

**LIABILITY OF LEGAL PERSONS FOR
CRIMINAL OFFENCES ACT OF THE
REPUBLIC OF SLOVENIA**

Ministry of Justice of the Republic of Slovenia

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TABLE OF CONTENTS

I. BASIC PROVISIONS	4
Article 1	4
Restrictions in the Liability of Legal Persons for Criminal Offences	4
Article 2	4
Territorial Application of the Act	5
Article 3	5
II. GENERAL PART	6
1. Conditions under which a Legal Person is Liable for a Criminal Offence	6
Grounds for the Liability of a Legal Person	6
Article 4	6
Limits of the Liability of a Legal Person for a Criminal Offence	6
Article 5	6
Liability in the Case of a Change in the Status of a Legal Person	6
Article 6	6
Extreme Necessity	7
Article 7	7
Attempt	7
Article 8	7
Collective Criminal Offence	8
Article 9	8
Co-perpetration of Legal Persons	8
Article 10	8
General Reasons for Reducing a Punishment or Withdrawal of a Punishment	8
Article 11	8
2. Punishments and other Sanctions for Legal Persons	8
Types of Punishments	8
Article 12	8
Fines	8
Article 13	9
Confiscation of Property	9
Article 14	9
Winding-up of Legal Person	9
Article 15	9
Fixing the Punishment	9
Article 16	9
Suspended Sentence	9
Article 17	10
Safety Measures	10
Article 18	10
Publication of the Judgment	10
Article 19	10
Prohibition of a Specific Commercial Activity	10
Article 20	10
Legal Consequences of Conviction	11
Article 21	11
Statutory Limitations	11
Article 22	11
Application of the General Part of the Criminal Code	11

Article 23.....	11
III. SPECIAL PART	11
Criminal Offences of Legal Persons	11
Article 24.....	12
Criminal Offences from the Criminal Code.....	12
Article 25.....	12
Punishments for Criminal Offences	13
Article 26.....	13
IV. PROCEDURE.....	14
Unity of Procedure	14
Article 27.....	14
Expediency of Initiation of Proceedings	14
Article 28.....	14
Territorial Jurisdiction.....	14
Article 29.....	14
Legal Representative of an Accused Legal Person	14
Article 30.....	15
Appointing a Legal Representative	15
Article 31.....	15
Disqualification of a Legal Representative	15
Article 32.....	15
Handing Written Material to the Legal Representative	16
Article 33.....	16
Bringing the Legal Representative to Court.....	16
Article 34.....	16
Costs of the Legal Representative	16
Article 35.....	16
Defence Counsel	16
Article 36.....	16
Contents of the Charge	16
Article 37.....	16
Hearing and Final Statement	17
Article 38.....	17
Drawing Up of the Written Judgment.....	17
Article 39.....	17
Partial Annulment of the Judgment of a Court of the First Instance.....	17
Article 40.....	17
Measure of Securing.....	17
Article 41.....	17
Application of the Criminal Procedure Act.....	18
Article 42.....	18
V. TRANSITIONAL AND FINAL PROVISIONS.....	18
Article 43.....	18
Article 44.....	18

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LIABILITY OF LEGAL PERSONS FOR CRIMINAL OFFENCES ACT¹ (ZOPOKD)²

I. BASIC PROVISIONS

Article 1

(1) Under the conditions, which in accordance with Article 33³ of the Criminal Code of the Republic of Slovenia (Official Gazette of the RS, No. 63/94, 70/94 – correction and 23/99) shall be defined by this Act, a legal person shall be liable for a criminal offence as well as the perpetrator.

(2) The statute shall define for what criminal offence a legal person may be liable and what punishment or other penal sanction may be imposed on it.

Restrictions in the Liability of Legal Persons for Criminal Offences

Article 2

¹ Published in the Official Gazette of the Republic of Slovenia, Nos. 59/99, 12/2000 - correction, 50/2004 and 98/2004 - Officially Consolidated Text No. 1. The official title of this Act in Slovene is "Zakon o odgovornosti pravnih oseb za kazniva dejanja".

² The official acronym of this Act in Slovene is ZOPOKD.

³ Article 33 (Title: Liability of Legal Persons) in the Sub-Chapter "Liability of Legal Persons for Criminal Offences" of the Criminal Code states:

(1) The liability of a legal person for criminal offences, which the perpetrator commits in its name, on its account or in its favour, shall be provided for by statute.

