



Judgment of the Court (Second Chamber) of 29 February 2024 (request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas – Lithuania) – M. D. v UAB ‘Tez Tour’

(Case C-299/22, ⁽¹⁾ Tez Tour)

(Reference for a preliminary ruling – Package travel and linked services – Directive (EU) 2015/2302 – Article 12(2) – Right of a traveller to terminate a package travel contract without paying a termination fee – Unavoidable and extraordinary circumstances – Spread of COVID-19 – No official recommendation against travel – Consideration of personal circumstances relating to the individual situation of the traveller concerned – Consequences significantly affecting the performance of the package or the carriage of passengers to the destination – Circumstances existing or foreseeable on the date of conclusion of the package travel contract concerned – Possibility of taking into account consequences occurring at the place of departure or return as well as at other places)

(C/2024/2568)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Applicant: M. D.

Defendant: UAB ‘Tez Tour’

Intervening party: ‘Fridmis’ AB

Operative part of the judgment

1. Article 12(2) of Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, read in the light of point 12 of Article 3 thereof,

must be interpreted as meaning that the finding that ‘unavoidable and extraordinary circumstances’, within the meaning of those provisions, have arisen at or in the immediate vicinity of the destination of a journey cannot be subject to the condition that the competent authorities have published an official recommendation advising travellers against travelling to the area concerned or an official decision classifying that area as a ‘risk area’.
2. Article 12(2) of Directive 2015/2302

must be interpreted as meaning that the concept of ‘unavoidable and extraordinary circumstances ... significantly affecting the performance of the package, or which significantly affect the carriage of passengers to the destination’ of the trip in question, covers not only circumstances which make it impossible to perform that package but also circumstances which, without preventing such performance, mean that the package cannot be performed without exposing the travellers concerned to risks to their health and safety, taking into account, where appropriate, personal factors relating to the individual situation of those travellers. The assessment of such effects must be made from the perspective of an average traveller who is reasonably well-informed and reasonably observant and circumspect at the date of termination of the package travel contract in question.
3. Article 12(2) of Directive 2015/2302

must be interpreted as meaning that a situation which, on the date of conclusion of the package travel contract, was already known to the traveller concerned or was foreseeable for him or her, cannot be relied on by that traveller as ‘unavoidable and extraordinary circumstances’, within the meaning of that provision, without prejudice, however, to the possibility, given the evolving nature of the situation, that that situation may have undergone significant changes after the conclusion of the contract such as to give rise to a new situation, capable of meeting as such the definition of the concept of ‘unavoidable and extraordinary circumstances’, within the meaning of that provision.

⁽¹⁾ OJ C 311, 16.8.2022.

4. Article 12(2) of Directive 2015/2302

must be interpreted as meaning that, in order to determine whether unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity 'significantly [affect] the performance of the package, or ... significantly affect the carriage of passengers to the destination', effects occurring at the place of departure and at the various places connected with the start and return of the trip in question may also be taken into account where they affect the performance of that package.
