

LAW 20393 | **ESTABLISHES THE CRIMINAL LIABILITY OF LEGAL PERSONS IN THE CRIMES INDICATED**

MINISTRY OF FINANCE; UNDERSECRETARY OF FINANCE

Promulgation: 25-NOV-2009 **Published:** 02-DEC-2009

Version: Latest Version - from 21-DEC-2022 to 31-AGO-2024

Last modified: 27-SEP-2022 - Law 21488

Subjects: Legal Persons, Criminal Liability, Aggravated Sanction, Money Laundering, Terrorism, Bribery, Aggravating Circumstances, Mitigating Circumstances, Law No. 20,393,

URL: <https://www.bcn.cl/leychile/navegar?i=1008668&f=2022-12-21>

Short URL: <https://bcn.cl/3190k>

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 DOUBLE ARTICULATED

LAW NO. 20.393

ESTABLISHES CRIMINAL LIABILITY OF LEGAL PERSONS IN THE CRIMES INDICATED.

Bearing in mind that the Honorable National Congress has given its approval to the following

Bill:

Article One.- The following law on criminal liability of legal persons is hereby approved:

"Article 1.- Content of the law. This law regulates the criminal liability of legal persons with respect to the crimes provided for in articles 136, 139, 139 bis and 139 ter of the General Law of Fisheries and Aquaculture, in Article 27 of Law No. 19,913, in Article 8 of Law No. 18,314, in Title I of the law that punishes computer crimes, in Title II of Law No. 17,798, on arms control, and in articles 240, 250, 251 bis, 287 bis, 287 ter, 318 ter, 411 quarter, 448 septies, 448 octies, 456 bis A and 470, paragraphs 1 and 11, of the Criminal Code; the procedure for the investigation and establishment of such criminal liability, the determination of the appropriate sanctions and the execution of these.

In matters not provided for in this law, the provisions contained in Book I of the Criminal Code and the Code of Criminal Procedure and in the laws indicated in the previous paragraph, as appropriate.

For the purposes of this law, the provisions of the second paragraph of article 58 of the Code of Criminal Procedure shall not be applicable.

[Law 21132](#)
[Art. 10 a\)](#)
[D.O. 31.01.2019](#)

[Law 21132](#)
[Art. 10 b\)](#)
[D.O. 31.01.2019](#)

[Law 21459](#)
[Art. 21 No. 1](#)
[D.O. 20.06.2022](#)

[Law 21412](#)
[Art. 4 N° 1](#)
[D.O. 25.01.2022](#)

[Law 21488](#)
[Art. 5](#)
[D.O. 27.09.2022](#)

[Law 21121](#)
[Art. 2 N° 1](#)
[D.O. 20.11.2018](#)

[Law 21325](#)
[Art. 175 No. 12](#)
[D.O. 20.04.2021](#)

[Law 21240](#)
[Art. 4 N° 1](#)
[D.O. 20.06.2020](#)

Article 2.- Scope. The provisions of this law shall be applicable to legal persons under private law and to State enterprises.

TITLE I

Criminal Liability of Legal Persons

1.- On the attribution of criminal liability of legal persons

Article 3.- Attribution of criminal responsibility. Legal persons shall be liable for the crimes referred to in [Article 1](#) that are committed directly and immediately in their interest or for their benefit, by their owners, controllers, managers, principal executives, representatives or those who carry out administration and supervision activities, provided that the commission of the crime is the result of non-compliance on the part of the latter. of the duties of direction and supervision.

Under the same assumptions as in the previous paragraph, legal persons shall also be liable for crimes committed by natural persons who are under the direct direction or supervision of any of the subjects mentioned in the previous paragraph.

The duties of direction and supervision shall be deemed to have been fulfilled when, prior to the commission of the offence, the legal person has adopted and implemented organisational, administrative and supervisory models to prevent offences such as the one committed, in accordance with the provisions of the following article.

Legal persons shall not be liable in cases where the natural persons indicated in the preceding paragraphs have committed the crime exclusively for their own advantage or in favor of a third party.

