



NEWS ITEMS OF GENERAL INTEREST

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CONSUMERS: Protecting stranded travellers**The European Court of Justice defines their rights.**

Hermann Hofmeister lives in Linz, Austria. In early 1995 he booked a trip which had been promoted the previous November by his daily paper, the Neue Kronenzeitung. The trip was called off, unfortunately, because the newspaper and the organizers, Arena-Club-Reisen, had overreached themselves. Mr. Hofmeister was unable to recover his deposit, but the European Court of Justice, to which the matter was referred, held that a 1990 European Union (EU) directive gave him the right to recover the full amount.

The directive in question seeks to protect people who book package holidays, in the event that the organizers fail to keep their promises. This came into force in Austria when it joined the EU on 1 January 1995.

However, applying the directive to the case of Mr. Hofmeister and other subscribers to the Neue Kronenzeitung presented difficulties. The offer by the newspaper, which was contained in a letter sent to its subscribers, consisted of trips by air to any one four European cities, and included a stay of several days in an hotel and guided visits. Subscribers had to pay airport taxes only, although they were charged a supplement if they travelled alone. If they were accompanied by another person, the latter had to pay a sum mentioned in the advertisement. Payment had to be made at the time of reservation.

However, the offer proved so attractive that Arena-Club-Reisen, the organizers, found themselves unable to meet the demand either in practical or financial terms and were forced to cancel the trips and file for bankruptcy.

Those who had booked trips, on the basis of the advance publicity, asked to be reimbursed. Those who had made reservations before the end of 1994 were refused, given that the Austrian law implementing the European directive only came into force on 1 January 1995. What is more, the Austrian law only covered package holidays starting on 1 May 1995 at the earliest.

Of those who had booked in 1995, and started legal proceedings, two had their right to reimbursement recognized by the court, but were not reimbursed; their trips were to have taken place before May 1. Three others, who should have left after May 1, recovered only a quarter of their deposit: Arena-Club-Reisen's bank guarantee was insufficient to meet all demands. The guarantee was in keeping, however, with the Austrian law implementing the EU directive.

The unfortunate subscribers therefore brought an action against the Austrian state before the regional court at Linz. They maintained that the Austrian law in question did not respect the EU directive. The judges turned to their colleagues at the European Court of Justice for guidance.

The European Court felt that the EU directive clearly applied to the specific case of these promotional trips planned by the daily Neue Kronenzeitung. It held that there was no reason to exclude from the protection of the law trips with departure dates prior to 1 May 1995.

Turning to the substance of the case, the Court held that the guarantee, amounting to 5% of turnover, which the organizers were required to provide under Austrian law, in order to enable them to meet their obligations to their consumers, was inadequate. The European Court stressed that the directive protects buyers against all the risks which a bankruptcy or other unforeseen event entails for a travel agency. Finally, it held that the imprudence of the organizers of the trips did not relieve the Austrian state of its responsibility.

TRANSPORT: The ever safer railways

The often surprising findings of a European study.

European railways are becoming increasingly safer; but the fatalities are among people who are neither passengers nor railway employees. This is one of the findings of a study carried out with the support of the European Commission and published recently by the European Transport Safety Council (ETSC).

Another ETSC study* had already shown the train to be the safest means of transport in the 15-nation European Union. It is responsible for fewer fatalities with each passing year - 842 in 1996, as compared to 1,970 in 1970. However, those who die in railway accidents are mostly people who are neither passengers nor railway employees but pedestrians, cyclists and motorists whose car is hit by a train, usually at a level crossing. In some countries, people who commit suicide by throwing themselves in front of a moving train are also numbered among the accident victims.

This trend has risen with the years. By 1996 the number of passengers killed in accidents had fallen to a quarter of what it was in 1970, despite the sharp increase in the number of railway passengers. Even while fatalities involving railway employees fell to one-seventh of the 1970 figure, those involving pedestrians and others fell by less than half.

Another surprising finding: most fatal accidents are not the ones that make the headlines - derailments and collisions - but such "minor" accidents as when a passenger falls off the platform or when workmen repairing the line are hit by a passing train.

Thanks to technical progress, it has been possible to reduce or eliminate many of the causes of railway accidents. The automatic train protection system (ATP), for example, estimates the maximum speed at which a train can safely navigate the stretch of track it finds itself on. It compares this speed with the speed at which the train is actually running. If the train is going too fast the ATP system automatically slows it down, thus protecting the passengers against any possible errors on the part of the driver.

Several EU countries have had the ATP system installed on their trains; they include the Netherlands and Sweden. Others, such as Italy, have started to do so. However, a number of countries, including the UK, have decided not to install the system on ordinary trains, given its very high cost. On the other hand most railway lines which have been specially built to carry high-speed trains, including those running through the Channel tunnel, have been fitted with the ATP system. For the ETSC, ATP systems which are compatible at the European level should be introduced.

Level crossings present numerous safety problems. Each European country has its own rules, designed to ensure that they operate as effectively as possible. The best solution would be to replace all level crossings with bridges or subways, according to the ETSC study. Several countries - Italy, the Netherlands and Sweden in particular - have embarked on long-term plans for the gradual elimination of all level crossings, while the new high-speed lines are generally free of them.

The doors on some of the older railway coaches are another source of accidents, as they can open while the train is in motion. Indeed, it is the main cause of fatal accidents on railways in the UK. Here, as in Finland, it is planned to introduce automatic doors, which open only when the train is at a standstill. The study also calls for improved means of communication.

The ETSC notes that European statistics on train safety need to be improved as regards coverage and reliability. The report stresses that the current reorganization of European railways, which involves separating the management of the rail network from the operation of trains, could put safety at risk in some cases. It is very important, therefore, that the rules state clearly just where responsibility for safety lies.