(2) Punishments, admonitory sanctions and safety measures, as well as the legal consequences of the conviction with respect to a legal person, shall be provided for by statute.

(3) Criminal offences for the commission of which a legal person may be liable, shall be provided for by statute.

(4) Special provisions governing the criminal proceedings against a legal person shall be provided for by statute.

(1) The Republic of Slovenia and local communities of self-government as legal persons shall not be liable for criminal offences.

(2) For legal persons not included under the preceding paragraph the statute may stipulate that for a specific criminal offence all or only certain types of legal persons are liable.

Territorial Application of the Act

Article 3

(1) Under this Act domestic and foreign legal persons shall be liable for criminal offences committed at the territory of the Republic of Slovenia.

(2) Domestic and foreign legal person shall under this Act also be liable for a criminal offence committed abroad if the legal person has its seat in the territory of the Republic of Slovenia or exercises its activity therein and the criminal offence was committed against the Republic of Slovenia, its citizen, or a domestic legal person.

(3) Domestic legal persons shall under this Act also be liable for a criminal offence committed abroad against a foreign state, foreign citizen or foreign legal person, where the liability of the legal person is not dependent on the conditions set out in Article 122⁴ and the second paragraph of Article 123⁵ of the Criminal Code and the special conditions for the prosecution of a perpetrator under Article 124⁶ of the Criminal Code, except the conditions under the third and fifth paragraphs of this Article.

⁴ Article 122 of the Criminal Code states: "Criminal Code of the Republic of Slovenia also applies to the citizen of the Republic of Slovenia, if he has committed any other criminal offence abroad, other than those criminal offences, enumerated in the preceding Article, if he is apprehended at the territory of the Republic of Slovenia or extradited to it."

⁵ Article 123, paragraph 2 of the Criminal Code states: "Criminal Code of the Republic of Slovenia also applies to a foreigner, who has committed a criminal offence against a foreign state or against a foreigner abroad, if he is apprehended at the territory in the Republic of Slovenia and is not extradited to a foreign country. In such a case the court may not impose a harsher punishment than the punishment that is prescribed in the statute of the country, where the criminal offence was committed."

⁶ Article 124 of the Criminal Code (paragraphs 3 and 5 omitted) states:

"(1) If, in cases under Article 120 of this Code, the criminal proceedings have been initiated or discontinued in a foreign country, the perpetrator may be prosecuted in the Republic of Slovenia only by permission of the Minister of Justice of the Republic of Slovenia.

(2) In cases under Articles 122 and 123 of the present Code, the perpetrator shall not be prosecuted:

1) If he has served the punishment imposed on him in the foreign country or if it was decided in accordance with an international treaty that the punishment imposed in the foreign country is to be served in the Republic of Slovenia;

2) If he has been acquitted abroad by a final judgment or if his punishment has been remitted or if the enforcement of punishment has fallen under the statute of limitations;

3) If, according to foreign statute, the criminal offence concerned may only be prosecuted upon the demand of the injured party and the latter has not been filed.

...

(4) If, in the case under Article 122, the criminal offence committed against the Republic of Slovenia or its citizen does not constitute a criminal offence under the statute of the country where it was committed, the perpetrator of such an offence may be prosecuted only by permission of the Minister of Justice of the Republic of Slovenia.

...

(6) In the case under Article 120, the prosecution of a foreign person may be transferred to another country under conditions provided for by the statute."

II. GENERAL PART

1. Conditions under which a Legal Person is Liable for a Criminal Offence

Grounds for the Liability of a Legal Person

Article 4

A legal person shall be liable for a criminal offence committed by the perpetrator in the name of, on behalf of or in favour of the legal person:

1. If the committed criminal offence means carrying out an unlawful resolution, order or endorsement of its management or supervisory bodies;
2. If its management or supervisory bodies influenced the perpetrator or enabled him to commit the criminal offence;
3. If it has at its disposal unlawfully obtained property benefit or uses objects obtained through a criminal offence;
4. If its management or supervisory bodies have omitted due supervision of the legality of the actions of employees subordinate to them.