Article 4.- Crime prevention model. For the purposes provided for in the third paragraph of the [preceding article](#), legal persons may adopt the prevention model referred to therein, which must contain at least the following elements:

1) Designation of a prevention officer.

a) The highest administrative authority of the legal entity, whether it is its board of directors, a managing partner, a manager, a principal executive, an administrator, a liquidator, its representatives, its owners or partners, as appropriate to the form of administration of the respective entity, hereinafter the "Administration of the Legal Entity", shall appoint a person in charge of prevention, who shall remain in office for up to three years, which may be extended for periods of equal duration.

b) The prevention officer must have autonomy with respect to the Administration of the Legal Entity, its owners, its partners, its shareholders or its controllers. However, it may exercise comptroller or internal audit tasks.

In the case of legal entities whose annual income does not exceed one hundred thousand development units, the owner, partner or controlling shareholder may personally assume the tasks of the prevention officer.

2) Definition of the means and powers of the prevention officer.

The Administration of the Legal Entity shall provide the person in charge of prevention with sufficient means and powers to carry out his or her functions, among which shall be considered at least:

a) The resources and material means necessary to adequately carry out its work, taking into account the size and economic capacity of the legal entity.

b) Direct access to the Administration of the Legal Entity to inform it in a timely manner by a suitable means, of the measures and plans implemented in the fulfillment of its mission and to render an account of its management and report at least semiannually.

(3) Establishment of a crime prevention system.

The person in charge of prevention, in conjunction with the Administration of the Legal Person, must establish a crime prevention system for the legal person, which must include at least the following:

a) The identification of the activities or processes of the entity, whether habitual or sporadic, in the context of which the risk of committing the crimes indicated in [Article 1](#) is generated or increased.

(b) The establishment of specific protocols, rules and procedures that enable persons involved in the activities or processes indicated in the preceding paragraph to schedule and carry out their tasks or tasks in a manner that prevents the commission of the aforementioned offences;

c) The identification of the procedures for the administration and audit of financial resources that allow the entity to prevent their use in the aforementioned crimes.

(d) The existence of internal administrative sanctions, as well as procedures for reporting or pursuing pecuniary responsibilities against persons who fail to comply with the crime prevention system;

These obligations, prohibitions and internal sanctions must be indicated in the regulations issued by the legal entity for this purpose and must be communicated to all workers. These internal regulations must be expressly incorporated into the respective employment and service provision contracts of all workers, employees and service providers of the legal entity, including the top executives of the same.

(4) Supervision and certification of the crime prevention system.

a) The person in charge of prevention, in conjunction with the Administration of the Legal Entity, must establish methods for the effective application of the crime prevention model and its supervision in order to detect and correct its failures, as well as update it according to the change in circumstances of the respective entity.

b) Legal entities may obtain certification of the adoption and implementation of their crime prevention model. The certificate shall state that said form contemplates all the requirements established in paragraphs 1), 2) and 3) above, in relation to the situation, size, line of business, level of income and complexity of the legal entity.

The certificates may be issued by external auditing companies, risk rating companies or other entities registered with the Superintendence of Securities and Insurance that can perform this task, in accordance with the regulations established for this purpose by the aforementioned supervisory body.

c) It will be understood that the natural persons who participate in the certification activities carried out by the entities indicated in the previous paragraph perform a public function under the terms of [article 260 of the Criminal Code](#).

Article 5.- Autonomous criminal liability of the legal person. The liability of the legal person shall be independent of the criminal liability of natural persons and shall subsist when, in compliance with the other requirements provided for in [Article 3](#), any of the following situations arise:

(1) Individual criminal liability has been extinguished in accordance with the provisions of paragraphs 1 and 6 of [Article 93 of the Criminal Code](#).

(2) In the criminal proceedings against the natural persons referred to in the first and second paragraphs of Article 3, the temporary dismissal of the case or accused persons shall be decreed, in accordance with the grounds set forth in Article 252(b) and (c) [of the Code of Criminal Procedure](#).

Such liability may also be pursued when, having proven the existence of any of the crimes in [Article 1](#) and meeting the other requirements provided for in Article 3, it has not been possible to establish the participation of the individual person or persons responsible, provided that in the respective proceeding it is reliably demonstrated that the crime should necessarily have been committed within the scope of the functions and powers of the persons indicated in the first paragraph of the aforementioned Article 3.

2.- Circumstances that mitigate the criminal liability of the legal person

Article 6.- Mitigating circumstances. The following shall be mitigating circumstances for the criminal liability of the legal person:

(1) The one provided for in [Article 11\(7\) of the Criminal Code](#).

