

PROPOSAL OF A FINAL RESOLUTION:

RECOMMENDATIONS FOR THE PROTECTION OF INTERNATIONAL TOURISTS AS CONSUMERS

The Committee on International Protection of Consumers has published two books together and helped the ILA adopt three resolutions: the Sofia Resolution ILA 4/2012; the ILA Resolution No. 1/2016, the so-called Johannesburg Guidelines on the Best Practices on the Law Applicable to the International Protection of Consumers; and the Lisbon Resolution 07/2022, entitled 'ILA's Consumer Global Compact in the Digital Economy'. All these resolutions have helped to develop standards for the protection of consumers in cross-border situations, but they have never directly addressed the protection of international tourists as consumers. Accepting this challenge and acknowledging the value of the International Code for the Protection of Tourists elaborated by UN Tourism, the ILA Committee on International Protection of Consumers seeks to contribute to this endeavour by making complementary recommendations to States concerning the protection of tourists as consumers.

DRAFT FINAL RESOLUTION

COMMITTEE ON INTERNATIONAL PROTECTION OF CONSUMERS

ILA'S RECOMMENDATIONS FOR THE PROTECTION OF INTERNATIONAL TOURISTS AS CONSUMERS

Recalling UN General Assembly Resolution 70/186 of 22 December 2015 on consumer protection, which adopted the revised United Nations Guidelines for Consumer Protection, and which ensures that consumer protection policies should be adequate to address tourism and should address the cross-border challenges raised by such activity, including enforcement cooperation;

Recalling that UNWTO defines tourists as visitors (domestic, inbound or outbound) if their trip includes an overnight stay and lasts less than one year, or as same-day visitors (or excursionists) otherwise, regardless of the type of visa;

Recalling the Guidelines contained in the UNWTO International Code for the Protection of Tourists (ICPT), a landmark instrument for the protection of tourists at the international level, establishing a comprehensive set of principles and recommendations for the protection of tourists also as consumers, aiming to ensure that international tourists enjoy an appropriate degree of protection and access to justice regardless of their nationality, country of origin, destination, or the nationality of the service provider;

Recognizing that tourists are the final users or purchasers of products and services in the destinations they visit, and that as consumers they have an interest in the availability of effective dispute resolution and redress mechanisms, and in enjoying a level of protection for consumers using electronic commerce that is not less than that afforded in other forms of commerce;

Recalling the ILA Resolution 4/2012, the so-called 'Sofia Statement on the Development of International Principles of Consumer Protection', the ILA Resolution No. 1/2016, the so-called 'Johannesburg Guidelines and Recommendations' (Guidelines on the Best Practices on the Law Applicable to the International Protection of Consumers), and the ILA Lisbon Resolution 07/2022 for the digital economy;

Recognizing the special vulnerability of international tourists as consumers and aiming to raise awareness among States and the tourism sector of the need to clarify the rights and obligations of tourism service providers, ensuring a fair balance between the responsibilities of States, the private sector and tourists in the areas of consumer rights, personal data protection, redress and dispute resolution;

Considering that the COVID-19 crisis has revealed the need for a legal framework to assist international tourists in emergency situations, the role of international law in helping to develop more equitable standards of consumer protection, and the lack of uniformity at the international level regarding tourism consumer protection rights, especially when tourists use e-commerce or platforms to contract tourism services;

Noting the work of the Hague Conference on Private International Law with the 'Practical Guide to Access to Justice for International Tourists and Visitors', which provides a non-exhaustive list of public and private ODR platforms designed to inform tourists and visitors about platforms that may be used for dispute resolution;

Acknowledging also the activities of the International Association of Consumer Law concerning the key role of consumer rights in global governance and the increasing global concern, in light of extreme climate change, to ensure protection for international tourists as consumers and to enhance cooperation between States in emergency situations and exceptional environmental disasters;

Noting the work of the Committee on International Protection of Consumers from 2022 to 2026 and its Interim Report 2024 presented at the Athens Biennial Congress, as well as the final report presented in 2026;

AIMING to establish minimum recommendations to ensure and promote an appropriate degree of protection of tourists as consumers, particularly in emergency situations;

DESIRING to contribute to the debate on the creation of fair and equitable principles for international consumer protection, including for international tourists as consumers;

ADOPTS the Recommendations for the Protection of International Tourists annexed to this Resolution.

