

# Government Decree No 213/1996 of 23 December 1996

## on Travel Organisation and Agency Activities

On the basis of Section 40 of Act I of 1978 on Domestic Commerce, as amended, the Government hereby issues the following Decree:

**Section 1** (1) This Decree shall apply to economic operators in the territory of Hungary (Section 685(c) of the Civil Code), and to branches of foreign-based companies in the territory of Hungary, which are engaged in the activities of domestic or international travel organisation and retail (hereinafter referred to collectively as 'travel companies').

(2) For the purposes of this Decree, the following definitions apply:

*a)* 'travel organiser' means an entity that sells, either directly or through an intermediary, self-organised or individual travel offers, which include domestic travels and travels from Hungary to foreign countries or from foreign countries to Hungary, or organises travels to Hungary for foreign travel organisers domestically, or sells travels to Hungary to foreign travel organisers or individual passengers, or organises travels from foreign countries to foreign countries, and sells accommodations abroad domestically,

*b)* 'travel retailer' means an entity that concludes travel contracts as the agent of domestic travel organisers, or as the commission agent of foreign travel organisers,

*c)* 'domestic travel organisation' means the organisation and sale of domestic travels organised by the travel organiser,

*d)* 'international travel organisation' means the organisation of travels from Hungary to foreign countries and from foreign countries to foreign countries, the domestic organisation of travels to Hungary for foreign travel organisers, and the sale of travels to Hungary to foreign travel organisers or individual passengers, and the domestic sale of accommodations abroad,

*e)* 'office space for the purpose of the travel company' (hereinafter referred to as 'office space') means dedicated office space for the activities of the travel company, where the equipment of the business premises is aligned to the requirements of intended use; it has an independent fixed telephone line and fax machine used only for the purpose of the activity, and the retail premises (tourist office or travel agency) used for customer service also meet the conditions set out in specific other legislation,

*f)* 'package travel' means a service that is a pre-defined combination of at least two of the following services: passenger transport, accommodation or other tourist services; provided that all the services are fully and collectively included in the price offered, and the service covers a period of more than 24 hours, or it includes overnight accommodation as well,

*g)* transportation services, ticket services, accommodation services (hotel booking), except as provided for in point (*a*), catering services, spa and other services, ticketing for cultural programmes or other events (e.g. sports events), local sightseeing, tourist guide services and the related administration, and the management of travel-related services and the related administration that are to be performed by other organisations, which are sold separately (not as package travel), shall not constitute travel organisation,

*h)* 'travel' means a service provided by the travel company under the conditions set out in specific other legislation.

(3) Travel retailers may only sell the travels organised by foreign travel organisers domestically as commission agents.

(4) Self-financed, non-commercial travels organised by educational institutions for their pupils or students exclusively (including the escorts required based on the number of pupils or students in the group), or by associations and public interest or non-profit organisations for their members exclusively do not fall within the scope of the Decree, if these travels do not bring profit for the organiser.

(5) The provisions concerning package travel must also be applied as appropriate in the case of the domestic sale of foreign accommodations. The provisions related to package travel must also be applied in cases where certain services (elements) of the package travel are invoiced separately.

(6) For the purposes of paragraph (2)(a) the receipt of sums of money included in the purchase price under any title shall be considered as the domestic sale of foreign accommodations.

(7) The provisions of the Decree must be applied even in cases where an organisation also performs activities as defined in paragraph (2)(a) to (d), (f) and (h).

**Section 2** (1) Travel organisers' or retailers' activities may only be performed in Hungary by travel companies that meet the conditions set out in this Decree and have been registered in the official public register by the Licensing and Administrative Office of the Ministry of Economy and Transport (hereinafter referred to as the 'GKM EKH') based on their applications. The GKM EKH may only register a travel company if:

a) it was registered in the trade register or, where the operating conditions require other judicial or authority registration, in the stipulated judicial or official records;

b) its senior employees or executive officers, or the sole proprietor have no criminal record;

c) there is at least one person in the travel company who passed a travel organiser qualification examination or holds professional qualifications and has professional experience as provided for in specific other legislation and is responsible for the professional activities, to whom the rules set out for executive officers and senior employees apply for the purposes of applying this Decree;

d) it has financial security as defined in Section 8 of this Decree;

e) it has an office space [Section 1(2)(e)];

f) the executive officer or senior employee of the applicant travel company, or the sole proprietor maintaining the travel company did not take part in the listed capacities in any company that operated without an official authorisation and pursued activities covered by this Decree, or in any travel company that was *ex officio* deleted from the register by the authorities five years prior to the submission of the application;

g) it has declared the revenue planned to be accrued from travel organisation activities in the year of starting its operation;

h) it declares the type of travel organisation and retailer's activities it performs, taking into account Section 1(2)(a) and (b).