(2) The one provided for in Article 11(9) of the Criminal Code. It will be understood that the legal person substantially collaborates when, at any stage of the investigation or judicial proceedings, its legal representatives have, before knowing that the judicial proceedings are directed against it, brought the punishable act to the attention of the authorities or provided background information to establish the facts investigated.

(3) The adoption by the legal person, before the commencement of the trial, of effective measures to prevent the recurrence of the same class of offences under investigation.

3.- Circumstances that aggravate criminal liability

Article 7.- Aggravating circumstance. It is an aggravating circumstance of the criminal liability of the legal person to have been convicted, within the previous five years, of the same crime.

TITLE II

Consequences of the Declaration of Criminal Liability of the Legal Entity

1.- Penalties in general

Article 8.- Penalties. One or more of the following penalties shall be applicable to legal persons:

1) Dissolution of the legal person or cancellation of the legal personality.

This penalty shall not apply to State enterprises or legal persons under private law that provide a service of public utility, the interruption of which could cause serious social and economic consequences or serious damage to the community, as a result of the application of such a penalty.

- 2) Temporary or perpetual prohibition of entering into acts and contracts with the State.
- 3) Partial or total loss of tax benefits or absolute prohibition of receiving them for a certain period.
- 4) Fine for tax benefit.
- (5) The accessory penalties provided for in article 13.

[Law 21121](#)
[Art. 2 N° 2](#)
[D.O. 20.11.2018](#)

Article 9.- Dissolution of the legal person or cancellation of the legal personality. The dissolution or cancellation will result in the definitive loss of legal personality.

The judgment declaring the dissolution or cancellation shall designate, in accordance with its type and legal nature and in the absence of an express legal provision regulating it, the liquidator or liquidators in charge of the liquidation of the legal person. Likewise, and under the same conditions, it will entrust them with the execution of the acts or contracts necessary to:

- 1) To conclude all activities of the legal person, except those that are indispensable for the success of the liquidation;
- 2) Pay the liabilities of the legal entity, including those derived from the commission of the crime. The terms of all such debts shall be deemed to have expired by operation of law, making them immediately due, and their payment shall be made in full respect of the preferences and priority of claims established in Title XLI of Book IV of the Civil Code, in particular the rights of the workers of the legal person, and
- 3) To distribute the remaining assets among the shareholders, partners, owners or owners, in proportion to their respective shares. The foregoing shall be without prejudice to the right of those affected to seek compensation for the damages suffered against those responsible for the crime. In the case of corporations, the provisions of Article 133 bis of Law No. 18,046 shall apply.

However, when the corporate interest so advises, the judge, by means of a reasoned decision, may order the disposal of all or part of the assets of the dissolved legal person as a whole or economic unit, at public auction and to the highest bidder. This must be done before the judge himself.

This penalty may be imposed only in cases of crimes and crimes committed against the Communist Party. crimes in which the aggravating circumstance established in Article 7 occurs. Likewise, it may be applied when convicted of crimes committed repeatedly, in accordance with the provisions of Article 351 of the Code of Criminal Procedure.

[Law 21121](#)
[Art. 2 N° 3](#)
[D.O. 20.11.2018](#)

Article 10.- Prohibition of to enter into acts and contracts with the State. This penalty consists of the prohibition of contracting in any capacity with State bodies or companies or with companies or associations in which the State has a majority shareholding; as well as the prohibition of awarding any concession granted by the State.

[Law 21121](#)
[Art. 2 N° 4, a\)](#)
[D.O. 20.11.2018](#)

To determine this penalty, the court will stick to the following scale:

- 1) Perpetual prohibition of entering into acts and contracts with el State.
- 2) Temporary prohibition of entering into acts and contracts with the State. Its duration will be graduated as follows:
 - a) At its minimum level: from two to three years.
 - b) At the intermediate level: from three years and one day to four years.
 - c) At its maximum degree: from four years and one day to five years.

[Law 21121](#)
[Art. 2 N° 4, b\)](#)
[D.O. 20.11.2018](#)

The prohibition shall be in force as of the date on which the resolution is enforceable. The court shall notify the Directorate of Procurement and Public Procurement of this circumstance. This Directorate shall keep an up-to-date register of the legal persons on which this penalty has been imposed.

