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PREGLEDNI RAD

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Opravdanost postojanja potvrde o putovanju i njen značaj pri formiranju paušalne cijene kod ugovora o organizovanju putovanja u Republici Srbiji

Justification of the travel certificate and its importance in the formation of a lump sum price in the contract for travel in the Republic of Serbia

Rezime

Potvrda o putovanju kod ugovora o organizovanju putovanja je, s jedne strane, zamišljena da služi kao dokaz da je zaključen ugovor o organizovanju putovanja, a s druge strane, kao dokument iz kojeg putnik saznaje svoja prava, obaveze i odgovornosti, čime mu se obezbjeđuje adekvatna zaštita. Pored toga, u potvrdi o putovanju se navodi i minimalan broj putnika koji je neophodno sakupiti prije otpočinjanja putovanja, što ima ključnu ulogu u određivanju ukupne (paušalne) cijene putovanja, budući da on predstavlja osnov za njeno formiranje. Prije donošenja Zakona o zaštiti potrošača, ugovor o organizovanju putovanja bio je ugovor za koji se nije zahtijevala posebna forma, čime je potvrda o putovanju zaista služila namijenjenoj svrsi. Međutim, njegovim stupanjem na snagu, odstupljeno je od principa neformalnosti, te su propisani posebni formalni uslovi za zaključenje ugovora, čime je potvrda o putovanju postala suvišan institut. Međutim, i pored toga, izdavanje potvrde o putovanju, koje je isključivo predviđeno Zakonom o obligacionim odnosima, i dalje postoji ne samo kao zastarjeli i prevaziđeni institut, već i kao obaveza organizatora putovanja, bez čijeg se ispunjenja može dovesti u pitanje pravna valjanost i pravno dejstvo ugovora o organizovanju putovanja.

Ključne riječi: *potvrda o putovanju, ugovor o organizovanju putovanja, minimalan broj putnika, paušalna cijena, Zakon o zaštiti potrošača, Zakon o obligacionim odnosima.*

Abstract

A travel certificate with a contract for travel is, on the one hand, intended to serve as proof that the contract for travel has been concluded, and on the other hand, as a document where the traveler learns his/her rights, obligations and responsibilities, thus being provided with an adequate protection. Moreover, the travel certificate indicates the minimum number of travelers which must be gathered before the start of the travel, which plays a key role in determination of the total (lump sum) price of the travel, it being the basis for its formation. Prior to the enactment of the Law on Consumer Protection, a contract for travel was a contract which required no special form, whereby the travel certificate actually served its intended purpose. However, with the entry into force of the said law, the principle of informality has been deviated from, and special formal requirements for the conclusion of a contract have been prescribed, which made the travel certificate a superfluous institute. However, despite this, the issuance of a travel certificate, which is exclusively provided by the Law on Contractual Relations, still exists not only as an outdated and obsolete institution, but also as an requirement of the travel organizers, the fulfillment of which may question the legal validity and legal effect of the contract for travel.

Keywords: *travel certificate, contract for travel, minimum number of travelers, lump-sum price, Law on Consumer Protection, Law on Contractual Relations.*

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UVOD

Organizovano putovanje predstavlja skup složenih aktivnosti koje su inkorporisane u jednu cjelinu u skladu sa zakonom, ugovorom i dobrim poslovnim običajima profesije. Zbog toga se za ugovor o organizovanju putovanja u srpskom pravu može reći da je, iako mješovit, u širem smislu, jedan jedinstven, odnosno nedjeljiv. Između svih prestacija koje čine organizovano putovanje postoji subjektivna i funkcionalna veza. Subjektivna veza odnosi se na ugovorne strane i druga lica koja učestvuju u realizaciji putovanja, a funkcionalna se odnosi na integrisanje brojnih usluga uz pomoć prethodne organizacije, što sve čini cjelinu koja obuhvata skup složenih, međusobno uslovljenih prestacija. Dakle, ugovor o organizovanju putovanja čini skup usluga koje ne predstavljaju samo zbir pojedinačnih usluga. Taj skup je rezultat njihovog smišljenog rasporeda i sinhronizovanog uzajamnog odnosa koji konačno dovodi do nove suštine: organizovanog putovanja, za koje putnik plaća jednu ukupnu (paušalnu) cijenu (Blagojević i Krulj, 1980). Upravo je osnovna obaveza organizatora putovanja da pruži ugovoreni skup usluga, i to na način kako je opisano u ugovoru o organizovanju putovanja, programu putovanja[1] ili potvrdi o putovanju.

