

Legal Literature

Legal Literature Details

Member State: Belgium

Title: Force majeure applied to a travel contract

Subtitle:

Type: article

URL:

Author: GUYOT, C., DE PATOUL, O.

Reference: D.C.C.R. 2012, 109-119

Publication Year: 2012

Keywords: court, foreseeability, package travel, travel

Directive Articles

Package Travel Directive, [Article 4, 6., \(b\), \(ii\)](#) Package Travel Directive, [Article 5, 2., -](#)

Headnote

The authors comment on a decision issued by the Belgian Supreme Court in relation to a case concerning package travel. In this case, a young couple booked a ski holiday with a travel agency. Given the bad weather conditions and risk of avalanches, the young couple asked the agency to change the travel dates.

The agency considered that the couple cancelled the agreement, obliging the couple to pay an annulation fee. The couple argued they did not need to pay anything and asked back their advance. In the proceedings that followed the couple, amongst other arguments, claimed they could invoke the force majeure provision described in the Directive 90/314 (implemented in article 14 §2 of the implementing Act in Belgium).

The Court of Appeal ruled that only the travel agency can invoke this "force majeure" event, and not the traveller. In case the traveller wishes to invoke force majeure, it should invoke the general force majeure standard for contractual relationships as provided in Belgian civil law (article 1148 Civil Code).

The Belgian Supreme Court follows this reasoning.

The authors, however, do not agree with this position and considers that this reasoning is based only on a very stringent interpretation of the law, and not in line with the purpose of the legislator. They invoke the parliamentary works to state that the traveller also should have the possibility to invoke the force majeure ground provided for in the package travel legislation.

General Note

Related Cases

Sorted by [Member State](#)[National ID](#)[Common Name](#)[Directive Articles](#)[Decision Date](#) ▼

Member State: Belgium

National ID: C.14.0335.N

Common Name: link

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

Decision Date: 13/03/2014

Member State: Belgium

National ID: link

Common Name: link

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

Decision Date: 10/02/2014