Article 11.- Partial or total loss of tax benefits or absolute prohibition of receiving them for a certain period. For the purposes of this law, tax benefits shall be understood as those granted by the State or its agencies by way of subsidies without reciprocal provision of goods or services and, in particular, subsidies for the financing of specific activities or special programs and expenses inherent or associated with the realization of these, whether such resources are allocated through competitive funds or by virtue of permanent laws or subsidies. subsidies in special areas or compensation established in special statutes and others of a similar nature.

This penalty shall be graduated as follows:

- 1) In its minimum degree: loss of twenty to forty percent of the tax benefit.
- 2) In its medium degree: loss of forty-one to seventy percent of the tax benefit.
- 3) In its maximum degree: loss of seventy-one to one hundred percent of the tax benefit.

In the event that the legal entity is not entitled to such tax benefits, the absolute prohibition of receiving them for a period of between two and five years may be applied as a sanction, which will be counted from the time the judgment declaring its liability is enforceable. The court must communicate that it has imposed this sanction on the Secretariat and General Administration of the Ministry of Finance and the Undersecretariat of Regional and Administrative Development of the Ministry of the Interior, so that it may be recorded in the central registers of collaborators of the State and Municipalities that, respectively, [Law No. 19,862](#) entrusts them with administering.

Article 12.- Fine for tax benefit. This penalty shall be graduated as follows:

- 1) At its minimum degree: from four hundred to four thousand monthly tax units.
- 2) In its intermediate degree: from four one thousand one to forty thousand monthly tax units.
- (3) To the maximum degree: from forty one thousand one to three hundred thousand monthly tax units.

The court may authorize the payment of the fine to be made in installments, within a limit not exceeding twenty-four months, when the amount of the fine may jeopardize the continuity of the business of the sanctioned legal person, or when the corporate interest so advises.

The court, once the conviction has been executed, shall communicate the application of the fine to the General Treasury of the Republic, which shall be responsible for its collection and payment.

[Law 21121](#)
[Art. 2 N° 5, a\)](#)
[D.O. 20.11.2018](#)

[Law 21121](#)
[Art. 2 N° 5, b\)](#)
[D.O. 20.11.2018](#)

[Law 21121](#)
[Art. 2 N° 5, c\)](#)
[D.O. 20.11.2018](#)

Article 13.- Accessory penalties. The following shall be applied, as an accessory to the penalties indicated in the preceding articles:

- 1) Publication of an extract of the judgment. The court shall order the publication of an extract of the operative part of the conviction in the Official Gazette or another newspaper of national circulation.

The sanctioned legal person shall bear the costs of such publication.

- 2) Confiscation. The proceeds of crime and other property, effects, objects, documents, instruments, money or securities thereof shall be confiscated. When, for any reason, it is not possible to confiscate these species, confiscation may be applied to a sum of money equivalent to their value.

Likewise, in all cases, patrimonial assets whose value corresponds to the amount of the profits obtained through the commission of the crime will be confiscated.

Such profits include the fruits obtained and the profits that have been generated, whatever their legal nature.

However, confiscation may not be imposed with respect to profits obtained by or for a legal person and that have been distributed among its partners, shareholders or beneficiaries who were not aware of their illicit origin at the time of their acquisition.

- (3) In cases where the offence committed involves the investment of resources of the legal person in excess of the income it generates, an additional penalty shall be imposed of an amount equivalent to the investment made.

2.- Determination of penalties

Article 14.- General scale. The penalty imposed on the legal person shall be determined in relation to that provided for the corresponding offence indicated in Article 1, in accordance with the following scale:

General Scale of Penalties for Legal Persons

1.- Penalties for crimes.

- a) Dissolution of the legal person or cancellation of the legal personality.
- (b) Prohibition of entering into acts and contracts with the State in its maximum degree in perpetuity.
- c) Loss of tax benefits in their maximum degree or absolute prohibition of receiving them from three years and one day to five years.

[Law 21121](#)
[Art. 2 N° 6](#)
[D.O. 20.11.2018](#)

[Law 21121](#)
[Art. 2 N° 7](#)

d) Fine for tax benefit, in its maximum degree.

[D.O. 20.11.2018](#)

In these cases, the penalties referred to in article 13 shall always be applied as ancillary penalties.

