

## Case law

### Case Details

**National ID:** 821/2006

**Member State:** Malta

**Common Name:** Charles Attard et vs. ATV Travel Limited (C14783)

**Decision type:** Other

**Decision date:** 07/01/2008

**Court:** Prim Awla tal-Qorti Civili (Court of first instance)

**Subject:**

**Plaintiff:**

**Defendant:**

**Keywords:**

### Directive Articles

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

### Headnote

Liability for damages of the consumer

### Facts

Plaintiffs bought from the defendant company a package holiday which included flights from Malta to Vancouver/London/Malta, four nights accommodation in Vancouver and an Alaska Cruise with Carnival Spirit which had to start on the 10th May 2006. This holiday was confirmed by defendant company and payment duly made. When on the 10th May 2006 plaintiffs came to take their Alaska cruise from Vancouver, they were told that they could not take this cruise as they required a visa to board the cruise liner to go to Alaska. Plaintiffs contended that at no stage did defendant company inform them that they need a visa to take the Alaska cruise, Maltese nationals needing a visa to enter any part of the United States of America. Plaintiffs contended that because of defendant company's negligence they suffered monetary damages amounting to 5,432 Maltese Liri. Defendant company replied that the need for a visa resulted in various sections of the documentation provided to plaintiffs whereby travellers are advised that it is their responsibility to check with the travel agent to determine what necessary documents are required when travelling. Defendant company further contended that it did what it could to assist plaintiffs also offering them a free cruise in the Mediterranean which was however refused.

### Legal issue

The Court noted that of the three brochures presented as evidence only one was actually published by defendant company with the other brochures being American publications and in relation to which Maltese law did not apply. Court noted that there was no contestation as to the fact that plaintiffs suffered damages. The issue was who was responsible for the damages suffered by plaintiffs. The Court observed that once plaintiffs bought the tickets from defendant company and not directly from Carnival Cruises, the Maltese travel agent was required to inform plaintiffs that they needed a visa to take the cruise. Court noted that from the correspondence and brochures submitted as evidence it did not result that plaintiffs were informed about the visa requirements. The information given in the brochure published by defendant company though clear was not precise. The Court observed that in such circumstances the travel agent should have informed his clients that they required a visa for that specific cruise. The Court therefore held that defendant company was principally responsible for the damages suffered by plaintiffs. The Court however held that there was a degree of contributory negligence by plaintiffs in that it appears that they failed to read the information provided on one of the brochures given to them and that they should have realised that Alaska was part of the United States of America. The Court therefore determined that defendant company was responsible for two-thirds of the damages incurred whereas plaintiffs were responsible for one third of the said damages. Court costs were also determined in a similar proportion.

### Decision

Full text: [Full text](#)

### Related Cases

No results available

### Legal Literature

No results available

### Result