

Case law**Case Details**

National ID: 47.Pf.25.836/2000/6.

Member State: Hungary

Common Name: link

Decision type: Other

Decision date: 01/01/9999

Court: Fővárosi Bíróság (First instance and/or appellate court, Budapest)

Subject:

Plaintiff:

Defendant:

Keywords:

Directive Articles

Package Travel Directive, [Article 5, 1](#). Package Travel Directive, [Article 5, 2](#).

Headnote

Non-material damages can essentially only be granted where personal rights have been infringed. If a tour operator fails to fulfil the duties laid down in his travel contract, this may constitute an infringement of personal rights, meaning that there may be a claim for compensation for non-material damages. Any such claim arising from an infringement of personal rights can only be made on an individual basis.

Facts

The plaintiff sued the defendant for non-material damages amounting to 200,000 Hungarian Forints (HUF).

According to the facts of the case, the plaintiff went on a package tour organised by the defendant. Under § 7 of Regulation 214/1996, the defendant was obliged to provide a courier abroad. The defendant did not fulfil this obligation. In his case submission, the plaintiff argued that he and his wife had been put in a humiliating and demeaning situation since they were unable to speak the local language. According to the plaintiff, this situation led to a deterioration in both his health and that of his wife.

The Court of First Instance upheld the claim.

The defendant then lodged an appeal against the verdict with the Court of Appeal. In the appeal submission, the defendant argued that he had fulfilled his contractual obligations and that the plaintiff had been inconvenienced because the flight had been overbooked and he was therefore put on stand-by. The defendant argued that the airline must be held responsible for that. Moreover, there was no evidence of a link between the deterioration in the plaintiff's (and his wife's) health and the inconveniences he had endured.

Legal issue

The Court of Appeal reduced the amount to be paid to 50,000 HUF.

In giving reasons for its verdict, the court stated that § 7 para 2 of Government Decree 214/1996 (XII. 23) explicitly obliges tour operators to provide a courier who speaks the local language to help the tourists who are part of a package tour. By failing to do so, the defendant had infringed the regulations governing package travel contracts. Consequently, the plaintiff had to organise the trip himself from the airport without being able to speak the local language. Even if the plaintiffs were put on stand-by due to an error made by the airline, the provisions in the aforementioned Government Decree state that the tour operator is equally liable for the actions of assistants/agents working on his behalf as he is for his own. Moreover, the court explained that compensation for non-material damages could only be granted where personal rights had been infringed. However, it was conceivable that certain actions may lead not only to breach of contract, but also to an infringement of personal rights.

The court held that the events at the airport did indeed lead to a deterioration in the plaintiff's health (he is diabetic). While the plaintiff could not prove that he was going to suffer long-term damage to his health resulting from events at the airport, a compensation claim for non-material damages does not require evidence of long-lasting adverse effects on the claimant's quality of life. Consequently, the impact on the plaintiff's health both during and after the flight did constitute grounds for making a claim for non-material damages.

However, the court reduced the amount of compensation to be paid (in so doing, it also took into account the fact that claims for non-material damages can only be made on an individual basis).

Decision

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