2.- Penalties for simple crimes.

a) Temporary prohibition of entering into acts and contracts with the State in its minimum to medium degree.

[Law 21121](#)

b) Loss of tax benefits in their minimum to medium degree or absolute prohibition of receiving them for two to three years.

[Art. 2 N° 7](#)

c) Fine in its minimum to medium degree.

[D.O. 20.11.2018](#)

In these cases, the penalties referred to in article 13 shall always be applied as ancillary penalties.

Article 15.- Legal determination of the penalty applicable to the crime. To the crimes punishable in articles 240, 250, second and third paragraphs, 287 bis, 287 ter, 318 ter, 456 bis A and 470, numeral 1 and first and second paragraphs of numeral 11 of the Criminal Code, in Title I of the law that punishes computer crimes and in article 8 of Law No. 18,314, the penalties provided for in this law shall be applied for simple crimes, in accordance with the provisions of the preceding article.

[Law 21121](#)

[Art. 2 N° 8, a\)](#)

[D.O. 20.11.2018](#)

To the crimes contemplated in Articles 136, 139, 139 bis and 139 ter of the General Law on Fisheries and Aquaculture, in Article 27 of Law No. 19,913 and in Articles 250, fourth and fifth paragraphs, 251 bis and 470, paragraph 11, third paragraph, of the Criminal Code, the penalties for crimes shall be applicable to them, in accordance with the provisions of the preceding article.

[Law 21240](#)

[Art. 4 N° 2](#)

[D.O. 20.06.2020](#)

The crimes contemplated in Title II of Law No. 17,798, on arms control, will be subject to the penalties provided for in this Law for crimes or simple offences, in accordance with the provisions of the preceding article, in consideration of the penalty assigned to each offence in the abstract.

[Law 21459](#)

[Art. 21 N° 2](#)

[D.O. 20.06.2022](#)

[Law 21121](#)

[Art. 2 N° 8, b\)](#)

[D.O. 20.11.2018](#)

[Law 21132](#)

[Art. 10 c\)](#)

[D.O. 31.01.2019](#)

[Law 21121](#)

[Art. 2 N° 8, c\)](#)

[D.O. 20.11.2018](#)

[Law 21412](#)

[Art. 4 N° 2](#)

[D.O. 25.01.2022](#)

Article 16.- Circumstances modifying liability. In the event of a mitigating circumstance and no aggravating circumstance, in the case of simple crimes, only two of the penalties provided for in article 14 shall be applied, one of which shall be imposed in its minimum degree. In the case of crimes, the court shall apply only two of the penalties provided for in that article at a minimum, if appropriate.

In the event of the aggravating circumstance contemplated in this law and no mitigating circumstance, in the case of simple crimes, the court shall apply all the penalties to the maximum degree or the dissolution or cancellation. In the case of crimes, the penalties shall be applied to the maximum, if appropriate, or dissolution or cancellation.

[Law 21121](#)

[Art. 2 N° 9](#)

[D.O. 20.11.2018](#)

If there are two or more mitigating circumstances and no aggravating circumstances, in the case of simple crimes, the court must apply only one penalty, which may be served in its entirety. In the case of crimes, he must apply two penalties of those contemplated for simple crimes.

If there are several mitigating circumstances and the aggravating circumstance provided for in this law, this shall be rationally compensated with one of the mitigating circumstances, and the penalties must be adjusted in accordance with the preceding paragraphs.

Article 17.- Rules for the judicial determination of the penalty. In order to regulate the amount and nature of the penalties to be imposed, the court must take into account, leaving a detailed record of its reasoning in its ruling, the following criteria:

1) The amounts of money involved in the commission of the crime.

- 2) The size and nature of the legal entity.
- 3) The economic capacity of the legal person.
- 4) The degree of subjection and compliance with the legal and regulatory rules and the technical rules of mandatory observance in the exercise of their usual line of business or activity.
- 5) The extent of the evil caused by the crime.
- (6) The seriousness of the social and economic consequences or, where appropriate, the serious damage that may be caused to the community by the imposition of the penalty, in the case of State enterprises or enterprises providing a service of public utility;

Article 18.- Transfer of criminal liability of the legal person. In the event of transformation, merger, absorption, division or dissolution by mutual agreement or voluntary of the legal person responsible for one or more of the crimes referred to in [Article 1](#), its liability derived from the crimes committed prior to the occurrence of any of said acts shall be transferred to the legal person or persons resulting from them. if any, in accordance with the following rules, all without prejudice to the rights of third parties in good faith.

