



REPUBLIC OF SERBIA

Ministry of Justice

**LAW
ON THE LIABILITY
OF LEGAL ENTITIES
FOR CRIMINAL OFFENCES**

Published in:

"Official Gazette of the Republic of Serbia" No. 97/08 of 27 October 2008

Prepared by

Jugoslovenski pregled /Yugoslav Survey

Belgrade, 2008.

Note: This is a true translation of the original Law

Original title:

ZAKON O KRIVIČNOJ ODGOVORNOSTI PRA VNIHLICA

Službeni glasnikRS, No. 97/08 of 27 October 2008

Translation date: December 2008

Prepared by: Javna ustanova / Public Agency *Jugoslovenski pregled / Yugoslav Survey*
Dečanska 8, Beograd; Phone/Fax: + 381 11 / 32 33 610, 32 32 295; 32 41 953, 32 40 291; P.O.B. 80
www.pregled-rs.rs • www.yusurvey-rs.rs • e-mail: info@pregled-rs.rs

LAW
ON THE LIABILITY OF LEGAL ENTITIES
FOR CRIMINAL OFFENCES

Part One
I BASIC PROVISIONS

Subject of the Law

Article 1

This Law shall regulate conditions governing the liability of legal entities for criminal offences, penal sanctions that may be imposed on legal entities as well as procedural rules when ruling on the liability of legal entities, on imposing penal sanctions, passing a decision on rehabilitation, termination of security measures or legal consequences of the conviction, and on enforcement of court decisions.

Criminal Offences That Legal Entities Are Liable For

Article 2

A legal entity may be liable for criminal offences constituted under a special part of the Criminal Code and under other laws if the conditions governing the liability of legal entities provided for by this Law are satisfied.

Exclusion and Limitation of Liability

Article 3

The Republic of Serbia (hereinafter: the Republic), the autonomous province and the local-self government unit, that is, government authorities and authorities of the autonomous province and local-self government unit can not be liable for criminal offences.

Other legal entities vested with public powers by virtue of law can not be liable for criminal offences committed when exercising such public powers.

Conditions Governing Application of the Law

Article 4

This Law shall be applicable to national and foreign legal persons held accountable for a criminal offence committed in the territory of the Republic.

This Law shall be applicable to foreign legal entities held accountable for criminal offences committed abroad to the detriment of the Republic, nationals thereof or national legal persons.

This Law shall be applicable to national legal entities held accountable for criminal offences committed abroad.

In cases referred to in paragraphs 2 and 3 of this Article, this Law shall not apply if special conditions governing criminal prosecution referred to in Article 10, paragraph 1 of the Criminal Code are fulfilled.

Meaning of Terms

Article 5

Certain terms used in this Law shall have the meaning as follows:

- 1) A legal person is a national or a foreign entity considered as a legal person under positive legislation of the Republic.
- 2) A liable person is a natural person legally or *de facto* entrusted with certain duties within a legal entity, as well as a person authorised, that is, a person who may reasonably be considered as authorised to act on behalf of a legal entity.

II GENERAL SECTION

1. Conditions for Establishing Liability of Legal Entities for Criminal Offences

The Grounds for Liability of Legal Entities

Article 6

A legal person shall be held accountable for criminal offences which have been committed for the benefit of the legal person by a responsible person within the remit, that is, powers thereof.

The liability referred to in paragraph 1 of this Article shall also exist where the lack of supervision or control by the responsible person allowed the commission of crime for the benefit of that legal person by a natural person operating under the supervision and control of the responsible person.

Limits of the Liability of Legal Entities

Article 7

Liability of legal entities shall be based upon culpability of the responsible person.

Under the conditions referred to in Article 6 of this Law, a legal person shall be held accountable for criminal offences committed by the responsible person even though criminal proceedings against the responsible person have been discontinued or the act of indictment refused.

Termination or Change of Status of Legal Entities

Article 8

Should a legal entity cease to exist before the completion of criminal proceedings, a fine, security measures and confiscation of the proceeds from crime may be imposed against the legal entity being a legal successor thereof, if the liability of the legal entity that ceased to exist had been established.

Should the legal entity cease to exist after the final completion of the proceedings where the liability has been established and a penal sanction for a criminal offence imposed, a fine, security measures and confiscation of the proceeds from crime shall be enforced against the legal entity being a legal successor thereof.

A legal entity who, after the commission of a criminal offence changed its legal form which it had operated within, shall be liable for criminal offences under the conditions stipulated in Article 6 of this Law.

Liability of Legal Entities in Cases of Bankruptcy

Article 9

A legal entity that has bankrupted shall be liable for criminal offences committed before the instigation of or in the course of the bankruptcy procedure.

The punishment of confiscation of the proceeds from crime or a security measure of confiscation of instrumentalities shall be imposed against the liable legal entity referred to in paragraph 1 of this Article.