Limits of the Liability of a Legal Person for a Criminal Offence

Article 5

- (1) Under the conditions under the preceding Article a legal person shall also be liable for a criminal offence if the perpetrator is not criminally liable for the committed criminal offence.
- (2) The liability of a legal person does not preclude the criminal liability of natural persons or responsible persons for committed criminal offence.
- (3) A legal person may only be liable for criminal offences committed out of negligence under the conditions from Point 4 of Article 4 of this Act. In this case the legal person may be given a reduced punishment.
- (4) If a legal person has no other body besides the perpetrator who could lead or supervise the perpetrator, the legal person shall be liable for the committed criminal offence within the limits of the perpetrator's guilt.

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

Article 6

- (1) A bankrupt legal person may be liable for a criminal offence regardless of whether this was committed before the initiation of bankruptcy proceedings or during them. In this case,

however, a punishment shall not be imposed but instead only the confiscation of property benefits or the safety measure of confiscation of assets.

(2) If a legal person has been wound up before the legal completion of criminal proceedings it may be deemed liable and the punishment and other sanctions are imposed on the legal person, which is its legal successor, if its management or supervisory bodies knew of the committed criminal offence prior to the winding-up of the convicted legal person.

(3) A legal person which is the legal successor of a convicted legal person but whose management or supervisory bodies were not aware of the committed criminal offence shall only be convicted to the confiscation of property benefits or the safety measure of confiscation of assets.

(4) If the legal person is wound up after the legal completion of criminal proceedings, the imposed sanction shall be carried out in accordance with the provisions of the second and third paragraphs of this Article.

Extreme Necessity

Article 7

(1) A legal person shall not be liable if the perpetrator committed a criminal offence in order to avert from it a danger not caused by itself which does not derive from the permitted actions of other persons or state bodies, whilst the danger that threatened is greater than the danger caused by the criminal offence.

(2) In cases where, as a result of exceeding the limits of necessity, the perpetrator may be given a reduced punishment or have his punishment withdrawn, the legal person may also be given a reduced punishment or have its punishment withdrawn.

Attempt

Article 8

(1) If the perpetrator intentionally initiated a criminal offence but did not complete it, the legal person shall also be liable for the attempt⁷ under the conditions under Article 4 of this Act if the attempt is defined by statute as criminal.

(2) The punishment applied against a legal person for a criminal attempt shall be the same as for the completed criminal offence, although a reduced punishment may also be imposed.

⁷ Article 22 of the Criminal Code (Attempt) states:

"(1) Whoever intentionally commenced a criminal offence but did not complete it shall be punished for the criminal attempt, provided that such an attempt involved a criminal offence for which the punishment of three years' imprisonment or a harsher punishment may be imposed under the statute; attempts involving any other criminal offences shall be punishable only when so expressly prescribed by the statute.

(2) Against the perpetrator who attempted to commit a criminal offence, the punishment shall be applied within the limits prescribed for such an offence, but it may be reduced."

(3) If the management or supervisory body voluntarily prevents the perpetrator from completing an initiated criminal offence, the punishment of the legal person may be withdrawn.

Collective Criminal Offence

Article 9

If a legal person is accorded the same grounds of liability with regard to several chronologically linked criminal offences of the same type, such a legal person shall be liable as though one criminal offence had been committed.

Co-perpetration of Legal Persons

Article 10

(1) Two or more legal persons are engaged in the committing of a criminal offence as accomplices if each meets one of the grounds of liability under Article 4 of this Act.

(2) In the case under the preceding paragraph each legal person shall be liable in such a manner as though it was the only party besides the perpetrator liable for the criminal offence.

General Reasons for Reducing a Punishment or Withdrawal of a Punishment

Article 11

(1) If after the committing of a criminal offence the management or supervisory body voluntarily reports the perpetrator, the legal person may be given a reduced punishment.

(2) If after the committing of a criminal offence the management or supervisory body voluntarily and immediately orders the restitution of unlawfully obtained property benefits or provides indemnification for damages caused through the offence or reports information on the grounds for liability for other legal persons, the legal person's punishment may be withdrawn.

2. Punishments and other Sanctions for Legal Persons

Types of Punishments

Article 12

The following punishments may be prescribed for the criminal offences of legal persons:

- 1) Fine;
- 2) Confiscation of property;
- 3) Winding-up of legal person.

Fines

Article 13

- (1) The fine which may be prescribed may not be less than 500,000 (five hundred thousand) tolar or more than 150,000,000 (a hundred and fifty million) tolar.
- (2) In the case of the legal person's criminal offence having caused damage to another's property, or of the legal person having obtained unlawful property benefit, the highest limit of the fine imposed may be 200 (two hundred) times the amount of such damage or benefit.

