
THE ACT ON THE LIABILITY OF LEGAL PERSONS FOR CRIMINAL OFFENCES

I. BASIC PROVISIONS

Article 1

(1) This Act regulates the preconditions of punishability, criminal law sanctions and criminal proceedings for criminal offences committed by legal persons.

(2) Legal persons within the meaning of this Act are also foreign persons who are considered to be legal persons pursuant to Croatian law.

The Application of Criminal Legislation

Article 2

If this Act does not prescribe otherwise, the provisions of the Criminal Act, the Criminal Procedure Act and the Act on the Office for the Suppression of Corruption and Organised Crime (USKOK) shall be applied to legal persons.

II. PRECONDITIONS OF PUNISHABILITY

The Grounds for the Liability of Legal Persons

Article 3

(1) A legal person shall be punished for a criminal offence committed by the responsible person if thereby a duty of that legal person is violated or if the legal person thereby realises or should have realised unlawful gain for itself or another.

(2) Under the conditions referred to in paragraph 1 of this Article, a legal person shall be punished for criminal offences prescribed by the Criminal Act and other laws in which criminal offences are prescribed.

The Responsible Person

Article 4

The responsible person within the meaning of this Act is the physical person who runs the business of the legal person or to whom the performance of work from the area of operations of the legal person has been entrusted.

Assignment of Guilt of the Responsible Person to the Legal Person

Article 5

(1) The liability of the legal person is founded on the guilt of the responsible person.

(2) The legal person shall be punished for a criminal offence committed by the responsible person even if the existence is established of legal or material hindrances for establishing the liability of the responsible person.

Exemption and Limitation of the Responsibility of Legal Persons

Article 6

(1) The Republic of Croatia as a legal person cannot be punished for a criminal offence.

(2) Units of local and regional self-government may only be punished for criminal offences which were not committed in the execution of public authority.

Liability in the Case of the Change of Status of the Legal Person

Article 7

(1) If the legal person ceases to exist before the criminal proceedings are concluded, a fine, security measures, public pronouncement of the judgement and confiscation of material gain may be imposed on the legal person which is its general legal successor.

(2) If the legal person ceases to exist after the final conclusion of the criminal proceedings, a fine, security measures, public pronouncement of the judgement and confiscation of material gain shall be executed pursuant to the provisions of paragraph 1 of this Article.

(3) A legal person subject to bankruptcy proceedings shall be punished for criminal offences committed before the institution of or during the bankruptcy proceedings.

III. PUNISHMENTS AND OTHER CRIMINAL LAW SANCTIONS

Types of Criminal Law Sanctions

Article 8

(1) For criminal offences, legal persons may receive punishments, suspended sentences and security measures.

(2) Legal persons may be punished for criminal offences by a fine, and by abolition of the legal person.

Fines

Article 9

(1) The prescribed fine for criminal offences by a legal person may not be less than 5,000.00 HRK nor more than 8,000,000.00 HRK.

(2) If the legal person does not pay the fine within the given time limit, the fine shall be forcibly collected.

The Level of Monetary Fines

Article 10

(1) If a prison sentence is prescribed of no more than one year's imprisonment for the criminal offence, the legal person may be punished by a fine of 5,000.00 HRK to 5,000,000.00 HRK.

(2) If a prison sentence is prescribed of no more than five years' imprisonment for the criminal offence, the legal person may be punished by a fine of 10,000.00 HRK to 6,000,000.00 HRK.

(3) If a prison sentence is prescribed of no more than ten years' imprisonment for the criminal offence, the legal person may be punished by a fine of 15,000.00 HRK to 7,000,000.00 HRK.

(4) If a prison sentence is prescribed of up to fifteen years' imprisonment or more for the criminal offence, the legal person may be punished by a fine of 20,000.00 HRK to 8,000,000.00 HRK.

Imposition of Fines for Concurrent Criminal Offences

Article 11

If the court imposes a fine on a legal person for two or more concurrent criminal offences, the total joint fine may not be more than the total of the individual fines nor the largest statutory amount for a fine.

Abolition of the Legal Person

Article 12

- (1) The punishment of abolition of the legal person may be imposed if the legal person was founded for the purpose of committing criminal offences or mainly used its operations for committing criminal offences.
- (2) The punishment of abolition of the legal person may not be imposed on units of local and regional self-government or political parties.
- (3) Alongside the punishment of abolition of the legal person, the court may also impose a fine.
- (4) After the judgement to abolish the legal person becomes legally effective, the legal person shall go into liquidation.

