

Legal mechanisms for protecting tourists in Algerian legislation**BENGUERDI Amine ¹, BENSACI Fouad ²**^{1*} Centre University Illizi (Algeria), benguferdi.amin@cuillizi.dz² University of ouargla (Algeria),*Received: 21/09/2025**Accepted: 20/10/2025**Published: 25/10/2025***Abstract:**

A tourist is defined as an individual who travels beyond their place of permanent residence referred to as a foreign tourist or within their own nation referred to as a domestic tourist for purposes other than financial gain. In this study, we will elucidate the legal frameworks established by the Algerian legislature, which are designed to safeguard tourists from any breach of duty by tourism and travel agencies. These agencies serve as the primary entities responsible for ensuring adequate protection for tourists, who are considered the more vulnerable party in the contractual relationship.

Keywords: Tourist, contractual relationship, travel agency, obligations, tourism contract

Introduction:

In antiquity, travelers were regarded as adventurers and explorers. Subsequently, specialized agents emerged to accompany tourists, assist them, and guide them in selecting destinations for their vacations and trips, advising them on optimal sites and tourist attractions, and providing all necessary information. Consequently, travel agencies play a significant role in persuading tourists to select specific trips over others. The Algerian legislator has regulated the operations of travel agencies through Law No. 99-06¹, which delineates the rules governing the activities of travel and tourism agencies. This law established provisions regulating the operations of these agencies. Article 14 of this law specifies the contractual relationship between the travel agency and the tourist, termed the "tourism contract." Article 18 of Chapter One, Section Four, mandates agencies to take all necessary measures and

¹ - Law No 99-06, dated April 4, 1999, which sets out the rules governing the activities of travel and tourism agencies (Official Gazette, No. 24, dated April 7, 1999).

precautions to ensure the safety of the customer and their property entrusted to the agency. Furthermore, Article 21 holds the travel agency accountable for any damage suffered by the customer as a result of the agency's full or partial non-fulfillment of its obligations. Based on the above, we pose the following question: **What mechanisms has the Algerian legislator implemented to protect the tourist?**

First Section: Obligations of Travel Agencies Towards the Tourist

1- The Obligation to Provide Information Prior to Contracting: Travel agencies hold a significant responsibility in persuading tourists to select a specific trip over alternative options. Often, tourists may not have a predetermined preference regarding the type of tourism service they require, thereby placing considerable trust in the agency. They regard the agency's advice as professional and expert, supported by the requisite financial and human resources for such a role. This trust is established by furnishing the customer with essential information about the trip, as mandated by the principle of good faith in contractual agreements. The tourism contract delineates mutual obligations and rights between the travel and tourism agency which endeavours to provide transportation, accommodation, food, and entertainment services and the tourist, who, as a consumer, typically lacks comprehensive knowledge of the service's specifics. Instead, the tourist enters into the contract relying on the information provided by the agency, which is presumed to possess the most extensive knowledge of its products and their contents. Article 14 of Law No. 99/06, which pertains to the regulations governing the activities of travel and tourism agencies, mandates that a description of the nature of the services provided, as well as the rights and obligations of both parties, must be included. This is particularly important with respect to price, payment methods, potential price adjustments, schedules, and the terms of annulment and cancellation of the contract.

In accordance with prevailing legal standards, travel and tourism agencies are mandated to furnish tourists with all pertinent and essential information to ensure a secure and tranquil journey, as detailed in the booking receipt issued to them¹

The obligation to disclose, notify, or provide information is recognized as one of the most significant legal protections instituted by contemporary legislation to establish contractual equilibrium between parties of unequal standing. This is achieved by obligating professionals to supply consumers with accurate and objective information. More specifically, it requires the travel and tourism agency to inform tourists from the pre-contractual stage. The agency is tasked with elucidating and guiding the tourist's intentions, offering advice, and providing all relevant data and details concerning the contract the tourist intends to enter into²

This obligation is regarded as one of the most crucial modern legal protections afforded to consumers in general, and particularly to tourists, in their interactions with the agency during the pre-contractual phase.

