

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS RELEASE

7004/90 (Presse 90)

1412th Council meeting

- CONSUMER AFFAIRS -

Luxembourg, 13 June 1990

President: Mr Desmond J. O'MALLEY,

Minister for Industry and
Commerce of Ireland

PACKAGE TRAVEL

On conclusion of the co-operation procedure with the European Parliament, the Council adopted the Directive on package travel, including package holidays and package tours.

This proposal harmonizes certain essential aspects of national provisions with a view to encouraging freedom of movement for packages and preventing distortion of competition between operators established in various countries by thus also improving consumer protection; it lays down in particular that:

- the descriptive matter concerning a package given in the brochure supplied by the organizer or the retailer to the consumer must indicate in a legible, comprehensible and accurate manner both the price and certain key information. These particulars are binding on the organizer or retailer;
- the contract must, depending on the particular package, contain all the essential terms; a list of these terms, which are communicated to the consumer before the conclusion of the contract, is annexed to the Directive. The prices laid down in the contract are not subject to revision other than under conditions determined in the Directive and, in any event, no later than 20 days prior to departure;
- the organizer and/or retailer party to the contract must be liable to the consumer for the proper performance of the obligations arising from the contract, irrespective of whether such obligations are to be performed by that organizer and/or retailer or by other suppliers of services;

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- the organizer and/or retailer party to the contract must provide sufficient evidence of security for the refund of money paid over and for the repatriation of the consumer in the event of insolvency.

Member States must comply with the Directive by 31 December 1992 at the latest.

RAPID EXCHANGE OF INFORMATION

Pending the Opinions of the European Parliament and the Economic and Social Committee on the amendment of Decision 89/45/EEC on a Community system for the rapid exchange of information on dangers arising from the use of consumer products, the Council was in favour of extending this Decision, which expires on 30 June 1990.

This system for the rapid exchange of information would in the long run be incorporated in the enacting terms to be implemented under the Directive on general product safety which is still being discussed within the Council. The Commission also stated that it was about to adopt the detailed procedures for the transmission of the information referred to in Decision 89/45/EEC.

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GENERAL PRODUCT SAFETY

The Council discussed the key features of a proposal for a Directive on the approximation of provisions concerning general product safety.

This proposal is designed to establish, at Community level, a general duty to produce and market only safe products. It is to be seen in the context of completing the internal market and reviving consumer protection policy.

The proposal stipulates, in particular, that Member States must take all the necessary steps to ensure that only safe products are placed on the market, irrespective of the commercial conditions attaching thereto.

One particular provision lays down that under certain conditions, the Member State should withdraw or recall a product from the market or prohibit or restrict its placing on the market, while a further provision lays down the conditions under which the Commission may ask the Member States to take appropriate steps to prevent the occurrence of the risk in question.

After noting that opinions continued to differ, the Council instructed the Permanent Representatives Committee to continue its discussions on this important issue, particularly in the light of the amended proposal submitted by the Commission, so as to enable the Council to take a decision on the proposal as a whole at the earliest opportunity.

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EHLASS

Pending the Opinion of the European Parliament, the Council adopted a favourable stand on a demonstration project with a view to introducing a Community system of information on accidents involving consumer products (EHLASS).

The main purpose of this proposal is to extend the duration of the EHLASS project by two years and to establish the financial resources for the project's operation in 1990 and 1991. The amount deemed necessary for the purpose amounts to ECU 4,9 million.

THREE-YEAR ACTION PLAN

The Council held an exchange of views on the presentation by the Commission of the three-year action plan of consumer policy in the European Economic Community (1990-1992).

This action plan is in response to the request made by the Council in its Resolution of 9 November 1989 (see Press Release No 9586/89 Presse 195).

Among other things the plan contains a series of measures to be carried out by the Community before 31 December 1992 in the four priority areas adopted by the Commission:

- consumer representation;
- consumer information;
- consumer safety;
- consumer transactions.

Delegations gave the three-year plan a favourable reception. They expressed certain wishes with regard to the need for more effective integration of consumer protection policy into the other Community policies and expressed their views regarding certain measures provided for in specific areas such as comparative advertising, financial services, mail order sales, unfair clauses in contracts, etc.

