

A prematurely terminated fixed-term contract offers grounds for compensation!

A lease contract entered into for a specified term presumably expires upon expiry of the term. However, the contract may be terminated based on the extraordinary grounds provided in the law or based on additional grounds agreed by the parties in an agreement.

These possibilities create a bigger risk for the lessor, since it might mean a smaller profit. Also, additional costs may occur, such as the cost of finding a new lessee, heating costs etc.

In these situations, the law doesn't forbid to agree upon a compensation for the lessee to pay, but you have to clearly state the type of compensation, even when the contract is between companies. Otherwise you might find yourself in the middle of a dispute about whether paying the compensation was lawful, which wouldn't be unprecedented.

During a similar dispute, the Supreme Court found that according to the law, agreeing on a contractual penalty is not permitted. The court explained, that according to the law, a contract must be violated in order for the contractual penalty to be applicable. If the contract is terminated in accordance with the law or additional agreements, then it's not a violation and therefor, the contractual penalty cannot be applied.

Even though it's not permitted to agree on a contractual penalty, agreeing on a compensation is a completely possible and suitable way to decrease risks. The lessor can demand compensation in the amount of the loss of profit caused by the lessee with terminating the contract before term.

However, while assessing the size of caused damage, one should also consider all circumstances provided by law that reduce the amount of damages. For example, the possibility for the lessor to use the rental space himself or to lease the space to third parties under reasonable terms. The Supreme Court has affirmed their previous opinion that in most cases the rental space will soon be leased out again under similar terms as previously, with the rent not significantly lowered.

Contact us if you wish to know more about terminating fixed-term contracts.