* See Eurofocus 22/99.

PENSIONS: The Swiss lead the way in supplementary pensions

The first statistical report on pension funds in Europe.

How can you make sure you'll have a decent income when you retire? This is the question to which a growing number of people must find an answer, given the ageing of the European population. State retirement pensions no longer fill the bill. Hence the growing importance of supplementary pensions, of which the two main forms are (1) personal pension plans, drawn up by life assurance companies, for example and (2) occupational schemes, organized at the level of a company or an industry and managed as a rule by employers and unions.

The Swiss are well in the lead when it comes to these occupational or independent schemes, according to a report which looks at the situation in the European Union and three neighbouring countries - Switzerland, Norway and Iceland.

The report, published by Eurostat, the EU's statistical office, in mid-June, shows that the Swiss paid the equivalent of more than EUR 21 billion* into these occupational pension funds in 1997. This was far more than any EU country, and was all the more remarkable, in view of the fact that the population of Switzerland is smaller than that of most EU countries. Among EU countries, the UK led with EUR 19.4 billion, and was followed by Germany, the Netherlands, Spain, Italy, Austria, Sweden and Denmark. Neither France nor Finland have pension funds of this type, and there are no comparable figures for the other EU countries.

Switzerland also holds the record for contributions per pension fund subscriber, with EUR 6,714 in 1997. Denmark and Austria were next, with more than EUR 4,500. Switzerland was also in the lead as regards the pensions received by retired fund members, each of whom received the substantial sum of more than EUR 27,000 in a year.

Iceland was in the lead in terms of the percentage of the population covered by occupational pension funds, with 51%, followed by Switzerland (44.4%). In all EU countries the percentage of those covered was below 10%, with the exception of the Netherlands (29.5%).

Employer-managed pension funds would seem to be the most developed in Germany; which has over 39,000 of them. They are also to be found in Spain and Finland.

The Eurostat report stresses that supplementary pension schemes differ greatly from one country to another, making comparisons difficult, all the more so as there is no legislation in the matter in the EU.

The differences between the various national schemes present increasingly thorny problems for two basic reasons. One is that many more Europeans will be working in other EU countries than their own, and they would like to be able to provide for their retirement in the best possible way. The other reason is that pension funds are very big investors, and they and their members would benefit if they were able to operate on a Europe-wide scale. The European Commission has already put forward suggestions for improving the situation**.

* 1 EUR = UK £0.65 or IR £0.79.

** See Eurofocus No. 19/99

ENVIRONMENT: Ensuring an environment-friendly single market

The European Commission points the way.

Will more and more of the items on sale in our shops and supermarkets display the ecological label, with its small flowers, made up of 12 gold stars, which alerts shoppers to environment-friendly products? Will organizations which seek to protect the environment be asked to help prepare European technical standards? These, in any case, are just two of the numerous suggests which the European Commission put forward recently in a paper devoted to ways of ensuring both the smooth operation of the European single market and effective environmental protection.

.../...

The European Union (EU) has benefitted, for several years now, from a single market, which has enabled its citizens to live and work in whichever member state they choose, and allowed companies to establish themselves and sell their goods and services throughout this frontier-free area. The European market has created some 900,000 jobs which would not have existed otherwise. It has brought inflation down to levels which would not have been possible otherwise, and created additional wealth.

But we also want to breathe clean air, eat food which is risk-free, swim in clean water and, if possible, not waste the resources our children will need tomorrow.

The single market and environmental protection can go hand in hand, and the EU must develop them together: this is the essence of the European Commission's paper. The EU has already adopted "green" rules in parallel with the opening of its single market. It already allows governments, under certain conditions, to take measures to protect the albeit environment at home in areas which have a European dimension. But it is necessary to do more at a time when the Amsterdam Treaty, in force since May 1, gives the EU greater powers in environmental matters.

The European Commission already has a database covering the ecological taxes and duties applied in the member states. Updating it would make it possible to find out exactly where we stand in these matters in the EU as a whole. These taxes implement one of the main principles of the EU's environmental policy - that the polluter pays. The company, organism or individual responsible for polluting the environment must be held financially responsible. But these taxes must be compatible with EU rules; for example, they must not promote the products of one country at the expense of products from other countries.

At the technical level, the numerous national standards are designed to further environmental protection. Alongside these however, there are also European "ecological" standards. Among those in preparation is a standard for packaging and packaging waste. The European Standards Committee, the main EU body for the drafting of standards, has already taken the initiative both to inform and advise those who prepare these standards on their environmental aspects. .../...

Since 1992 there has been a European ecological label, which allows consumers to choose environment-friendly articles in the case of certain categories of products. More than 200 products in all have been awarded the label so far. There are also national ecological labels, created by the authorities as well as by private bodies, such as manufacturers' associations, for example. The EU already cooperates with national authorities in this area. The Commission's paper envisages an increased role for the EU's own label.

The paper notes that the creation of the single market has had a favourable impact on one of the sectors with the highest pollution levels - transport. Now that the lorries of the 15 member states can move freely within the European area, fewer of them now travel empty. There would be a comparable effect on the railways, once they develop a European dimension.

National and regional authorities, for their part, can adopt measures of their own in the absence of a European law, provided that these measures do not hamper the operation of the single market in a manner disproportionate to the environmental objectives to be attained. Three of Germany's federal states have banned the use of aluminium in window and door frames for houses, for example, and the EU has accepted this measure. The European Court of Justice ruled, however, that a Danish measure requiring that most beer and soft drink bottles be fit for recycling was disproportionate.

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