Attempt

Article 10

A legal entity shall be liable for an attempt of a criminal offence under the conditions stipulated in Article 6 of this Law if the attempt is provided for by law as punishable.

An accountable legal entity may be imposed a punishment for an attempt as provided for by this Law, but it may be also punished less severely.

A legal person who has prevented the commission of a criminal offence to complete may be exonerated from the punishment.

The Continuance of a Criminal Offence

Article 11

A legal person shall be liable for the continuance of a criminal offence if, in compliance with Article 6 of this Law, it is accountable for several criminal offences committed by two or several responsible persons, provided that the criminal offences constitute a joinder as mentioned in Article 61, paragraph 1 of the Criminal Code.

The sanction imposed against the liable legal person for the continuance of a criminal offence may be aggravated to the extent of a double amount stipulated in Article 14 of this Law.

2. Penal Sanctions

Types of Penal Sanctions

Article 12

The following penal sanctions may be imposed against a legal person for the commission of criminal offences:

- 1) sentence;
- 2) suspended sentence;
- 3) security measures.

a) Sentences

Types of Sentences

Article 13

The following sentences may be imposed against a legal person:

- 1) fine;
- 2) termination of the status of a legal entity.

Fine and the termination of the status of a legal entity may be imposed solely as principal sentences.

Levels of Fines

Article 14

Fines shall be imposed in certain levels within the stipulated range of the smallest and the largest measure of fines.

A fine may not be less than a hundred thousand dinars nor may it exceed the amount of five hundred million dinars.

Fines shall be imposed in the following amounts:

- 1) from a hundred thousand to a million dinars for criminal offences punishable by imprisonment up to one year or by fines;
- 2) from a million to two million dinars for criminal offences punishable by imprisonment up to three years;
- 3) from two million to five million dinars for criminal offences punishable by imprisonment up to five years;
- 4) from five to ten million dinars for criminal offences punishable by imprisonment up to eight years;
- 5) from ten to twenty million dinars for criminal offences punishable by imprisonment up to ten years;
- 6) minimum twenty million dinars for criminal offences punishable by imprisonment of more than ten years of duration.

Determining the Size of a Fine

Article 15

The court of law shall determine the size of a fine for a legal person who has committed a criminal offence within the range provided for such offence by the law, taking into account the purpose of punishing and having regard to all circumstances relevant to the fine being higher or smaller (extenuating and aggravating circumstances), in particular: the degree of liability of the legal person for the commission of a criminal offence, the size of the legal entity, the position and the number of responsible persons within the legal entity who have committed a criminal offence, measures taken by the legal entity to prevent and detect a criminal offence and measures it took against the responsible person after the commission of a criminal offence.

Limits of Mitigation of Fines

Article 16

When conditions governing mitigation of fines exist the court shall reduce the size of fines within the following limits:

- 1) if the minimum sentencing measure for a criminal offence, as provided for by law, amounts to one million dinars, the fine may be reduced up to one hundred thousand dinars;
- 2) if the minimum sentencing measure for a criminal offence, as provided for by law, amounts to two million dinars, the fine may be reduced up to one million dinars;
- 3) if the minimum sentencing measure for a criminal offence, as provided for by law, amounts to five million dinars, the fine may be reduced up to two million and five hundred thousand dinars;
- 4) if the minimum sentencing measure for a criminal offence, as provided for by law, amounts to ten million dinars, the fine may be reduced up to five million dinars;
- 5) if the minimum sentencing measure for a criminal offence, as provided for by law, amounts to twenty million dinars, the fine may be reduced up to ten million dinars.

Where the court is empowered to exonerate a legal entity from punishment it may mitigate the respective punishment without any limits stipulated for the mitigation of fines referred to in paragraph 1 of this Article.

Determining the Size of a Fine in Concurrence of Criminal Offence

Article 17

Should a legal entity be held accountable for several criminal offences in concurrence, the court shall impose a single fine at the levels of the sum of punishments established, in so far as that it may not exceed the levels of five hundred million dinars.

If prison sentences of up to three years of service are specified for all criminal offences in concurrence, the single fine may not exceed the levels often million dinars.

Termination of Status of Legal Entities

Article 18

The sentence of termination of the status of legal entity may be imposed if the activity of the legal entity concerned was for the purposes of the commission of criminal offences, in its entirety or to a considerable extent.

Following the finality of a judgement imposing the sentence of termination of the status of a legal entity, the procedure of winding-up, bankruptcy or termination of a legal entity in a different manner shall be conducted.

A legal entity shall cease to exist by being deleted from the Register managed by a competent authority.

Exoneration from Punishment

Article 19

A legal entity may be exonerated from a punishment if it:

- 1) detects and reports a criminal offence before learning that criminal proceedings have been instituted;
- 2) on a voluntary basis or without delay removes incurred detrimental consequences or returns the proceeds from crime unlawfully gained.

b) Suspended Sentence Conditions for

Imposing the Suspended Sentence

Article 20

The court may impose a suspended sentence on a legal entity for the commission of criminal offences.