Sve neujednačenija sudska praksa i različitost opštih uslova putovanja turističkih agencija, kao i potreba zaštite interesa putnika kroz jasno definisanje prava i obaveza ugovornih strana, doveli su do pojave zakonskog regulisanja ugovora o organizovanju putovanja, najprije u Španiji, Argentini, Meksiku, Francuskoj i drugim zemljama (Vujisić i Mihajlović, 2014). U Republici Srbiji, ugovor o organizovanju putovanja je po prvi put regulisan zakonskim tekstom još 1978. godine, i to u Zakonu o obligacionim odnosima (Zakon o obligacionim odnosima, 29/78), da bi kasnije paralelno bio uređen i u Zakonu o zaštiti potrošača (Zakon o zaštiti potrošača, 62/14).[2] Kao i Radović (2013), tvrdimo da Zakon o zaštiti potrošača, kao noviji i poseban zakon, ima primat u primjeni u odnosu na Zakon o obligacionim odnosima. Na slučajeve koji nisu regulisani u Zakonu o zaštiti potrošača supsidijarno će se primjenjivati pravila Zakona o obligacionim odnosima.

S tim u vezi, pojavljuje se i problem zakonodavnog regulisanja ove oblasti jer, s jedne strane, u odredbama Zakona o zaštiti potrošača, kao novijeg zakona, ne predviđa se obaveza izdavanja potvrde o putovanju, dok se, s druge strane, propisuje obavezna pismena forma ugovora o organizovanju putovanja, čime se dovodi u pitanje opravdanost postojanja potvrde o putovanju. Nastavak rada posvetićemo detaljnijem analiziranju navedenog u cilju ispitivanja osnovanosti postojanja potvrde o putovanju u važećoj zakonodavnoj regulativi Republike Srbije.

1. PREGLED LITERATURE

Ugovor o organizovanju putovanja rezultat je poslovne prakse i izraz razvoja specifične aktivnosti putničke agencije, odnosno organizatora putovanja, što je dovelo do toga da ugovor ima složenu sadržinu i karakteristike koje ga odvajaju od dosad poznatih, imenovanih ugovora. Specifičnost ovog ugovora proizlazi iz samog zakonskog teksta, posebno u dijelu koji se tiče odnosa između ugovora i potvrde o putovanju.

Prilikom zaključenja ugovora o organizovanju putovanja, organizator putovanja dužan je da putniku izda potvrdu o putovanju, čija je osnovna funkcija zaštita interesa putnika, budući da on iz nje saznaje svoja prava i obaveze, i koja, prima facie, stvara oborivu pretpostavku da je precizno, tačno i istinito napisano sve ono što je u njoj navedeno. Drugim riječima, potvrda je predviđena kao sredstvo zaštite putnika, kojom se korisniku usluga garantuje mogućnost da sazna sve uslove i rokove organizovanja putovanja, i sva prava i obaveze koji proizlaze iz ugovora.[3]

Potvrda o putovanju, koja je predviđena samo u Zakonu o obligacionim odnosima, poseban je dokument koji sadrži niz obaveznih podataka (mjesto i datum izdavanja, oznaku organizatora putovanja, ime putnika, mjesto i datum početka i završetka putovanja, najmanji broj potrebnih putnika i sl.) i fakultativnih podataka (svi drugi podaci za koje se smatra da je korisno da budu sadržani u potvrdi). Međutim, od ovog pravila postoji izuzetak u slučaju kada je izdavanju potvrde prethodila predaja programa putovanja putniku, koji već sadrži ove podatke. Tada se potvrdom o putovanju može jednostavno uputiti na program putovanja. Na ovaj način, program putovanja (katalog ili brošura) postaje sastavni dio ugovora o organizovanju putovanja.

Kao i Šmid (1988), tvrdimo da potvrda o putovanju, kao i program putovanja, nisu ni legitimacioni papiri, ni legitimacioni znaci, niti isprave pomoću kojih bi se mogao dokazati obligacioni odnos putnika i davaoca usluge, i organizatora putovanja, jer ni potvrda ni program ne sadrže naznake o davaocu usluga ili ga označavaju samo generično i neodređeno. Takođe, potvrda o putovanju nema konstitutivan karakter i nije uslov nastanka ugovora o organizovanju putovanja, odnosno postojanje i punovažnost ugovora nisu uslovljeni postojanjem potvrde o putovanju niti njenom sadržinom.

