Taiwan

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Taiwan's tort law, as part of its civil law system, consists of general provisions under the Taiwan Civil Code[1] and special statutes governing liability for damages. Similar to the courts in other jurisdictions, Taiwanese courts possess the power to interpret statutory laws in individual cases. Taiwanese court decisions are valuable for legal practitioners to understand how the torts laws are applied.

Article 184 of the Civil Code provides that a person who, through fault, infringes upon another's rights, acts contrary to good morals, or violates protective laws, shall be liable for the resulting damage. Articles 185 to 191-3 further set out various forms of vicarious and strict liability.

Under Article 216 of the Civil Code, unless otherwise provided by law or by contract, the scope of damages is limited to compensating the injured for the loss actually suffered and the profits which have been lost. Pursuant to Article 213, unless otherwise provided by law or by contract, damages shall be made by restoring the status quo or by monetary compensation with interest. In cases where non-pecuniary interests are damaged, Articles 194 and 195 grant the injured the right to claim compensation for pain and suffering from the injurer.

Unless another law or a special provision of the Civil Code applies, the general rules on damages under the Civil Code govern. The following sections introduce the main categories and key types of business tort damages under Taiwan's legal framework, along with recent judicial trends, to provide readers with an overview of how such damages are addressed in Taiwan.

A. Consequential Damages

1. Pecuniary Damages

Pecuniary damages, also referred to as tangible damages, refer to the reduction in the market or use value of a person's property. Such damages are typically calculated based on the difference between the assets of the injured party before and after the damage occurred.

Pursuant to Paragraph 3 of Article 213 of the Civil Code, where the injured claims the costs necessary for restoring the property to its original condition in lieu of actual restoration, the injurer's liability for damages should restore the victim to the economic position they ought to have been in prior to the occurrence of the damage,

[1] Civil Code (Taiwan).

rather than the exact original economic condition.

In 2018, the Taiwan Supreme Court held that the loss of use benefits of a property for personal use may constitute compensable damage. Although the possibility of using one's own property is not, in itself, a tangible loss, it represents an economic interest from a transactional perspective due to its immediate usability and qualifies as a compensable loss in monetary terms. Where a residential property used by the injured to satisfy his or her basic housing needs is damaged, the injured may claim compensation for the loss of use of the property even if he or she did not actually incur rental expenses by residing elsewhere. The fact that the injured could use another dwelling should not unjustly benefit the injurer, as such alternative use represents a substitution of the own use interest of the injured. The injured is entitled to claim reasonable and necessary compensation for the loss of use benefits arising from the damage, so as to restore him or her to the economic position he or she ought to have enjoyed prior to the occurrence of the damage. The reasoning adopted by the Taiwan Supreme Court in this decision draws upon two key principles. First, by adopting a commercial and transactional perspective, the Court expanded the definition of pecuniary damages to encompass the loss of use benefits of property, thereby recognizing such loss as economically measurable and compensable in monetary terms. Second, the Court introduced the concept that a property may constitute a critical element of an individual's private economic life, thereby providing a theoretical basis for distinguishing between pecuniary and non-pecuniary damages.

2. Non-pecuniary Damages

Non-pecuniary damages, also known as intangible damages, refer to losses that cannot be measured by market value or trading price, and are instead compensated through consolation payments (or solatium). The amount of such damage is determined by the court based on the circumstances of the case and the situation of the parties involved. Under Articles 195 and 227-1 of the Civil Code, a claim for non-pecuniary damages may be made only where the damage infringes upon legally recognized personality rights—bodily integrity, health, reputation, freedom, credit, privacy, and chastity, as well as relational interests arising from family status, including those between parents and children or between spouses—or other comparable personal interests, and where the infringement is of a serious nature. In the past, it was arguable whether only natural persons possess personality rights, while legal persons do not. Taiwanese court decisions split on whether a legal entity may claim non-pecuniary damages, with some judgments affirming and others denying such a possibility.

The Taiwan Supreme Court Civil Grand Chamber rendered a ruling on June 20, 2025 that a legal person whose reputation or credit is impaired by a tortious act or breach of contract, thereby suffering a non-quantifiable loss that significantly affects the achievement of its corporate purpose, may claim appropriate compensation under the first part of Paragraph 1 of Article 195 of the Civil Code. The Civil Grand Chamber emphasized that, unlike natural persons, legal entities lack emotional perception so that non-pecuniary damages for legal persons should be limited to situations where the injury to reputation or credit has a substantial impact on the realization of the entity's corporate purpose and cannot be monetarily quantified.

Following this judgment, when a company's reputation or credit is damaged, in addition to claiming pecuniary damages as previously allowed, companies may also seek compensation for non-pecuniary damages. However, such a claim is permissible only if (1) the damage has a significant impact on the achievement of the company's corporate purpose; and (2) the damage cannot be quantified in monetary terms.

B. Consequential Damages

Consequential damages, while not legally defined under Taiwanese law, are analogous to lost profits as provided in Article 216 of the Civil Code. Taiwanese courts interpret lost profits as a type of consequential damage (or derivative loss) arising from the infringement of a right—namely, the prevention of acquiring new property due to the occurrence of a damage. This constitutes actual loss, which is not limited to the existence of a concrete, realized benefit, and the lost profit, which must have an objective certainty based on ordinary circumstances, or on established plans, facilities, or other specific conditions; a mere hope or possibility of obtaining such profit is insufficient.