By imposing a suspended sentence on a legal person the court shall determine a fine of the maximum amount of up to five million dinars, and concurrently it shall specify that the sentence shall not be enforced if the convicted legal person, during a period defined by the court that may not be shorter than one year and not longer than three years (probation period), is not held accountable for any criminal offence referred to in Article 6 of this Law.

In deciding whether or not to impose a suspended sentence, the court shall take into account, in particular, the degree of liability of the legal entity concerned for the commission of a criminal offence, the measures taken by the legal person to prevent and detect the criminal offence and the measures it took against the responsible person after the commission of the offence.

Revocation of Suspended Sentence due to New Criminal Offences

Article 21

The court shall revoke a suspended sentence if a convicted legal person under probation period is held accountable for one or several criminal offences for which the fine of five million dinars or of higher levels has been imposed on it.

If, under probation period, the convicted legal person is held accountable for one or several criminal offences for which the fine of less than five million dinars was imposed on it, the court shall, having assessed all circumstances relating to the committed criminal offences and the legal entity, in particular the relatedness of committed criminal offences and the significance thereof, decide whether or not it will revoke the suspended sentence. The court is, thereby, bound to the prohibition to impose a suspended sentence if the fine exceeding five million dinars (Article 20, paragraph 2) should be imposed on the legal person for criminal offences established in the suspended sentence as well as for new criminal offences.

If it revokes the suspended sentence, the court shall, by virtue of the provisions under Article 17 of this Law, impose a single sentence both for prior and new criminal offences, having regard to the punishment from the annulled suspended sentence as established.

If it does not annul the suspended sentence, the court may impose a suspended conviction or a sentence for a new criminal offence.

Should the court find that a suspended sentence should be imposed also for a new criminal offence it shall, by virtue of the provisions under Article 17 of this Law, determine a single sentence both for prior and new criminal offences, specifying a new probation period that may not be shorter than one year and longer than three years as of the day of finality of the new judgement. During the probation period, should the convicted legal person be held accountable for a criminal offence, the court shall revoke the decision on the suspended sentence and impose a sentence, by virtue of the provision of paragraph 3 of this Article.

Suspended Sentence with Protective Supervision

Article 22

The court may determine that the legal entity, on whom a suspended sentence has been imposed, may be placed under protective supervision for a specified period of time during the probation period.

The protective supervision may include one or several commitments as follows:

- 1) to organise control to prevent further commission of criminal offences;
- 2) to abstain from business activities if that could be an opportunity or encouragement for re-commission of criminal offences;
- 3) to remove or alleviate the damage incurred by the commission of criminal offences;
- 4) to carry out work in the public interest;
- 5) to submit periodical reports on business operations to the authority competent for conducting the protective supervision.

c) Security Measures

Types of Security Measures

Article 23

The following security measures may be imposed for criminal offences which legal entities are liable for:

- 1) prohibition to practise certain registered activities or operations;
- 2) confiscation of instrumentalities;
- 3) the publicising of the judgement.

The court may impose on the liable legal person one or several security measures where conditions to impose them exist, provided for by law.

Security measures for the confiscation of instrumentalities or the publicising of the judgement may be imposed if the suspended sentence has been imposed on the liable legal person.

Prohibition to Practise Certain Registered Activities and Operations

Article 24

The court may forbid the liable legal entity to practise certain registered activities and operations in respect of which a criminal offence has been committed.

The measure referred to in paragraph 1 of this Article may be imposed for a period between one and three years as of the day of finality of the judgement.

Confiscation of Instrumentalities

Article 25

The instrumentalities used or were intended for use to commit a criminal offence or that derived from the commission of a criminal offence may be confiscated if they are in the possession of the legal entity concerned.

The instrumentalities referred to in paragraph 1 of this Article may be confiscated also where they are not in the possession of the legal entity concerned if so required for the purpose of the interests of overall safety and by reason of morals, but the right of a third party to compensation shall not be infringed thereby.

Mandatory confiscation of instrumentalities may be ordered by law.

Publicising of Judgements

Article 26

The security measure of publicising a judgement shall be imposed by the court if it found that it would be useful for the public to get acquainted with the content of the judgement, particularly if the

publicising of the judgement would contribute to eliminating a danger to life or health of people or to protecting the general interest.

The court shall pass a decision, according to the significance of the criminal offence and the need for informing the public, on what kind of mass media the judgement will be publicised through, as well as whether the reasoning of the judgement will be publicised in its entirety or in extracts, taking into consideration that the manner of publicising should allow everyone, in whose interest the judgement is to be publicised, to be informed.

3. Legal Consequences of the Conviction

Set-in of Legal Consequences of the Conviction

Article 27

A convicting judgement of a legal entity for some criminal offence may as a legal consequence have termination, that is, forfeiture of certain rights or prohibition upon acquiring certain rights.

