

Case law

Case Details

National ID: 2 Ob 258/99a

Member State: Austria

Common Name:link

Decision type: Other

Decision date: 21/12/2000

Court: Oberster Gerichtshof (Supreme court)

Subject:

Plaintiff:

Defendant:

Keywords:

Directive Articles

Package Travel Directive, [Article 4, 5](#).

Headnote

1.The nature and time of travel, the aircraft, the duration of flight, stopovers as well as accommodation are integral elements of a travel contract.

2.In interpreting a travel contract, the question to be answered is whether the fundamental changes to the contract in question (in this case, the flight time, place of departure and arrival and stopovers) were significant as per § 31c KSchG. In answering this question, the court is merely judging an individual case and the outcome has no further significance beyond the case under examination.

Facts

The OGH decided in this case to reject the defendant's appeal because it did not raise any significant legal question (see headnote 2). The provisions in Austrian civil proceedings do not require the court to give a detailed rationale for its decision, in the sense of an account of the case. The details of the case therefore remain largely unknown.

Legal issue

The OGH ruled that there was no doubt that the nature and time of travel, the aircraft, the duration of flight, stopovers as well as accommodation are integral elements of the contract in accordance with § 31c para 2 KSchG. Thus, where the organiser (as far as he is entitled to do so by law or under the terms of the contract) makes significant changes to any elements of the contract, the traveller has the choice before departure of either accepting the changes or withdrawing from the contract without being obliged to pay any fine or penalty. In answering the crucial question of whether the fundamental changes to the contract in question were to be viewed as significant, the court was, in its opinion, merely judging an individual case and, because the Court of Appeal had not ruled incorrectly, it was not required to review the case.

Decision

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