

Case Details

Case Details

National ID	C.12.0617.N
Lidstaat	België
Common Name	link
Decision type	Supreme court decision
Decision date	15/05/2014
Gerecht	Hof van Cassatie
Onderwerp	
Eiser	Multiservice Reizen NV
Verweerder	TOTAL Belgium NV
Trefwoorden	consumer, travel

Directive Articles

Package Travel Directive, [Article 2, 4](#). Package Travel Directive, [Article 2, 5](#).

Headnote

A package travel contract, concluded between an entity which is not the actual traveller, and the travel organizer, does not fall under the scope of the rules set out in Directive 90/314 (and the Belgian Act of 16 February 1994 which implements this Directive).

Facts

The underlying facts of this case are not mentioned in the judgement, but from the appeal decision it is clear that the plaintiff periodically organized, as a travel organizer, incentive business trips for the defendant. After a certain time, a discussion arose between the parties and they ended up before court for unpaid invoices. Whereas defendant invoked the protection provided by the provisions set out in Directive 90/314 (implemented into Belgian law in the Act of 16 February 1994), the plaintiff stated that this Directive/Act cannot be applied as the contract was concluded between two corporate entities, and not between a traveller (natural person) and the travel organizer.

Legal issue

Does a package travel contract, concluded between an entity which is not the actual traveller, and the travel organizer, fall under the scope of the rules set out in Directive 90/314 (and the Belgian Act of 16 February 1994 which implements this Directive)?


Uitspraak

The Belgian Supreme Court states that only the actual travellers (natural persons) can be considered "traveller" in the sense of the Directive 90/314 and the Belgian implementation Act of 16 February 1994. As a result of this, the Supreme Court concludes that the contract concluded on behalf of the actual travellers, by a corporate entity, does not fall under the scope of the Directive 90/314.


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Related Cases

Member State	National ID 	Common Name	Directive Articles	Decision Date
België	link	link	Package Travel Directive, Article 2, 4. Package Travel Directive, Article 2, 5.	08/05/2012

Legal Literature

Member State 	Title	Author
België	Van een kale reis thuiskomen: wanneer verjaart een reizigersvordering?	WYSEUR, B.

Result

The Supreme Court overruled the judgement of the appellate court which had decided that the Directive 90/314 does apply to such contracts.