



Oficina Anticorrupción
Ministerio de Justicia y Derechos Humanos
Presidencia de la Nación

CORPORATE CRIMINAL LIABILITY IN ARGENTINA

LAW 27401

G20 Anticorruption Working Group
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Key Elements of the Law

- Type of Legal Persons Covered
- Offenses
- Who triggers the responsibility of the legal person
- Sanctions
- Aggravating and mitigating factors
- Exemption from punishment
- Integrity Programme
- Settlements



Type of Legal Persons Covered

“Applicable to private legal persons, whether of national or foreign capital, with or without state ownership”



Offenses

- Bribery national or transnational
- Negotiations that are incompatible with the exercise of public functions
- Illegal exactions
- Illicit enrichment of public officials and employees
- Aggravated false account balance sheets and reports.



Who triggers the responsibility of the legal person ?

Anyone...

“legal persons are liable for the offenses, which have been directly or indirectly, committed with its intervention or in its behalf, interest or benefit”

“They are also responsible if the person acting in the benefit or interest of the legal person is a third party ... provided that the legal entity had ratified the act”



Sanctions

- Fine, of between 2 and 5 times the undue benefit obtained
- Total or partial suspension of activities, for a maximum of ten years
- Debarment, for a maximum of ten years
- Dissolution and liquidation of the legal person status, had the legal entity been created for the sole purpose of committing the offense, or when it constitutes its main activity
- Loss or suspension of State benefits
- Publication of an extract of the conviction at its expense



Aggravating and mitigating factors

- An evaluation of how internal controls and the compliance structure functioned in the case;
- Rank of the individual employees involved in the offence
- Omission to supervise the conduct of the perpetrators
- Extension of the damage caused by the crime
- Economic impact of the offense
- Size and economic capacity of the legal person
- Degree of cooperation of the company with the investigation
- Whether the legal person self-reported the case
- Willingness of the legal person to compensate victims
- Whether the legal person is a repeated offender.



Exemption from punishment

Conditions for exemption (cumulative):

- **Self report** as a result of an internal detection and investigation activity
- **Adequate control and supervision system** under the terms the law, prior to the fact of the process.
- **Would have returned the undue benefit obtained.**



Settlements

“Companies can also mitigate their sanctions by actively cooperating during the investigation through an “effective collaboration agreement”

Conditions:

- Paying a fine equivalent to half the minimum
- Restituting the things or profits
- Abandoning in favor of the State the property that would be confiscated in the event of a conviction



Integrity Programme

Not mandatory but strongly incentivated

“Integrity programs will be deemed adequate when commensurate with the industry risks, size and economic capacity of the defendant legal person”



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Thanks for your attention

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