

# Act CIV of 2001

## on measures applicable to legal persons under criminal law

### Chapter I

#### CRIMINAL LAW PROVISIONS

##### *Interpretative provisions*

###### **Section 1** (1) For the purposes of this Act,

1. *legal person* means all organisations and their organisational units with independent right of representation that are recognised as legal persons by the law, as well as organisations that may be independent subjects of civil law relationships, hold assets separate from those of their members, including companies under registration within the meaning of the Civil Code and economic operators within the meaning of point 8 of section 459 (1) of Act C of 2012 on the Criminal Code (hereinafter the “Criminal Code”).

2. *advantage* shall be construed to mean also any thing, right of pecuniary value, claim, and benefit, regardless of whether it is registered under the Act on accounting, as well as any exemption for a legal person from an obligation arising from a law or a contract, or from an expenditure required under the rules of sound financial management.

3. *head of the legal person* means an executive officer of a legal person, a member with the right of representation, an employee, an officer, a general manager, and a supervisory board member, as well as a person authorised by them.

4. *legal person subject to proceeding* means a legal person to which it was communicated, in accordance with section 12, that a measure applicable to a legal person is applicable to it.

(2) This Act shall not apply to the Hungarian State, a foreign State, the institutions listed in the Fundamental Law, the Office of the National Assembly, the Office of the President of the Republic, the Office of the Commissioner for Fundamental Rights, organisations performing public authority, state administration, or local government administration tasks under the law, as well as international organisations established by an international treaty.

(3) The provisions on legal persons shall apply also

a) if the legal person is established after the commission of the criminal offence and before the adoption of the final and binding conclusive decision; and

b) to a foreign legal person.

*Conditions for applying the measures*

**Section 2** (1) The measures specified in this Act may be applied to a legal person if

- a) a corruption-related criminal offence under Chapter XXVII of the Criminal Code was committed by the head of the legal person within the scope of activities of the legal person;
- b) the criminal offence was committed by the head of the legal person
  - ba) and the commission of the criminal offence aimed at or resulted in obtaining an advantage for the benefit of the legal person; or
  - bb) within the scope of activities of the legal person, through the activities, means, and resources of the legal person;
- c) a member or an employee of the legal person
  - ca) committed, within the scope of activities of the legal person, a corruption-related criminal offence under Chapter XXVII of the Criminal Code, or committed the criminal offence for the purpose specified in point b) ba), or in a manner specified in point b) bb) within the scope of activities of the legal person; and
  - cb) the head of the legal person intentionally failed to comply with a direction or control obligation that could have prevented the commission of the criminal offence or, otherwise, was not aware, by negligence, that the commission of the criminal offence was being prepared or that the criminal offence was being committed, and thus failed to implement an arrangement required for the prevention of the commission of the criminal offence; or
- d) a criminal offence referred to in point a) or b) was committed by another person, and the head of the legal person was aware of the commission of the criminal offence.

(2) In the application of paragraph (1), the person who becomes the head of the legal person after the commission of the criminal offence shall also be considered the head of the legal person.

(3) In relation to a criminal offence committed to gain advantage for the benefit of a legal person, a measure may be applied to the legal person in accordance with this Act where the criminal offence falls under Chapters XIII to XX, Chapter XXIII, Chapter XXV, Chapter XXXI, or Chapters XXXIV to XLIII of the Criminal Code.

(4) Measures specified in this Act as applicable to a legal person may be applied to also the legal successor of the legal person.

(5) The measures specified in this Act shall not be applied in relation to a criminal offence of which the legal person is an aggrieved party.

*Measures applicable to a legal person*

**Section 3** (1) The court may apply the following measures to a legal person subject to proceeding:

- a) termination of the legal person;
- b) restriction of the activities of the legal person;
- c) fine.

(2) The application of the measures listed in paragraph (1) shall not be precluded by the fact that the perpetrator is not liable to punishment due to death, pardon, mental disorder, or active repentance, or that any other reason for terminating liability to punishment as set out in an Act can be established in relation to him, or that he was subject to reprimand.

(3) The objective of the application of a measure to the legal person subject to proceeding shall be to prevent, with a view to the protection of society, the commission of a further criminal offence referred to in section 2 involving the legal person subject to proceeding or another legal person.

(4) The measure applicable to a legal person subject to proceeding shall be determined in a manner that ensures that it is appropriate for

a) the material gravity of the criminal offence, and the extent of the damage and the pecuniary loss caused by the criminal offence, the value affected by the criminal offence, and the undue advantage obtained in connection with the criminal offence;

b) the financial situation of the legal person;

c) the degree of guilt of the head of the legal person and the extent of the failure to fulfil the obligation to control the persons referred to in section 2 (1) c); and

d) any other circumstance relating to the objective of the measure applied to the legal person.

(5) In the application of paragraph (4) d), account shall be taken of, in particular, the following:

a) the advantage for the legal person that the commission of the criminal offence aimed at or resulted in;

b) whether the legal person compensated for the damage caused by the criminal offence;

c) whether the legal person transferred the advantage originating from the criminal offence to the authority;

d) whether the legal person remedied the harmful consequences of the criminal offence; and

e) whether the legal person made any arrangements to ensure that, in the future, the criminal offence subject to the criminal proceeding cannot be committed involving the legal person.

(6) The application of a measure to the legal person subject to proceeding may be dispensed with if, taking into account the objective of the measure, it is no longer necessary, including where, in a decision with administrative finality, an administrative authority or the state tax and customs authority, or, in a final and binding decision adopted in an administrative court action, the court, imposed a sanction on the legal person subject to proceeding for the act that constitutes the criminal offence subject to the criminal proceeding, and, having regard to this fact, the application of a measure specified in this Act to the legal person is not required..

(7) If paragraph (6) applies, any payment obligation established by the administrative authority or the state tax and customs authority in its decision with administrative finality, or by the court in its final and binding decision adopted in an administrative court action, shall be taken into account when determining the amount of the fine.