1.1. Odnos ugovora o organizovanju putovanja i potvrde o putovanju

Za razumijevanje potvrde o putovanju, odnosno značaja i razloga njenog postojanja, bitno je utvrditi suštinu pravnog odnosa između ugovora o organizovanju putovanja i potvrde o putovanju. Ukoliko se prihvati ustaljeno mišljenje da se potvrdom o putovanju „otkriva" i dokazuje postojanje ugovora o organizovanju putovanja, njegove sadržine, kao i ugovornog odnosa između organizatora putovanja i putnika, i dalje ostaje nejasno zašto se postojanje ugovora dokazuje potvrdom o putovanju i zbog čega sam ugovor, koji su saglasno potpisale obje ugovorne strane, ne bi mogao biti dokaz svoga postojanja. Činjenica je da je za realizaciju samog ugovora, odnosno neposredno pružanje usluge od davaoca usluge, bitno dokazati postojanje ugovornog odnosa između organizatora putovanja i putnika. Međutim, na osnovu same potvrde, putnik ne može tražiti od davaoca usluge (prevoznika, hotelijera i dr.) da mu pruži usluge koje su navedene u potvrdi (Perović, 1995), iz razloga što između putnika i davaoca usluge ne postoji nikakav ugovorni odnos budući da se putnik u ovom slučaju javlja kao korisnik usluga koje je organizator putovanja zaključenjem posebnih ugovora sa davaocima usluga[4] pribavio za putnika. Istina je i to da je ugovor o organizovanju putovanja, koji uređuje Zakon o obligacionim odnosima, ugovor za koji se ne zahtijeva posebna forma, odnosno neformalni ugovor, i da bi se ta činjenica mogla prihvatiti kao opravdan razlog za

[1] Sastavljanje programa putovanja predstavlja bitan korak ka organizovanju samog putovanja jer su njime na jednom mjestu prikupljene usluge koje predstavljaju cjelinu i kojima se stvara interesovanje putnika za putovanje.

[2] Njegovo uporedno regulisanje u dva zakona bilo je predmet oštrih kritika mnogih pravnih stručnjaka.

[3] Razlog zbog kojeg se pravila vezana za ugovor o organizovanju putovanja i potvrdu o putovanju uglavnom tumače u korist putnika proizlazi iz potrebe da se ovoj ugovornoj strani pruži adekvatna zaštita, imajući u vidu da je ona ranjivija i slabija ugovorna strana u pomenutom ugovoru.

INTRODUCTION

An organized travel represents a set of complex activities which are incorporated into one whole in accordance with the law, the contract and the good business practices of the profession. Therefore, we may state that the contract for travel in Serbian law, although mixed, in a broader sense, is singular, i.e. indivisible. There is a subjective and functional connection between all the considerations constituting an organized travel. The subjective connection refers to the contracting parties and other persons participating in the realization of the travel, and the functional one refers to the integration of numerous services with the assistance of the previous organization, all of which makes a whole including a set of complex, mutually conditioned considerations. Therefore, a contract for travel is a set of services which do not represent only a sum of individual services. This set is the result of their thoughtful arrangement and synchronized mutual relationship which finally brings us to a new essence: an organized travel, for which the traveler pays one total (lump sum) price (Blagojević and Krulj, 1980). It is precisely the basic obligation of the travel organizer to provide the agreed set of services, in the manner described in the contract for travel, travel plan[1] or the travel certificate.

Increasingly uneven case law and the diversity of general travel conditions of travel agencies, as well as the need to protect the interests of travelers through a clear definition of the rights and obligations of the contracting parties, have led to legal regulation of contracts for travel, first in Spain and then Argentina, Mexico, France and other countries (Vujisić and Mihajlović, 2014). The contract for travel was regulated for the first time in the Republic of Serbia by a legal text in 1978, namely in the Law on Contractual Relations (Law on Contractual Relations, 29/78), only to be regulated in parallel later in the Law on Consumer Protection (Law on Consumer Protection, 62/14).[2] Just like Radović (2013), we claim that the Law on Consumer Protection as a newer and special law has primacy in implementation in relation to the Law on Contractual Relations. The rules of the Law on Contractual Relations will be implemented in a subsidiary manner in cases which are not regulated by the Law on Consumer Protection.