Suspended Sentences

Article 13

- (1) The court may impose a suspended sentence on the legal person instead of a fine, in that it establishes that the fine will not be executed if the legal person does not commit another criminal offence within the time period determined by the court, which may not be shorter than one year or longer than three years.
- (2) A suspended sentence may be imposed for criminal offences for which the prescribed prison sentence is up to three years, and when the court has imposed a fine on the legal person of up to 50,000.00 HRK.

The Statute of Limitations

Article 14

- (1) The statute of limitations for prosecution of a legal person is calculated according to the punishment prescribed for a perpetrator of the criminal offence.
- (2) A fine may not be executed after the expiration of three years from its imposition or the revocation of the suspended sentence by which it was imposed.
- (3) The execution of the punishment of the abolition of the legal person is not subject to the statute of limitations.

Types of Security Measures

Article 15

Along with the punishment, the court may impose one or more of the following security measures on the legal person: prohibition of performing certain activities or work, prohibition of obtaining permits, powers, concessions or subsidies, prohibition of doing business with beneficiaries of the state budget or local budgets, and confiscation of things.

Prohibition of Performing Certain Activities or Work

Article 16

- (1) The prohibition of performing certain activities or work may be imposed in relation to one or more activities or work, whereby the criminal offence was committed.
- (2) The prohibition of performing certain activities or work may be imposed on the legal person by the court for a period of one to three years, counting from the time the judgement becomes legally effective, if continuing to perform certain activities or work would be a risk for the life, health or safety of people or property, or for the economy, or if the legal person has already been punished for the same or a similar criminal offence.
- (3) The punishment by prohibition of certain activities or work may not be imposed on units of local and regional self-government or political parties.

Prohibition of Obtaining Permits, Powers, Concessions or Subsidies

Article 17

(1) The prohibition of obtaining permits, powers, concessions or subsidies issued by state bodies or units of local and regional self-government may be imposed by the court on a legal person if there is a risk that obtaining a permit, power, concession or subsidy could act as an incentive for committing another criminal offence.

(2) The security measure referred to in paragraph 1 of this Article is to be imposed for a period of between one and three years, counting from the legal effectiveness of the court judgement.

Prohibition of Doing Business with Beneficiaries of the State Budget or Local Budgets

Article 18

(1) The prohibition of doing business with beneficiaries of the state budget or local budgets may be imposed on a legal person if there is a risk that this business may act as an incentive for committing another criminal offence.

(2) The security measure from paragraph 1 of this Article is to be imposed for a period of between one and three years, counting from the legal effectiveness of the court judgement.

Confiscation of Things

Article 19

The security measure of confiscation of things shall be imposed under the conditions referred to in Article 80 of the Criminal Act.

Confiscation of Material Gain

Article 20

(1) The court shall confiscate from the legal person material gain realised by means of a criminal offence.

(2) The material gain referred to in paragraph 1 of this Article is any increase or prevention of any reduction in the assets of the legal person resulting from the commission of a criminal offence.

(3) Material gain obtained by a criminal offence shall be confiscated by a judgement declaring the commission of a criminal offence. The amount of material gain shall be assessed by the court by examination of the entire assets of the legal person and its connection to the offence committed.

(4) If it is established that it is not possible to confiscate material gain consisting of money, rights or things, the court shall order the legal person to pay the equivalent value as a sum of money. In determining the sum of money to be paid, the court shall take into account the market value of the thing or right at the time the decision is rendered.

(5) Material gain shall be confiscated even when it is in the possession of another person on any legal grounds, if according to the circumstances under which that person obtained certain values he knew, could have known and had duty to know that those values had been attained by means of a criminal offence.

The Public Announcement of the Judgement

Article 21

(1) The public announcement of the judgement may be ordered by the court when, in view of the significance of the criminal offence, it establishes that there are justified reasons to inform the public of the legally effective judgement.

(2) The court shall order the judgement to be published in full or in part, and set the time limit in which it must be published. The publicly announced judgement may contain the name of the injured party, but only with his or her consent.

(3) The court shall establish in which one or several public media the judgement referred to in paragraph 1 of this Article shall be announced. The public media shall publish the said judgement at the expense of the convicted legal person.