*Termination of the legal person*

**Section 4** (1) The court shall terminate the legal person subject to proceeding if the restoration of its lawful economic activity cannot be expected, and

- a) the legal person was established as a result of a criminal offence;
- b) the legal person was established for the purpose of concealing the commission of a criminal offence, committing a criminal offence, or obtaining an advantage originating from a criminal offence; or
- c) the activity of the legal person serves primarily to conceal the commission of a criminal offence.

(2) A legal person subject to proceeding shall be terminated if it is not otherwise possible to ensure that no further criminal offence which would justify the application of a measure applicable to the legal person is committed.

(3) If paragraph (2) applies, the legal person shall not be terminated if the termination would jeopardise the performance of a state or local government task or if the legal person

- a) is a national public utility service provider;
- b) qualifies as strategically important for the national economy;
- c) implements a national defence or other special task, or serves such a purpose.

(4) For the purposes of paragraph (1), the restoration of lawful economic activity can be expected, in particular, if the legal person subject to proceeding

- a) compensated for the damage caused by the criminal offence;
- b) transferred the material advantage originating from the criminal offence, or any consideration for it, to the authority;
- c) remedied the harmful consequences of the criminal offence in another manner; or

d) introduced appropriate arrangements to ensure that the head, a member or an employee of the legal person does not commit a further criminal offence referred to in section 2 (1) a) or b), or that the head of the legal person takes action against a criminal offence committed by another person in a situation referred to in section 2 (1) c) or d).

*Restriction of the activities of a legal person*

**Section 5** (1) The court may restrict the activities of a legal person subject to proceeding as specified in paragraph (2) for a period from one to five years, where it is necessary for the restoration of lawful economic activity. The period of restriction shall be set in years. The restriction may extend to the exercise of all or certain activities listed in paragraph (2).

(2) During the period of the ban, the legal person shall not

- a) collect contributions by means of public offer;
- b) participate in a public procurement proceeding;
- c) enter into a concession contract;
- d) be classified as a public-benefit organisation;
- e) receive targeted assistance from central or local government budget, separate state funds, foreign states, the European Communities, or another international organisation;
- f)
- g) carry out any other activity relating to the criminal offence on which the measure applied to the legal person is based, from which it was banned by the court.

(3) In the event of the restriction of the activities of a legal person, upon the court decision becoming final and binding, depending on the provisions of the court,

- a) the legal consequences of the unilateral termination with immediate effect of the contract concluded with the legal person on the basis of a public procurement proceeding shall arise;
- b) the legal consequences of the unilateral termination with immediate effect of the concession contract concluded with the legal person shall arise;
- c) the proceeding for classifying as a public-benefit organisation shall be considered terminated, and the legal person shall be considered deregistered from the public-benefit register;
- d) the proceeding for granting the assistance referred to in paragraph (2) e) shall be considered terminated, and any assistance granted in relation to the criminal offence shall be repaid.

*Fine*

**Section 6** (1) The amount of fine shall be determined in a manner that ensures that it is appropriate for the financial situation and income of the legal person subject to proceeding.

(2) The minimum amount of fine applicable to a legal person subject to proceeding shall be one million forint, and the maximum amount shall be

a) for a criminal offence punishable by imprisonment for more than three years and the criminal offence of violation of an international economic restriction [section 327 (1) to (4), section 327/A (1), and section 327/B (1) of the Criminal Code], 5 per cent of the turnover of the legal person subject to proceeding in the year preceding the commission of the criminal offence;

b) for a criminal offence punishable by imprisonment for up to three years, 3 per cent of the turnover of the legal person subject to proceeding in the year preceding the commission of the criminal offence.

(3) Where the turnover of the legal person subject to proceeding in the year preceding the commission of the criminal offence cannot be established, the maximum amount of the fine under paragraph (2) shall be determined taking into account the highest turnover established on the basis of the following:

a) the turnover of the legal person subject to proceeding in the year in which the criminal offence was committed; or

b) the turnover of the legal person in the year preceding the imposition of the fine.

(4) Where a criminal offence is committed throughout more than one year, the maximum fine amount under paragraph (2) shall be established on the basis of the turnover of the legal person subject to proceeding in the year preceding the criminal offence or its turnover in the year in which the criminal offence was committed, whichever is higher. Where the maximum fine amount cannot be determined in this manner, the maximum fine amount under paragraph (2) shall be established on the basis of the turnover in the year preceding the imposition of the fine.

(5) Where the turnover of the legal person subject to proceeding cannot be established in accordance with paragraphs (2) to (4), the maximum fine amount shall be determined by means of estimation on the basis of data available on the turnover of the legal person subject to proceeding.

(6) Where sequestration of the assets of the legal person subject to proceeding was ordered under this Act, the fine may be imposed even if the legal person subject to proceeding was terminated in a liquidation proceeding.

(7) In the event of non-payment, the fine shall be enforced in accordance with the rules of the Act on enforcement procedures to be effectuated by the tax authority.

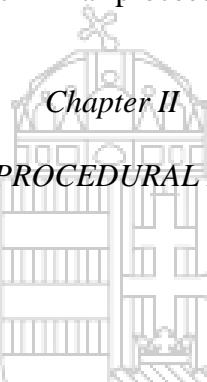
(8) For the purposes of this section, turnover shall be construed to mean the total revenue from domestic and export sales as indicated in the income statement, or the consolidated income statement, within the meaning of the Act on accounting.

## Statute of limitations for the application of measures to legal persons

**Section 6/A** (1) Where measures applicable to a legal person subject to proceeding are applied in a criminal proceeding against a person referred to in section 2, the application of measures shall not become time-barred as long as the punishability of the act subject to the proceeding is not time-barred.