RECOMMENDATIONS FOR THE PROTECTION OF INTERNATIONAL TOURISTS AS CONSUMERS

1. RECOGNIZING that consumers, as natural persons acting outside their professional or trade capacities, do not have expert knowledge and are often in an unequal bargaining position, and that international tourists are also consumers in a foreign country, frequently facing emergency situations and environmental disasters in a country and in a language that are not their own,

RECOMMENDS that the protection afforded to international tourists in emergency situations should be equivalent to that afforded to nationals, and that the protection of international tourists as consumers should be acknowledged by providing them with primary and basic assistance regardless of their nationality, country of origin, destination, or the nationality of the service provider.

2. NOTING that several international law initiatives have been undertaken with respect to the harmonisation of practices relating to international tourism and the protection of tourist consumers; ALSO NOTING that the 2015 revision of the UN Guidelines for Consumer Protection acknowledged in Guideline 78 that Member States should ensure that their consumer protection policies are adequate to address tourism and that they should address the cross-border challenges raised by such activity, including enforcement cooperation; WELCOMING the efforts of UN Tourism to organise the International Code for the Protection of Tourists (ICPT), harmonising minimum standards for the protection of tourists in emergency situations and in relation to consumer rights,

RECOMMENDS adherence to and application of the principles and recommendations of the International Code for the Protection of Tourists, which comprises recommendations on: (I) definitions and clarifications; (II) assistance to international tourists in emergency situations; (III) tourist protection in contracts, including principles on tourists' protection in digital tourism services; and (IV) international settlement of travel and tourism disputes via alternative means of dispute resolution.

3. AWARE that foreign tourists require special protection related to their consumer rights, especially when they are away from their place of habitual residence, culture and language; ACKNOWLEDGING the efforts made at the UN World Tourism Organization to enhance the protection of tourists in emergency situations and the efforts of the Hague Conference on Private International Law in the field of access to justice,

RECOMMENDS greater international cooperation on tourist protection in order to enhance the effectiveness of their consumer rights, redress and access to justice, especially through the adoption of special rules on applicable law and jurisdiction for cross-border consumer protection that also protect foreign tourists,

RECOMMENDS that UN Tourism further assist countries in developing special legislation to deal with emergency situations in tourism and that States cooperate to establish a global

risk-prevention system with risk-management strategies at the national, regional and international levels for future emergencies.

4. NOTING the growth of e-tourism with the use of online platforms and online agencies; ACKNOWLEDGING the efforts made at the UN World Tourism Organization and the ILA Resolution 7/2022 for digital fairness; CALLING for a fair and safe online tourism environment without discrimination and with due consideration of the specific needs of more vulnerable tourists who may be disadvantaged in accessing such platforms or services and may face difficulties in their use; CALLING ALSO for fair and transparent processing and protection of the personal data and privacy of tourists,

RECOMMENDS that States ensure that online tourism platforms and other digital tourism services respect and protect human rights, tourism ethics, consumer rights and the personal data of international tourists, and provide access to justice without discrimination based on domicile or nationality.

5. CONSIDERING the need to guarantee that tourists have the right to seek the necessary protection of their rights and interests through relevant legal systems, including judicial redress or available out-of-court and free-of-charge alternative dispute resolution mechanisms, and to ensure that international tourists have equal access to ADR/ODR schemes, advisory services or direct negotiation mechanisms, taking due account of existing language barriers and the specific needs of more vulnerable or disadvantaged tourists, without discrimination based on domicile or nationality,

RECOMMENDS that States collaborate to ensure that tourists are informed about relevant consumer protection agencies and that foreign tourists are free to access mechanisms for the protection of consumer rights, and in particular that effective dispute resolution and redress mechanisms are made available for international tourists as consumers, taking due account of language, time and distance barriers;

ALSO RECOMMENDS that States follow the principles and recommendations of the International Code for the Protection of Tourists and raise awareness among States and businesses, especially platforms that provide tourism services or allow their use by international tourists.

6. CONSIDERING the UNGA Resolution A/RES/77/178, the UN Guidelines on Consumer Protection and the Global Code of Ethics for Tourism (UN Tourism), and the importance of sustainable and resilient tourism, ensuring responsible resource management and addressing the negative impacts of unbalanced tourism; AWARE of the importance of empowering consumers to make sustainable tourism choices and of supporting sustainable tourism policies and practices,

RECOMMENDS that States ensure the integration of sustainable consumption and production patterns in the tourism sector, including by identifying and adopting tourism-planning approaches aimed at improving efficiency in the use of resources, promoting responsible tourism and empowering consumers with sustainable information regarding their tourism activities and contracts.