

LATVIA

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**Judgment of the Supreme Court of the Republic
of Latvia, Department of Civil Cases, 27 June
2018 in case no SKC-159/2018 (C29537914):
Wrongful Act in Internal Communication**

Brief Summary of the Facts

- The defendant systematically (including at night) sent to the claimant SMS text messages and letters with information which damaged the honour and dignity of the claimant over a one-year period. These messages and information were humiliating and offensive, contained signs of mockery with the intention of causing moral harm to the claimant.
- The defendant had previously sent threatening text messages to the claimant. He was found guilty under Art. 132 of the Criminal Law and was ordered to do 200 hours community service and to pay € 500 as compensation for non-pecuniary loss.

Brief Summary of the Facts

- The claimant brought an action against the defendant and asked the court:
 - to declare these 52 SMS and texts on three envelopes as offensive to the honour and dignity;
 - to award € 5,000 as compensation for non-pecuniary loss.
- The claim was dismissed by the judgment of the first instance court and the second instance, as the Court of Appeal, also dismissed the claim.
- The claimant filed a cassation appeal.

Main questions

- Is the sending of text messages to the claimant's telephone number a distribution of news?
- And is the sending of text messages a wrongful act?

Judgement

- There is no ground to believe that the legal composition of Art. 2352¹ of the Civil Law covers cases where statements that violate the honour and dignity of an individual do not go beyond the communication between offender's and victim's communication, i.e., the said norm should not be interpreted widely.
- According to the Supreme Court, the mere fact that an activity (in this case, the sending of SMS text messages and letters) is not in itself unlawful is not a sufficient reason to exclude the existence of wrongful activities within the meaning of Art. 1635 of the Civil Law.

Judgment

- Wrongful act must be linked not only to the activity itself, but also to its purpose, the motives of the doer and other circumstances of the particular case, as this may have a significant impact on the perception of the true nature of the activities.
- Thus, while sending messages and letters in itself would not be considered a wrongful act, if the sole intention of the sender is to harm other psychologically or physically, for example, when communication is carried out unilaterally and sent text messages and letters contain abusive expressions, and volume and intensity reach a certain degree of severity, does not mean that that in such a situation wrongful act is not foreseeable.