



Liability for damages in corporate groups

The Supreme Court (Judgment of 24 January 2022) confirms its case law as regards which company is liable for damages caused by defective products

Background

In today's globalised world, it is increasingly common to see claims for damages allegedly caused by defective products being filed with little precision. In many cases, the corporate group to which the manufacturing company belongs is sued as a diffuse entity. In other cases, a specific company of the group is sued, despite not being the manufacturing company.

This is clearly not the correct way to proceed. According to the judgment of the Supreme Court of 18 January 2021, these practices are not compliant with the law.

The general rule and its exceptions

The Supreme Court begins by recalling that, in our legal system, the general rule is to respect the concept of separate legal personality of companies, this meaning that:

- (i) each company is only liable for the fulfilment of the obligations it assumed as well as those arising from its own actions;
- (ii) belonging to a corporate group does not entail that a company may be held liable for acts carried out by other group companies.

Although the doctrine of veil piercing allows the plaintiff to sue a company other than that which performed the acts leading to the alleged damage, this is only possible on an exceptional basis.

In order to apply such veil piercing doctrine, the plaintiff must prove that the company liable for the acts leading to the alleged damage was used abusively by another group company for the very purpose of impeding future claims. In these cases, the other group company may indeed be sued.

In the remaining cases, suing a group company other than the one that performed the acts leading to the alleged damage will pose serious difficulties to the claimants.

Having similar names is not relevant

The Supreme Court further states that partially coincident names between companies belonging to a corporate group is not a sufficient reason to sue a company for the acts carried out by another company of the same group.