(2) Without prejudice to paragraph (1), section 26 of the Criminal Code shall apply, with the proviso that the statute of limitations is interrupted by any criminal procedural act aimed at applying a measure applicable to a legal person.

(3) For the commission of the criminal offence on which the application of a measure to a legal person is based, no criminal proceeding shall be instituted against the legal person after the expiry of one year from the conclusive decision adopted in the criminal proceeding against a person referred to in paragraph (2) becoming final and binding; furthermore, the application of a measure applicable to a legal person shall not be moved forward after the expiry of two years from the institution of the criminal proceeding against the legal person subject to proceeding.



*Chapter II*  
**CRIMINAL PROCEDURAL PROVISIONS**

### *General provisions*

#### **Section 7 (1)**

(2) Where in a criminal proceeding a measure may be applied to a legal person, the provisions of Act XC of 2017 on the Code of Criminal Procedure (hereinafter the “Code of Criminal Procedure”) shall apply accordingly, with the derogations set out in this Act.

(3) In the course of their proceedings, the prosecution service, the investigating authority, and the organ conducting the preparatory proceeding shall assess, *ex officio*, whether there is any measure to be applied to the legal person subject to proceeding, and shall perform all necessary procedural acts to identify such measure and to secure the necessary means of evidence.

(4) For the purpose of obtaining all means of evidence necessary for applying a measure to the legal person subject to proceeding in a criminal proceeding, all procedural acts and coercive measures affecting assets under the Code of Criminal Procedure may be applied, provided that the statutory conditions are otherwise met.

## The subject-matter and territorial competence of the proceeding organs

**Section 8 (1)** In a proceeding against a legal person subject to proceeding, the general rules of the Code of Criminal Procedure shall apply to the subject-matter and territorial jurisdiction of the court and the subject-matter and territorial competence of the prosecution service and the investigating authority, with the proviso that in applying the rules, the criminal offence referred to in paragraph (2), on which the application of the measure to the legal person subject to proceeding is based, shall be taken into account.

(2) Where no other ground for territorial jurisdiction can be established on the basis of sections 21 or 22 (1) to (2) of the Code of Criminal Procedure, or the criminal proceeding is conducted independently against the legal person subject to proceeding, the territorial jurisdiction of the proceeding court may be based also on the seat of the legal person subject to proceeding.

**The defence counsel for a legal person subject to proceeding and the statutory representative of a legal person**

**Section 9** (1) On the basis of an authorisation or official appointment, an attorney-at-law and, on the basis of authorisation, a registered in-house legal counsel, a European Community lawyer, a salaried attorney-at-law, and a salaried European Community lawyer may act as a defence counsel on behalf of a legal person subject to proceeding (hereinafter jointly the “defence counsel for the legal person subject to proceeding”).

(2) Where no defence counsel for the legal person subject to proceeding is authorised, the court, the prosecution service, or the investigating authority shall appoint a defence counsel for the legal person subject to proceeding. In such a situation, the regional bar association having territorial competence at the seat of the proceeding court, prosecution office, or investigating authority shall be responsible for designating the defence counsel for the legal person subject to proceeding.

(3) With the exception specified in paragraph (4), authorisation for the defence counsel for the legal person subject to proceeding shall be granted by the statutory representative of the legal person.

(4) The defence counsel for the defendant shall not be the defence counsel for the legal person subject to proceeding.

(5) With the derogations set out in paragraph (6), the rules on a defence counsel shall apply to the defence counsel for the legal person subject to proceeding. Section 42 (6) of the Code of Criminal Procedure shall apply accordingly where more than one defence counsel is authorised for the legal person subject to proceeding.

(6) The defence counsel for the legal person subject to proceeding

a) may, before indictment, attend

aa) the interrogation of a witness requested by him or by the statutory representative of the legal person subject to proceeding, and any evidentiary act involving such a witness, as well as any interview of an expert, inspection, on-site interrogation, reconstruction of the criminal offence, and presentations for identification, and confrontation, relating to the criminal offence referred to in section 2 on which the application of the measure to the legal person subject to proceeding is based;

ab) any search conducted in connection with the criminal offence referred to in section 2 on which the application of the measure to the legal person is based;

b) may inspect, applying section 100 of the Code of Criminal Procedure accordingly, the case document relating to the criminal offence referred to in section 2 on which the application of the measure to the legal person subject to proceeding is based;

c) may present pieces of evidence, submit motions, make observations and address the court in a court proceeding, in relation to the legal person subject to proceeding

**Section 9/A (1)** A person may act as a statutory representative of a legal person subject to proceeding if he is authorised to represent the legal person in accordance with the law applicable to, and the instrument of incorporation of, the legal person, and provides proof to this effect.

(2) Where the legal person subject to proceeding is managed by more than one executive officer or a body of executive officers, the person acting as the statutory representative of the legal person subject to proceeding shall be the person designated by those concerned from among themselves. Absent an agreement, the statutory representative of the legal person subject to proceeding shall be designated by the proceeding investigating authority, prosecution office, or court, taking account of the clear interest of the legal person. Where the clear interest of the legal person subject to proceeding cannot be identified, the decision-making body of the legal person shall be contacted.

(3) The statutory representative of the legal person subject to proceeding may attend the trial and may exercise the rights listed in section 9 (6) b) and c).

(4) The statutory representative of a legal person subject to proceeding may act either in person or through an authorised representative.

(5) Where the statutory representative of a legal person subject to proceeding participates in the proceeding as a defendant, he may, during the investigation, exercise his right of attendance as specified in this Act also through his authorised representative.

## **Section 10** *Sequestration*

**Section 11 (1)** If it is reasonable to assume that the enforcement of the fine would be frustrated, sequestration may be ordered against the legal person subject to proceeding also to secure the fine.