In this regard, there is a problem of legislative regulation of this field because, on the one hand, the provisions of the Law on Consumer Protection as a newer law does not provide for the obligation to issue a travel certificate, while on the other hand it prescribes mandatory written form of the contract for travel which questions the justification of a travel certificate. We will dedicate the continuation of this paper to a more detailed analysis of the above in order to examine the validity of a travel certificate in the current legislation of the Republic of Serbia.

1. LITERATURE REVIEW

The contract for travel is the result of commercial practice and a manifestation of the development of a specific activity of the travel agency, i.e. the travel organizer, which led to the contract having a complex content and characteristics which divide it from previously known, identified contracts. The specificity of this contract stems from the legal text itself, especially in the part concerning the relationship between the contract and the travel certificate.

Upon conclusion of a contract for travel, the travel organizer is required to issue the traveler a travel certificate, the main purpose of which is to protect the interests of travelers, since he/she learns his rights and obligations thereof, and which, prima facie, creates a rebuttable presumption that its entire contents is precisely, correctly and truthfully written. In other words, the certificate is intended as a means of traveler protection, which guarantees the service user the opportunity to learn all the conditions and deadlines for the organized travel, and all the rights and obligations arising from the contract.[2]

The travel certificate, which is provided for only in the Law on Contractual Relations, is a special document containing variety of mandatory (place and date of issue, designation of the travel organizer, name of the traveler, place and date of commencement and end of the trip, minimum number of required travelers, etc.) and optional data (all other data considered useful to be included in the certificate). However, there is an exception to this rule in the case when the issuance of the certificate was preceded by the handover of the travel plan to the traveler, which already contains this information. Then the travel certificate may easily be referred to the travel plan. Accordingly, the travel plan (catalog or brochure) becomes an integral part of the contract for travel.

Much like Šmid (1988), we claim that the travel certificate, as well as the travel plan, are neither identification papers, nor identification marks, nor documents which could prove the contractual relationship between the traveler and the service provider, the travel organizer, because neither the certificate nor the plan contain the indications on the service provider or just label it generically and indeterminately. Moreover, the travel certificate does not have a constitutive nature and it is not a prerequisite to draft a contract for travel, i.e. the existence and validity of the contract are not stipulated by the existence of the travel certificate or its content.

1.1. Relationship between the contract for travel and the travel certificate

Understanding the travel certificate, i.e. the meaning and reasons for its existence, is important to determine the essence of the legal relationship between the contract for travel and the travel certificate. Should the established opinion be accepted that the travel certificate "reveals" and proves the existence of the contract for travel, its content, as well as the contractual relationship between the travel organizer and the traveler, it would still remain unclear why the existence of the contract is proved by the travel certificate and why a contract signed by both parties in agreement could not be the proof of its existence. The fact of the matter is, implementation of the contract itself, i.e. direct provision of the service by the service provider, is important to prove the existence of a contractual relationship between the travel organizer and the traveler. However, based on the certificate itself, the traveler may not request from the service provider (carrier, hotelier, etc.) to provide him with the services listed in the certificate (Perović, 1995), because there is no contractual relationship between the traveler and the service provider, since, in this case, the traveler acts as a user of services which the travel organizer has acquired for the

1 Compilation of a travel plan represents an important step toward organization of the travel itself, because it gathers services representing a whole in one place, thus creating travelers' interest to travel.

2 Its comparative regulation in the two laws has been the subject of sharp criticism by many legal experts.

3 The reason why the rules pertaining to the contract for travel and the travel certificate are mainly interpreted in favor of the traveler stems from the need to provide this contracting party with adequate protection, bearing in mind that it is a more vulnerable and inferior contracting party in the said contract.

