

Compensation for drop in monetary value caused by inflation may be sought from debtor 3/14/23



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On 15 December 2022, the Administrative Division of the Supreme Court passed ruling No. SKA-68/2022, which formulates a finding that's apparently logical yet relatively rarely heard: *"A drop in monetary value caused by inflation is treated as a type of financial loss, and the person is entitled to claim compensation for that loss."* While such an understanding can be found in earlier court decisions, a repeat confirmation in the Supreme Court ruling may turn out to be especially significant and become relevant not only in private persons' disputes with government agencies but also in disputes between individuals and entities over issues typical of debt recovery cases, because in February 2023, for example, the annual inflation rate was 20.3%¹, as opposed to the statutory interest rate of 6% per annum.

The circumstances of the dispute heard by the Supreme Court were briefly as follows:

- An order issued by the National Construction Control Office ("Office") to terminate the civil service relationship with the claimant was ruled by a court to be unlawful on 16 January 2017. The ruling took effect on 17 March 2017.
- In view of this and under section 1 of the Compensation for Damages Caused by Government Agencies Act ("Damages Act"), which prescribes a private person's entitlement to a fair compensation for a loss they have suffered through an unlawful administrative instrument issued by a government agency, on 13 May 2017 the claimant petitioned the Office to compensate him for losses totalling EUR 20,275.97, including back pay, compensation for unused vacation, unemployment benefit, and inflation interest.
- The Office compensated the claimant for only part of the losses and refused to increase the compensation by the inflation rate, so the claimant took the Office to court over its decision.

The court of first instance satisfied the claimant's petition for applying the inflation rate, while the Regional Administrative Court dismissed it, stating that the Damages Act contains a particular provision of law (section 12) relating to how the amount of loss should be determined in the case of an unlawfully unpaid salary, which doesn't directly refer to increasing the amount of financial compensation because of a drop in monetary value. So the Regional Administrative Court found that applying the inflation rate didn't follow from the law.

The Supreme Court disagreed with this interpretation and stated in its ruling of 15 December 2022 that while the Damages Act doesn't directly refer to applying the inflation rate, section 7(1) of the Act provides that a financial loss within the meaning of this Act is each financially measurable loss suffered by the injured party because of a government agency's unlawful administrative instrument or unlawful action. And section 13(2) of the Act states that in determining the amount of compensation for a loss, other relevant circumstances may be considered if those can be objectively proved. In view of this and given the fact that *"the inflation rate in Latvia is treated as one that may be objectively proved because it is calculated by the Central Statistical Office and can be measured using the inflation calculator developed by the Office"*, the Supreme Court finds: *"Accordingly, in addition to direct financial losses, the loss calculation may include a drop in the monetary value of those losses resulting from inflation."*

In its ruling, the Supreme Court also analysed the link between the inflation rate and the interest on arrears defined by the Civil Code, paving the way to the use of the inflation rate as an alternative to interest on arrears in claims for recovery of civil debt.

To recap, in its ruling No. SKA-68/2022 of 15 December 2022, the Supreme Court's Administrative Division stated that a drop in monetary value caused by inflation is considered a type of financial loss and the person is entitled to claim compensation for that loss. This finding not only forms a sufficient basis for applying the inflation rate in seeking compensation for damage caused by a government agency, but it also represents a sound legal reason for alternatively replacing the annual 6% rate of statutory interest on arrears with the inflation rate where payment of a debt and recovery of a loss caused to the debtor are being sought using the procedure of civil law.

¹https://tools.csb.gov.lv/cpi_calculator/en/2022M02-2023M02/0/100, viewed on 29 March 2023