

Issues and Tendencies of Development of Lithuanian Tort Law



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Lithuanian Civil Code

- Civil liability
 - Art. 6.245-6.304
 - General Provisions
 - Contractual Liability
 - Non-Contractual Liability
 - Liability to compensation for damage caused by defects of products or services
 - Compensation of damage resulting from misleading advertising



Conditions

- Unlawful actions
- Causation
- Fault
- Damages



Conditions

- Every person shall have the duty to abide by the rules of conduct so as not to cause damage to another by his actions (active actions or refrainment from acting) (Art. 6.263, 1 LithCivCod)



Conditions

- A person shall be deemed to have committed fault where taking into account the essence of the obligation and other circumstances he failed to behave with the care and caution necessary in the corresponding conditions (Art. 6.248, 3 LithCivCod)
- Fault may be expressed by intention or negligence (Art. 6.248, 2 LithCivCod)



Conditions

- Only those damages can be compensable which are related to actions (acting or refrainment from acting) giving rise to civil liability of the debtor in such a manner that the damages, taking into account their nature and that of the civil liability, can be imputed to the debtor as a result of his actions (acting or refrainment from acting) (Art. 6.247 LithCivCod)



Conditions

- If the person who is liable towards another has derived profit from his unlawful actions, upon the demand of the creditor the profit received may be attributed to damages (Art. 6.249, 2 LithCivCod)



Conditions

- Compensatory damages
- Statutory damages
- Punitives damages (!)



Conditions

- Instead of the reimbursement of losses, the proprietor may claim compensation. The amount of the compensation shall be determined according to the price of legal sale of a relevant good or service by increasing it up to 200% or up to 300% if the infringer has committed the infringement deliberately (Art. 51 LithLawTradMarks)



Non-pecuniary damage

- Non-pecuniary damage shall be deemed to be a person's suffering, emotional experiences, inconveniences, mental shock, emotional depression, humiliation, deterioration of reputation, diminution of possibilities to associate with others, etc., evaluated by a court in terms of money (Art. 6.250, 1 LithCivCod)
- Non-pecuniary damage shall be compensated only in cases provided for by laws. Non-pecuniary damage shall be compensated in all cases where it is incurred due to crime, health impairment or deprivation of life, as well as in other cases provided for by laws [...] (Art. 6.250, 2 LithCivCod)



Kinds of civil liability

- Non-contractual (delictual) liability is a pecuniary obligation which is not related with contractual relations, except in cases where it is established by laws that delictual liability shall also result from damage related with contractual relations (Art. 6.245, 4 LithCivCod)



Public civil liability

- Damage caused by unlawful acts of institutions of public authority must be compensated by the state from the means of the state budget, irrespective of the fault of a concrete public servant or other employee of public authority institutions. Damage caused by unlawful actions of municipal authority institutions must be redressed by the municipality from its own budget, irrespective of its employee's fault (Art. 6.271, 1 LithCivCod)



Public civil liability

- Damage resulting either from unlawful conviction, or unlawful arrest, as a measure of suppression, as well as from unlawful detention, or application of unlawful procedural measures of enforcement, or unlawful infliction of administrative penalty - arrest - shall be compensated fully by the state irrespective of the fault of the officials of preliminary investigation, prosecution or court (Art. 6.272, 1 LithCivCod)
- The state shall be liable to full compensation for the damage caused by unlawful actions of a judge or the court trying a civil case, where the damage is caused through the fault of the judge himself or that of any other court official (Art. 6.272, 2 LithCivCod)