Notification of the Criminal Law Sanction Imposed

Article 22

(1) When a judgement convicting the legal person becomes legally effective, the court shall *proprio motu* inform thereof the body competent for keeping criminal records, the court register or other register in which that legal person is registered, so that a record may be made of the criminal offence or sanction.

(2) In the notification referred to in paragraph 1 of this Article, only the following data shall be given: the title of the court, the number of the judgement, the day the legally effective judgement was pronounced, the company or title of the legal person, the seat and registration number of the legal person, the criminal offence, the punishment and security measures if imposed.

IV. CRIMINAL PROCEEDINGS

Single Proceedings

Article 23

- (1) For a criminal offence committed by a legal person and the responsible person, joint proceedings shall be conducted and one judgement rendered.
- (2) If for legal or other reasons it is not possible to institute or conduct criminal proceedings against the responsible person, the proceedings shall begin or be conducted against the legal person alone.

Deciding on Criminal Prosecution according to the Principle of Opportunity

Article 24

The public prosecutor may dismiss a criminal complaint or relinquish criminal prosecution, by a decision, if the legal person has no assets or if those assets are so insignificant that they would not be sufficient even to cover the costs of the proceedings, or if bankruptcy proceedings are being conducted against it.

Territorial Jurisdiction

Article 25

- (1) If the location where the criminal offence was committed is unknown, or if that location is outside the territory of the Republic of Croatia, the court shall have jurisdiction in whose territory the accused has permanent or temporary residence, or the accused legal person has its seat.
- (2) A private action may also be brought before the court in whose territory the accused legal person has its seat.

Institution of Criminal Proceedings following a Motion

Article 26

If a motion has been filed for prosecution of only the responsible person, the state's attorney may also institute criminal proceedings *proprio motu* for the same criminal offence against the legal person.

The Representative of the Accused Legal Person

Article 27

- (1) A representative shall take part in the criminal proceedings for the accused legal person, and shall be authorised to undertake all actions which the accused may undertake.
- (2) The accused legal person may have only one representative. The representative of the legal person may be any person with full legal capacity, who knows the Croatian language.
- (3) The representative shall be appointed by the body of the legal person, or the person representing it pursuant to the law, by a decision of the competent body, the statute, social contract or a decision of the body of the legal person. If the representative is not authorised on some other ground to represent the legal person, the legal person shall give him or her written power of attorney as authority to be its representative. The power of attorney may also be given orally for the record in the court conducting the proceedings.
- (4) The body conducting the proceedings shall establish the identity of the representative of the legal person and his or her authorisation to participate in the proceedings.
- (5) The representative of the legal person may not be a person who is summoned as a witness in the same proceedings or a person against whom criminal proceedings are being conducted for the same criminal offence, nor his or her defence counsel.

Appointment of the Representative

Article 28

- (1) The legal person shall appoint a representative within eight days of receipt of the first summons and send evidence of his or her authorisation to the body conducting the proceedings. The body conducting the proceedings shall inform the legal person of this in the summons.
- (2) If the legal person does not appoint a representative within the time limit from paragraph 1 of this Article, before the indictment is issued, the representative shall be appointed by the president of the court by a decision at the request of the body conducting the proceedings.
- (4) If the legal person ceases to exist before the conclusion of the criminal proceedings by a legally effective decision so that it has a general legal successor, that successor is obliged to appoint its representative within eight days from the termination of the legal person, otherwise the representative shall be appointed by the president of the court by a decision before the indictment is issued, or by the court after the issuance of the indictment.
- (4) If the legal person appoints a representative in violation of Article 27, paragraphs 2 and 5 of this Act, the body conducting the proceedings shall invite it to appoint another representative within eight days. If the legal person does not appoint a representative within that time limit, he or she shall be appointed by the president of the court by a ruling before the indictment is issued, or by the court after the indictment is issued.
- (5) No appeal is permitted against the decision to appoint a representative.

Questioning the Representative

Article 28a

The first interview of the representative of the accused legal person shall not be recorded by audio or video apparatus, but the statement by the representative of the legal person shall be entered into the minutes.

Service of Decisions and Correspondence on the Legal Person

Article 29

Decisions and correspondence addressed to the legal person shall be sent to the address of its representative or to the seat of the legal person, or its subsidiary.

Compulsory Appearance

Article 30

If a representative who has been orderly summoned does not respond to the summons and does not excuse his failure to appear, the court may issue an order for compulsory appearance, if a caution was given in the summons that he or she would be brought in by force if he failed to appear.