(2) The GKM EKH cannot register the applicant if:

a) it has a public debt (tax, fees, customs duties or social security and health insurance contributions), which has been overdue for more than 60 days and is enforceable according to the tax legislation,

b) it started the travel organisation and retailer's activity before official registration by the GKM EKH. Paragraph (1)(f) shall apply accordingly to the executive officers, senior employees and members registered by name of such companies.

(3) Sole proprietors may perform their activities as sole traders.

(4) The duties of the person responsible for the professional activities as specified in paragraph (1)(c) may not be performed by economic operators, with the exception of the sole proprietor's own company.

(5) The following shall be exempt from the obligation set out in paragraph (1)(d):

a) the travel retailer, if it acts exclusively as the agent of the travel organiser recorded in the official register of the GKM EKH, and

b) the travel organiser, if it exclusively:

1. organises travels to Hungary for foreign travel organisers domestically,

2. sells travels to Hungary to foreign travel organisers,

3. organises travels from foreign countries to foreign countries on behalf of foreign travel organisers.

4.

(6) The travel organiser shall be exempted from the obligation to open a tourist office or travel agency if it sells its travels exclusively through an intermediary, or only performs the activities specified in subpoints 1-3 of paragraph (5)(b).

(7) Evidence must be provided for the requirements specified in paragraph (1)(a) to (e) and paragraph (2)(a) by attaching the relevant documents in the original or in an authentic copy, and the requirements specified in paragraph (1)(f) and paragraph (2)(b) must be confirmed by the applicant's declaration.

(8) The requirements set out in paragraph (1)(f) shall only be considered in the case of travel companies deleted after 1 January 1997.

(9) The GKM EKH shall inform the competent notary and the consumer protection inspectorate at the settlement of the registered office of the travel company and the tourist office (travel agency) about the registration of the travel company in the official public register.

(10) The official public register shall include the following entries:

*a)* the name, registered office, company registration number, tax number, telephone and fax number and, if the travel company conducts its activities through e-commerce, the e-mail address of the travel company,

*b)* the names of the head(s) of the travel company, their functions and the expiry of their mandates,

*c)* the name, function and expiry of mandate of the executive officers and senior employees of the travel company as recorded in the commercial register,

*d)* the name, professional qualifications, evidence of professional qualifications, the qualification examination and language examination number of the person responsible for the professional activities,

*e)* the name of the bank or the insurance company contracted to provide financial security, the amount undertaken by the bank or the insurance company to cover, the amount of the planned revenues and the expiry date of the financial security contract,

*f)* the address, telephone and fax number of the tourist offices and travel agencies of the travel company,

*g)* the list of activities carried out by the travel company, and their NACE codes,

*h)* other activities carried out in conjunction with the travel organisation activities, and

*i)* the entry on the suspension of the activities of the travel company, or its deletion from the official register, and the number and date of the relevant decision.

The travel company must notify the GKM EKH of this data when applying for registration.

**Section 3** (1) The travel company may start its activities after receiving the notice on its registration in the register.

(2) The activity must only be performed under the name and address listed in the register.

(3) The GKM EKH shall disclose the register of travel companies – in the form and at the time requested – to the Central Statistics Office for statistical purposes, and to the Consumer Protection Inspectorate, the National Bank of Hungary and the Hungarian Tax and Financial Control Administration for verification purposes.

**Section 4** (1) Travel companies shall notify the GKM EKH in writing within 15 days concerning any changes in the data specified in Section 2 and concerning the termination of their activities.

