

# ***CRIMINAL LIABILITY OF LEGAL ENTITIES***

Prof. Assoc. PhD.  
Alketa Elezi

Prof. Assoc. PhD.  
Rezana Balla







# *TOPICS*

- 1. Analysis of Law;**
- 2. Causal Relationship of the criminal offense;**
- 3. Aspect of the Criminal Responsibility;**
- 4. Existence of Control and Surveillance Programs;**
- 5. Operation and organization of the Banks;**
- 6. Jurisprudence of the Criminal College of the Supreme Court**



# *INTRODUCTION*

- The guilty or innocence of the legal entity depends on the existence of an organization and control model
- Compliance Measures
- Corporate Governance





# Analysis of Law

1. Article 3/b of the law  
*proving the act committed in its name is a consequence of the legal person's interest in benefiting (directly or indirectly) from the criminal act (and that;*
2. Article 3/c of the law  
*the offense is a consequence of the negligence of the legal entity to take the necessary measures to prevent the damage, namely the criminal offense*



# ***ANALYSIS OF LAW***

- **criminal offense must be committed not only "in the name" and benefit, but also "within the framework of authorizations"**
- for the criminal offense to have been committed "in the name" (Article 3 point b) of the legal entity, it is not enough to prove that a natural person, from the structure of employees of the legal entity, is suspected of having committed the criminal offense, but it must be proven that he acted on its behalf and moreover had authorization for such action from the legal entity.
- it must be proven whether the legal person had benefit, (Article 3 point b of the law), or gained exclusive interest from the criminal offense that was committed.

# CAUSAL RELATIONSHIP OF THE CRIMINAL OFFENSE

- causal relationship between the damage received and the actions or omissions of the legal entity (its management and legal representative bodies)
- the legal entity can be declared guilty if it is proven that the damage is the result of any interest of the legal entity
- Employees of the legal entity can be responsible and hold liability based on a work contract and with clearly defined duties, the violation of which in any case would burden each of them with individual responsibility, and never the legal entity.





A photograph of a modern glass skyscraper with a grid-like facade, partially obscured by a white diagonal design element.

## ***THE SUBJECTIVE ASPECT OF THE CRIMINAL RESPONSIBILITY OF THE LEGAL ENTITY***

- The culpability of the legal entity must be based on its internal organization, the existence and implementation of a model for the prevention of criminal offenses or not, or any other act for this purpose.
- Intent exists when the act expresses the will of the legal entity.
- the act is considered to have been committed by negligence in cases where the same situation was the result of poor organization and insufficient of the legal entity to avoid such offense.



# The existence of control and surveillance programs





# **OPERATION AND ORGANIZATION OF THE SECOND LEVEL BANKS**



1. The bank organizes the internal control system, with the aim of monitoring the implementation of internal policies and procedures, evaluating the effectiveness of banking activity and monitoring compliance with legal and by-laws

2. The purpose of internal control is to identify the exposure of the bank to the types of risks, measurement, administration and monitoring of their level.

3. The internal control system of the bank or branch of the foreign bank consists of a set of procedures, rules and structures that exist within it.

# *SUMMARY*

It must be crucial to the prosecution and even the court to analyse whether specific actions are authorised to be performed by its legal representatives of the legal entity, in order to determine the criminal responsibility of the legal entity.







# *THANK YOU*

Presenter Name: Prof. Assoc. PhD.  
Alketa Elezi

Prof. Assoc. PhD.  
Rezana Balla

Email Address:  
[alketaelezi@alketaelezi.com](mailto:alketaelezi@alketaelezi.com)

Website Address: [www.alketaelezi.com](http://www.alketaelezi.com)