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CASE LAW ON UNCITRAL TEXTS (CLOUT)

United Nations Convention on Contracts for the International Sale of Goods (CISG)

Case 2197: CISG 38; 39

Latvia: Latvijas Republikas Augstākās tiesas Senāta Civillietu departaments

Case No. C29522018, SKC-128/2022

Samson Materials Handling Limited v. SIA "TTS" (Transportation Technology Systems)

16 June 2022

Original in Latvian

Available at: <https://ciscg-online.org/search-for-cases?caseId=14452>

Abstract prepared by Laura Ratniece

On 18 September 2015, the buyer ordered the seller to manufacture parts of a boom conveyor (a steel construction) which pursuant to the buyer's drawings would be manufactured in Latvia and assembled by another company in Chile. During the assembly process (April–May 2016), it was discovered that the manufactured parts had defects. The process was documented inter alia with photo captures. On 4 April 2017, the buyer submitted to the seller an official statement about the engineering costs which the buyer had encountered due to the manufacturing defects. The buyer calculated that the total amount of damages was EUR 136,879.60. The buyer sued the seller in Latvia. The court of first instance partially satisfied the claim and ordered the seller to pay to the buyer EUR 136,879.60 (the buyer's claim for litigation costs was not satisfied). The seller submitted an appeal. The appellate court dismissed the appeal and the seller submitted a cassation claim before the Department of Civil Cases of the Senate of the Supreme Court of the Republic of Latvia (Supreme Court). One of the main arguments of the seller's cassation claim referred to the fact that the court had wrongly applied articles 38 and 39 of the CISG. The Supreme Court dismissed the cassation claim.

Regarding the interpretation and application of articles 38 and 39 of the CISG, the Supreme Court referred to the UNCITRAL Digest of Case Law on the United Nations Convention on Contracts for the International Sale of Goods (2016). More specifically, the Supreme Court pointed out that the failure to examine the goods, as required by article 38, did not lead to any consequences if such examination would not have led to a discovery of non-conformity.¹ Also, the Supreme Court indicated that it was necessary to take into account the objective and subjective circumstances

¹ The Court referred to the CISG Digest, 2016 Edition, p. 156. Available at <https://uncitral.un.org/>.



of each case, such as the buyer's company, the characteristics of the goods, the time when the buyer might use the goods, and the complexity of the goods.²

The court looked at the period during which the assembly of the machinery had taken place. The court indicated that, taking into account the circumstances of the case, the starting point of reasonable time was not the moment when the goods were delivered and the assembly process started, but it was the moment when: (a) all constructions (parts) were connected, including the ones manufactured and delivered by the respondent; (b) the defects discovered during the assembly process were documented and their sources identified; and (c) the amount of damages was determined.

The Supreme Court concluded that the buyer had complied with the requirements of articles 38 and 39 of the CISG, and dismissed the cassation claim.

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² Ibid., p. 158.