

Case Details

Case Details

National ID	No. 21552
Member State	Italy
Common Name	link
Decision type	Other
Decision date	12/05/2003
Court	Giudice di pace (Others, Rome)
Subject	
Plaintiff	
Defendant	
Keywords	

Directive Articles

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

Headnote

The Justice of Peace of Rome clarifies in this decision the notion of “damage” of the Legislative Decree 17 March 1995, no. 111 on package travel, package holidays and package tours. The decision is based on the interpretation of “damage” rendered in the case-law of the European Court Justice. Accordingly with such case-law, the Justice of Peace of Rome awarded the plaintiffs the damages caused by loss of enjoyment of the holidays (i.e. a non-material damage).

Facts

The plaintiffs sued the tour operator before the Justice of Peace of Rome. Accordingly with the plaintiffs, they have bought a package travel for the United States and they have discovered that the hotel accommodation was different from what they have agreed upon the organizer’s brochure. In particular, they claimed that the hotel was under renovation. The Justice of Peace of Rome concluded by awarding the plaintiff a sum of € 660,72 (including the non-material damage).

Legal issue

The decision is based on the case-law of the European Court of Justice concerning the article 5 of the Council Directive 90/314/EEC. Upon such provision, the Member States may allow compensation in case of damage other than personal injury for the non-performance (or improper performance) of the services involved in the package. Accordingly with the case-law of the ECJ (see for instance: Simone Leitner v. TUI Deutschland GmbH & Co KG. Case C-168/00), the judge awarded the plaintiff a sum of € 660 (including the non-material damage). He concluded that, in cases involving package travel, package holidays and package tours, the notion of “damage” includes the moral prejudice occurred to the consumers due to the non-performance of a contract for a package holiday.

Decision

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