2- The obligation of the travel and tourism agency as an agent is to fulfill its duties with the care of an ordinary person: it is personally liable for its own mistakes in carrying out the obligations resulting from the agency contract, especially in relation to exercising due diligence in searching for and verifying the suitability of the service provider who is able to meet the customer's request. Regarding bookings, the agency is also required to exercise care when making a reservation, because at the time of the request, which may be early or late, it does not know whether a seat will be available on the requested date, time, and flight. However, confirming the booking is considered an obligation to achieve a specific result since considerations beyond the agency's control do not factor in. Therefore, the agency bears responsibility towards its customer whose trip is cancelled by the carrier due to the agency's failure to confirm the reservation.³

¹ - Rabah Belaazouz, *The Legal System of the Tourism and Travel Contract in Algerian Legislation*, Master's Thesis in Law: Specialization in Contracts and Liability, Boumerdes University, 2005, p. 79

² - Zlikha Haimer, *The Tourism Contract – A Comparative Study*, Doctoral Dissertation in Legal Sciences, Faculty of Law and Political Science, Guelma University, 2021-2022, p. 263

³ - Dalal Yazid, *Legal Protection for Tourists under the Tourism Contract*, *Dafater Al-Qanoun Journal*, Issue 11, June 2014, p. 134

3-The obligation to ensure safety in the tourism contract: The Algerian legislator considers this, in Article 18 of Law No. 99-06, to be an obligation to achieve a specific result. According to the text of Article 18, liability falls upon the travel agency without requiring the tourist to prove the agency's fault; it is sufficient, according to general rules, for the tourist to prove the harm suffered. For the obligation to ensure safety to be established, - There must be a potential risk threatening the physical safety of either of the contracting parties. There is no doubt that this condition exists in tourism and travel contracts, given that the travel program typically includes riding various means of transportation, staying in hotels, and other activities.

- The debtor is obligated by the commitment is a professional specialist dealing with a creditor who is non-professional and non-specialist.

4- Commitment to Monitoring Service Providers: The obligation of the travel and tourism agency is not limited to carefully selecting the service providers it employs to execute the tourism contract; it also extends to monitoring and supervising these service providers. This means overseeing the proper implementation of the services they deliver. In carrying out the travel program, the agency enlists various parties such as the carrier, hotel operator, tour guide, and others, all to ensure the quality delivery of every component of the organized tour. We find that the Algerian legislator, in Law No. 99-06, Article 21, impliedly refers to this, stating that the agency bears responsibility for any damage suffered by the tourist resulting from any service provider it uses in delivering the agreed-upon services.

Section Two: Compensation for Liability (Liability Claims as Protection for the Tourist)

The obligation to compensate for harm was originally based on the idea of punishing the wrongdoer under primitive legal systems, Roman law, and old French law. Later, compensation became limited to the restorative function aimed at repairing the damage. This was recognized in Islamic jurisprudence on one hand, and in the conclusions drawn

in old French law on the other, and this function became the sole function of compensation with the establishment of the French Civil Code¹

Thus, civil liability became separate from criminal liability.

The Algerian legislator codified the provisions regarding compensation in Articles 124 to 133 and then in Articles 182 to 187 of the Civil Code, drawing from the French Civil Code and adopting the prevailing view that compensation, as a subject of civil law and as the most important consequence of civil liability in general and objective liability in particular, is of distinctive jurisprudential interest. The topic has been extensively studied, resulting in a variety of jurisprudential opinions, especially regarding the definition of compensation, its constituent elements, and the types of damage it covers particularly with respect to compensation for moral damage in the context of liability. Compensation can be defined as the judicial means used to erase or lessen the damage. It arises directly from the existence of harm, irrespective of the severity of the fault, and should be designed to match the extent of the damage without exceeding or falling short of it. It must not surpass the amount of the damage so as not to serve as a punishment or a source of profit for the injured part²

The Algerian legislator, like those of other jurisdictions, directly addressed the methods and assessment of compensation. Article 132 of the Civil Code stipulates: “The judge shall determine the method of compensation according to the circumstances. Compensation may be paid in instalments or as a periodic payment. In either case, the debtor may be required to provide security. Compensation is usually awarded in money, but, under certain circumstances and upon the request of the injured party, the judge may order restoration of the situation to its previous state or rule for compensation in the form of certain benefits related to the wrongful act.”³

It is thus clear that the legislator established in this article that monetary compensation is the default rule.

¹ - Muhammad Ibrahim Desouki, “Assessment of Compensation between Fault and Damage,” Dar Al-Fikr Al-Arabi, Beirut, 1988, p. 228.

² - Sidqi Muhammad Amin Issa, “Compensation for Damage and Its Transfer to Heirs (A Comparative Study),” National Center for Legal Publications, Cairo, Egypt, 2014, p. 47.

³ - Amended and supplemented Law No. 05-10, which includes the Civil Code.

The basic principle of compensation covers all damage suffered by the tourist, and the damage may be material or moral (non-material). The damage is considered material if it affects the tourist's body, resulting either in injury or death, and it may also affect the tourist's property. As for moral damage, it is the harm that affects the tourist's feelings and emotions, that is, it infringes upon a non-material interest of the tourist. Therefore, in this section, we will address how to compensate for material and moral damage.

