred to in Article L. 211-3(I) shall be established by joint order of the Minister for Tourism and the Minister for Economic Affairs and Finance.'

**Article 2.** - Section 2 of the Sole Chapter of Title I of Book II of the Tourism Code is replaced as follows:

*Section 2*

*Sales contract for trips and holidays*

'Article R. 211-3. - Any offer and any sale of the services referred to in Article L. 211-1 shall give rise to the delivery of appropriate documents that meet the rules set out in this Section.

'Article R. 211-3-1. - The exchange of pre-contractual information or the provision of pre-contractual conditions shall be made in writing. This may also be done electronically. The following shall be indicated: the name or business name and the address of the organiser or retailer and their registration number in the register provided for in Article L. 141-3 or, where appropriate, the name, address and registration number of the federation or union referred to in the second indent of Article R. 211-2.

'Article R. 211-4. - Before concluding a contract, the organiser or retailer shall provide the traveller with the following information:

1. the main characteristics of the travel services:

(a) the travel destination(s), itinerary and periods of stay, with dates and, where accommodation is included, the number of nights included;

(b) the means, characteristics and categories of transport, the points, dates and time of departure and return, the duration and places of intermediate stops and transport connections. Where the exact time is not yet determined, the organiser or retailer shall inform the traveller of the approximate time of departure and return;

(c) the location, main features and, where applicable, tourist category of the accommodation under the rules of the country of destination;

(d) the meal plan;

(e) visits, excursions or other services included in the total price agreed for the contract;

(f) where it is not apparent from the context, whether any of the travel services will be provided to the traveller as part of a group and, if so, where possible, the approximate size of the group;

(g) where the traveller's benefit from other tourist services depends on effective oral communication, the language in which those services will be carried out;

(h) whether the trip or holiday is generally suitable for persons with reduced mobility and, upon the traveller's request, precise information on the suitability of the trip or holiday taking into account the traveller's needs;

2. the trading name and geographical address of the organiser or retailer, as well as their telephone number and, where applicable, e-mail address;

3. the total price inclusive of taxes and, where applicable, of all additional fees, charges and other costs or, where those costs cannot reasonably be calculated in advance of the conclusion of the contract, an indication of the type of additional costs which the traveller may still have to bear;

4. the arrangements for payment, including any amount or percentage of the price which is to be paid as a down payment and the timetable for payment of the balance, or financial guarantees to be paid or provided by the traveller;

5. the minimum number of persons required for the trip or holiday to take place and the time-limit, referred to in Article L. 211-14(III), before the start of the trip or holiday for the possible cancellation of the contract if that number is not reached;

6. general information on passport and visa requirements, including approximate periods for obtaining visas and information on health formalities, of the country of destination;

7. information that the traveller may cancel the contract at any time before the start of the trip or holiday in return for payment of an appropriate cancellation fee, or, where applicable, the standardised cancellation fees requested by the organiser or retailer, in accordance with Article L. 211-14(I);

8. information on optional or compulsory insurance to cover the cost of cancellation of the contract by the traveller or the cost of assistance, including repatriation, in the event of accident, illness or death.

With reference to packages as defined in Article L. 211-2(II)(A)(2)(e), the organiser or retailer and the trader to whom the data are transmitted shall ensure that each of them provides, before the traveller is bound by a contract, the information set out in this Article in so far as it is relevant for the travel services they offer.

The form communicating the information listed in this Article to the traveller shall be laid down by joint order of the Minister for Tourism and the Minister for Economic Affairs and Finance. This joint order shall specify the minimum information that must be provided to the traveller when the contract is concluded by telephone.

'Article R. 211-5. - The information referred to in Article R. 211-4(1), (3), (4), (5) and (7) and provided to the traveller shall form part of the contract and may be changed only under the conditions set out in Article L. 211-9.