(2) When assessing the condition referred to in paragraph (1) and determining the amount of assets to be secured by sequestration, the following circumstances shall, in particular, be assessed, taking account of also the circumstances under section 3 (4):

a) whether the legal person subject to proceeding carries out any lawful economic activity;

b) the damage and the pecuniary loss caused by the criminal offence, the value affected by the criminal offence, the extent of the undue advantage obtained in connection with the criminal offence, and the financial situation of the legal person subject to proceeding;

- c) any transactions and financial operations that reduce the assets of the legal person subject to proceeding following the commission of the criminal offence, and any attempt to that effect;
- d) whether the legal person subject to proceeding provides compensation for the damage caused by the criminal offence, transfers any advantage to the authority, remedies the harmful consequences of the criminal offence, takes action for these purposes, or makes arrangements to ensure that the criminal offence subject to the proceeding is not committed repeatedly;
- e) any cooperation by the legal person subject to proceeding in detecting the criminal offence.

(3) The amount transferred by the legal person subject to proceeding in accordance with the agreement concluded with the legal person subject to proceeding shall be sequestered to secure a fine. Where the amount to be secured under the agreement is less than the amount of assets previously sequestered to secure the fine in the course of the proceeding, the sequestration of any amount exceeding the amount specified in the agreement shall be lifted. Where the legal person subject to proceeding transfers, in accordance with the agreement, another amount of money in place of the assets previously sequestered to secure a fine in the course of the proceeding, the sequestration of the amount of money transferred by the legal person subject to proceeding shall be ordered, and any previously ordered sequestration shall be lifted simultaneously.

(4) The decision on sequestration to secure a fine shall be taken by the court, upon motion by the prosecution service for sequestration before indictment.

(5) Section 327 (5) of the Code of Criminal Procedure shall apply to sequestration to be ordered to secure a fine.

(6) The operative part of the decision ordering sequestration shall specify that the sequestration is ordered to secure a fine, and the amount secured by the sequestration.

(7) If the decision ordering sequestration does not include the elements specified in paragraph (6), the court shall decide to amend the decision on sequestration in accordance with paragraph (6), upon motion by the prosecution service, the defendant, the party with a pecuniary interest, or the other interested party entitled to present a creditor claim under criminal law before the indictment, or *ex officio* after the indictment.

(8) The decisions referred to in paragraphs (6) and (7) shall be served without delay on the party with a pecuniary interest as well as the other interested party entitled to present a creditor claim under criminal law.

(9) Where sequestration is ordered to secure a fine, section 329 (1) to (6) of the Code of Criminal Procedure shall apply to redemption relating to sequestration, with the proviso that

- a) redemption shall not be permissible if the liquidation of the legal person subject to proceeding is ordered;
- b) redemption shall not be refused if the amount to be provided, as determined in the court order, is undertaken to be paid;

c) redemption relating to sequestration shall be moved for by either the statutory representative of the legal person subject to proceeding or the defence counsel for the legal person subject to proceeding.

(10) Sequestration ordered to secure a fine shall be lifted also if

- a) the conditions for ordering it are no longer met;
- b) the proceeding against the legal person subject to proceeding is terminated; or
- c) the proceeding is concluded without imposing a fine.

(11) For the purpose of recording a sequestration ordered to secure a fine in the company register within the meaning of the Act on public company information, company registration and winding-up, a request may be put forward to the court of registration of the legal person subject to proceeding only if notification under section 12/A (1) and (2) is provided.

### **Signalisation, prevention of an unlawful activity**

**Section 11/A** In a proceeding against the legal person subject to proceeding, the court, the prosecution service, or the investigating authority shall notify the organ entitled to initiate or conduct the proceeding where such notification is justified with a view to terminating an unlawful activity relating to a criminal offence referred to in section 2 by the legal person subject to proceeding.

#### *Investigation*

**Section 12** (1) Where, on the basis of data and means of evidence available, it is reasonable to assume that a measure under this Act is applicable to a legal person in relation to a criminal offence subject to the proceeding, the investigating authority or the prosecution service shall, in writing or orally, communicate to the statutory representative of the legal person subject to proceeding the facts of the case, and the classification under the Criminal Code, of the criminal offence on which the measure applicable to a legal person is based, the facts relating to the involvement, as defined in section 2, of the legal person, and the provision or provisions of section 2 based on which the legal person is involved in the commission of the criminal offence (hereinafter the “communication of the involvement of the legal person”).

(2) The involvement of a legal person shall be communicated orally in accordance with paragraph (1) in the course of the interrogation of the statutory representative of the legal person as a suspect or a witness, depending on the capacity in which he participates in the criminal proceeding.

(3) Where the communication of the involvement of the legal person is in writing, the investigating authority or the prosecution service shall, upon motion by the statutory representative of the legal person or the defence counsel for the legal person subject to proceeding, within three months, make arrangements for the interrogation of the statutory representative of the legal person subject to proceeding as a suspect or a witness, depending on the capacity in which he participates in the criminal proceeding.

(4) The attention of the statutory representative of the legal person shall be drawn to the provisions of section 9 (3), (5) and (6) in the summons to interrogation as a suspect or a witness, or when the involvement of the legal person is communicated in writing.

(5) Upon the communication of the involvement of the legal person, the statutory representative of the legal person subject to proceeding shall be advised of the following:

a) the provisions of section 9 (3), (5) and (6);

b) that he may submit a complaint in respect of any communication relating to the involvement of the legal person subject to proceeding to the communicating authority;

c) that he may, in writing or orally, submit a motion or an observation in the course of his interrogation as a witness or, where the statutory representative of the legal person subject to proceeding participates in the proceeding as a defendant, as a suspect;

d) the option for the legal person subject to proceeding to cooperate.

(6) The statutory representative of a legal person may submit a complaint in relation to any communication as regards the involvement of the legal person. The statutory representative of the legal person shall file the compliant upon the oral communication of the involvement of the legal person in accordance with paragraph (1) or, for a written communication, within eight days of service. In other respects, the provisions on a complaint against casting suspicion shall apply accordingly to a complaint.