Legal consequences may be provided for by law solely, setting in by virtue of the law itself under which they are set forth.

Types of Legal Consequences of the Conviction

Article 28

Legal consequences of the conviction relating to termination or forfeiture of certain rights shall include:

- 1) termination of practising certain activities or business operations;
- 2) forfeiture of certain permits, approvals, concessions, subsidies or other forms of incentives granted by a decision of a government authority or an authority of the local self-government unit.

Legal consequences of the conviction comprising prohibition upon acquiring certain rights shall include:

- 1) prohibition to practise certain activities or business operations;
- 2) prohibition upon participation in the public procurement procedure;
- 3) prohibition upon participation in privatisation of business entities;
- 4) prohibition upon acquiring certain permits, approvals, concessions, subsidies or any other forms of incentives granted by a decision of a government authority or an authority of the local self-government unit.

Commencement and Duration of Legal Consequences of the Conviction

Article 29

Legal consequences of the conviction shall set in on the day of finality of the judgement ordering a fine.

Legal consequences of the conviction referred to in Article 28, paragraph 2 of this Law may be specified to be in force for the maximum period often years.

4. Rehabilitation and Disclosure of Data from Criminal Records

Legal Rehabilitation

Article 30

Legal rehabilitation may be granted to a legal person who, prior to conviction in respect of relevant rehabilitation, has not been convicted or is by law considered without prior convictions. Legal rehabilitation ensues if:

- 1) a legal person pronounced liable but exonerated from a penalty does not commit any new criminal offence within a period of one year as of the day of finality of the judgement;
- 2) a legal person under a suspended sentence does not commit any new criminal offence during probation period and within a period of one year upon the expiration of the probation period;
- 3) a legal person sentenced to a fine amounting up to five hundred thousand dinars does not commit any new criminal offence within the period of three years after the day the penalty was enforced, is under statute of limitations or remitted.

Legal rehabilitation shall not set in if security measures are still in force.

Judicial Rehabilitation

Article 31

Judicial rehabilitation may be granted to a legal entity, sentenced to a fine ranging from five hundred thousand dinars to five million dinars, provided it does not commit any new criminal offence within the period of ten years as of the day when the sentence was enforced, is under the state of limitations or is remitted.

In the event referred to in paragraph 1 of this Article, the court shall grant rehabilitation if it finds that a convicted legal entity has deserved rehabilitation due to its conduct and if it has compensated for the damage incurred by the criminal offence, where the court is obliged to take into account all other circumstances of relevance for granting rehabilitation, in particular the nature and the significance of the offence.

Disclosure of Data from Penal Records

Article 32

Criminal records shall contain the following data: the name, seat and activity of a legal entity, registration and personal number, data on the criminal offence that has been committed, data on the sentence, suspended sentence, security measure, data on the responsible person who had committed the criminal offence in respect of which the legal entity was convicted, data on pardoned sentences relating to the legal entity in respect of which the criminal records are kept, and on legal consequences of the conviction, later revisions of data contained in the criminal records, data on the enforced sentence and on the annulment of the records on a mistaken convicting judgement.

Data from criminal records may be disclosed solely to the court, the public prosecutor and the law enforcement authorities in relation to the criminal proceedings conducted against a legal person with prior convictions, to the authority responsible for the enforcement of penal sanctions and the authority involved in the procedure of granting amnesty, pardon, rehabilitation or decision making on termination of legal consequences of the conviction, when so required to discharge duties within their remit.

Data from criminal records may also be delivered upon reasoned request to a government authority or a legal entity if legal consequences of the conviction or security measures are still in force, and if there exists a justified interest for it based on law.

A legal entity may, at request thereof, be provided with records on prior convictions or on non-existence of prior convictions only if it needs such records to exercise its rights.

Criminal records shall be kept by the first instance court in the territory of which the national legal entity is seated, that is, where the seat of a representative office or a branch of the foreign legal entity is situated.

5. Statute of Limitations Statute of Limitations of the Enforcement of Penal and Security Measures

Article 33

A sentence imposed may not be enforced after elapse of the following period:

- 1) three years after the conviction to a fine;
- 2) eight years after the conviction to termination of the status of a legal entity.

The enforcement of security measures shall be under the statute of limitations as follows:

- 1) after the time for the measure of prohibition to practise certain registered activities or business operations imposed on a legal entity has elapsed, as of the day of finality of the court decision;
- 2) after the period of five years has elapsed as of the day of finality of the judgement imposing the security measure of confiscation of instrumentalities;
- 3) after the period of three months has elapsed as of the day of finality of the court decision imposing the measure of publicising judgements.