(2) The GKM EKH may only register a change from travel organisation activities to retailer's activities, or the supplementation of organisation activities with retailer's activities, if the travel company declares that it fulfilled its obligations undertaken in all of its contracts concluded in connection with its travel organisation activities, and it does not have an enforceable outstanding debt established by a final decision due to failing to fulfil or failing to adequately fulfil those contracts, and it does not have ongoing enforcement proceedings initiated against it in conjunction with these. The procedure of switching from travel organisation activities to retailer's activities shall be governed by the provisions laid down in Section 9.

(3) The provisions set out in paragraph (2) shall also apply when the travel company intends to switch from retailer's activities to, or undertake travel organisation activities as well.

**Section 5** The travel company shall be obliged to constantly use its registered number in all of its business relationships, to inform its customers thereof, to include it in all the written brochures published in connection with travel and to visibly display it in its offices space.

**Section 6** (1) The scope of activities must also be referenced in the name of the office space.

(2) If the travel company conducts its activity in several office spaces, it must apply the requirements for office space in the case of each office space.

**Section 7** The person responsible for travel-related professional activities, who has passed a travel organiser's qualification examination, must be employed full-time by the company. This provision shall apply as appropriate even when the activity is performed via personal contribution by a shareholder.

**Section 8** (1) Financial security may be provided as:

- a) a bank guarantee;
- b) an insurance contract concluded with an insurance company (insurance companies), which may also be concluded on passenger volume (directly for the benefit of the passenger),
- c) blocked funds (hereinafter referred to as 'cash deposit') deposited by the travel company at a credit institution, allocated for the purposes specified in Section 10(1).

Each form of financial security may be applied individually or in combination. If the financial securities are combined, the conditions of payment obligations must also be set out in the contracts concluded to provide the financial security.

(2) The value of the financial security shall be 12 % of the planned revenues from travels from Hungary to foreign countries, the domestic sale of foreign accommodations and the sale on commission of travels organised by foreign travel organisers, that is, the net sales (gross sales minus the sum of tax) accounted for according to Act C of 2000 on accounting, for the period following the month when the bank guarantee is given, the insurance contract is concluded or the cash deposit is allocated, or at least HUF 4 million, and 3 % of the planned revenues where domestic travels are organised. If the travel company uses a non-scheduled aircraft (charter flight) in organising a travel from Hungary to a foreign country or if its liabilities arising from the guaranteed contract under paragraph (8) exceed 25 % of the planned revenues, the value of the financial security shall be 20 % of the planned net sales, or at least HUF 20 million. If the projected revenue is less than the net sales revenue of the preceding year – accounted for according to Act C of 2000 on accounting – then the annual revenues from the year preceding the current year must be taken as a basis for determining the financial security. If the travel company undertakes both domestic travels and travels from Hungary to foreign countries, or if it also sells foreign accommodations domestically in addition to organising domestic travels, or sells the travels organised by foreign travel organisers on commission, the amounts of financial security must be considered separately.

(3)

(4) The period specified in paragraph (2) shall be counted from 1 January to 31 December. The current year means the calendar year for which the travel company is required to provide evidence on financial security. By 31 May of each year, the travel company must adapt the financial security to the benchmark based on the net sales turnover accounted for under Act C of 2000 on accounting. The travel company must appropriately confirm this and the revenue to the GKM EKH.

(5) By 31 October of each year the travel company must provide evidence to the GKM EKH on having the required amount of financial security for the period specified in paragraph (2). If the actual revenue of the current year is expected to be more than 10 %, or if it is more than the planned revenues which forms the basis of the financial security, the travel company shall be obliged to provide evidence to the GKM EKH by the 15th day of the first month of the following calendar quarter on the fact that it correctly amended the amount of financial security. The financial security must apply to the period specified in paragraph (2) in this case as well.

(6) The financial security contract must comply with the requirements of this Decree. The contract must be concluded for a period of at least one year. The travel company shall be required to extend the contract until 31 October of each year (regardless of the expiration date), and to provide evidence on this to the GKM EKH. If the parties do not extend the contract, the travel company must provide evidence to the GKM EKH by 31 October on having signed a contract with another credit institution or insurance company. The conclusion of the financial security contract and its maintenance in force shall be attested by the insurance policy or the contract concluded with the credit institution.