Confiscation of Property

Article 14

- (1) Half or more of the legal person's property or its entire property may be confiscated.
- (2) Confiscation of property may be imposed for criminal offences, which carry a punishment of five years' imprisonment or a harsher punishment.
- (3) In the case of bankruptcy proceedings resulting from the imposing of a punishment of confiscation of property, creditors may be paid off from the confiscated property.

Winding-up of Legal Person

Article 15

- (1) The winding-up of a legal person may be ordered if the activity of the legal person was entirely or predominantly used for the carrying out of criminal offences.
- (2) In addition to the winding-up of a legal person the court may also impose a punishment of confiscation of property.
- (3) When sentencing a legal person to winding-up the court shall propose the initiation of liquidation proceedings.
- (4) Creditors may be paid off from the property of the legal person imposed the punishment of winding-up of legal person.

Fixing the Punishment

Article 16

- (1) In fixing the punishment for a legal person the court shall consider, in addition to the general rules for fixing punishments under Article 41 of the Criminal Code of the Republic of Slovenia, the economic strength of the legal person.
- (2) In the case of criminal offences for which in addition to a fine the confiscation of property is prescribed, the court must ensure in fixing the level of the fine that it does not exceed half of the property of the legal person.

Suspended Sentence

Article 17

- (1) The court may impose a suspended sentence to a legal person instead of a fine.
- (2) With a suspended sentence the court may fix a fine of up to 50,000,000 (fifty million) tolar on the legal person and, at the same time, order that the sentence will not be imposed if the legal person does not commit a further criminal offence within a term defined by the court, which term may not be shorter than one year or longer than five years (the term of suspension).

Safety Measures

Article 18

For the criminal offences of legal persons, in addition to the safety measure of the confiscation of objects as per Article 69 of the Criminal Code of the Republic of Slovenia, the following may be imposed as safety measures:

- 1) Publication of the judgment;
- 2) Prohibition of a specific commercial activity.

Publication of the Judgment

Article 19

(1) The safety measure of publication of the judgment shall be applied by the court in cases where it would be beneficial for the public to be informed of the judgment, and especially if publication of the judgment would contribute to removing danger to life or limb or the securing of safety of traffic or some economic good.

(2) The court shall consider, with regard to the importance of the criminal offence and the need for the public to be informed of the judgment, whether the judgment should be published in the press, broadcast by radio or television or by several of the listed means of public information simultaneously, and whether the explanation of the judgment should be published in full or in excerpt form; the court shall see that the means of publication shall enable the informing of all those in whose interest it is necessary to publish the judgment.

Prohibition of a Specific Commercial Activity

Article 20

(1) The safety measure of prohibition of a specific commercial activity means prohibiting a legal person from producing certain products or doing business in certain plants or prohibiting a legal person from involving itself in certain transactions in the traffic of goods and services, or in other commercial transactions.

(2) The safety measure may be applied to a legal person if its further involvement in a given commercial activity would present a danger to life or limb or be harmful to the commercial or financial business of other legal persons or to the economy, or if the legal person has already been punished in the last two years for the same or a similar criminal offence.

(3) This safety measure may be applied for a term of six months to five years, to run from the time the judgment becomes legally binding.

Legal Consequences of Conviction

Article 21

(1) Legal consequences of a conviction may come into effect even if a fine was imposed on the legal person.

(2) The following legal consequences of a conviction may come into effect for a legal person:

1. Prohibition of activity on the basis of licenses, authorisations or concessions granted by state bodies;
2. Prohibition of acquisition of licenses, authorisations or concessions, which are granted by state bodies.

Statutory Limitations

Article 22

(1) Limitation of criminal prosecution of a legal person shall be reckoned with regard to the punishment, which may by statute be imposed on the perpetrator of the criminal offence.

(2) The enforcement of a punishment on a legal person shall fall under the statute of limitations when the following periods have elapsed since the final judgment with which the punishment was imposed:

- 1) Three years in the case of the enforcement of a fine;
- 2) Five years in the case of the enforcement of a punishment of confiscation of property or winding-up of the legal person.

(3) The enforcement of a safety measure shall fall under the statute of limitations:

- 1) When six months have elapsed since the final judgment with which the measure of publication of the judgment was imposed;
- 2) When the term for which the measure of prohibition of a specific commercial activity was applied to a legal person has elapsed.

