

The Injured Party to Be Entitled to Claim Damages under Civil Law Either

An injured party has an option to recover attorney fees for criminal proceedings under the civil procedure either, as the Supreme Court of the Republic of Latvia has drawn a conclusion. In its decision the court subsequently elaborates that “the injured party’s expenses on attorney fees in criminal proceedings, unless covered from the government budget resources are pecuniary damages of the injured party. If the injured party’s expenses cannot be compensated within the scope of legal framework governing the criminal procedure, recovery of damages shall be set out under the procedure established in the Civil Procedure Act”.¹

Even though such a conclusion cannot be deemed to be revolutionary approach to the procedure of recovery of damages, because there has always been a concept, as a rule of thumb, that a general claim for damages may be raised in any case unless special laws establish a different procedure; however, the above decision introduces a certain degree of clarity and certainty in this aspect. Before bringing such a claim before the court one should thoroughly verify though whether the provisions contained in the Criminal Procedure Act have not already allowed to claim a compensation, and the said foregoing does not preclude from claiming damages under the general procedure.

The Burden of Liability for International Sanctions to be Increased for All

The European Union has already adopted the 14th package of sanctions against Russia due to the latter’s unjustified invasion of Ukraine. The scope of the sanctions and detailing thereof raise ever more questions among entrepreneurs with respect to applicability of sanctions under specific legal relations.

One of the focal points regarding the sanctions and their application has always been whether any person is under an obligation to conduct a research of their business partner in order to obtain an understanding that no sanctions will be breached within the scope of the prospective transaction / transaction. The issue has always been pressing because the Act on the International and National Sanctions of the Republic of Latvia stipulates, rather meticulously and without any further elaborations, that the legislative act applies to all persons, and they are under an obligation to follow and comply with the international and national sanctions. Also, Article 84 of the Criminal Act which prescribes liability for a breach of sanctions fails to provide any additional explanations about the threshold of carefulness of a person with regard to compliance with the sanctions.

¹ Decision of the meeting of chairpersons of the departments of the Senate dated 14 March 2024.

At the European Union level no special explanations were provided either what the threshold of research of prospective transactions / transactions should be in terms of sanctions. Previously, the European Council had only noted in its replies regarding an application of Regulation No 833/2014 that companies registered in the European Union cannot use their subsidiaries for a purpose to circumvent the sanctions established by EU against Russia.

Nevertheless, by the 14th package of sanctions the current state of affairs is changed, as it can be inferred from the introductory part and updated Article 8(a) of Regulation No 2024/1745 (Council Regulation (EU) 2024/1745 of 24 June 2024 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine). Namely, it is noted in this regulation that natural or legal persons, entities and bodies shall undertake their best efforts to ensure that any legal person, entity and body owned by them or in their control are not involved in activities in breach of the restrictive measures provided for in the present regulation.² It can be inferred from the foregoing that as of these amendments to the regulation a higher burden of liability is imposed on everybody, especially legal entities, for them not to breach the sanctions established by EU against Russia.

Right now, observations already derived from practice bear evidence that many companies face unpleasant consequences from the perspective of either administrative or criminal liability only because inadequate attention is paid to business partners, actions of the company itself, so that no sanctions were circumvented as a result. Often, even if no criminal offence has been committed, upon a breach of sanctions companies encounter headaches, waste of time and resources in order to explain facts of a case to government agencies and prove that there has not been an attempt to breach the sanctions in the said situation.

² Available: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401745.



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