postojanje potvrde o putovanju. Međutim, pomenuta opravdanost imala bi smisla samo ukoliko bi se zaštita putnika kod ugovora o organizovanju putovanja ostvarivala isključivo prema odredbama Zakona o obligacionim odnosima, ali to nije slučaj u domaćem zakonodavstvu. Ako se prisjetimo ranije zauzetog stanovišta, prema kome Zakon o zaštiti potrošača, kao noviji i poseban zakon, ima primat u primjeni u odnosu na Zakon o obligacionim odnosima, i tome dodamo formalne uslove za zaključenje ugovora o organizovanju putovanju koji se u Zakonu o zaštiti potrošača propisuju (ugovor o organizovanju putovanja mora biti u pisanoj formi), ponovo se nameće potreba postavljanja pitanja opravdanosti postojanja potvrde o putovanju. Čak i sam Perović (1995) tvrdi da u opštim uslovima putovanja, po pravilu, organizator putovanja ne pominje izdavanje potvrde o putovanju, već sam ugovor često „shvata" kao potvrdu o putovanju. Kada se tome doda nepredviđanje potvrde o putovanju u Zakonu o zaštiti potrošača, te njeno neregulisanje u većini drugih, uređenijih zakonodavstava, potvrđuje se opravdanost postavljanja našeg pitanja.

2. REZULTATI I DISKUSIJA

Potvrda o putovanju je poseban dokument kojim se, između ostalog, predviđa i minimalan broj putnika koji je neophodno sakupiti kako bi se ugovor o organizovanju putovanja uopšte mogao realizovati. S tim u vezi, važno je naglasiti da minimalan broj putnika, kao jedan od obaveznih elemenata potvrde o putovanju, predstavlja osnov za formiranje paušalne cijene putovanja.

2.1. Putnikova obaveza plaćanja paušalne cijene putovanja

Osnovna obaveza putnika u ugovoru o organizovanju putovanja jeste plaćanje ugovorene cijene za putovanje na način i u vrijeme kako je to ugovoreno odnosno uobičajeno. Međutim, putnik, po pravilu, kupuje skup usluga, a ne pojedinačnu uslugu, zbog čega plaća ukupnu (paušalnu) cijenu. Preciznije, ugovorena cijena u ugovoru o organizovanju putovanja je fiksna (paušalna) cijena jer u sebi obuhvata ne samo nagradu organizatoru putovanja za realizaciju ugovorenog putovanja u skladu sa ugovorom, potvrdom o putovanju i programom putovanja, nego i cijenu usluge trećih lica koja organizator putovanja angažuje u cilju organizovanja putovanja (Veselinović i Ignjatijević, 2013). Dakle, tom cijenom obuhvaćene su vrijednosti svih usluga (prevoz, smještaj, provizije koje se plaćaju putničkim agencijama, troškovi administracije, dobit organizatora putovanja), pri čemu putnik najčešće i ne zna koji se dijelovi cijene odnose na koje usluge (Vujisić i Mićović, 2016).

2.2. Vrijeme dospijeća putnikove obaveze za plaćanje paušalne cijene putovanja

Kada je u pitanju vrijeme dospjelosti putnikove obaveze za isplatu cijene, u Zakonu o obligacionim odnosima ostavljaju se dvije mogućnosti. Ukoliko je u samom ugovoru o organizovanju putovanja regulisano vrijeme dospijeća navedene putnikove obaveze, onda je relevantno ono što je njime propisano. Međutim, ukoliko to nije slučaj, primjenjuje se takozvano dopunsko pravno pravilo, gdje će primat imati vrijeme predviđeno opštim uslovima putovanja organizatora putovanja. Budući da putnici često ne raspolažu potrebnim finansijskim sredstvima, u savremenoj poslovnoj praksi se dešava da organizatori putovanja, u cilju privlačenja što većeg broja putnika, dozvoljavaju različite oblike odloživog plaćanja. To uključuje i plaćanje ne samo poslije zaključenja ugovora već i poslije realizacije putovanja. Na taj način, odnos između organizatora putovanja i putnika dobija i obilježja ugovora o kreditu (Vujisić i Mićović, 2016). Ipak, u većini slučajeva, putnik je dužan da dio cijene (20%–50%) plati prilikom zaključenja ugovora. Razlog za to je obaveza organizatora putovanja da davaocima usluga s kojima je zaključio ugovore plati dio cijene, ili čak cjelokupan iznos, zbog čega je neophodno da se on avansno namiri iz novčanih sredstava putnika. Ukoliko putnik ne ispuni ovu obavezu, organizator putovanja će imati pravo da traži njeno ispunjenje ili raskid ugovora, kao i naknadu štete (Vujisić i Mićović, 2016).