Application of the General Part of the Criminal Code

Article 23

The provisions of the General Part section of the Criminal Code of the Republic of Slovenia shall apply to legal persons unless provided otherwise by this Act.

III. SPECIAL PART

Criminal Offences of Legal Persons

Article 24

Legal persons may be liable for the criminal offences from the Special Part section of the Criminal Code of the Republic of Slovenia and for other criminal offences if so provided by this Act.

Criminal Offences from the Criminal Code

Article 25

Legal persons shall be liable for the following criminal offences from the Special Part section of the Criminal Code of the Republic of Slovenia:

- 1) From Chapter 16 for criminal offences under Articles 141⁸, 151⁹, 153¹⁰, 154¹¹ and 158-160¹²;
- 2) From Chapter 17 for criminal offence under Article 162¹³;
- 3) From Chapter 19 for criminal offences under Articles 185¹⁴, 186¹⁵ and 187¹⁶;
- 4) From Chapter 20 for criminal offences under Articles 188¹⁷ and 191-196¹⁸;
- 5) From Chapter 22 for criminal offences under Articles 205¹⁹-209²⁰;
- 6) From Chapter 23 for criminal offences under Articles 215-229²¹;
- 7) From Chapter 24 for criminal offences under Articles 231-244²² and 247-255²³;

⁸ Criminal Offence of Kidnapping.

⁹ Criminal Offence of Unlawful Publication of Private Writings.

¹⁰ Criminal Offence of Unjustified Disclosure of a Secret.

¹¹ Criminal Offence of Abuse of Personal Data.

¹² Criminal Offences of: Violation of Copyright, Unauthorised Exploitation of Author's Work, Violation of Performers' Rights.

¹³ Criminal Offence of Violation of Free Choice Belonging to Voters.

¹⁴ Criminal Offence of Procuring.

¹⁵ Criminal Offence of Interceding for Prostitution.

¹⁶ Criminal Offence of Presentation and Manufacturing of Pornographic Materials.

¹⁷ Criminal Offence of Spreading Contagious Diseases.

¹⁸ Criminal Offences of: Illegal Transplant of Parts of Human Body, Reckless Performance of Pharmacological Activities, Manufacture and Trade in Harmful Medical Remedies, Production and Trade of Medically Tainted Foodstuffs and Other Products, Careless Inspection of Meat Destined for Consumption, Unlawful Manufacture and Trade with Narcotic Drugs.

¹⁹ This provision, which in the original text had number 215, was corrected to 205 in February 2000 (Official Gazette of the Republic of Slovenia, No. 12/2000).

²⁰ Criminal Offences of: Violation of Fundamental Rights of Employees, Violation of Rights Concerning Employment or Unemployment, Violation of Rights to Participation in Management, Endangering Security at Work, Violation of Rights Relating to Social Insurance.

²¹ Criminal Offences of: Embezzlement of Entrusted Movable Object, Joy Riding, Fraud, Extortion and Blackmail, Usury, Breach of Trust, Concealment, Illegal Export and Import of Goods of Special Cultural or Historical Significance or Natural Curiosities, Damaging or Destruction of Goods of Special Cultural or Historical Significance or Natural Curiosities, Damaging of Another's Object, Damaging of Computer Data and Programs, Arson, Damaging of Dwellings and Business Buildings and Premises, Unlawful Occupation of Dwelling or Premises Belonging to Another, Damaging of Rights of Other Persons.

²² Criminal Offences of: Creating a Position of Monopoly, False Bankruptcy, Causing of Bankruptcy by Business Mismanagement, Defrauding of Creditors, Business Fraud, Organising Pyramids and Illegal Gambling, Fraud in Obtaining Loans or Benefits, Fraud in Trading With Securities, Deception of Purchasers, Unauthorised Use of Another's Trade Name, Pattern or Model, Unauthorised Use of Another's Patent, Forgery or Destruction of Business Documents, Disclosure and Unauthorised Acquisition of Trade Secret, Breaking into the Computer System, Abuse of Insider Information, Abuse of Position or Rights in Business Activity.