(7) In the contracts on the use of charter flights the travel company must undertake to pay the costs for the outbound and inbound travel of passengers to the airline prior to departure.

(8) For the purposes of this Decree, a contract shall be considered guaranteed if the contracted services cannot be cancelled based on the contract, and as a result the travel company has regular, periodically recurring payment obligations.

**Section 9** The travel company may only terminate the financial security following the termination of the travel organisation activity, after having fulfilled the obligations arising from the travel contracts, but no sooner than six months after the termination of the activity.

**Section 10** (1) A contract may only be considered as financial security if on the basis thereof the insurance company or the financial institution provides coverage at the expense of the financial security

*a)* for covering the costs of the measures to be taken for passengers in emergency situations during travel (e.g. repatriation) and of involuntary stay, and

*b)* for repaying the advance payment and the participation fee.

(2) If the financial security is a cash deposit, the prior approval of the GKM EKH is necessary for its use.

(3) The financial security contract shall be in compliance with the provisions of this Decree if

*a)* it includes the stipulation that the financial institution or the insurance company makes payments charged to the financial security only if the travel company preliminarily presents attestation by the GKM EKH, and the financial institution or the insurance company communicates the date of the payment made at the expense of the financial security to the GKM EKH in writing, and

*b)* it provides for the requirement that the credit institution or the insurance company must notify the GKM EKH in writing without delay at the onset of any of the conditions of termination specified in the contract,

*c)* it sets out that in the event that the travel company does not take care of the outbound or inbound travel of its passengers, or fails to repay the advance payments or the participation fees, the insurance company or the credit institution will take the necessary measures for the company. The credit institution or the insurance will decide on the compensation method.

(4) The travel company must immediately replenish the financial security used, no later than in thirty days, if it continues its activity.

(5) If the travel company fails to fulfil its obligation to repatriate the passengers, or to repay the advance payment or the participation fee, the GKM EKH shall, in order to take the necessary measures, make arrangements with the credit institution or the insurance company at the expense of the financial security of the travel company, of which it shall simultaneously inform the Ministry of Foreign Affairs as well.

(6) Passengers may enforce their claims arising from the failure of the travel company to fulfil its obligations directly at the credit institution or the insurance company.

The credit institution or the insurance company may not file any complaints arising from the bank guarantee or the insurance contract against the passenger. The rights of the passenger *vis-à-vis* the travel company shall pass to the credit institution or the insurance company.

**Section 11** The GKM EKH shall, *ex officio* or on the initiative of the authorised control body, adopt a decision to delete the travel company from the register if it:

*a)* does not meet any of the conditions of registration;

*b)* conducts its activity in violation of the legislation specified in *Annex No 2* of this Decree;

*c)* does not put in writing the travel contract even upon the request of the authority;

*d)* breaches its obligation related to financial security as specified in Section 8;

*e)* fails to assign a person to accompany the group participating in a trip abroad, who speaks the language of the country of destination or a world language commonly used in that country, and is authorised to be a tour guide;

*f)* fails to put the documents provided for in specific other legislation (e.g. the passenger list) at the disposal of the driver of the occasional bus service used for the travel;

*g)* fails to ensure the outbound or inbound travel of the passengers;

*h)* failed to eliminate the reason for the suspension of its activities during the suspension period, or repeatedly gave rise to any reason for suspension;

*i)* failed to ensure the travel of the passenger on the date specified in the contract – except in cases of force majeure – and did not repay the advance payment or the participation fee to the passenger as provided for in specific other legislation;

*j)* is undergoing liquidation by court order;

- k) failed in its obligation to notify the official public registry, or provided false information;
- l) hinders the official control relating to the conditions set out in Section 14(a) to (l), and
- m) has notified its intention to terminate its activity.

(2) By its decision, the GKM EKH may suspend the operation of the travel company for up to three months if the travel company deceives passengers, fails in its obligation to inform the passengers, endangers the outbound or inbound travel of passengers, cannot provide credible evidence on whether it can ensure the outbound or inbound travel of passengers, does not comply with the rules on road passenger transport, and thus jeopardises the operation of the announced programme.