ZAKLJUČAK

Kod potvrde o putovanju i, uopšte, ugovora o organizovanju putovanja, primjetni su razni problemi u zakonodavnom regulisanju. Kao jedan od najizrazitijih javlja se problem nedovoljne jasnosti, nepovezanosti i neujednačenosti pojedinih zakonskih rješenja, te postojanje multinormativnog pristupa koji je zastupljen u više relevantnih pravnih propisa koji se paralelno primjenjuju, čime se samo dodatno usložnjava pozitivnopravna regulativa. Iz takve pravne regulative proizlaze, u najmanju ruku rečeno, „nespretna" zakonska rješenja. Pri dokazivanju navedene tvrdnje dovoljno je da se osvrnemo na komplikacije koje proizlaze iz uporednog regulisanja instituta potvrde o putovanju u dva različita pravna izvora (Zakon o obligacionim odnosima i Zakon o zaštiti potrošača). Naime, paralelno regulisanje potvrde o putovanju u dva zakonska teksta za posljedicu je imalo da njen značaj i razlog postojanja budu dovedeni u pitanje. I pored obaveze poštovanja formalnih uslova za zaključenje ugovora koji su predviđeni u Zakonu o zaštiti potrošača (od kojih je, svakako, najbitniji da se ugovor sačinjava u pismenoj formi) zbog paralelne primjene dva zakona (Zakona o obligacionim odnosima i Zakona o zaštiti potrošača) te načina na koji je regulisana predmetna oblast, ugovor o organizovanju putovanja se i dalje u praksi zaključuje isključivo uz izdavanje potvrde o putovanju. Iako se tom radnjom nastoje zaštititi interesi putnika, stvara se kontraefekat, budući da je njeno postojanje sasvim nepotrebno iz razloga što putnik dobija već sačinjen ugovor sa svim onim podacima koje sadrži potvrda o putovanju. Zbog toga je postojanje potvrde o putovanju kod ugovora o organizovanju putovanja ne samo upitno nego je njeno i dalje prisustvo kao relikt prošlog vremena kontraproduktivno, kako za organizatora putovanja, kome se dodatno usložnjavaju obaveze oko organizovanja putovanja, tako i za putnika, koji dobija jedan suvišan dokument koji je u novoj zakonodavnoj regulativi izgubio svoju svrhu postojanja. Zbog svega navedenog, smatramo da je neophodno učiniti izmjene u Zakonu o obligacionim odnosima i ukinuti obavezu izdavanja potvrde o putovanju od strane organizatora putovanja prilikom zaključenja ugovora o organizovanju putovanja.

IZVORI

1. Blagojević, B., i Krulj, V. (1980). *Komentar Zakona o obligacionim odnosima*, Savremena administracija, Beograd.

[4] Primjera radi, organizator putovanja zaključuje sa davaocem usluga ugovor o alotmanu, ugovor o ugostiteljskim uslugama, ugovor o usluživanju hrane i točenju pića i sl., bez kojih, po pravilu, ugovor o organizovanju putovanja ne bi mogao biti sproveden.

traveler by concluding special contracts with the service providers[4]. Also, the truth is that the contract for travel, which is governed by the Law on Contractual Relations, is a contract which requires no particular form, i.e. an informal contract, and that this fact could be accepted as a justifiable reason for the existence of a travel certificate. However, this justification would make sense only if the protection of travelers in the contract for travel would be realized exclusively according to the provisions of the Law on Contractual Relations, but that is not the case in the domestic legislation.

If we recall earlier the position taken according to which the Law on Consumer Protection as a newer and special law has primacy in implementation in relation to the Law on Contractual Relations, and add to that the formal conditions for conclusion of a contract for travel provided for by the Law on Consumer Protection (the contract for travel must be in writing), there is still necessity to raise the question of justifying the travel certificate. Even Perović (1995) himself claims that, in the general travel conditions, as a rule, the travel organizer does not mention the issuance of a travel certificate, but often "deems" the contract itself as a travel certificate. The justification to raise our question is confirmed when we add the failure to foresee the travel certificate in the Law on Consumer Protection and its non-regulation in most other, more regulated legislations.

2. RESULTS AND DISCUSSION

The travel certificate is a special document which, among other things, envisages the minimum number of travelers which should be gathered in order for the contract for travel to be implemented in the first place. In this regard, it is important to emphasize that the minimum number of travelers, as one of the mandatory elements of the travel certificate, represents the basis for the formation of lump sum travel price.