²³ Criminal Offences of: Unjustified Acceptance of Gifts, Unjustified Giving of Gifts, Counterfeiting of Money, Fabrication and Use of Counterfeit Stamps of Value or Securities, Fabrication, Acquisition and Disposing of

- 8) From Chapter 26 for criminal offences under Articles 268²⁴, 269²⁵ and 269.a²⁶;
- 9) From Chapter 28 for criminal offences under Articles 292²⁷ and 293²⁸;
- 10) From Chapter 29 for criminal offences under Articles 297²⁹, 298³⁰ and 310³¹;
- 11) From Chapter 30 for criminal offences under Articles 318³², 319³³ and 321³⁴;
- 12) From Chapter 31 for criminal offences under Articles 327³⁵ and 328³⁶;
- 13) From Chapter 32 for criminal offences under Articles 333-347³⁷;
- 14) From Chapter 35 for criminal offences under Articles 387³⁸, 387.a³⁹ and 388.a⁴⁰.

Punishments for Criminal Offences

Article 26

(1) The following types of punishments may be imposed on legal persons committing the criminal offences under the preceding paragraph:

- 1) For criminal offences for which a punishment of up to three years' imprisonment is prescribed for the perpetrator, a fine of up to 75,000,000 (seventy-five million) tolar, or up to 100 (one hundred) times the amount of damage caused or property benefit obtained through the criminal offence;
- 2) For criminal offences for which a punishment of over three years' imprisonment is prescribed for the perpetrator, a fine of at least 2,500,000 (two million five hundred thousand) tolar, or up to a maximum of 200 (two hundred) times the amount of damage caused or unlawful property benefit obtained through the criminal offence.

(2) For criminal offences for which a punishment of five years' imprisonment or harsher punishment is prescribed for the perpetrator, a punishment of confiscation of property may be imposed instead of a fine.

Instruments of Forgery, Money Laundering, Presentation of Bad Cheques and Abuse of Bank or Credit Cards, Tax Evasion, Smuggling.

²⁴ Criminal Offence of Giving of Bribe.

²⁵ Criminal Offence of Acceptance of Gifts to secure Unlawful Intervention

²⁶ Criminal Offence of Giving of Gifts to secure Unlawful Intervention.

²⁷ Criminal Offence of Preventing of Return to Work.

²⁸ Criminal Offence of Violation of Prohibition from Exercising Occupation.

²⁹ Criminal Offence of Criminal Association.

³⁰ Criminal Offence of Criminal Conspiracy.

³¹ Criminal Offence of Illegal Manufacture of and Trade in Weapons or Explosive Materials.

³² Criminal Offence of Causing Danger in Building Activity.

³³ Criminal Offence of Causing Danger Through Nuclear Materials.

³⁴ Criminal Offence of Transporting or Carrying of Explosive and Dangerous Materials Against Regulations.

³⁵ Criminal Offence of Endangering of Public Traffic by Dangerous Act or Means.

³⁶ Criminal Offence of Failure to Exercise Supervision Over Public Traffic.

³⁷ Criminal Offences of: Pollution and Destruction of Environment, Depreciating of Environment by Motor Vehicle, Bringing of Dangerous Substances into the Country, Unlawful Dumping of Dangerous Substances, Pollution of Drinking Water, Tainting of Foodstuffs or Fodder, Unlawful Occupation of Real Property, Destruction of Plantations by Noxious Agents, Destroying of Forests, Torturing of Animals, Game Poaching, Fish Poaching, Spreading of Contagious Diseases in Animals or Plants, Production of Injurious Remedies for Treatment of Animals, Unconscientious Veterinary Aid.

³⁸ Criminal Offence of Placing in a Slavery Condition.

³⁹ Criminal Offence of Trafficking in Persons.

⁴⁰ Criminal Offence of Financing of Terrorist Acts.

(3) For criminal offences under the first paragraph of this Article, a punishment of winding-up of the legal person may be applied instead of a fine if the conditions under Article 15 of this Act are met.

IV. PROCEDURE

Unity of Procedure

Article 27

(1) Proceedings shall as a rule be initiated and carried out against the legal person together with proceedings against the perpetrator for the same criminal offence.

(2) In unified proceedings a single charge is lodged against the accused legal person and the accused, and a single judgment is given.

(3) Proceedings against a legal person alone may only be initiated or carried out in cases where it is not possible to initiate or carry out proceedings against the perpetrator for reasons specified by law, or when proceedings have already been carried out against the perpetrator.