(7) Where sequestration is ordered, in accordance with section 11, to secure a fine against a legal person subject to proceeding, the communication referred to in paragraph (1) shall be effected within fifteen days.

(8) The defence counsel for the legal person subject to proceeding shall not be required to attend the interrogation as a defendant or a witness of the statutory representative of the legal person subject to proceeding.

(9) Where the statutory representative of a legal person declares, in the course of his interrogation as a suspect or a witness, that he does not intend to authorise a defence counsel, the investigating authority or the prosecution service shall appoint a defence counsel without delay. In other respects, section 387 (3) to (5) of the Code of Criminal Procedure shall apply accordingly.

(10) The provisions of section 351 of the Code of Criminal Procedure shall apply to the scope of the investigation against the legal person subject to proceeding, with the derogation that the time limit for the investigation shall be calculated from the communication of the involvement of the legal person.

**Section 12/A (1)** Where it is reasonable to assume that the termination, in accordance with section 3 (1) a), of the legal person subject to proceeding is in order, the investigating authority or the prosecution service shall, following the communication of the involvement of the legal person subject to proceeding, notify the court of registration of the legal person subject to proceeding, and also the organ supervising legality and the organ providing professional supervision as regards the legal person subject to proceeding, provided that such organs are not the same as the court of registration of the legal person subject to proceeding.

(2) The notification under paragraph (1) may be dispensed with in cases deserving special consideration.

(3) In the context of paragraph (2) particular regard shall be had to cases where it is reasonable to assume that the legal person subject to proceeding

- a) compensates for the damage caused by the criminal offence;
- b) transfers the material advantage originating from the criminal offence, or any consideration for it, to the authority;
- c) remedies the harmful consequence of the criminal offence in another manner; or
- d) introduces appropriate arrangements to ensure that the head, member or employee of the legal person does not commit a further criminal offence referred to in section 2 (1) a) and b), or that the head of the legal person takes action against a criminal offence committed by another person in a situation referred to in section 2 (1) c).

(4) The statutory representative of and the defence counsel for the legal person subject to proceeding shall be notified of a measure referred to in paragraph (1) by the investigating authority or the prosecution service, and may submit a complaint to the investigating authority or the prosecution office ordering the measure within eight days following the notification.

(5) The investigating authority or the prosecution service shall notify the court or organ notified in accordance with paragraph (1) that the measure taken on the basis of the notification referred to in paragraph (1) shall be terminated if

- a) the conditions for the notification referred to in paragraph (1) are no longer met;
- b) the proceeding against the legal person subject to proceeding is terminated.

(6) No complaint shall lie against a measure by the investigating authority or the prosecution service under paragraph (3).

**Section 12/B (1)** Within eight days after interrogating the statutory representative of a legal person as a suspect or a witness, the investigating authority shall send the case documents of the investigation to the prosecution service and, at the same time, it shall report on the state of the investigation and make a recommendation as to any procedural act considered necessary during examination or as to the conclusion of the investigation.

(2) An investigation against a legal person shall be conducted, following the communication regarding the involvement of the legal person subject to proceeding, in accordance with the rules on examination under Chapter LXI of the Code of Criminal Procedure.

(3) Where the data of the proceeding indicate that, in relation to the involvement of the legal person, any of the elements listed in section 12 (5) changed, the investigating authority or the prosecution service shall proceed to communicate the change relating to the involvement of the legal person subject to proceeding applying section 12 accordingly.

**Section 12/C** (1) In the course of an investigation, the provisions of section 100 of the Code of Criminal Procedure shall be applied continuously in a manner ensuring that the statutory representative of the legal person and the defence counsel for the legal person subject to proceeding may inspect the case documents of the proceeding in full at least one month before indictment, and may submit motions and observations.

(2) The one-month period specified in paragraph (1) may be shortened or dispensed with, subject to the consent of the statutory representative of the legal person and the defence counsel for the legal person subject to proceeding.

### **Termination and suspension of a proceeding against a legal person; separation and joining of proceedings**

**Section 12/D** (1) The investigating authority or the prosecution service shall terminate a proceeding against a legal person subject to proceeding if

- a) the data and means of evidence available indicate that the application of a measure under this Act to the legal person subject to proceeding is not permissible;
- b) the legal person subject to proceeding was terminated without succession and no fine may be imposed under section 6 (6); or
- c) another ground for terminating the proceeding exists under an Act.

(2) A proceeding against a legal person may be separated from the investigation conducted against the legal person subject to proceeding for the criminal offence on which the measure applicable under this Act is based only if

- a) the proceeding may be conducted against the legal person subject to proceeding individually, in accordance with section 3 (2); or
- b) an indictment is to be brought for the criminal offence on which the application of the measure against the legal person subject to proceeding is based, and the proceeding against the legal person would lead to an unjustified delay in bringing an indictment against the defendant.

(3) Any decision on terminating, suspending, continuing, separating or joining proceedings shall be served on also the legal person.

## Cooperation with a legal person

**Section 12/E (1)** The prosecution service and the legal person subject to proceeding may enter into an agreement before indictment if the representative of the legal person subject to proceeding admits the involvement, under section 2, of the legal person subject to proceeding in the criminal offence on which the measure applicable to the legal person under this Act is based, and undertakes to

- a) compensate for the damage caused by the criminal offence, or to transfer the advantage arising from the criminal offence to the authority;
- b) remedy the harmful consequences of the criminal offence;
- c) make arrangements to ensure that the criminal offence subject to the proceeding is not committed repeatedly;
- d) cooperate in the detection of the criminal offence and to provide the authority with all available data and means of evidence, documentary and otherwise; and
- e) transfer the amount of the fine as specified in the agreement.

(2) Where the statutory representative of the legal person subject to proceeding participates in the criminal proceeding as a defendant, the conclusion of the agreement shall be conditional upon also his confession to the commission of the criminal offence.