Bruxelles, le 12 juin 1990

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Note BIO(90) 175 aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

Préparation Conseil Consommateurs du 13 juin 1990 (E. Reuter)

Le Conseil Consommateurs se réunira demain, 13 juin à Luxembourg. La réunion sera présidée par M. O'Malley, ministre Irlandais de l'Industrie et du commerce. M. Van Miert représentera la Commission.

Les points suivants figurent à l'ordre du jour :

Voyages à forfait

Le Conseil se propose d'adopter à l'unanimité une proposition de directive sur les voyages à forfait. Il faut rappeler que la Commission avait proposé en mars 1989 une directive visant à harmoniser les lois et pratiques des Etats membres dans le domaine des voyages à forfait. La Commission souhaitait instaurer sur le plan européen de véritables garanties pour les consommateurs dans leurs relations contractuelles avec les tours-operators. Les organisateurs de tels voyages et les agents de voyage qui les vendent doivent être responsables de la bonne exécution du contrat et cela également lorsque d'autres prestataires interviennent. La directive prévoit également des règles relatives à l'information des consommateurs et des garanties en cas d'insolvabilité de l'organisateur ou de l'agent de voyage.

Le Conseil avait adopté une position commune qui réduisait la protection prévue par la Commission. Le Parlement européen, en 2e lecture, avait introduit un certain nombre d'amendements que la Commission avait retenus. Cela concerne notamment l'assurance à souscrire par les organisateurs de voyage, la création d'un fonds de garantie, la protection contre les augmentations de prix après conclusion du contrat et la création d'une procédure de réclamation.

Le Conseil s'apprête à ignorer ces amendements. De ce fait l'unanimité est requise.

Système communautaire d'échange rapide d'informations sur des produits dangereux

La décision du Conseil de 1989 créant le système communautaire d'échange rapide d'informations sur les dangers découlant de l'utilisation de produits de consommation expire le 30 juin 1990. Il faut la renouveler, voire l'étendre. Cela nécessitera une consultation d'urgence du Parlement européen et du CES.

Sécurité générale des produits

Le Conseil avait consacré le 9 novembre 1989 un débat d'orientation sur la proposition de la Commission visant à rapprocher les législations nationales en matière de sécurité générale des produits. La proposition de la Commission s'articule autour de deux idées: Face à des législations nationales différentes, la commercialisation d'un produit dans le marché commun doit s'inscrire dans un contexte communautaire normalisé d'exigences de sécurité que doivent respecter les fabricants, les importateurs et les commerçants. Il faut, sur le plan communautaire, créer un dispositif spécial d'intervention pour les situations d'urgence en cas de risques graves et immédiats liés directement à la sécurité d'un produit.

Au niveau du Coreper, la préparation de ce dossier apparaît incertaine. Des difficultés importantes concernent le champ d'application avec une tendance majoritaire de limiter l'obligation générale de sécurité aux produits utilisés par le consommateur, à l'exclusion de l'usage professionnel. Plusieurs autres questions sont encore ouvertes, p.ex. le problème de la complémentarité entre des directives communautaires réglissant spécifiquement la sécurité d'une catégorie de produits et cette directive générale qui, pour la Commission, doit être une directive "filet de sécurité".

Projet de démonstration EHLASS

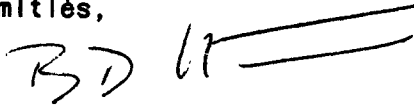
Le Conseil doit confirmer son accord unanime visant à proroger ce projet de démonstration qui concerne le recensement d'accidents causés par des produits de consommation. Ce projet avait été initialement prévu pour 5 ans. La décision que prendra le Conseil établit la dotation financière pour les deux dernières années. Au Parlement européen, certains doutes sur l'intérêt de ce projet avaient été exprimés.

Rendez-vous de midi du 12.6.1990

Matériel diffusé :

- IP 464 - Politiques régionales et marché unique
 - IP 465 - Fonds Européen de Développement
 - IP 468 - Europe des entreprises (adoption de 3 directives "fiscalité" par le Conseil Eco-Fin)
- 2 arrêts de la Cour

Amiliés,



B. DETHOMAS

NOTE BIO(90) 175 (suite 1) aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

Conseil Consommateurs du 13.6.1990 à Luxembourg (E. Reuter)

The Consumer Council adopted this morning the Package Travel Directive.

