ADR In the Aviation Sector and the Sector of Tour Operators
Package Travel & ADR
The Belgian Travel Complaints Commission

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Introduction

- an alternative for the courts
- only between travellers and package travel organizers and retailers
- specific legislation (16/02/1994)
- Arbitration or Mediation
Important dates

- 1983: creation
- 1987-2000: more associations
- 1993: GD Economy
- 1999: GD Justice
- 2001: ECC Network
- 2004: Mediation procedure
- 2011: BELMED
Purpose

- To obtain an optimal quality in the package travel sector
- To find a simple and effective method to resolve conflicts
- To facilitate access to justice
A few elements

- EU Recommandations (98/257/EC -2001/310/EC )
- Non profit structure
- Parity principle
A few elements (2)

• Model contract/terms
• Free choice of the traveller
• As simple and flexible as possible
• Transparency and impartiality
Arbitration: competence

- Arbitration clause
- Exclusions
- Regulation document
- Art. 1676 to 1723 Belgian Code judiciaire
Arbitration: preliminary requirements

- Complaint on the spot
- Confirmation after the return (1 month)
- Tentative to find a solution (4 months)
Arbitration: procedure

• Complaint to CLV (questionnaire)
• Hearing
• Decision
• Communication of the motivated and binding decision within 3 months
• No appeal
Arbitration: the arbitrators

• Parity:
  – 1 president
    Independant lawyer
  – 2 arbitrators Travel sector
  – 2 arbitrators consumers associations
Mediation

- Voluntary
- Mediation/conciliation
- Regulation document
Mediation: how does it work?

• Convention between parties
• 50 €
• 1 mediator: independant and impartial
• Prescription
• Active role of the mediator
• Minimal formalities
• Maximum flexibility
Mediation: the results

• Agreement on the solution: transaction
• Enforcement
• If failure: further steps remain possible
Mediation: advantages

- Win-win situation
- voluntary
- impartial mediator
- confidential
- informal
- simple
- low costs
- equity principle
- very easy access to justice
Conclusion: which problems?

2010 (arbitration):

- Accommodation (42%)
- Transport (11%)
- Complaints with several components (9%)
- Excursions – tours (8%)
- Cancellations (6%)
- Contracts (6%)
- Passports and visa (5%)
- Overbooking (4%)
- Others (9%)
Conclusion: How many cases?

Tendency of the last years: fewer cases

- Arbitration 2010
  85

- Mediation 2010
  91
  51/57
Conclusion:

- Success?
- Arbitration or mediation?
For more information:

www.clv-gr.be