

Criminal Law Instruments to Counter Corporate Crimes in Poland

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Abstract : In Polish law, the idea of the introduction of corporate responsibility for crimes is becoming more popular and creates a lot of questions. The need to introduce into the Polish legal system liability of corporate (collective entities) has resulted, among others, from the Polish Republic's international commitments, in particular related to membership in the European Union. The Act of 28 October 2002 on the liability of collective entities for acts prohibited under penalty is one of the example of adaptation of Polish law to Community law. Introduction to Polish law a criminal nature liability of corporations (legal persons) has resulted in a lot of controversy and lack of acceptance from both the scientific community as well as the judiciary. The responsibility of collective entities under the Act has a criminal nature. The main question concerns the ability of the collective entity to be brought to guilt under criminal law sense. Polish criminal law knows only the responsibility of individual persons. So far, guilt as a personal feature of action, based on the ability of the offender to feel in his psyche, could be considered only in relation to the individual person, while the said Act destroyed this conviction. Guilt of collective entity must be proven under at least one of the three possible forms: the guilt in the selection or supervision and so called organizational guilt. The next question is how the principle of proportionality in relation to criminal measures in response of collective entities should be considered. It should be remembered that the legal subjectivity of collective entities, including their rights and freedoms, is an emanation of the rights and freedoms of individual persons which create collective entities and through these entities implement their rights and freedoms. The adopted Act largely reflects the international legal regulations but also contains the unknown and original legislative solutions.

Keywords : criminal corporate responsibility, Polish criminal law, legislative solutions, Act of 28 October 2002

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