



Increased liability for intermediaries

Whats changing?

Current situation

Under current regulations, contractual and non-contractual liability cannot apply concurrently, which means that if a party suffers damages they can only appeal to contractual liability – that is, the affected party can only appeal to the direct contractual party and not to any other parties involved in actually fulfilling the contract.

Starting 1 Jan 2025

When the new Book 6 of the Belgian Civil Code comes into effect on 1 Jan 2025, it will put an end to this system of 'quasi-immunity'. A party that is disadvantaged will be able to appeal to the intermediaries involved, even for purely contractual damages caused during fulfilment of the contract. The disadvantaged party will be able to submit an extra-contractual complaint to the intermediary directly, on the basis of violation of the law or failure to meet the usual due diligence standards – claims of this kind are currently impossible.

Whom or what situations is this intended for?

The Belgian terms *hulp persoon* or *uitvoeringsagent* can be understood as 'intermediary' or 'agent', and are interpreted very broadly as anyone who performs part of a contract for a specified contractual party:

- Subcontractors
- Directors and managers of companies
- Independent service providers and consultants
- Employees
- Representatives
- Etc.

What can you do?

The new legislation allows the old rules to be incorporated contractually to protect intermediaries against direct liability for faults when fulfilling a contract (with the exception of mental/physical damages). This can be done on two levels:

- In the primary contract between the principal and the primary contractor
- In the agreement between the primary contractor and the intermediary

Entry into force

The new legislation will apply to situations that could result in liability as of 1 January 2025 (currently planned), and therefore also to older contracts for which damages occur after this date.

Contact your accountmanager or one of our specialists at contact@vdl.be.