6. Application of the General Part of the Criminal Code

Application of Criminal Code Provisions by Analogy

Article 34

Provisions of the general part of the Criminal Code shall be applicable by analogy to legal entities, pertaining to: timeframe within which criminal legislation is in force (Article 5), criminal offence (Article 14), commission of a criminal offence by omission (Article 15), time of the commission of a criminal offence (Article 16), place of the commission of a criminal offence (Article 17), an offence of minor significance (Article 18), extreme necessity (Article 20), incitement (Article 34), aiding and abetting (Article 35), limits of culpability and punishment of accomplices (Article 36), punishment of inciter and abettor for an attempt and a lesser criminal offence (Article 37), purpose of punishment (Article 42), re-offending (Article 55), mitigation of penalty (Article 56), purpose of the suspended sentence (Article 64), revocation of a suspended sentence due to a criminal offence committed earlier (Article 68), revocation of a suspended sentence due to failure to meet particular obligations (Article 69), duration of protective supervision (Article 75), consequences arising from failure to fulfil protective supervision requirements (Article 76), grounds for confiscation of the proceeds from crime (Article 91), conditions and manner of confiscation of the proceeds from crime (Article 92), victim protection (Article 93), termination of legal consequences of the conviction (Article 101), state of limitations on criminal prosecution (Article 103), course and suspension of limitations on criminal prosecution (Article 104), course and suspension of limitations on the

enforcement of penalty and security measures (Article 107) and the meaning of terms (Article 112), unless otherwise specified by this Law.

Part Two

I CRIMINAL PROCEEDINGS

1. General provisions

Joint proceedings

Article 35

The criminal proceedings shall be, as a rule, instituted and conducted jointly against a legal entity and the responsible person, and a single sentence shall be passed.

Should it not be possible to institute and conduct criminal proceedings against the responsible person, due to the existence of reasons specified by law, the proceedings may be instituted and conducted against the legal entity alone.

If a legal person ceases to exist before the criminal proceedings are instituted, the latter may be instituted and conducted against the responsible person alone.

Territorial Jurisdiction

Article 36

The court in the territory of which a criminal offence has been committed or the commission attempted shall have, as a rule, the territorial jurisdiction.

If the proceedings are instituted against an accused legal entity alone, the court shall be competent in the territory of which:

- 1) a national legal entity is seated;
- 2) a foreign legal entity has a representative office or a branch thereof.

Representative of the Accused Legal Entity

Article 37

In criminal proceedings an accused legal entity shall be represented by a proxy thereof.

A proxy is a person authorised by virtue of law, other regulation or a decision of a competent authority to represent a legal entity.

A proxy is authorised to undertake any action on behalf of an accused legal entity that might be undertaken by the defendant concerned.

An accused legal entity may have only one proxy.

A proxy of an accused foreign legal entity is a person managing a representative office thereof, i.e. a branch of a foreign legal entity operating in the Republic.

Recusal of a Proxy

Article 38

A proxy may not be a liable person against whom criminal proceedings are conducted for the same criminal offence, except if the person concerned is the only authorised person to represent an accused legal entity.

A proxy may not be a person who has been summoned as a witness in the same legal matter.

In the case referred to in paragraph 2 of this Article, the court shall request from the accused legal entity to designate another proxy and to submit a written notification thereabout.

Designation of a Proxy

Article 39

The court shall within the first summons advise an accused legal entity on its duty to designate a proxy thereof and to submit to the court a written notification thereabout within a period of eight days upon receipt of the summons.

It is the duty of the court to establish proper identity of a proxy of an accused legal entity and whether or not s/he has been empowered to participate in criminal proceedings.

Should the accused legal entity fail to designate a proxy thereof in due time referred to in paragraph 1 of this Article, the latter shall be designated by the court before which criminal proceedings are conducted.

If the accused legal entity ceases to exist before the final completion of the criminal proceedings, the court shall summon the legal successor to designate a proxy. Should the legal successor fail to designate a proxy within a period of eight days upon receipt of the summons, the court before which criminal proceedings are conducted shall designate a proxy.

Delivery of Decisions and Documents to an Accused Legal Entity

Article 40

Decisions and other documents shall be delivered to an accused legal person at the address of a proxy thereof or the seat of a national accused legal person, that is, the seat of the representative office or branch of a foreign accused legal person.

Coercive Bringing of a Proxy

Article 41

If a proxy of an accused legal person who has been duly summoned fails to appear, the absence thereof not being duly justified, the court may order for him/her to be brought in a coercive manner.

Costs of Representation

Article 42

Costs of representations fall under the costs of criminal proceedings.

Reward for and indispensable expenditure of the designated proxy's in the proceedings for criminal offences that he/she is prosecuted for *ex officio* shall be paid in advance from the funds of the authority conducting the criminal proceedings, and shall be refunded later from the persons liable for reimbursement in accordance with the provisions of the Criminal Procedural Code.

The accused legal person shall bear the costs of the proceedings, deriving from culpability of a proxy thereof.

Defence Counsel of an Accused Legal Entity

Article 43

An accused legal entity may have a defence counsel in the course of criminal proceedings.