Expediency of Initiation of Proceedings

Article 28

The state prosecutor may decide not to request the initiation of criminal proceedings against a legal person if the circumstances of the case show that this would not be expedient because the legal person's participation in the criminal offence was insignificant, because the legal person does not have any property or has so little property that this would not even suffice to cover the costs of the proceedings, because bankruptcy proceedings have been initiated against the legal person, or because the perpetrator of the criminal offence is the sole owner of the legal person against which it would be necessary to initiate proceedings.

Territorial Jurisdiction

Article 29

In cases where under the Criminal Procedure Act (Official Gazette of the RS, Nos. 63/94, 70/94 – correction, 25/96 - Decision of the Constitutional Court, 5/98 – Decision of the Constitutional Court, 72/98 and 6/99 - correction)⁴¹ the territorial jurisdiction of the court is dependent on the place of residence of the accused, but proceedings are only being brought against an accused legal person, the competent court is the court which has jurisdiction over the area in which the head office of the legal person is located, or where the branch office of an accused foreign legal person is located.

Legal Representative of an Accused Legal Person

⁴¹ Also see Official Gazette of the RS, Nos. 66/2000, 111/2001 and 32/2002 - Decision of the Constitutional Court.

Article 30

- (1) The accused legal person shall be represented in criminal proceedings by a legal representative entitled to do anything the accused is entitled to do under the Criminal Procedure Act.
- (2) The accused legal person shall have only one legal representative.
- (3) Every accused legal person must have its own legal representative.
- (4) The court must on every occasion establish the identity of the legal representative of the legal person and his entitlement to act as legal representative.

Appointing a Legal Representative

Article 31

- (1) The legal representative of an accused legal person is that person who by law, by the ruling of a competent state body, or by the statute, founding document or other ruling of the legal person, is entitled to represent it.
- (2) The legal representative of an accused foreign legal person shall be the person who runs its branch office.
- (3) If several persons collectively represent the accused legal person or branch of an accused foreign legal person, these persons shall select a legal representative from among themselves. If they fail to do this despite being called to do so by the court, or fail to inform the court of this in writing within the given deadline, the court shall appoint one of them as legal representative.
- (4) The legal representative or persons who collectively represent the accused legal person may authorise another person to act as legal representative. Authorisation must be given in writing or orally in the minutes of the court.
- (5) If the legal person is wound up before the legal completion of criminal proceedings, the court shall appoint a legal representative of the accused legal person.

Disqualification of a Legal Representative

Article 32

- (1) The legal representative of an accused legal person may not be someone called as a witness in the same matter.
- (2) The legal representative of the accused legal person may not be the person against whom proceedings are being brought because of the same criminal offence, except if this is the only member of the accused legal person.
- (3) In the cases under the first and second paragraphs of this Article the court shall require the accused legal person or branch of the accused foreign legal person to have the competent

body of the legal person appoint another legal representative and to inform the court of this in writing within a given deadline.

(4) If the accused legal person does not have a body competent to appoint a legal representative or fails to inform the court within the given deadline whom it has appointed as legal representative, the legal representative shall be appointed by the court.

Handing Written Material to the Legal Representative

Article 33

Written material intended for the legal representative shall be handed to the accused legal person or branch of the accused foreign legal person.

Bringing the Legal Representative to Court

Article 34

If the representative of the legal person fails to come to court when correctly summoned and fails to excuse his absence, the court may order him to be brought to court.

Costs of the Legal Representative

Article 35

The costs of the legal representative of the accused legal person fall within costs of the criminal proceedings. These costs shall be only be paid in advance from the funds of the body conducting the criminal proceedings for a representative appointed on the basis of the fifth paragraph of Article 31 and the fourth paragraph of Article 32, if the accused legal person does not have funds from which it would be possible to exact them.

Defence Counsel

Article 36

- (1) An accused legal person may have defence counsel in addition to a legal representative.
- (2) The provisions of the Criminal Procedure Act on mandatory defence shall not apply to an accused legal person.
- (3) The accused legal person may not have the same defence counsel as the accused.

Contents of the Charge

Article 37

The charge against the accused legal person must contain, in addition to the elements prescribed by the Criminal Procedure Act, the official name or name which the accused legal person legally trades under in accordance with regulations, and its head office, a description of the criminal offence and the grounds for liability of the accused legal person.

Hearing and Final Statement

Article 38

(1) At the main trial proceedings the accused is always heard first, followed by the legal representative of the accused legal person.