- (1) If the penalty of a fine is imposed, in cases of transformation, merger or absorption of a legal person, the resulting legal person shall be liable for the full amount. In the case of division, the resulting legal entities will be jointly and severally liable for the payment of the same.
- 2) In cases of dissolution by mutual agreement of a legal person for profit, the fine shall be transferred to the partners and participants in the capital, who shall be liable up to the limit of the value of the liquidation quota assigned to them.
- (3) In the case of any other penalty, the judge shall assess, in the light of the purposes pursued in each case, its appropriateness.

To adopt this decision, it must take into account above all the substantial continuity of the material and human resources and the activity carried out.

- (4) From the time a hearing has been requested to formalize the investigation against a non-profit legal person and until the judgment of acquittal or conviction, and as long as this has not been complied with, the authorization provided for in the first paragraph of Article 559 of the Civil Code may not be granted.

3.- Extinction of the criminal liability of the legal person

Article 19.- Extinction of criminal liability. The criminal liability of the legal person is extinguished for the same reasons indicated in [Article 93 of the Criminal Code](#), except that provided for in its number 1.

TITLE III

Procedure

1.- Initiation of the investigation of the criminal liability of the legal entity

Article 20.- Investigation of the criminal liability of legal persons. If, during the investigation of any of the offences provided for in [Article 1](#), the Public Prosecutor's Office becomes aware of the possible participation of any of the persons referred to in [Article 3](#), it shall extend the investigation in order to determine the responsibility of the corresponding legal person.

Article 21.- Application of the rules relating to the accused. In matters not regulated by this law, the provisions relating to the accused, the accused and the convicted person, established in the [Code of Criminal Procedure](#) and in the respective special laws, shall be applicable to legal persons, provided that they are compatible with the specific nature of legal persons.

In particular, the provisions contained in Articles 4, 7, 8, 10, 93, 98, 102, 183, 184, 186, 193, 194 and 257 of the Code of Criminal Procedure shall be applicable to them, rights and guarantees that may be exercised by any representative of the legal person.

Article 22.- Formalization of the investigation. When the prosecutor considers it appropriate to formalize the procedure directed against the legal person, he shall request the guarantee judge to summon the legal representative of the legal person, in accordance with [article 230 et seq. of the Code of Criminal Procedure](#). It shall be a prerequisite for proceeding in this way, at least, that a hearing has been requested to formalize the investigation or that a request has been presented in accordance with the rules of the simplified procedure, with respect to the natural person that could compromise the liability of the legal person as provided for in the first and second paragraphs of [Article 3](#), except in the cases established in [Article 5](#).

Such application must also contain the individualization of the legal representative of the legal entity.

Article 23.- Representation of the legal person. If summoned to appear at a hearing before the court, the legal representative of the accused legal person does not appear unjustifiably, the court may order that he be arrested until the hearing is held, which must be held within a maximum period of twenty-four hours from the deprivation of liberty.

If there is no legal representative, the prosecutor shall request the court to appoint a public criminal defender, who will perform the function of a guardian ad litem, representing the legal person.

In any case, the legal person may at any time appoint a lawyer of its confidence.

When the law of criminal procedure requires the presence of the accused as a condition or requirement for the holding of a judicial hearing, it shall be understood that this requirement is satisfied with the presence of the guardian ad litem or the trusted defender, as the case may be. For such purposes, the warnings provided for in the first paragraph shall apply to both.

If it is formalized an investigation with respect to said representative for the same punishable act for which the criminal liability of the legal person is investigated, his representation shall cease, and the court shall request the competent body of the legal person to appoint a new representative, within the period indicated by it. If the time fixed by the court has elapsed and the appointment ordered is not notified, the court shall appoint a guardian ad litem for that purpose.

[Law 21121](#)
[Art. 2 N° 10](#)
[D.O. 20.11.2018](#)

Article 24.- Inadmissibility of the application of the principle of opportunity. The provisions [of Article 170 of the Code of Criminal Procedure](#) shall not apply with respect to the criminal liability of the legal person.