A proxy may retain the services of a defence counsel for an accused legal entity by giving written or oral power of attorney for the records at the authority conducting the criminal proceeding.

The accused legal entity and the responsible person may have a shared defence counsel only if it is not contrary to the interests of their respective defence.

Provisional Measures

Article 44

If there were a danger that a later confiscation of the proceeds from crime would be more difficult or made impossible, the court may, upon request of the public prosecutor, order a provisional safeguard measure in terms of the Law on the Enforcement of Proceedings.

If there is a reasonable doubt that a criminal offence may be committed within an accused legal entity, the court may, upon request of the public prosecutor and in addition to the measures referred to in paragraph 1 of this Article, forbid temporarily the accused legal entity to practise one or several registered activities or business operations.

The note on the provisional measure referred to in paragraph 2 of this Article shall be entered into the register managed by the competent authority.

Upon request of the public prosecutor or *ex officio* the court may prohibit status-related revisions that might give rise to deletion of an accused legal person from the Register.

In the course of investigation the investigative judge shall decide on the request referred to in paragraphs 1, 2, and 4 of this Article, whereas after the act of indictment such request shall be considered by the President of the Chamber.

Provisional measures mentioned in paragraphs 1, 2 and 4 of this Article may be in force as long as required, but not longer than the day of finality of the court decision. The court shall *ex officio* examine every two months whether or not a provisional measure is necessary.

Parties may appeal against the ruling on the request for ordering provisional measures within a period of three days as of the day of receipt of such ruling. The appeal shall not defer the enforcement of the decision.

2. The Course of the Proceedings

a) Pre-Trial Proceedings Rejection of a

Criminal Charge by Reason of Viability

Article 45

For criminal offences punishable by fine or prison sentence of up to three years of service the public prosecutor may overturn a criminal charge filed against a legal entity if the former assessed that to institute criminal proceedings would not be viable.

At the time of making a decision referred to in paragraph 1 of this Article, the public prosecutor shall take into consideration one or several circumstances as follows:

- 1) that the legal entity has reported a criminal offence before learning that prosecuting authorities have detected the commission of a criminal offence;
- 2) that the legal entity has prevented a damage to be incurred or it has effected the compensation for the damage and eliminated other detrimental consequences of the criminal offence;
- 3) that the legal entity has returned voluntarily the proceeds from crime;
- 4) that the legal entity has no assets or a bankruptcy procedure has been instituted against such legal entity.

b) A Pre-Trial Criminal Proceeding The

Contents of the Act of Indictment

Article 46

The indictment, that is, a proposal for an official charge made to a legal entity, in addition to the elements laid down by the Criminal Procedural Code, shall contain the name, seat and activities of the legal entity concerned, registration and personal numbers of the legal entity, first name and family name of the proxy thereof, citizenship and number of the passport if the proxy is a foreign national, and the grounds for liability of the legal entity concerned.

c) The Main Trial

Evidence-Related Proceedings

Article 47

At the main trial the first person to be heard shall be the accused responsible person, followed by the proxy of the accused legal entity.

The hearing of the accused responsible person shall not be attended by the proxy of the accused legal entity who has not been heard yet.

The court may order that the accused responsible person and the proxy of the accused legal entity be confronted if their respective statements do not match as to significant facts.

Closing Statements

Article 48

Upon the completion of the evidence-related proceeding, following the statements given by the prosecutor and the victim, the defence counsel of the accused legal entity, and the proxy of the accused legal entity shall proceed, followed by the defence counsel of the accused responsible person, and the accused responsible person.

The Contents of the Judgement

Article 49

In addition to the elements laid down in the Criminal Procedural Code, a written judgement shall contain as follows:

- 1) within the introduction of the judgement: the name, seat and activity of the legal person, registration and personal numbers of the legal person and first and family names of their proxy who has attended the main hearing;
- 2) within the operative part of the judgement: the name, seat and activity of the legal person, registration and personal numbers of the legal person.

3. Special procedures

a) Procedure for Making a Decision on Rehabilitation Ex

***Officio* Decision-making on Legal Rehabilitation**

Article 50

The first instance court in the territory of which a national legal entity is seated, that is, a representative office or a branch of a foreign legal entity is seated, shall be competent for keeping records on final convicting judgements that have been delivered in criminal proceedings.

Where rehabilitation arises on the grounds of the law alone, a ruling on rehabilitation shall be passed *ex officio* by the judge of the first instance court referred to in paragraph 1 of this Article.

Prior to passing a ruling on rehabilitation the judge shall conduct a necessary research, in particular he/she shall examine whether or not criminal proceedings are in progress against the accused legal person for a new criminal offence committed before the completion of the procedure for legal rehabilitation.

Request for Passing a Decision on Legal Rehabilitation

Article 51

If the court fails to rule on rehabilitation, the convicted legal person may request to establish that rehabilitation has set in by law.