(3) The amount transferred in accordance with paragraph (1) e) shall be sequestered to secure the fine.

(4) Prior compliance, whether partial or full, by the legal person subject to proceeding with the conditions listed in paragraph (1) shall not preclude the conclusion of the agreement.

(5) The conclusion of the agreement may be initiated by the statutory representative of the legal person subject to proceeding, the defence counsel for the legal person subject to proceeding, or the prosecution service. With a view to entering into an agreement, the prosecution service, the statutory representative of the legal person subject to proceeding, and the defence counsel for the legal person subject to proceeding may consult each other. The prosecution service may consult the statutory representative of the legal person subject to proceeding in the absence of the defence counsel for the legal person subject to proceeding, and may also consult the defence counsel for the legal person subject to proceeding separately, subject to the consent of the statutory representative of the legal person subject to proceeding.

(6) If no agreement is concluded, the initiative and the case documents produced in that regard shall not be used as evidence or means of evidence in the criminal proceeding, and shall not constitute part of the case documents of the proceeding.

(7) The agreement shall be recorded in the minutes of the interview of the statutory representative of the legal person subject to proceeding.

(8) To conduct an interview aimed at concluding an agreement, the prosecution service may make use of the investigating authority.

(9) Where the prosecution service enters into an agreement with the legal person subject to proceeding, the prosecution service shall notify the court or the organ notified under section 12/A (1) that the measure taken on the basis of the notification is to be terminated.

(10) The court and the prosecution service shall not be bound by the agreement if

a) by the commencement of the preparatory session, the legal person subject to proceeding failed to comply with the compensation or remedial obligation undertaken in the agreement, or failed to provide an appropriate assurance for such compliance;

b) by the commencement of the preparatory session, the legal person subject to proceeding fails to implement the arrangement appropriate to prevent the commission of a further criminal offence;

c) up to the point of indictment, the legal person subject to proceeding fails to cooperate in relation to the detection of the criminal offence;

d) by the commencement of the preparatory session, the legal person subject to proceeding fails to transfer the fine amount as specified in the agreement;

e) the court refuses to accept the admission of the involvement of the legal person subject to proceeding.

#### *Indictment*

**Section 13** (1) A measure shall be applied to the legal person subject to proceeding under this Act if the prosecution service moves for, in the indictment document submitted to the court for the criminal offence on which the measure is based, the application of a measure under this Act to the legal person subject to proceeding, unless otherwise provided in this Act.

(2) The indictment document shall include the following:

a) data of the legal person subject to proceeding that are suitable for identification in the court register;

b) data of the defence counsel for the legal person subject to proceeding, and of the statutory representative and authorised representative of the legal person subject to proceeding;

c) precise description of the criminal offence subject to indictment, the facts supporting the applicability of a measure applicable to the legal person subject to proceeding, and the involvement of the legal person subject to proceeding under section 2, as well as the specification of the related means of evidence available; and

d) motion for the court to apply a measure under this Act to the legal person subject to proceeding.

(3) The prosecution service may include in the indictment document a motion in relation to measures applicable to the legal person subject to proceeding and their extent in case the statutory representative of the legal person subject to proceeding admits, at the preparatory session, the involvement of the legal person subject to proceeding in the criminal offence on which the measure applicable to the legal person subject to proceeding is based.

(4) Where the prosecution service entered into an agreement with the legal person subject to proceeding, the indictment document shall include a reference to the conclusion of the agreement, as well as the motion concerning the application and extent of measures specified in the agreement that are applicable to the legal person subject to proceeding.

(5) Where the prosecution service moves for, in the indictment document, the application of a measure to the legal person subject to proceeding, the prosecution service shall inform of the indictment the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding.

**Section 13/A** (1) Under this Act, the prosecution service may independently move for the application to the legal person of a measure applicable to the legal person subject to proceeding if

- a) a court proceeding for the criminal offence on which the application of the measure is based is pending against the legal person subject to proceeding;
- b) a final and binding decision establishing criminal liability was adopted against the legal person subject to proceeding for the commission of the criminal offence on which the application of the measure is based; or
- c) in a situation specified in this Act.

(2) An independent motion for the application of a measure to a legal person shall include the elements listed in section 13 (2) and specify the court proceeding, whether pending or completed, relating to the criminal offence specified in the motion.

(3) If paragraph (1) a) applies, the proceeding launched against the legal person subject to proceeding shall be joined to the first-instance proceeding pending for the criminal offence on which the application of the measure to the legal person subject to proceeding is based.

(4) If paragraph (1) a) applies, the court shall suspend the proceeding if a second- or third-instance proceeding is pending for the criminal offence on which the application of a measure to legal person subject to proceeding is based. In such a situation, the court shall *ex officio* order the continuation of the proceeding if, in accordance with paragraph (1) b), the proceeding may be conducted against the legal person subject to proceeding.

*Exclusion of action by a substitute private prosecuting party*

**Section 14** The rights set out in this Act of the prosecution service shall not be exercised by a substitute private prosecuting party.

### *General rules of court procedure*

#### **Section 15** (1) A judgment and a conclusive order shall include also the following:

a) in the operative part:

aa) data of the legal person subject to proceeding that are suitable for identification in the court register;

ab) measure applied to the legal person subject to proceeding and, where the relevant motion was dismissed, the application of the measure was dispensed with or, unless otherwise provided in this Act, the part of the proceeding related to the legal person was terminated, a reference to this fact;

b) in the statement reasons, the relation between the criminal offence subject to proceeding and the legal person, and the relevant circumstances, on which the decision is based, as established by the court, the description of the involvement of the legal person under section 2 and the specification of the evidence on which the court based its decision, as well as a brief reasoning as to which evidence the court accepted or rejected, and why, in determining the involvement of the legal person subject to the proceeding.

