

Case Details

Case Details

National ID	C.14.0335.N
Lidstaat	België
Common Name	link
Decision type	Supreme court decision
Decision date	13/03/2014
Gerecht	Hof van Cassatie
Onderwerp	
Eiser	Jetair NV
Verweerder	Unknown
Trefwoorden	foreseeability, package travel, travel

Directive Articles

Package Travel Directive, [Article 4, 7](#).

Headnote

A force majeure event does not relieve the travel organizer of its obligation to offer the consumer suitable alternative arrangements or compensation, where applicable, under article 4, 7. Directive 90/314.

Facts

The defendants booked a holiday to India via the plaintiff, a travel organizer. On their journey back, the defendants stranded in Helsinki as a result of the eruption of the Eyjafjallajökull volcano. The defendants made additional costs to stay in Iceland and to plan their journey back to Belgium. They claimed the reimbursement of these costs from the plaintiff.

The plaintiff did not agree and the case ended up in appeal.

Legal issue

Does a force majeure event, relieve the travel organizer of its obligation to offer the consumer suitable alternative arrangements or compensation, where applicable, under article 4, 7. Directive 90/314?

Uitspraak

The appellate court ruled that according to article 4, 7. Directive 90/314 (implemented in Belgian law through article 15 of the Act of 16 February 1994) the plaintiff was indeed obliged to provide suitable alternatives or to compensate the consumer (where such alternatives are impossible or not acceptable to the consumer for good reasons). The fact that the plaintiff did not have a representative in Iceland was discarded as an invalid reason.

The appellate court further ruled that the force majeure event, caused by the volcano eruption, does not relieve the plaintiff from the aforementioned obligation.

The Supreme Court agreed with the motivation of the appellate court and confirmed the judgement.

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Result

The travel organizer was obliged to compensate the defendants.