The Costs of the Representative

Article 31

- (1) The remuneration and necessary expenses of the representative are included in the costs of the criminal proceedings.
- (2) An advance deposit shall be paid for the necessary expenses of the representative in the proceedings for criminal offences which are prosecuted *ex officio* from the funds of the body conducting the criminal proceedings, and refunded later from the persons who are obliged to refund them pursuant to the provisions of the Criminal Procedure Act.

Defence Counsel

Article 32

- (1) The accused legal person may have defence counsel. The defence counsel's power of attorney shall be established by the persons authorised to represent the legal person referred to in Article 27, paragraph 3 of this Act.

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- (2) The legal and responsible person against whom the criminal proceedings are being conducted for the same criminal offence may have a joint defence counsel if this is not in opposition to the interests of their defence.
 - (3) The provisions of the Criminal Procedure Act on mandatory defence shall not be applied to the accused legal person.

The Content of the Indictment

Article 33

The indictment against the accused legal person, apart from the parts prescribed by the Criminal Procedure Act, must also contain the company or title of the accused legal person, its seat and registration number, personal identification number, the name and surname of its representative, his or her date of birth and address, and citizenship, the state where his or her passport was issued and passport number if he or she is a foreigner.

Trial Hearing

Article 34

- (1) At the trial hearing in single proceedings against the legal person and the responsible person, the responsible person shall be questioned first about how he or she pleads regarding each count of the indictment, followed by the representative of the legal person.
- (2) The order of taking of evidence in the trial hearing in single proceedings against the legal person and the responsible person shall be established according to how the responsible person pleaded in relation to the charge, regardless of the plea by the representative of the legal person. The responsible person shall always be questioned first, followed by the representative of the legal person.
- (3) After the completion of the proceedings for taking of evidence and the closing arguments by the prosecutor and the injured party, the defence counsel of the legal person shall speak first, followed by the representative of the legal person, and then the defence counsel of the responsible person followed by the responsible person.
- (4) The court may decide, after the legal person has entered its plea, to conduct the trial hearing in the absence of the representative of the legal person who has been orderly summoned, if his or her presence is not vitally necessary.

The Content of the Judgement

Article 35

The judgement in the proceedings against an accused legal person, apart from the parts prescribed by the Criminal Procedure Act, must also contain:

- 1) in the introduction of the judgement, the company or title of the accused legal person, its seat and registration number, personal identification number, the name and surname of its representative, his or her date of birth and address, and citizenship, the state where his or her passport was issued and passport number if he or she is a foreigner.
- 2) in the enacting terms of the judgement, the company or title and seat of the accused legal person.

Precautionary Measures regarding the Legal Person

Article 36

(1) If special circumstances justify the fear that the accused legal person will repeat the criminal offence or will complete an attempted criminal offence or commit a criminal offence it threatens to commit, the court shall impose the following precautionary measures:

- 1) prohibition of performing certain activities or work,
- 2) prohibition of doing business with beneficiaries of the state budget or local budgets,
- 3) prohibition of obtaining permits, powers, concessions or subsidies,

(2) The court may also impose a precautionary measure referred to in paragraph 1, item 1 of this Article if the continued performance of a specific activity or work would be a risk for the life, health or safety of people or property, or for the economy. This measure may not be imposed on units of local or regional self-government, political parties or trade unions.

(3) The court may, upon a motion by the state's attorney or *proprio motu*, prohibit by a ruling any changes of status which may lead to the termination of the accused legal person. The prohibition shall be recorded in the court register or another register.

(4) The ruling ordering a precautionary measure shall be recorded in the court register or another register *ex officio*.

Article 37

This Act shall enter into force six months from its publication in the Official Gazette.

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Zagreb, 11 September 2003

TRANSITIONAL AND FINAL PROVISIONS from OG 45/11

Article 10

Criminal proceedings instituted by application of the provisions of the Criminal Procedure Act (Official Gazette 110/97, 27/98, 58/99, 112/99, 58/02, 143/02 and 115/06) shall be concluded pursuant to the provisions of the Act on the Liability of Legal Persons for Criminal Offences (Official Gazette 151/03 and 110/07).

Criminal proceedings instituted by application of the provisions of the Criminal Procedure Act (Official Gazette 152/08 and 76/09) shall be concluded pursuant to the provisions of this Act.

Article 11

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

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Zagreb, 8 April 2011