

Burtak Artem, cadet of Educational
Scientific Institute № 1 of the NAIA

LIABILITY OF LEGAL ENTITIES IN UKRAINE

Since the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on the Action Plan to liberalize the EU visa regime for Ukraine and the liability of legal entities» has come into force the more than two years have passed. Moreover, it makes it possible to draw some conclusions from a practical point on the effectiveness of its enforcement.

According to foreign countries practice it can be provide by three basic approaches to understanding the criminal liability of legal entities:

1. Full recognition of the institute of criminal responsibility of legal entities (France, China, Lithuania and Estonia). At the same time, the principle of criminal liability of legal entities does not eliminate the criminal responsibility of an individual.

2. Complete denial of the institute of criminal liability of legal entities (Bulgaria, Hungary and Belarus).

3. »Quasi-criminal« (administrative or criminal) responsibility of legal entities (Germany, Sweden, Italy, Spain). The main feature of this approach is that the law does not recognize the legal entities of the crime, but in some cases, in particular, provided certain regulations, they can apply a variety of criminal sanctions.

As you can see, Ukraine has chosen the latter way, therefore, the legislator does not use the term «criminal responsibility» for legal entities (next - CRLE). Instead, the term

«measures of criminal law for legal entities» that avoids changes to the subject of criminal responsibility is used in the General Part of the Criminal Code of Ukraine.

The court might apply such criminal responsibility to legal entities as may: fines, confiscation of property, liquidation. In particular, fine and liquidation might be applied only as the main CRLE and confiscation of property - just as the additional ones. While applying CRLE a legal person is entitled to compensate for the losses and damages comprehensively, as well as the amount of [improper advantage](#).

Low efficiency and effectiveness of the implementation of the criminal responsibility of legal entities in Ukraine: causes and solutions. Not enough regulated the recognition of the legal entities as a subject of crime, the expenditure of the list of penalties that might apply to legal entities and the quantity of offenses for which a legal person might be criminally liable to [arraign on a criminal charge](#). The problem of the recognition of the legal entity as the subject of crime is ambiguous, due to its relation with the fundamental principles of criminal law and criminal-legal status of the perpetrator. There is a need (дополнения) to the Criminal Code of Ukraine in order to details the provisions on the tasks of criminal law, the action of the law in time and space referred to legal entities, the question of the stage of the crime commission and the problem of accomplice and others.

Analyzing the advantages and disadvantages of introducing criminal liability for legal entities as CRLE application, we can say that this is a progressive step. Which also is need in future researching and improvement with international experience. In conclusion, the grounds of liability of legal entities yet indicate that it is not a question of strict liability, but rather of a special from of criminal responsibility, adapted to legal entities.