(2) After the completion of the evidence procedure and the statement of the prosecutor and injured party, the defence counsel of the accused legal person, the legal representative of the legal person, the defence counsel of the accused and finally the accused shall be heard in this order.

Drawing Up of the Written Judgment

Article 39

In addition to what is prescribed by Article 364 of the Criminal Procedure Act, the written judgment of the court must contain the following:

- 1) In the introduction, the official name or name which the accused legal person legally trades under in accordance with regulations, its head office, and the full name of the defence counsel who was present at the main trial;
- 2) In the main judgment, the official or name which the accused legal person legally trades under in accordance with regulations, its head office, and the ruling by which the accused legal person is deemed liable for the offence of which it is accused, by which it is acquitted of this offence or by which the charge is withdrawn.

Partial Annulment of the Judgment of a Court of the First Instance

Article 40

A court of the second instance may annul a judgment against the accused legal person alone or against the accused alone if this part of the judgment may be eliminated without prejudicing proper judgment.

Measure of Securing

Article 41

(1) For the securing of the exaction of a punishment of confiscation of property or confiscation of property benefits, the court may, at the proposal of the authorised prosecutor, order temporary securing against the accused legal person under the provisions of the statute on the enforcing and securing of claims. In such cases the second and third paragraphs of Article 109 of the Criminal Procedure Act shall, *mutatis mutandis*, apply.

(2) If circumstances justify the fear that within the accused legal person an action will be repeated for which reasonable suspicion exists that the legal person is responsible for it, or if there is a danger of a similar action being committed, the court may by the same procedure in addition to the measures under the preceding paragraph temporarily prohibit the accused legal person from carrying out one or more specific commercial activities.

(3) If criminal proceedings are initiated against a legal person, the court may at the proposal of the state prosecutor or *ex officio* prohibit the changes of status that would cause the removal of the accused legal person from the commercial register. The prohibition shall be recorded in the commercial register.

Application of the Criminal Procedure Act

Article 42

Unless otherwise specified in this Act the provisions of the Criminal Procedure Act shall, *mutatis mutandis*, apply in criminal proceedings against a legal person even if proceedings are only being brought against a legal person.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 43

(1) Under the conditions specified by this Act a legal person is also liable for the criminal offences under the first paragraph of Article 392⁴² of the Criminal Code of the Republic of Slovenia (Official Gazette of the RS, No. 63/94, 70/94 – correction and 23/99).

(2) For the criminal offences under the preceding paragraph legal persons shall be imposed the punishments under Article 26⁴³ of this Act.

Article 44

This Act shall enter into force ninety days after its publication in the Official Gazette of the Republic of Slovenia.

Disclaimer: The English language translation of the text of the Liability of Legal Persons for Criminal Offences Act (of the Republic of Slovenia) above is provided just for information only and confers no rights nor imposes any obligations on anyone. Only the official publication of the Liability of Legal Persons for Criminal Offences Act in Slovene language, as published and promulgated in the Official Gazette of the Republic of Slovenia, is authentic.

⁴² Article 392 of the Criminal Code has retained some provisions on Criminal Offences related to the protection of social property from the 1977 Criminal Act of the Socialist Republic of Slovenia (Official Gazette of the Republic of Slovenia, Nos. 12/77, 3/78, 19/84, 47/87, 33/89 and 5/90): Mismanagement in Economic Activity (Article 127), Causing of Bankruptcy (Article 128), Unconscientiously Handling with Entrusted Social Property (Article 129), Contracting of Harmful Contract (Article 130), Abuse of Authorisations in the Economy (Article 132), Wastefulness to the Detriment of Social Property (Article 139). These provisions shall be applied until the remnants of social property are not either privatised or become state property.

⁴³ This Act is Liability of Legal Persons for Criminal Offences Act.

The status of the translated and consolidated text of the Liability of Legal Persons for Criminal Offences Act is as of 21 November 2005 and the status of statutes in footnotes is also as of 21 November 2005. The explanatory footnotes have also been prepared just for information only, and previous text of this Disclaimer also applies to them. While the Government Translation Service prepared the original translation, Ministry of Justice of the Republic of Slovenia performed the substantially corrected translation, terminology decisions and annotations. This translation may not be published in any way, without the prior permission of the Ministry of Justice of the Republic of Slovenia, but may be used for the information purposes only.