If the court fails to proceed upon request of the convicted legal person within the period of 30 days as of receipt of the request concerned, the convicted legal person may submit a request for ruling on rehabilitation.

The request submitted by the convicted party shall be decided upon by the Pre-Trial Chamber of the first instance court competent for managing penal records. Prior to passing a decision, the Chamber shall hear the public prosecutor.

Procedure for Passing a Decision on Judicial Rehabilitation

Article 52

The procedure for rehabilitation based on a court decision shall be undertaken upon petition of the convicted legal entity.

The petition shall be submitted to the court which has adjudicated in the first instance.

The judge shall examine whether or not the time required by law has passed, and shall undertake, thereafter, necessary research to establish facts referred to by the applicant and collect evidence on all circumstances relevant to the decision.

Having undertaken the research, and after the hearing of the public prosecutor, the judge shall deliver legal documents, accompanied with a reasoned motion, to the Pre-Trial Chamber of the court that has adjudicated in the first instance.

The applicant and the public prosecutor may appeal against the ruling upon the petition on rehabilitation.

If the court refuses the petition because the convicted legal person's conduct has not been satisfactory as to deserve rehabilitation and such legal person, within their financial abilities, has not compensated for the damage incurred by a criminal offence, a new petition may be submitted after the expiry of one year as of the day of finality of the ruling on refusing the prior petition.

b) Procedure for Termination of Security Measures or Legal Consequences of the Conviction

The Course of the Request-Related Procedure

Article 53

The request for termination of the security measure of prohibition to practise certain registered activities or operations or the request for termination of legal consequences of the conviction shall be submitted by the convicted legal person to the court that has adjudicated in the first instance.

Having undertaken necessary research and fact finding referred to by the applicant, and after the hearing of the public prosecutor, the judge shall transmit legal documents accompanied with the reasoning of the motion to the Pre-Trial Chamber of the court that has adjudicated in the first instance.

The applicant and the public prosecutor may appeal against the ruling relating to the request.

If the court refuses the request for termination of the security of prohibition to practise certain registered activities or operations or the request for termination of legal consequences of the conviction, a new request may be submitted after the expiration of a period of one year as of the day of finality of the ruling on refusing the prior request.

4. Application of the Criminal Procedural Code Analogous

Application of the Provisions of the Criminal Procedural Code

Article 54

Unless otherwise stipulated by this Law, the provisions of the Criminal Procedural Code shall be applicable by analogy in the criminal proceedings conducted against an accused legal entity.

II ENFORCEMENT OF COURT DECISIONS

1. Opening Provisions Conditions

Governing the Enforcement of Decisions

Article 55

Decisions shall become final in the case where they can no longer be revoked by an appeal or where an appeal is not allowed.

A final decision shall become enforceable as of the day of transmission, provided that no legal impediments to enforcement exist. If an appeal has not been submitted or the parties have waived it or dropped it, a decision shall be enforceable after the time specified for lodging an appeal has expired, that is, as of the day of waiving or dropping of an appeal that has been lodged.

Ruling on Enforcement of Decisions

Article 56

If the conditions governing the enforcement referred to in Article 55 of this Law are fulfilled, the court that has adjudicated in the first instance shall rule *ex officio* ordering the enforcement of a decision.

The ruling mentioned in paragraph 1 of this Article shall be transmitted to a convicted legal person, defence counsel thereof, the public prosecutor, the authority managing the register which the convicted legal entity has been entered into, and to the organisation responsible for forced payments.

If the decision relates to a convicted legal person against whom no bankruptcy procedure is being conducted, the ruling referred to in paragraph 1 of this Article shall be transmitted to the authority empowered to take decisions on termination of the status of the legal person concerned.

2. Enforcement of a Fine

Ruling on Enforcement of a Fine

Article 57

The ruling ordering the enforcement of a fine shall be enforced by the competent court in accordance with the provisions of the Law on Enforcement of Penal Sanctions.

Enforcement Timeframe

Article 58

A final judgement ordering a fine or deciding on the payment of costs incurred in criminal proceedings shall be enforced after the timeframe, specified under the judgement ordering a fine, that is, payment of costs incurred in the proceedings, has expired .

The timeframe referred to in paragraph 1 of this Article shall begin on the day when the final judgement was delivered to a convicted legal person or a person liable to pay for the costs.

Coercive Measure of Payment

Article 59

The coercive measure of payment of fines and costs incurred in criminal proceedings shall be resorted to where a convicted legal person fails to pay a fine within a specified timeframe.

The costs of forced payment referred to in paragraph 1 of this Article shall be borne by a convicted legal person.

Application of the Law on Payment Transactions

Article 60

Provisions on the coercive measure of payment under the Law on Payment Transactions shall be applicable to the procedure for forced payment of fines and costs incurred in criminal proceedings.