2.1. Requirement of the traveler to pay for the lump sum travel price

The basic requirement of the traveler in the contract for travel is to pay the agreed price for the travel in the manner and at the period agreed or which is customary. However, the traveler, as a rule, purchases a set of services, and not an individual service, which is why he pays the total (lump sum) price. More precisely, the agreed price in the contract for travel is a fixed (lump sum) price because it includes not only the reward to the travel organizer for the realization of the agreed travel in accordance with the contract, travel certificate and travel plan, but also the price of third party services hired by the travel organizer, in order to organize the travel (Veselinović and Ignjatijević, 2013). Therefore, this price includes the values of all services (transportation, accommodation, commissions paid to travel agencies, administration costs, profits of travel organizers), where the traveler is usually unaware which parts of the price refer to which services (Vujisić and Mićović, 2016).

2.2. The maturity of the traveler's requirement to pay the lump sum travel price

Concerning the maturity of the traveler's requirement to make the payment, the Law on Contractual Relations leaves two possibilities. If the contract for travel itself regulates the maturity of the stated traveler's requirement, then what the contract prescribes is actually relevant. However, if this is not the case, the so-called supplementary legal rule applies, where the period provided for in the general travel conditions of the travel organizer will take precedence. Since the travelers often do not have the necessary financial resources, what happens in modern commercial practice is that the travel organizers, in order to attract as many travelers as possible, allow various forms of deferred payment. This includes payment not only following the conclusion of the contract but also after the completion of the travel. Thereby, the relationship between the travel organizer and the traveler attains the characteristics of a loan agreement (Vujisić and Mićović, 2016). Nevertheless, in most cases, the traveler is obliged to pay part of the price (20-50%) upon conclusion of the contract. The reason for this is the requirement of the travel organizer to pay part of the price, or even the entire amount, to the service providers with whom he has concluded contracts, which is why it is necessary for him to be paid in advance from the travelers' funds. Should the traveler fail to fulfill this requirement, the travel organizer will be entitled to request its fulfillment or termination of the contract, as well as compensation for damages (Vujisić and Mićović, 2016).

CONCLUSION

Various problems in legislative regulation are noticeable in regards to the travel certificates and contracts for travel in general. Among the most distinctive problems there are insufficient clarity, incoherence and inconsistency of individual legal solutions, and the existence of a multi-normative approach which is represented in several relevant legal regulations implemented in parallel, which only further complicates the positive legal regulations. Such legal regulations render, to say the least, "awkward" legal solutions. In proving this claim, it is sufficient to refer to the complications arising from the comparative regulation of the institution of the travel certificate in two different legal sources (the Law on Contractual Relations and the Law on Consumer Protection). In particular, the parallel regulation of the travel certificate in the two legal texts resulted in its significance and the reason for its existence being questioned. Despite the requirement to comply with the formal conditions to conclude contracts provided for in the Law on Consumer Protection (of which the most important is that the contract is made in writing) due to the parallel implementation of the two laws (the Law on Contractual Relations and the Law on Consumer Protection), as well as the manner in which the subject field is regulated, the contract for travel is still concluded in practice exclusively with the issuance of the travel certificate. Although this action seeks to protect the interests of travelers, a counter-effect is created, since its existence is completely unnecessary due to the fact that the traveler receives an already made contract with all the information contained in the travel certificate. Therefore, the existence of a travel certificate in a contract for travel is not only questionable, but its continued presence as a relic of the past is counterproductive, both for the travel organizer whose requirements regarding the organized travel are further complicated, as well as for the traveler who receives one redundant document which has lost its purpose in the new legislation. Given all the above, we believe it is necessary to make

[4] For example, the travel organizer concludes an allotment contract with the service provider, a contract for catering services, a contract for serving food and drinks, etc. without which, as a rule, the contract for travel could not be implemented. For example, the travel organizer concludes an allotment contract with the service provider, a contract for catering services, a contract for serving food and drinks, etc. without which, as a rule, the contract for travel could not be implemented.

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9. Zakon o zaštiti potrošača, "Službeni glasnik RS" br. 62/14, 6/16. i 44/18.

the necessary amendments to the Law on Contractual Relations and repeal the requirement to issue a travel certificate by the travel organizer upon conclusion of the contract for travel.

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