

Case-law news in Latvia: Senate in its judgement analyses the issue of defamation by statements made in the course of professional activity

In its judgment of 23 March, 2023 in Case No. SKC-100/2023, the Senate of the Supreme Court addressed the issue of potentially offensive statements and conduct by an insolvency administrator as grounds for a claim for compensation for moral damages.

In the main proceedings, a creditor who had lodged a creditor's claim with the insolvency administrator brought an action against the insolvency administrator for revocation of defamatory statements and for compensation for non-material damages, claiming that the insolvency administrator had acted in a manner prejudicial to the creditor's honour and dignity in the performance of his duties by making offensive statements and comments about the creditor's education. In his application for compensation for non-material damages, the claimant alleged: *"[...] the non-material damages consist of shame and annoyance at the treatment he suffered, loss of self-esteem, emotional suffering and distress."*

District Court dismissed the action, while the Court of Appeal upheld the action in part, ordering the defendant to pay compensation for non-pecuniary damages in the amount of EUR 1.00 for unjustified personal injury to the plaintiff, while dismissing the action for compensation for non-pecuniary damage in the amount of EUR 1.00 for false dissemination of defamatory news and for retraction of defamatory news. The defendant lodged a cassation appeal against the judgment of the Court of Appeal upholding the applicant's action, taking the view that the Court of Appeal had wrongly established a legal basis for the recovery of compensation for non-material damages.

The Senate, examining the case in cassation, has concluded, inter alia, that the judgment of the Court of Appeal should be set aside in so far as it upheld the claim for compensation for non-pecuniary damages for unjustified personal injuries suffered by the claimant. In its judgment, the Senate observes that the rules on the criteria for claiming non-pecuniary damages in Article 1635, part one of the Civil Law require, inter alia, the establishment and proof of three prerequisites: (1) an unlawful action; (2) the existence of damages; (3) a causal link between the both elements. In the present case, the Senate observes that the circumstances set out in the judgment are not sufficient to conclude that the defendant committed an unlawful action, and that, even if it had been committed, it is also necessary to establish the existence of non-material damages.