(2) The court shall, within eight days of the conclusive decision becoming final and binding, notify of the conclusion of the proceeding and any measure applied to the legal person the court of registration of the legal person, and also the organ supervising legality and the organ providing professional supervision as regards the legal person, provided that such organs are not the same as the court of registration of the legal person.

**Section 15/A** (1) The statutory representative of the legal person subject to proceeding may attend the trial; the defence counsel for the legal person subject to proceeding shall be required to attend the trial.

(2) Where the proceeding is conducted for more than one criminal offence, the defence counsel for the legal person subject to proceeding shall not be required to attend the parts of the trial that concern a criminal offence other than the criminal offence on which the measure applicable to the legal person subject to proceeding is based.

### *Termination of the proceeding*

**Section 16** (1) The court shall terminate the part of the proceeding relating to the legal person if

a) the prosecution service withdraws the motion to apply a measure to the legal person; or

b) the legal person is terminated after the indictment is brought or the motion to apply a measure applicable to a legal person is put forward by the prosecution service.

(2) The court shall proceed in accordance with paragraph (1) also if it acquits, or terminates the proceeding against, the accused with regard to whom the prosecution service moved for the application of a measure to the legal person. This provision shall not apply if the application of a measure to the legal person is in order for a ground listed in section 3 (2) f, g) or h).

(3) Even if paragraph (1) b) applies, the court shall not terminate the part of the proceeding that concerns the legal person if the fine may be imposed on the basis of section 6 (3a).

## Section 16/A

### *Preparatory session*

**Section 16/B** (1) Where the prosecution service moves, in the indictment document, for the application of a measure to the legal person subject to proceeding, the statutory representative of and the defence counsel for the legal person subject to proceeding shall be required to attend the preparatory session.

(2) In the summons to the preparatory session, the court shall advise the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding also about the following:

i) they may, at the preparatory session, state their position as regards the criminal offence on which the measure affecting the legal person subject to proceeding is based, the involvement of the legal person subject to proceeding, and the motion by the prosecution service relating to the legal person subject to proceeding; in this context, the statutory representative of the legal person subject to proceeding may admit the involvement of the legal person subject to proceeding in the criminal offence on which the measure affecting the legal person subject to proceeding is based, in a manner consistent with the indictment document;

b) where an agreement is entered into with the legal person subject to proceeding, they may make a statement regarding the content and performance of the agreement;

c) they may present the facts relating to the legal person subject to proceeding and the related evidence, and may move for taking and excluding evidence.

(3) The advisement for the statutory representative of the legal person subject to proceeding shall cover also the provisions of section 500 (2) d) of the Code of Criminal Procedure.

(4) At the preparatory session, the court shall take a statement of the statutory representative of the legal person subject to proceeding whether he admits the involvement of the legal person subject to proceeding in the criminal offence on which the measure affecting the legal person subject to proceeding is based, in a manner consistent with the indictment document.

(5) The court shall assess, on the basis of the case documents of the proceeding, whether to accept the admission of the involvement of the legal person subject to proceeding. The court shall accept the admission statement if the case documents of the proceeding support the involvement of the legal person subject to proceeding and there is no reasonable doubt as to the involvement. The court shall accept the admission of the involvement of the legal person subject to proceeding by adopting an order. No appeal shall lie against such an order.

(6) If the court accepts the admission of the involvement of the legal person subject to proceeding, it shall dispense with taking of evidence as regards the involvement of the legal person subject to proceeding, and base the establishment of the involvement of the legal person subject to proceeding on the acceptance of the admission, and the case documents of the proceeding.

(7) The statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding may, following the defence counsel, ask questions from the accused and, as regards the civil claim, the civil party.

(8) Where the court sees no obstacle to adjudicating the case against the legal person subject to proceeding at the preparatory session, the prosecutor, the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding may address the court. Subsequently, the court may adopt a conclusive decision against the legal person also at the preparatory session.

(9) The preparatory session may be held for each accused and each legal person subject to proceeding separately, even without separating the cases.

(10) The fact that the prosecution service moved, in the indictment document, for the application of a measure applicable to the legal person subject to proceeding under this Act, shall not, in itself, preclude the conclusion of the case at the preparatory session.

(11) Where the part of the proceeding aimed at the application of a measure applicable to the legal person subject to proceeding cannot be adjudicated at the preparatory session, the court shall decide on applying the measure applicable to the legal person subject to proceeding on the basis of the trial.

*Trial before the court of first instance*

**Section 17** (1) In the course of the evidentiary procedure, the defence counsel for the legal person subject to proceeding and the statutory representative of the legal person subject to proceeding may put forward motions and observations, and ask questions from the interrogated persons, following the defence counsel.

(2) Facts that are accepted as true in relation to the involvement of the legal person subject to proceeding by the prosecutor, the statutory representative of the legal person subject to proceeding, and the defence counsel for the legal person subject to proceeding jointly need not be proven.

(3) Where the prosecutor finds, on the basis of the outcome of the trial, that the conditions for a measure applicable to the legal person subject to proceeding are met in respect of another criminal offence specified in the indictment document also, he may extend the indictment accordingly. If the indictment is extended, the court may adjourn the trial for not less than eight days upon motion by the prosecutor, the statutory representative of the legal person subject to proceeding, or the defence counsel for the legal person subject to proceeding, or *ex officio*.

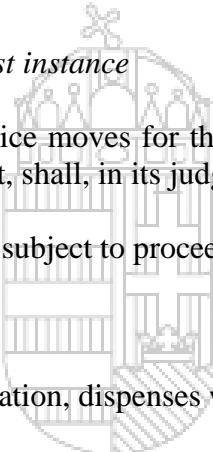
(4) Upon motion by also the defence counsel for the legal person subject to proceeding, the provisions of section 520 (1) to (7) of the Code of Criminal Procedure shall be applied accordingly following the first due date of the trial which he attended or was permitted to attend.