Types of Damage:

A/- Material Damage: (dommage matériel)

Jurisprudential and judicial definitions agree that material damage is the financial loss suffered by the injured party as a result of an infringement of one of their rights or legitimate interests. Saeed Moqaddem states that material damage is “that which affects a person’s body or property, or reduces their financial rights, or causes them to lose a legitimate interest of financial value; in other words, the scope of compensation is limited to damage affecting property, that is, the financial liability.”

Accordingly, it may be purely physical damage affecting a person either to their life (whether as a result of injury or death)—or material damage affecting the injured party’s financial liability¹

That means it affects financial interests within the injured party’s financial liability, reducing or eliminating them; it affects property, damaging or destroying it; and it also affects a person's safety in their life or body, thus being considered harm to the assaulted person themselves

The travel and tourism agency are obligated to compensate the tourist for any direct and foreseeable material damage suffered by the tourist. This was confirmed by the French Court of Cassation when it ruled in favour of the tourist’s right to compensation for damages incurred, specifically the additional expenses borne as a result of the travel agency’s error in determining the time and place of the meeting between the tourist and the agency’s representative to carry out the necessary travel procedures. However, due

¹ - Abdelaziz Al-Lassamsa, *Civil Liability in Torts (the Harmful Act)*, International Scientific House and House of Culture, Jordan, 2002, p. 65.

to poor organization, this meeting could not take place, which forced the tourist to incur extra expenses for an extended stay in the country where the trip was being taken¹

B/- Moral or Non-material Damage: (dommage moral)

Some legal scholars define moral damage as damage relating to honour, dignity, and reputation, while other researchers define it as any harm caused to a person's honour, dignity, or feelings by an act or word that constitutes an insult, such as defamation or slander, or causing pain to the body or emotions through acts that do not leave a physical mark or through humiliation in speech or degrading treatment²

This type of damage affects interests other than financial ones; in other words, it does not affect a person's assets, but rather includes any pain (physical or psychological) resulting from an attack on their dignity, emotions, or feelings, or any of those moral values cherished by society³ It also includes violations of a person's moral rights those rights inseparable from their human personality, such as their freedom of expression and action, the right to privacy, reputation, social status, professional standing, as well as moral rights like copyright, and, broadly speaking, their civil rights to be a participating citizen in their society and to enjoy the gifts and qualities God has granted them be they physical, spiritual, aesthetic, or moral. Therefore, any reduction, suspension, or violation of these rights and endowments constitutes moral damage for which compensation may be claimed⁴

The Algerian legislator has addressed moral damage in Article 182 bis⁵ considering moral damage to be any infringement on freedom, honour, or reputation. This is contrary to material damage, as moral damage does not result in a financial loss or reduction of assets, which is the reason behind the controversy over compensating for moral (non-material) damage.

¹ - C.A Douai, 2 Mai 1985, GP, 1958, I, p433

² - Saber Mohammed Mohammed Said, *Direct and Indirect Liability in Harmful Acts (Comparative Study)* in *Islamic Jurisprudence and Civil Law*, Dar Al-Kutub Al-Qanuniya, Egypt, 2008, pp. 122-123.

³ - Ismail Abdel Nabi Shahin, *The General Theory of Obligations (Sources of Obligation)*, Al-Wafa Legal Library, Alexandria, Egypt, 2013, pp. 505-506.

⁴ - Mustafa Al-Ouji, previous reference, p. 169.

⁵ - Article 182 bis, introduced by Law No. 05-10 dated June 20, 2005, amending and supplementing the Civil Code, previous reference.

Accordingly, from the above, moral damages suffered by the tourist can be attributed to the following circumstances:

- Moral harm affecting the body: wounds and injuries sustained by the tourist, the pain resulting from them, and any resulting disfigurement of the face, limbs, or the body in general all of these represent both material and moral damage if they lead to spending money on treatment or a reduction in earning capacity.
- Damage resulting from the failure to achieve the tourist's objective for the trip¹¹Failing to achieve the purpose for which the tourist joined the trip causes moral harm to the tourist in the form of disappointment and a sense of dissatisfaction. The main aim of the tourist in joining the trip is entertainment, recreation, enjoyment, and rest. Consequently, any breach of this objective constitutes moral damage deserving of compensation. What further aggravates such harm, especially if the matter concerns the rituals of Hajj or Umrah, is the significance of place and time for their proper performance; for example, if a pilgrim stays in a hotel that does not ensure comfortable conditions, which in turn negatively affects the correct performance of these rituals. Therefore, any act that undermines the tourist's psychological comfort warrants compensation.

