

## **KRS: New Civil Code to Change Liability Rules**

**In addition to other legal areas, the new Civil Code also brings changes in compensation rules by replacing the existing reference rule on contractual liability with an independent liability category, pointed out the expert of Kovács Réti Szegheő Attorneys at Law to origo. Dr. Zita Orbán emphasised: this also means that the new Civil Code breaks the principle of uniform civil liability and puts contractual and non-contractual liability for damages on different principled bases.**

The two liability categories are separated in two important areas: exemption and the terms of compensable damages. The person causing damage may be exempted from contractual liability if the damage is due to an unforeseeable event beyond his control and he could not be expected to avoid or prevent the damage.

As a general rule, the compensation amount is limited to the loss caused to the subject matter of the service (direct loss), while the party causing the loss may only be obligated to pay compensation for consequential losses up to the extent to which he could foresee or should have foreseen the occurrence of the loss, the expert of Kovács Réti Szegheő Attorneys at Law pointed out.

### **Non-contractual damages**

The foreseeability clause as a reason for exemption is incorporated in the provisions on non-contractual liability as well, stating that no casual relationship is deemed to exist, i.e. the party causing the damage is not liable for any damage that he could not and should not have foreseen.

In contrast to the provisions on contractual liability, the new Civil Code retains the principle of full compensation for non-contractual damages as a general rule, including actual loss, loss of profit and the costs incurred to prevent the loss of profit.

In case of intentionally caused damages, however, the principle of full compensation survives for contractual and non-contractual damages alike, dr. Zita Orbán warns.

The new Civil Code incorporates rules on product liability — a liability category already existing at other regulatory levels — specifying consumer rights and remedies related to damages caused by defective products.

### **Executive officers**

Special rules apply to liability for the actions of executive officers. These rules have been included in the new Civil Code because, on the one hand, it became necessary to regulate the liability of executive officers in addition to the liability of employees and members of legal persons with the incorporation of rules on legal persons in a new code.

On the other hand, the stricter expectations to be met by executive officers made it necessary to introduce joint and several liability in the new Civil Code, underlined the expert of Kovács Réti Szegheő Attorneys at Law.



The introduction of this rule raises many practical questions, particularly the extent of liability related to the executive officer's position in case a damage is caused to a third person, e.g. whether damages caused by an employee of a legal person employer affects the liability of the executive officer — taking into account his control powers — and if so, to what extent.

According to dr. Zita Orbán, this question is complex and requires careful consideration and comparison with the liability rules both in employment law and civil law.