Order of Priority of Payments

Article 61

If the forced payment of fines and the payment of costs incurred in criminal proceedings are being effected concurrently, precedence shall be given to the costs incurred in criminal proceedings.

If the assets of a convicted legal person are reduced to the extent that the claim to compensate a victim is not possible to effect due to the payment of fines, the claim shall be effected from the funds of the fine that has been paid, but to the maximum levels of the fine.

Lack of Possibility to Effect Payment of a Fine

Article 62

In cases where a fine is not possible to be paid in entirety or at all, the court that has passed the first instance decision on the fine shall be notified thereabout.

3. Enforcement of the Sentence on Termination of the Status of a Legal Entity

Deletion of a Convicted Legal Entity from the Register

Article 63

The sentence on termination of the status of a legal entity shall be enforced by deleting the convicted legal entity from the Register of Legal Entities it had been entered into.

Notification on Entering a Sentence Into the Register

Article 64

Upon receipt of a decision ordering enforcement of the sentence on termination of the status of a legal entity, the authority managing the Register of Legal Entities shall enter an imposed sentence into the Register, and without delay notify thereabout the authorities competent for enforcing the procedures of winding-up, bankruptcy or termination of a legal entity in a different manner.

Blocking of Bank Accounts

Article 65

Upon receipt of a decision ordering enforcement of the sentence on termination of the status of a legal entity the organisation responsible for forced payments shall order all banks to block dinar and foreign currency accounts of a convicted legal entity, to deliver data from balance sheets of such accounts and to refrain from opening new accounts.

The balance sheet of the funds in accounts of a convicted legal entity shall be transmitted by the organisation responsible for forced payments to the court that has passed the first instance judgement.

Enforcement of the Procedure for Termination of the Status of a Legal Entity

Article 66

The winding-up procedure or that of bankruptcy of companies shall be conducted in accordance with the rules stipulated by the winding-up procedure-related law, that is, in accordance with the rules laid down for bankruptcy, as a form of the bankruptcy procedure.

The winding-up or bankruptcy procedures for banks or insurance companies shall be conducted in accordance with the provisions of the law governing the winding-up or bankruptcy-related procedures for such legal entities.

The procedure for termination of the status of a legal entity in a different manner shall be conducted by founders of the legal entity concerned in line with the act under which the share-of-property regime, the procedure for compensating creditors and the manner to protect their rights have been specified.

Powers of the Public Prosecutors

Article 67

Upon expiration of the timeframe of three months as of the day the decision on the enforcement of the sentence of termination of the status of a legal entity was entered into the Register of Legal Entities, the authority managing said Register shall examine whether the winding-up or bankruptcy-related procedure has been undertaken.

If the winding-up or bankruptcy-related procedure has not been undertaken, the authority referred to in paragraph 1 of this Article shall notify thereabout the public prosecutor who will undertake the bankruptcy-related procedure to protect the rights of creditors.

The public prosecutor at whose request the first instance criminal proceedings have been conducted shall be competent for undertaking the bankruptcy-related procedure against a convicted person.

Notification of the Court

Article 68

After the procedure on winding-up, bankruptcy or termination of the status of a legal entity in a different manner has been conducted, the authority managing the Register of Legal Entities shall delete the convicted legal entity from the Register.

The court which has passed the first instance judgement shall be notified by the authority referred to in paragraph 1 of this Article on entering the imposed sentence into and the deletion of the convicted legal entity from the Register.

4. Enforcement of Security Measures Enforcement of

Prohibition to Practise Certain Registered Activities or Operations

Article 69

The court which, in the first instance, has imposed the security measure of prohibition to practise certain registered activities or operations shall transmit a final decision to the authority competent for managing the registration of legal entities for the purpose of the proper entering and recording so as the measure can be enforced.

The final decision referred to in paragraph 1 of this Article shall be also transmitted to the authority competent for issuing licences or permits to allow practice of certain registered activities or operations, if regulations provide for such activities or operations to be possible to practise only upon the issuance of a licence or a permit by a competent authority.

The final decision referred to in paragraph 1 of this Article shall be also transmitted to the police in the territory of which a national legal entity is seated, that is, a representative office or a branch of a foreign legal entity is located, to be entered into the specified records, as well as to the competent inspection authority.

Enforcement of the Measure of Publicising a Judgement

Article 70

Where the measure of publicising a judgement has been imposed, the court which has adjudicated in the first instance shall transmit an enforceable judgement to the Editor-in-Chief of a mass media to be publicised.

The costs of publicising such judgement shall be borne by a convicted legal entity.

Analogous Application of the Law on Enforcement of Penal Sanctions

Article 71

Provisions of the Law on Enforcement of Penal Sanctions shall be applicable by analogy to the enforcement of penal sanctions unless otherwise specified by this Law.

III FINAL PROVISION

Article 72

This Law shall enter into force on the eighth day as of the day it is published in the 'Official Gazette of the Republic of Serbia'.

