

Case law**Case Details****National ID:** 200.024.218/01**Member State:** Netherlands**Common Name:** De Staat der Nederlanden v. Gold Travel**Decision type:** Other**Decision date:** 07/04/2009**Court:** Gerechtshof (Appellate court, Gravenhage)**Subject:****Plaintiff:****Defendant:****Keywords:****Directive Articles**Package Travel Directive, [Article 7](#)**Headnote**

A travel agency that does not comply with the requirements to protect consumers against its insolvency needs to stop selling travel packages until the time such measures will be met.

Facts

Consumentenautoriteit (Consumers Authority, further "CA") conducted market research at the end of 2007 in order to check whether travel agencies and organisations fulfilled requirements of Article 7:512 BW to provide sufficient financial guarantees in case of insolvency. During this market research many travel agencies that did not register with the SGR (Stichting Garantiefonds Reisgelden), guarantee fund for travel agencies, were approached, including Gold Travel. Gold Travel offered package travels to consumers without having provided sufficient financial guarantees in case of insolvency. The CA asked again Gold Travel on the 25th of March 2007 whether this situation was remedied. Gold Travel replied that the trip price that the consumer pays is directly transferred to hotels and flight companies, that Gold Travel has no debtors and therefore is in no risk of insolvency. CA believes that Gold Travel is still in breach of its obligation from 7:512 BW despite many further communications and appeals to register with the SGR.

Legal issue

The court recognized Gold Travel as an organizer offering package travels to consumers pursuant to art. 7:500 BW. Gold Travel should comply with the need to provide financial guarantee in case of insolvency that consumers would be reimbursed for cancelled trips, pursuant to art. 7:512 BW implementing art. 7 of the Directive. The fact that payments made by consumers are directly transferred to other parties does not protect consumers in case insolvency would be announced at the moment that the money had not yet been transferred and remains on the bank account of the Gold Travel. Gold Travel is ordered by the court to stop infringing art. 7:512 BW either by ceasing to sell package travels or by taking measures mentioned in art. 7:512 BW. In case the travel agency does not comply with this judgment within three months, then a penalty fee per every day of further delay is set.

DecisionFull text: [Full text](#)**Related Cases**

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Result