

**TOURISM REFORM HAS BEEN ADOPTED:
LAW OF JULY 22ND, 2009 OF DEVELOPMENT AND MODERNIZATION OF TOURIST
SERVICES**

We informed you on March 6th, 2009 of the bill brought in First Reading on February, 4th before the *Sénat* (the French Senate). The Bill aimed at modernizing tourism businesses, in particular the regulation applicable to tourism's professions.

The bill was adopted on July 7th, 2009. The French Senate adopted it in Second Reading without changing the text that the *Assemblée nationale* (the national Assembly) has modified in First Reading.

Promulgated on July 22nd, 2009 and published on July 24th, 2009, the law of development and modernization of tourist services (the "**Law**") simplifies the regime of authorization previously applicable.

Simplification of the authorization regimes - Indeed, before the Law of July 22nd, 2009, travel sales were subject to four different authorizations:

- a license for the activity of travel agency;
- a specific approval for associations or non-profit organizations;
- an authorization for the *Organismes Locaux de Tourisme* (the French local tourism organizations)
- an authorization for the managers of classified accommodation, the managers of leisure activities, the passengers carriers and the real estate agents.

These four regimes are today replaced with a single declaration regime: the registration in a public record.

The procedure of registration is provided in the articles L. 211-18 and L. 141-3 of the Code of Tourism.

Travel agencies must file a request for registration with a commission responsible for the registration of individuals or legal entities.

This commission is a member of the Economic Interest Group (GIE) "*Agence de Développement touristique de la France*".

The commission verifies if all the conditions are met by the applicant and at the end, registers the travel agencies in a travel agencies' register record.

Indeed, the simplification of the regime of authorization must not hinder the protection of the consumers and in that respect, tourism businesses are still subject to various conditions for exercising their activities: financial guarantee, professional insurance liability policy and professional capacity.

The conditions of implementation of the Law will be specified by decree. A draft decree has already been prepared which gives in particular details on the procedure of registration:

- The registration's application must be done in an electronic form. It is accompanied by supporting documents pertaining to the financial guarantee, the insurances and the professional capacity.
- If the registration's application is made by a private individual, it must mention the civil status, the occupation, the place of residence of the applicant as well as the location of the activities and if need be, the location of the branch(es) or any point of sale.

If the registration's application is made by a legal entity, it must mention the entity's corporate name, its corporate form, if applicable the amount of the share capital,

the registered office, as well as the civil status and the place of residence of the legal or statutory representatives of the entity who have solely the capacity to represent the latter.

- The registration is realised within one month following the date of the receipt issued by the commission once the latter has received the complete file. The commission notifies to the travel agency a certificate of registration which bears a registration number and the date of registration.

- The registration shall be renewable every three years.

The draft decree provides that the registration is deemed to be accepted if the commission has not notified its decision within the said one month period. In that case, the commission is compelled to deliver without further delay a registration number.

Finally, tourism businesses which already hold a licence or any other kind of administrative authorisation on the date of publication of the Law are granted a three years period as from

the publication of the Law (i.e. until July 24th, 2012) to file for a new registration, unless the license or the authorisation expires before.

Withdrawal of the exclusivity previously attached to the travel agency activity - Former article L. 212-3 of the Code of Tourism provided that “*the holders of a travel agency license established on the state territory must exclusively devote themselves to this activity*”.

And yet, Article 25.1 of Directive 2006/123/EC of the European Parliament and of the Council of December 12th, 2006 on services in the internal market compels Member States to ensure that services providers are not made subject to requirements which oblige them to exercise a given specific activity exclusively or which restrict the exercise jointly or in partnership of different activities.

By withdrawing the principle of exclusivity attached to travel agencies activity, the Law of July 22nd, 2009 has made the Code of Tourism in compliance with European legislation.

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Ichay & Mullenex Avocats is a French law firm focusing on all legal issues related to the new technologies, the green business and the sustainable development in France and abroad. They are considered experts in intellectual property and Internet law, e-commerce, online gaming, data protection. Ichay & Mullenex Avocats also assists its clients on all issues related to financing, mergers & acquisitions, restructuring, etc. and advises them on their litigation and arbitration procedures