- Second: Conditions for a compensation claim

In order for a compensation claim to be accepted, the individual must have legal standing and either an existing or potential interest recognized by law

1- Legal standing: This refers to the right to bring a claim before the courts, and it is based on the direct and personal interest of the claimant in the case. It is the relationship that links the parties of the lawsuit to its subject matter.

The legal status of the person bringing the lawsuit must be established, as well as the legal status of the right holder making the claim, and there must be correspondence

¹¹ - Zleikha Haymar, previous reference, p. 467

between the legal status of the defendant and the legal status of the party infringing upon this right¹

2- Interest: This is the benefit gained by the claimant at the time of turning to the judiciary. This benefit represents the motive for filing the lawsuit and the objective behind initiating it. There is no lawsuit without an interest. This interest may either be an existing interest when it is based on a right or legal status, the aim is to protect the right or legal status from aggression or to compensate for damages suffered; or it may be a potential interest, meaning that if no violation has occurred and thus no harm has been caused to the right holder, it might arise in the future or may never arise at all and the potential interest recognized by law is the one whose purpose is to prevent possible harm from occurring²

and it is not a condition for the acceptance of the lawsuit, but rather it is the basis for accepting any claim, defense, or challenge to a judgment³

- Third: Parties to the Compensation Lawsuit

***/- The Plaintiff:**

The plaintiff in a compensation lawsuit is the tourist who seeks compensation for the harm they have suffered, whether the harm affected them directly or was reflected upon them from harm to someone else. Therefore, the plaintiff must prove that they are the right holder who was affected, whether the harm was material or moral. Their lawsuit will only be accepted if the conditions for accepting lawsuits are met. The lawsuit is filed against the natural person representing the travel agency.

In the event of the plaintiff's (tourist's) death, this right may be exercised by their general successor, whether an heir or someone bequeathed a share of the estate, and may also be exercised by their creditor through indirect action. However, if the harm is moral or physical, resulting in total or partial disability, this is not permitted, as such rights are considered personal and are linked solely to the debtor.

¹ - Farija Hussein, Fundamental Principles in the Law of Civil and Administrative Procedures, University Publications Office, Algeria, 2013, p. 15.

² - Barbara Abdul Rahman, Explanation of the Law of Civil and Administrative Procedures. Al-Baghdadi Publications, Algeria, 2nd Edition, 2009, pp. 43-44.

³ - Farija Hussein, previous reference, p. 15.

***/- The Defendant (the person responsible for the harmful act):**

This refers to the person required to compensate for the harm, which in this case is the travel and tourism agency that committed the fault and thereby caused damage to the plaintiff (the tourist). The agency is considered responsible for the harmful act suffered by the injured party, whether it is liable for its own act, the act of another, or for an object under its custody.

The agency enjoys legal personality as an independent entity, conducting tourism activities in its own name and for its own account. It has its own separate financial assets and a legal representative, as well as the right to litigate.

The travel and tourism agency is liable **for its own actions** whether by failing to fulfill its contractual obligations or by fulfilling them improperly. As such, the fault gives rise to contractual liability for breaching the obligations arising from the contract with the tourist, such as booking a hotel that does not meet the required standard, or wasting the tourist's time in cities beyond what is necessary, which results in harm to the tourist. This harm is considered the spirit and foundation of civil liability in general. Although the injuries suffered by the tourist may vary, they remain physical damages.¹

It may be liable for the acts of others: When providers of tourism services participate in carrying out the travel contract that the agency has committed to providing its clients such as transportation, accommodation, tours, visits to historical sites, and other services due to the agency's inability to fulfill these services on its own, the agency substitutes others to perform all or part of these tourism services. This opens the possibility of the agency being held liable for the acts of others².

. It should be noted that the contractual liability of travel agencies for the acts of others arises only in package tours organized by travel agencies outside the borders of the country, when a service provider (such as a carrier, hotelier, restaurant owner, or guide) in the foreign country commits an act that causes harm to the client. In such cases, the travel contract is often considered a contract for services, as the agency is responsible for creating and organizing the itinerary, then entrusts its implementation to others.

¹ - Zlikha Haimer, previous reference, p. 386.

² - Dalal Yazid, Legal Protection of the Tourist in Light of the Tourism Contract, *Dafatir as-Siyasah wa al-Qanun Journal*, Issue 11, June 2014, p. 141.

