CONSUMER CLAIMS TRIBUNAL

In the Acts of Claim CCT 93/24/F

Martina Knezevic (ID 0177364A)

vs

Turkish Airlines Inc.
(Malta Sales Office, Malta) (OC 704)

Today, the 24th March 2025

The Tribunal:

Having seen the Notice of Claim filed by the applicant on the 5th May 2024;

Having seen the Reply filed by the defendant company on the 21st May 2024;

Having seen the Tribunal's decree of the 20th January 2025 by which the Notice of Claim was amended to read €2,771.42 as the amount claimed;

Having heard the sworn testimony and the submissions of the parties;

Having seen the documents exhibited by the parties;

Having seen that the Claim was put-off for judgement.

Considered:

Whereas through the instant proceedings, the applicant is requesting that the defendant company is condemned by this Tribunal to pay her the sum of €2,771.42. She explains that on the 9th September 2023, she and her family purchased tickets from the defendant to fly on the 23rd December 2023 from Malta – Istanbul – Shanghai and also purchased tickets from Air New Zealand to fly from Shanghai – Auckland as well as corresponding return tickets. She claims that prior to the trip she verified with the Chinese Embassy in Malta whether a visa was required for any of the party to transit through Shanghai and received written confirmation that there was no such requirement owing to the rule

allowing 144 hours free passage when departing China to a third-country. The plaintiff has a Croatian whilst the rest of her party had Italian passports. On the day of travel, she was denied boarding whilst the rest of the party faced no prevention as the handling staff claimed that she did not have a valid visa and according to their system, she required a visa to transit through China. Plaintiff claims that the handling staff were shown the Air New Zealand tickets from China – Auckland but this to no avail. The claim of €2,771.42 represents the value of the tickets paid for all the family to travel from Malta – Istanbul – Shanghai. The plaintiff claims that the fault for her predicament lies with the fact that the defendant company did not have its system updated to reflect the Chinese free passage rule. Plaintiff sustains that the rest of the family could not travel without her as the children are very young.

Whereas the defendant company replied that when purchasing a ticket, the client agrees to Turkish Airlines General Conditions for Carriage which in Clause 8.1.10.1 place an obligation on the passenger to ensure that he/she is in possession of valid travel documentation when travelling. Regulation EC No. 261/2004 is also quoted in justification of the possibility for an airline to deny boarding when there is 'inadequate travel documentation'. Defendant company states that it is aware of the 144 hours free passage rule in China but contests the plaintiff's statement that she presented tickets to fly from Shanghai – Auckland with another airline. Owing to this, the defendant company could not verify that the plaintiff would be only transiting through China and thus, was justified in denying boarding.

Whereas amongst the documentation submitted by Plaintiff, the Tribunal notes an email from the Chinese Embassy in Malta confirming that "after visiting Shanghai, if you go to a third-country such as Japan or Australia, no visa required" which sustains the Plaintiff's position. During her sworn testimony on the 20th January 2025, the Plaintiff confirmed on oath that "we had informed the check-in staff that we had tickets for travel between Shanghai and New Zealand and displayed copies of same but this to no avail". A copy of these tickets was exhibited in the acts of this Claim.

Whereas in her affidavit, Eda Ocak, who occupies the position of General Manager of the Malta branch of the defendant company, states that according to IATA's system 'TIMATIC', it was confirmed that Shanghai has a policy of 144 hours visa free passage but this only when the passenger has "a confirmed onward ticket for a flight to a third-country within 144 hours" and the passenger must "have documents required for the next destination". She sustains that the Plaintiff failed to present the onward tickets to New Zealand at the check-in counter and since the flight was not booked with Turkish Airlines, they would have no record of the flight unless it is brought to attention by the passenger. On the basis of this, defendant company attributes fault for denied boarding on the Plaintiff herself. Liability in respect of the rest of the family members in the travel

party is disclaimed since they were not prevented from boarding the flight and it was their voluntary refusal to board.

Whereas the IATA document presented by the defendant company (at §14) confirms that both Italian and Croatian nationals are equally entitled to benefit from the 144 hour free passage rule in Shanghai.

Whereas the Tribunal believes the plaintiff's account that the onward ticket from Shanghai – Auckland was indeed presented at the check-in counter as otherwise, all the travel party would have been prevented from boarding, keeping in mind that Croatian and Italian nationals are subject to the same immigration rules in Shanghai as confirmed through the IATA documentation presented by the defendant company itself. Furthermore, whilst the Plaintiff was physically present at the airport at the time in question and thus gave a sworn direct account of what happened, with all due respect, Eda Ocak was not physically present at the airport and secondly, as confirmed by Ms Ocak herself before the Tribunal, handling operations at Malta International Airport are not handled directly by Turkish Airlines staff but by a sub-contractor company Aviation Services Handling Limited. No representative from this company was summoned to testify. Therefore, the Plaintiff's version is the more credible of the two and on a basis of probabilities, it appears to the Tribunal that the mishap was due to shortcomings on part of the handler acting on behalf of the defendant company. As to the defendant company's argument that it is not responsible to compensate the rest of the plaintiff's travel party as they were not denied boarding, the Tribunal upholds plaintiff's justification that the family was constrained to travel together as there were very young children in the travel party who would need the assistance of both parents to travel.

Decision:

Therefore, for the abovementioned reasons, in the circumstances, after having seen Chapter 378 of the Laws of Malta, the Tribunal hereby decides this claim by upholding it and consequently condemns the defendant company to refund the plaintiff the sum of two thousand, seven hundred and seventy-one Euro and firty-two cents (€2,771.42).

Each party shall bear own costs.

Avv. Mattia Felice LL.B., LL.D. (*Melit.*)
Arbiter