(3) If the GKM EKH suspended the travel organisation or retailer's activity, the travel company may not organise new travels and may not accept advance payments or participation fees for announced travels, but shall be required to take steps to ensure the repatriation of passengers en route, and to fully repay the advance paid for the cancelled trips, and may only organise further travels in respect of which it had already fulfilled its payment obligations before the suspension.

(4) If the reason for suspension indicated in the decision has ceased in the meantime, the suspension shall cease.

(5) In the case of a request by the travel company to be deleted from the official register, the GKM EKH must examine whether the conditions to delete it *ex officio* exist. If the conditions to delete the travel company *ex officio* exist, the GKM EKH shall be obliged to reject the application and delete the applicant *ex officio* from the official register.

(6) Any travel company that has been deleted from the official register by the GKM EKH may no longer organise and/or operate any tours; however, such travel company shall remain obligated to provide return transportation to its customers en route, and to refund – in accordance with specific other legislation – any and all advances and participation fees received for cancelled tours.

**Section 12** (1) The deletion of the travel company from the register, and the suspension of its activities may be initiated by the Ministry of Economy and Transport, the Consumer Protection Inspectorate, the Association of Hungarian Travel Agencies and by the competent notary at the settlement of the tourist office (travel agency).

(2) The GKM EKH must send, without delay, the decision on the suspension of the activities of the travel company or its deletion from the register to any other bodies that keep a record of the company, to the Consumer Protection Inspectorate, and to the notaries of the competent local governments where the travel agencies of the travel company are located.

(3) The Ministry of Economy and Transport shall regularly publish in the Tourism Bulletin the registered, suspended or deleted travel companies, as well as the list of travel companies which modified their travel organisation activity to retailer's activity or their retailer's activity to travel organisation activity.

**Section 13** The provisions of this Decree shall not cover the licensing or other terms specified in specific other legislation regarding the continuation of the travel organisation and retailer's activities.

**Section 14** (1) Compliance with the provisions of this Decree shall be checked by the competent consumer protection bodies at the location of the registered office or offices of the travel company, by the notary of the local government, and by the GKM EKH in respect of the existence of the conditions for registration.

(2) The travel company must enable the control authorities to consult the necessary documents in order to check the criteria under Section 11(1) and (2).

(3) If it is found during the inspection that the travel company performs its activities without authorisation or by breaching the law, the inspection body must take or initiate the measures necessary in order to ensure accountability.

**Section 15** (1) This Decree shall enter into force on 1 January 1997. Simultaneously, Decree No 2/1992 of the Minister for Industry and Trade of 13 January 1992 on travel organisation and agency activities, and its amending Decree No 16/1992 of the Minister for Industry and Trade of 26 May 1992 and Decree No 7/1994 of the Minister for Industry and Trade of 10 March 1994, and Section 2 of

Decree No 3/1992 of the Minister for Industry and Trade of 13 January 1992 on the professional examination of tour operation shall be repealed.

(2) This Decree contains provisions compatible with the following legislation of the European Communities, on the basis of Act I of 1994 on the promulgation of the Europe Agreement, signed on 16 December 1991 in Brussels, establishing an association between Hungary, the European Communities and their Member States: Council Directive 90/314/EEC on package travel, package holidays and package tours.

(3) Travel companies operating at the time of the entry into force of this Decree must provide evidence – by attaching the relevant documents in original or certified copy – to the GKM EKH within six months after the entry into force of the Decree that they meet the material and personal conditions, and have the financial security laid down in the Decree. Only travel companies which have been registered under the provisions of this Decree may operate starting from 1 July 1997.

(4)

(5)

### *Annex 1 to Government Decree No 213/1996 of 23 December 1996*

### *Annex 2 to Government Decree No 213/1996 of 23 December 1996*

Legislation to be taken into account for the purposes of applying Section 11 (1)(b):

- Government Decree No 213/1996 of 23 December 1996 on travel organisation and agency activities,
- Decree No 41/1995 of the Minister for Industry and Trade of 31 August 1995 on guided tours,
- Government Decree No 4/1997 of 22 January 1997 on the conditions of business operations and domestic trade activities,
- Decree No 5/1990 of the Minister for Trade of 5 April 1990 on professional qualifications, as amended,
- Decree No 3/1992 of the Minister for Industry and Trade of 13 January 1992 on the professional examination of travel organisation.