The Directive is designed to protect consumers, who contract travel packages in the Community. For many years the travel industry has been plagued with unfulfilled contracts. This unsatisfactory state of affairs was compounded by confusion in the law, which previous international initiatives had failed to correct. Package organisers offer arrangements for which they are paid in full in advance. If the arrangements go wrong because of hotel overbooking or air transport irregularities, the tour organiser has been prone to disclaim responsibility on the ground that he is not responsible for the day-to-day operation of the hotel or the air transport. In many cases the consumer has been left virtually without compensation.

The directive contains far-reaching rules concerning the liability of package organisers and retailers, who must now accept responsibility for performance of the services offered. There are a number of exceptions, for example cases of force majeure, or similar circumstances which could neither be foreseen nor overcome. However, even in these cases the organiser must use his best endeavours to help the consumer. The amount of compensation payable may be subjected to certain limits, but not to an unreasonable degree. Limits may indeed apply under international conventions. However, the Commission has declared that the financial ceilings at present applicable under these various Conventions are too low and that they need to be revised. The revision must take place in a wider context than that of package travel, however, for the financial ceilings apply to all travel, not only package travel.

The directive also prescribes rules on the information to be given to the consumer. It contains specific requirements with regard to the content of brochures, where these are issued. Statements made in the brochure are binding on the tour organiser or retailer, therefore there is a considerable incentive for brochures to be accurate. However, there is no obligation to issue a brochure, for it must not be overlooked that the directive is so broad that it covers package arrangements specifically made at the request of an individual consumer in exchange for a lump sum price.

Contracts must be in writing, although indications may be given in other forms, for example maps, diagrams, tele-screens. Special provisions have been introduced to cover last minute reservations. The object is not to impede them but to ensure that the package taker has all the information he needs.

The consumer is entitled, if unable to take a package, to transfer his rights to another party. This is also a valuable step forward for consumers.

There is an element of price stability and the consumer is entitled to cancel the contract if the organiser seeks to change the essential elements of the arrangements agreed.

The directive also has provisions on the security to be furnished by operators and covering repayment of the price and repatriation of consumers in the event of the operator's insolvency.

The directive should be translated into national law and practice of Member States by 31 December 1992. Mr Van Miert said that the Commission would have liked certain provisions to be stronger as proposed originally by the Commission and supported by the Parliament. He said the Commission would monitor the implementation of the Directive with a view to make, if judged necessary, additional proposals to develop the protection of the package traveller.

The Council then considered the test project on a Community system of information of accidents involving consumer products. The European Parliament will only give its opinion on Friday. The Council confirmed in principle the financing of the EHLASS project for two years, thus running for 5 years as originally planned when the project was adopted in 1986.

Amitiés,

A handwritten signature in black ink, appearing to read 'M. Berendt', with a stylized flourish at the end.

M. BERENDT

Note BIO(90) 175 (suite 2 et fin) aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

Conseil Consommateurs du 13 Juin 1990 à Luxembourg (E. REUTER)

Le Conseil a ensuite procédé à un échange de vues sur le plan d'action triennal de la Commission en matière de protection des consommateurs. Le débat a été coloré par l'invocation du principe de subsidiarité qui se trouve parfois en opposition avec les précautions qu'il faudra prendre au niveau européen pour assurer une véritable libre circulation des produits et des services. Des questions concernant la publicité comparative et les clauses abusives ont été soulevées et des préoccupations traduisant des traditions et approches culturelles différentes concernant la protection du consommateur ont été formulées. Dans son ensemble, le Conseil s'est montré positif à l'égard de ce plan.

Le Conseil a ensuite pris la décision de principe - sujet à la position du Parlement Européen qui doit être adoptée ce vendredi - de proroger le système communautaire d'alerte et d'échange rapide d'information jusqu'à l'entrée en vigueur et application d'une directive CEE sur la sécurité générale des produits.

En fin, un tour de table sur la proposition de directive sur l'obligation générale de sécurité des produits n'a fait que conformer des divergences profondes entre délégations au sujet du champ d'application et de la complémentarité avec des directives spécifiques. Le Coreper devra reprendre l'examen de ces points.

Le Conseil s'est ajourné à 13.30 heures.

Amitiés,



M. BÉRENDT