*Article R. 211-6.* - In addition to the information specified in Article R. 211-4, the contract must include the following information:

1. the special requirements of the traveller which the organiser or retailer has accepted;
2. information that the organiser and retailer are responsible for the proper performance of all travel services included in the contract in accordance with Article L. 211-6 and that they are obliged to provide assistance if the traveller is in difficulty in accordance with Article L. 211-17-1;
3. the name of the entity in charge of insolvency protection and its contact details, including its geographical address;
4. the name, address, telephone number, e-mail address and, where applicable, the fax number of the local representative of the organiser or retailer, of a contact point or of another service which enables the traveller to contact the organiser or retailer quickly and communicate with him efficiently, to request assistance when the traveller is in difficulty or to complain about any lack of conformity perceived during the performance of the trip or holiday;
5. information that the traveller is required to communicate any lack of conformity which he perceives during the performance of the trip or holiday in accordance with Article L. 211-16(II);
6. where minors, unaccompanied by a parent or another authorised person, travel on the basis of a contract which includes accommodation, information enabling direct contact with the minor or the person responsible for the minor at the minor's place of stay;
7. information on available in-house complaint handling procedures and on alternative dispute resolution mechanisms and, where applicable, on the entity by which the trader is covered and on the online dispute resolution platform pursuant to Regulation (EU) No 524/2013 of the European Parliament and of the Council;
8. information on the traveller's right to transfer the contract to another traveller in accordance with Article L. 211-11.

With reference to packages as defined in Article L. 211-2(II)(A)(2)(e), the trader to whom the data are transmitted shall inform the organiser or retailer of the conclusion of the contract leading to the creation of a package. The trader shall provide them with the information necessary to comply with their obligations as an organiser. As soon as the organiser or retailer is informed that a package has been created, they shall provide the information referred to in points 1. to 8. to the traveller on a durable medium.

*Article R. 211-7.* - A traveller may transfer his or her contract to a transferee who satisfies the same conditions as the traveller in order for the transferee to undertake the trip or holiday, provided that the contract has not yet produced any effects.

Unless more favourable provision is made, the transferor shall be required to inform the organiser or retailer of his/her decision by any means capable of producing an acknowledgement of receipt no later than seven days before the start of the trip. Under no circumstances shall this transfer be subject to prior authorisation by the organiser or retailer.

*Article R. 211-8.* - Where the contract includes an explicit possibility of price revision, within the limits laid down in Article L. 211-12, it shall specify the calculation methods for price changes, whether increases or decreases, in particular with regard to the transport costs and related charges, the currency or currencies that could have an impact on the price of the trip or holiday, the part of the price to which the change applies, and the exchange rate of the currency or currencies taken as the reference when the price specified in the contract was established.

In the event of a price decrease, the organiser or retailer shall have the right to deduct actual administrative expenses from the refund owed to the traveller. At the traveller's request, the organiser or retailer shall provide proof of such administrative expenses.

*Article R. 211-9.* - Where, before the traveller leaves, the organiser or retailer is obliged to alter one of the essential components of the contract, if the organiser or retailer is unable to meet the specific requirements referred to in Article R. 211-6(1) or if there is a price increase of more than 8 %, they shall inform the traveller without undue delay in a clear, comprehensible and readily visible manner on a durable medium of the following:

1. the proposed changes and, where appropriate, their impact on the price of the trip or holiday;
2. the reasonable period within which the traveller has to inform the organiser or retailer of his decision;
3. the consequences of the traveller's failure to respond within the prescribed period;
4. where applicable, the other arrangements offered and their price.

Where the changes to the contract or the substitute arrangements result in a trip or holiday of lower quality or cost, the traveller shall be entitled to an appropriate price reduction.

If the contract is cancelled and the traveller does not accept other arrangements, the organiser or retailer shall refund all payments made by or on behalf of the traveller as soon as possible and in any event not later than 14 days after the contract is cancelled, without prejudice to compensation pursuant to Article L 211-17.

*Article R. 211-10.* - The organiser or retailer shall provide any refunds required under Article L. 211-14(II) and (III) or, pursuant to Article L. 211-14(I), reimburse any payments made by or on behalf of the traveller minus the appropriate cancellation fee. Such refunds shall be made to the traveller as soon as possible and in any event not later than 14 days after the contract is cancelled.

