

Case Details

Case Details

National ID	link
Member State	Italy
Common Name	Forti e altro v. Soc. Orchidea viaggi
Decision type	Other
Decision date	12/02/2003
Court	Giudice di pace (Others, Milano)
Subject	
Plaintiff	
Defendant	
Keywords	

Directive Articles

Package Travel Directive, [Article 5, 2.](#)

Headnote

The Giudice di Pace di Milano stated that the notion of damage of the Council Directive of 13 June 1990 on package travel, package holidays and package tours (90/314/EEC) includes the moral prejudice occurred to the consumers as a consequence of the non-performance or improper performance of a contract for a package holiday.

Facts

The plaintiffs have bought from the Soc. Orchidea Viaggi a package holiday to visit Honduras and Mexico for a period of two weeks.
Few days before the flight, the tour operator has informed the plaintiffs that the hotel indicated in the brochure would have been unavailable.
Mr. Forti was also informed about the other difficulties concerning the flights between Mexico and Honduras.
They claimed before the Giudice di pace di Milano the economic damage as well as the moral prejudice arising from the non-performance of the contractual services.

Legal issue

The decision concerns the interpretation of the notion of damage of the Council Directive of 13 June 1990 on package travel, package holidays and package tours.
The directive has been implemented in Italy by the Legislative Decree 17 March 1995, n. 111, published in the Official Journal 14 April 1995, n. 88.
After a careful assessment of the facts, the Giudice di pace di Milano has concluded that the notion of damage contains also the moral prejudice caused to the consumers for the imprecise performance of the tour operation.
As to the judge this interpretation is in compliance with the aims of the Directive 90/314/EEC where it states: "In the matter of damage other than personal injury resulting from the non-performance or improper performance of the services involved in the package, the Member States may allow compensation to be limited under the contract. Such limitation shall not be unreasonable" (article 5).
Thus, the judge has liquidated the moral prejudice in the sum of € 550,00.

Decision

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