However, for individual trips where the agency's role is limited to brokering between the tourist and service providers, the agency executes the contract itself and does not need to delegate responsibility to others ¹

Fourth: How Compensation is Determined:

According to Articles 131 and 132 of the Algerian Civil Code, the legislator has established two types of compensation: the first is called monetary compensation, while the second is compensation in kind. The Algerian legislator considered monetary compensation to be the principal method of compensation for tort liability, favouring it for practical reasons since compensation in kind may not resolve the existing dispute. In addition, compensation in kind may require the debtor's personal intervention, which cannot be compelled in order to avoid infringing on their personal freedom. Therefore, judgments are typically issued ordering monetary compensation²

1- Compensation in Kind

Compensation in kind is an effective way for the injured party, as it seeks to erase the damage they suffered as long as this is possible³

It can be awarded in some cases within the framework of liability, such as obliging a travel and tourism agency to repair the harm it has caused to an injured tourist. In this case, the injured party may request compensation in kind pursuant to Article 132, paragraph 2. This type of compensation can be considered in cases involving financial damages, such as a tourist's loss, theft, or damage of luggage. In such instances, the court may order the travel and tourism agency to compensate the tourist with items similar to those that were lost, stolen, or damaged as a result of the agency's failure to fulfill its obligations.

2- Monetary compensation: This refers to assigning a new monetary value equivalent to the value that the injured party lost from their assets as a result of their debtor's failure to fulfill their obligation. It is considered the natural means to erase or mitigate damage, perhaps because money serves as a medium of exchange and a tool for

¹ - Ben Qreish Khaled, *The Contractual Liability of Travel Agencies for Acts of the Service Provider*, p. 80.

² - Salah Hussein Ali Al-Jubouri, *Compensation for Moral Damage in Civil Liability (A Comparative Study)*, Dar Al-Fikr Al-Jami'i, Egypt, 2014, p. 141.

³ - Zahia Houria Si Youssef, previously cited reference, p. 315.

evaluation. Therefore, in any case where it is impossible to order specific performance, and there is no way to award non-monetary compensation, the court must grant monetary compensation¹

This form of compensation is considered one of the most practical forms in the field of liability, as it is the general rule and the most prevalent form in this area.

Accordingly, when a travel and tourism agency breaches its obligation to ensure safety, resulting in a tourist sustaining an injury that leads to death, leaving his children without guidance and causing them to fail in their studies, the compensable damage is limited to the direct and foreseeable damage only namely, the death of the tourist. The children's academic failure is considered indirect damage².

It is preferable to compensate the injured party (the tourist), in the event of being rendered incapable of work for a certain period of time, in the form of installments or a fixed salary for a specified time until they recover from the injury.

It is worth noting that Law No. 99-06, which outlines the rules governing the activity of travel and tourism agencies, addressed the method of monetary compensation. This is evident from Article 7, which stipulates that an operating license is granted to persons who meet the following conditions: they must provide a financial guarantee allocated to cover the obligations undertaken by the agency.

This type of compensation is distinguished from other methods in that it can be awarded regardless of whether the damage is material or moral. Monetary compensation may be given as a lump-sum payment to the injured party or it may be paid in installments, with the duration and number of these installments specified; the compensation is deemed fulfilled when the final installment is paid. Alternatively, it can take the form of a lifetime annuity in the case of permanent disability, whether total or partial. In this case, the compensation terminates upon the death of the injured party³.

¹ - Salal Hussein Ali Al-Juboi, Previous Reference, pp. 138-139.

² - Doha Muhammad Saeed Al-Numan, The Civil Liability of Travel and Tourism Contractors, A Comparative Study, Dar Al-Kutub Al-Qanuniya, Egypt 2014, p. 254

³ - Suleiman Markus, Previous Reference, p. 53

Conclusion:

Through this study, it has become clear to us that the protection of tourists places a significant obligation on travel and tourism agencies, particularly in terms of providing information. In most cases, the tourist does not have a clear opinion regarding the nature of the service to be provided. Thus, the travel agency plays a prominent role in persuading and influencing the tourist's decision to enter into a contract.

A breach of these obligations results in the travel agency's liability. The agency is held accountable for physical harm suffered by the tourist during the trip, as well as for the actions of third parties engaged by the agency to fulfill its commitments on the tour.

If the tourist suffers physical, financial, or moral harm, they have the right to seek legal recourse and claim compensation. Material damage is considered physical harm if it affects the tourist's body, which may lead to injury or death, and may also affect the tourist's property. As for moral damage, it is harm that affects the tourist's feelings and emotions.

In conclusion, it should be noted that the Algerian legislator has provided only modest regulation for the protection of tourists, which has resulted in various issues and challenges, especially with the widespread presence of travel agencies.