In the case provided for in Article L. 211-14(III), the additional compensation that the traveller may receive shall be at least equal to the penalty he/she would have had to bear if the cancellation had been made by the traveller on that date.

*Article R. 211-11.* - The assistance provided by the organiser or retailer in application of Article L. 211-17-1 shall consist in particular in:

1. providing appropriate information on health services, local authorities and consular assistance;
2. assisting the traveller to make distance communications and helping the traveller to find alternative travel arrangements.

The organiser or retailer shall be able to charge a reasonable fee for such assistance if the difficulty is caused intentionally by the traveller or through the traveller's negligence. That fee shall not in any event exceed the actual costs incurred by the organiser or retailer.'

**Article 3.** - The fifth indent of Article R. 211-26 of the Tourism Code is amended as follows:

1. the words 'of all' are deleted;
2. the words 'final consumer' are replaced by the word 'traveller'.

**Article 4.** - Section 10 of the Sole Chapter of Title I of Book II of the Tourism Code is replaced as follows:

*Section 10*

*Freedom of establishment and freedom to provide services*

'Article R. 211-50. - Natural or legal persons from another Member State of the European Union or from another State party to the European Economic Area wishing to establish themselves in France to exercise activities referred to in Article L. 211-1(I) shall be required to submit an application for registration to the registration commission referred to in Article L. 141-2.

The documents making up the application for registration referred to in Article R. 211-20 shall be accompanied, where necessary, by their translation into French.

'Article R. 211-51. - For the purposes of Article L. 211-21, natural or legal persons established in another Member State of the European Union or another State party to the European Economic Area and wishing to carry out one of the activities set out in Article 211-1(I) in France shall be required to make a declaration to that effect prior to their first supply of services. They shall send this declaration by any means capable of producing an acknowledgement of receipt to the registration commission referred to in Article L. 141-2, together with the following documents:

1. a document certifying that they are lawfully established in a Member State of the European Union or in another State party to the European Economic Area for the exercise of the activities referred to in Article L. 211-1(I);
2. a sufficient financial security certificate provided in accordance with the legislation of the Member State in which they are established;
3. evidence of insurance covering the financial consequences of professional civil liability as provided for in Article L. 211-18(II)(2).

If necessary, these documents shall be accompanied by their translation into French. The commission shall, where appropriate, register this declaration. If the commission referred to in Article L. 141-2 identifies any inaccuracies, the declaration shall be removed from the register referred to in Article L. 141-3.

The declaration shall be updated should there be a change in any of the elements mentioned above.'

**Article 5.** - The Tourism Code is amended as follows:

1. In Articles R. 211-2, R. 211-14, R. 211-22 and R. 211-23, the words 'in (a) of' are replaced by the word: 'in'.
2. In Articles R. 211-15, R. 211-17 and R. 211-18, the word 'consumer' is replaced by the word 'traveller'.
3. In Article R. 211-28, the words 'the European Community' are replaced by the words 'the European Union'.
4. Articles D. 211-1-1 and R. 211-41 are hereby repealed.

**Article 6.** - The aforementioned Decree of 20 July 1972 is amended as follows:

1. In Article L. 48-1, the words 'in (f) of Article L. 211-3' are replaced by the words: 'in 4. of Article L. 211-1(V)' and the words: 'or provide their assistance' are deleted.
2. Articles 48-2 and 48-4 are hereby repealed.

**Article 7.** - The provisions of this Decree shall enter into force on 1 July 2018.

**Article 8.** - The Minister for Europe and Foreign Affairs and the Minister for Economic Affairs and Finance shall be responsible, each within his area of competence, for implementing this Decree, which shall be published in the *Official Journal of the French Republic*.

Done on 29 December 2017.

EDOUARD PHILIPPE

By order of the Prime Minister:

*Minister for Economic Affairs and Finance,*

BRUNO LE MAIRE

*Minister for Europe and Foreign Affairs*

JEAN-YVES LE DRIAN