Between 2000 and 2001, a company conducted sand dredging and other development works in the offshore waters of Yunlin County, Taiwan. These activities increased seawater turbidity, preventing oyster larvae from settling on oyster shells in nearby waters and causing local oyster farmers to suffer losses due to the larvae's failure to settle and the resulting lost harvest. Oyster farmers claimed damages from the company, and the Taiwan Supreme Court held that the losses they suffered constituted "lost profit" under Paragraph 1 of Article 216 of the Civil Code, meaning the loss of expected revenue caused by their inability to harvest the oyster larvae.

In a contract's context, imagine Company A purchases goods from Company B with the intent to resell them to Company C. If Company B fails to deliver the goods as agreed, causing Company A to be unable to supply Company C on schedule and leading Company C to terminate the contract, the resale profit that Company A would have earned constitutes lost profits, for which Company A may claim damages from Company B.

Under Taiwan's legal framework, lost profits and pure economic loss are sometimes difficult to distinguish. Lost profits refer to objectively foreseeable gains that could have been obtained and are recognized as a form of property right. Pure economic loss refers to non-typical, abstract economic interests that lack general social recognizability (as opposed to rights such as property or personality rights, which are socially recognized and protected). The aggrieved party should be very careful to differentiate the damage suffered between lost profit and pure economic loss in order to obtain compensation.

C. Liquidated Damages

In Taiwan, liquidated damages may be classified into "compensatory liquidated damages" and "penal liquidated damages." Pursuant to Paragraph 2 of Article 250 of the Civil Code, unless the parties have expressly stipulated that liquidated damages shall constitute penal liquidated damages, such liquidated damages shall be deemed compensatory liquidated damages. If the amount of liquidated damages agreed upon is excessively high, Taiwanese courts may reduce it to a reasonable amount pursuant to Article 252 of the Civil Code.

1. Compensatory Liquidated Damages

Compensatory liquidated damages refer to damages predetermined as the total amount of compensation for losses arising from the debtor's non-performance of obligations, namely, pre-agreed damages. Where the liquidated damages stipulated by the parties are of this nature, the creditor, upon the debtor's non-performance, is not required to prove either (i) that the damage was caused by such non-performance; or (ii) the extent of the loss suffered, and may claim payment of the liquidated damages in the amount agreed.

2. Penal Liquidated Damages

Similar to the German BGB, the Taiwan Civil Code also recognizes the contractual penalty if agreed upon by the parties. This is referred to as penal liquidated damages, which are damages stipulated for the purpose of compelling performance and ensuring the effectiveness of the obligation, i.e., contractual penalties. Where the liquidated damages stipulated by the parties is of this type, the creditor, upon the debtor's non-performance, is not required to prove the occurrence of any loss and may claim payment of the agreed amount regardless of whether any actual damage was sustained. If actual damage has occurred, the creditor may, in addition to the penal liquidated damages, claim compensation for such damage.

In determining whether the stipulated amount of penal liquidated damages is excessive, Taiwanese courts consider objective circumstances, socioeconomic conditions, and the extent of loss actually sustained as bases for equitable adjustment.

D. Punitive Damages Provided by Laws

Under Article 51 of the Taiwan Consumer Protection Act, if a business operator violates the Act, a consumer who brings a damages claim under the Act may seek punitive damages in addition to compensatory damages. Punitive damages may be awarded up to five times the amount of actual damages where the violation was intentional, three times where it was grossly negligent, and one time where it was merely negligent. This provision, modeled after the U.S. punitive damages system, aims to encourage business operators to maintain the quality of their goods and services, protect consumer interests, penalize malicious business conduct, and deter similar violations by others.

Taiwanese courts had previously rendered divergent views on the question whether the "amount of damages" forming the basis for calculating punitive damages under Article 51 includes non-pecuniary damages. In 2021, the Taiwan Supreme Court Civil Grand Chamber clarified that the "amount of damages" includes both pecuniary and non-pecuniary damages, thereby unifying prior conflicting interpretations. Where a business operator's violation of the Taiwan Consumer Protection Act causes harm to a consumer's body or health, the "amount of damages" serving as the basis for calculating punitive damages under Article 51 encompasses compensation for non-pecuniary damages.

E. Interest on Damages

Pursuant to Paragraph 2 of Article 213 of the Civil Code, a party liable for damages who must make a monetary payment in order to restore the injured to the original condition shall pay interest from the date the damage occurred. The interest on monetary damages compensation (default interest) is generally accrued at the statutory annual rate of 5%. Where a payment due date has been agreed upon, interest accrues from the day following the agreed due date; where no such date has been agreed, interest accrues from the day following the service of the complaint.

F. Attorney's Fees

In Taiwan, except for the third-instance civil trials where legal representation by a lawyer is mandatory, parties are not legally required to retain a lawyer to pursue civil litigation. Accordingly, only in third-instance cases is the losing party required to compensate the prevailing party for its attorney's fees, the amount of which is to be determined and awarded by the Taiwan Supreme Court and subject to a cap of NT$500,000 (approximately US$17,000) irrespective of the value/dollar amount of the claim under dispute.