

## Clarification on rental damages

In a commercial judgment of 13 July 2022, the District Court of Luxembourg-City had the opportunity to rule on the causal link between rental damages and the failure to comply with the completion deadline for a flat acquired for rental purposes.<sup>1</sup>

In this case, the flat acquired by a couple for rental purposes was delivered late due to non-compliance in the bathroom floor. Having considered that the company responsible for these works had failed in its performance obligation to carry out the work within the contractual timeframe, which would have caused them rental damage, the owners of the flat brought an action before the court.

The court clarified that the nature of the damage suffered as a result of the delay in the delivery of the flat to be constructed differs according to the purchaser's intentions. Thus, if the purpose is to rent, the purchaser "thereby makes an investment for rental purposes" and "the damage is calculated in relation to the loss of rent suffered as a result of the delay in its delivery". However, if the acquisition is made for housing purposes, the damage is not the same as a loss of rent and is calculated according to the living situation during the period of delay and the means used to finance the acquisition.

Based on this reasoning, the court dismissed the plaintiffs' claim because of absence of any advertisement that would prove that the flat had been put on the rental market, a signed lease contract or any other evidence that the rental was impossible due to the non-completion of the flat.

→ <sup>1</sup> District Court of Luxembourg-City 13 juillet 2022, commercial judgment n°2022TALCH15/01037, role number n°TAL-2020-09627.

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