

The Scope of Liability, Third Party Liability

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Construction Contracts in the Legal System of Slovakia (Supply Contracts)

Division according to Subject Matter of Performance:

- Contracts, that are about provision of services of no such large extent and that can be concluded without having a written form, shall, in this case recompense contract and the content of the commitment is determined by various bills, invoices, and so on;
- Contracts of more significant importance (especially in construction sector), where the written form is necessary in order to define the commitment. In most case these are commitment financed from the state budget municipality budget (public works contracts, e.g. motorways, bridges and others). This way public statutory element is being included, and in order to establish legal relationship the tender is usually called upon, in accordance with the Slovak Act No. 25/2006 Coll. on public procurement.

Viewpoint of Association of Construction Law in Slovakia on the 7th Subject of Dutch Construction Contracts

The Scope of Liability, Third Party Liability

- We understood from this theme that the extent of liability according to Dutch Civil Code is defined according to fault and other circumstances that were found out. As in regard to contractual relation, rules of general terms and conditions define the liability in the extent of 10 % from the price stated in the contract. We understand this clause as a property sanction that should refer only to damage and consequential liability according to the contractual relation. In a given illustration of theme 7 we assume that the liability should be deducted from the Civil Code and the fault should be investigated.
- As it is obvious from the model contract conditions, the extent of liability is subject to the extent of the overall costs for remedy the defects or the damage.
- Diction stated in this theme is in our legal system with long tradition of splitting legal liability for defects and liability for damage more than atypical. However, with regard to particular case, given construction can be relevant and, in a certain manner, balanced in rights and obligations of client and contractor. In our legal practise we will apply two basic legal regulations, and that is Civil Code and Commercial Code, according to the character of the type of claim.

Conditions (Modalities) of Construction Contracts

- The act does not require written form, and it is the will of the parties whether the contract will be concluded in written form or orally;
- Does not cover any specialties of construction, and, therefore it is needed to include the important matters not provided by the act in the contract (e.g. handing over the building site, project, and others),
- Interaction of contracting authority in the execution of Works (e.g. receiving and handing over the Works, covered by the subsequent construction),
- Asset sanctions; act does not provide any sanctions, e.g. for the delay of contractor or contracting authority, and therefore it is needed to include them in the contract – so called contract sanctions,

Conditions (Modalities) of Construction Contracts

- Cooperation needed between main contractor of the work and (sub)contractors of parts of the work,
- Peculiarities in hand-over and take-over of the work, possibility to hand-over of single part of work, eventually possibility to use some parts of work before its completion, protocol on hand-over and take-over of work,
- Invoicing, payment and accounting system, advance payment, possibility to hold the part of the price,
- Provision of warranty period,
- Function of building supervisor,
- Exercising author supervision of designer.

General Business Conditions

Commercial Code distinguishes:

- General business terms and conditions that are usually prepared by professional or stakeholder organizations (e.g. Chambers of Commerce). In this case, it is enough the conditions in order for them to become the content of the contract,
- other business conditions; these conditions will become a part of the contract, if they are either known to contract parties, or they are attached to the contract,
- FIDIC conditions used in praxis

Liability for Damages from Contractual Relations

Damage caused by:

- cessation of obligation from contractual relation due to inability to implement,
- nullity of legal acts,
- breach of the duty outside contract.

Liability for Damages from Relations Outside Contract

Damage caused by failure to comply with legal duties arising from Commercial Code, especially:

- clauses on unfair competition, e.g. protection of business secrets,
- clauses on protection of competition,
- clauses on business companies,
- other clauses of Commercial Code.

Liability for Damages from Contractual Relations

- Damage Occurrence outside Contractual Relations
- Damage caused to third parties
- General liability for damages according to Civil Code
- Responsibility of those, who caused the damage by failing to comply with a legal duty

General Liability for Damages according to Civil Code

- Damage Occurrence
- Unlawful Conduct
- Causal Link between Damage Occurrence and Unlawful Conduct
- Fault

Thank you for your attention.

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