Article 25.- Conditional suspension of the proceedings. The conditional suspension of the proceedings may be decreed provided that there is no conviction or other conditional suspension of the proceedings in force, with respect to the legal person charged with any of the offences provided for in this Act.

The guarantee judge shall order, as appropriate, that during the period of suspension, which may not be less than six months and not more than three years, the legal person shall be subject to compliance with one or more of the following conditions:

- 1) Pay a certain sum for tax benefit.
- 2) To provide a certain service in favor of the community.
- 3) Periodically report its financial status to the institution to be determined.
- 4) Implement a program to make effective the organization, administration, and supervision model referred to in [Article 4](#).
- (5) Any other condition that is appropriate in consideration of the circumstances of the specific case and is proposed, with good reason, by the Public Prosecutor's Office.

In cases in which the judge imposes the measure indicated in number 1), he must notify the General Treasury of the Republic.

Article 26.- Determination of the procedure applicable to the criminal liability of the legal person. If the prosecutor, when accusing or requesting in accordance with the rules of the simplified procedure, requests the application of any of the penalties contemplated for simple crimes, in their minimum degree, the knowledge and judgment of those penalties shall be carried out in accordance with the rules of the simplified procedure.

In cases in which the prosecutor accuses requesting only penalties for a crime or a simple crime in its medium degree, his knowledge and judgment shall be made in accordance with the rules of oral trial in [Title III of Book II of the Code of Criminal Procedure](#).

If the prosecutor summons or accuses the natural and legal person in the same act, it shall be followed in accordance with the procedure applicable to the natural person. The foregoing shall not apply in the case of criminal penalties.

With respect to the criminal liability of legal persons, the order for payment procedure will not be admissible.

Article 27.- Abbreviated procedure. The procedure established in [articles 406 et seq. of the Code of Criminal Procedure](#) shall be applicable to determine liability and to impose the penalties established in this law.

This procedure shall be followed to hear and adjudicate on the facts in respect of which the prosecutor requires the imposition of one or more sentences for a simple crime.

The court may not impose a penalty higher or more unfavourable than that requested by the prosecutor.

Article 28.- Defense of legal persons. Any legal person who is unable to procure a defence by its own means shall have the right to request the judge to appoint a public criminal defender.

Article 29.- Suspension of sentence. If in the conviction the court imposes a penalty of simple crime in its minimum degree, it may, by means of a reasoned decision and in an exceptional manner, taking into account especially the number of workers or the net annual sales or the amounts of exports of the company, order the suspension of the sentence and its effects for a period of not less than six months and not more than two years. In this case, the court may remove the accessory penalty of confiscation from this effect.

In the case of State enterprises or enterprises that provide a service of public utility whose interruption could cause serious social and economic consequences or serious damage to the community, the judge may order the suspension regardless of the penalty imposed in the judgment.

If the period provided for in the first paragraph has elapsed without the legal person having been the subject of a new request or a new formalization of the investigation, the court shall annul the judgment and, in its place, shall decree the definitive dismissal of the case.

This suspension does not affect the civil liability arising from the crime."

Article Two.- The following second paragraph shall be inserted in [Article 294 bis of the Criminal Code](#):

"When the association has been formed through a legal person, the dissolution or cancellation of the legal personality shall also be imposed, as an accessory consequence of the penalty imposed on the individual responsible."

Article Three.- The following second paragraph shall be inserted in [Article 28 of Law No. 19,913](#), which creates the Financial Analysis Unit and amends various provisions on money laundering and laundering:

"When the association has been formed through a legal person, the dissolution or cancellation of the legal personality shall also be imposed, as an accessory consequence of the penalty imposed on the individual responsible."

And inasmuch as I have been pleased to approve and sanction it; therefore, it is promulgated and put into effect as a Law of the Republic.

Santiago, November 25, 2009.- MICHELLE BACHELET JERIA, President of the Republic.- Andrés Velasco Brañes, Minister of Finance.- Edmundo Pérez Yoma, Minister of the Interior.- Mariano Fernández Amunátegui, Minister of Foreign Affairs.- Carlos Maldonado Curti, Minister of Justice.

What I transcribe for your information.- Greetings to you, María Olivia Recart Herrera, Undersecretary of Finance.



document printed from www.bcn.cl/leychile on 24 December 07 of 2024 at 12 noon with 43 minutes.