(5) In the closing argument, the prosecutor shall submit a reasoned motion regarding the measure to be applied by the court to the legal person subject to proceeding; however, he shall not move for a specific scope of the measure.

(6) Following the closing argument of the defence counsel, the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding may address the court and put forward motions and observations relating to the legal person subject to proceeding.

(7) Any legal remedy statement by the defence counsel for the legal person subject to proceeding and the statutory representative of the legal person subject to proceeding shall be made after the legal remedy statement of the defence counsel.

*Conclusive decision of the court of first instance*



**Section 18** (1) If the prosecution service moves for the application of a measure to the legal person subject to proceeding, the court, shall, in its judgment,

- a) apply a measure to the legal person subject to proceeding;
- b) dismiss the motion; or
- c) in a case deserving special consideration, dispenses with the application of the measure if
  - ca) it would be an unfair disadvantage for the legal person subject to proceeding, taking into account compensation for the damage caused by, or the advantage originating from, the criminal offence, the remedy of the harmful consequences of the criminal offence, and arrangements made to prevent the repeated commission of the criminal offence subject to the proceeding by the legal person subject to proceeding, as well as the cooperation of the legal person subject to proceeding in the detection of the criminal offence; or
  - cb) section 3 (6) applies.

(2) Paragraph (1) c) shall not apply to situations listed in section 4 (1) a) and b).

(3) Where the prosecution service and the legal person subject to proceeding entered into an agreement, and the court accepted the admission of the involvement of the legal person subject to proceeding, the court

- a) shall not decide to terminate the legal person subject to proceeding;
- b) shall impose a fine on the legal person subject to proceeding, as specified in the agreement;
- c) shall restrict the activities of the legal person subject to proceeding in the manner and for the period specified in the agreement.

(4) Where the court accepted the admission of the involvement of the legal person subject to proceeding by the representative of the legal person subject to proceeding,

a) it shall not impose a fine on the legal person subject to proceeding in an amount exceeding that specified in the motion by the prosecution service;

b) it shall not restrict the activities of a legal person subject to proceeding to an extent exceeding that specified in the motion by the prosecution service.

(5) Where the prosecution service and the legal person subject to proceeding entered into an agreement and the court refused to accept the admission of the involvement of the legal person subject to proceeding, but the court, on the basis of the outcome of the taking of evidence at trial, establishes the involvement of the legal person in conformity with the agreement, the court shall not apply, in the judgment, a measure that is more severe than that specified in the agreement.

#### *Bearing of criminal costs*

**Section 19** (1) If the court applied a measure to a legal person, the court shall require the legal person to bear the part of the criminal costs that arose due to having to assess in the course of the proceeding the necessity of the measure applicable to the legal person.

(2) The legal person shall not be required to bear any criminal cost that arose unnecessarily, or to the bearing of which another person is to be obliged by virtue of an Act.

(3) No postponement or instalment payment shall be granted for criminal costs owed to the State under paragraph (1).

(4) Where the court dismisses a motion for the application of a measure applicable to a legal person, dispenses with applying the measure, or terminates the part of the proceeding that is related to the legal person, the criminal costs shall be borne by the State.

(5) If the court terminated the part of the proceeding that is related to the legal person, due to the prosecution service withdrawing the motion to apply a measure applicable to the legal person, the State shall reimburse, within one month from the conclusive decision becoming final and binding, the expenses for the legal person to the extent specified by law, as well as the fees and costs of the defence counsel for the legal person subject to proceeding, where the defence counsel acts on the basis of an authorisation.

#### *Court procedure at second instance*

**Section 20** (1) An appeal against a provision of the first-instance court judgment relating to the legal person may be filed by the prosecution service, as well as the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding; the latter two may do so only in respect of the judgment provision on the measure applied to the legal person and the statement of reasons of the judgment. Only the prosecution may file an appeal to the detriment of the legal person.

(2) Where an appeal challenges only the judgment provision on the measure applied to the legal person, the court of second instance shall revise only the relevant part of the judgment.

(3)

(4) If an appeal concerns the accused of a criminal offence listed in section 2, the court shall, *ex officio*, decide on the judgment provision relating to the legal person where the accused is acquitted or the proceedings are terminated.

(5) A judgment provision dismissing a motion for the application of a measure applicable to a legal person, dispensing with the application of the measure, or terminating the part of the proceeding concerning the legal person, that was not challenged by an appeal, shall not be revised.

(6) Where the first-instance court judgment is partially groundless in relation to the legal person, the second-instance court may determine facts different from those established by the first-instance court, provided that the evidence taken supports that the motion to apply a measure to the legal person is to be dismissed, the measure applied is to be dispensed with, the part of the proceeding relating to the legal person is to be terminated, or a measure is to be applied.

(7) A court of second instance may evaluate pieces of evidence in deviation from the court of first instance only with regard to facts for which it has taken evidence itself, except where it dismisses the motion to apply a measure to the legal person, dispenses with the application of a measure, or terminates the part of the proceeding relating to the legal person, on the basis of the content of case documents affecting evidence taken by the court of first instance, or a factual conclusion.

(8) The court shall dispense with taking of evidence as regards any fact that had no impact on dismissing a motion to apply a measure to the legal person, dispensing with a measure applied, terminating the part of the proceeding relating to the legal person, or applying a measure.

(9) In a second-instance court proceeding, a measure may be applied to a legal person, a measure applied may be rendered more detrimental, and another measure may be applied in addition to that applied in the first-instance proceeding, only if the prosecution service filed an appeal to the detriment of the legal person. An appeal shall be regarded as filed to the detriment of the legal person if it is aimed at the application of a measure, or a more severe measure, to the legal person.

#### *Decisions by the court of second instance*

**Section 21** (1) If a provision of the first-instance court judgment relating to the legal person is amended, the second-instance court may, in the absence of a provision to that effect, apply a measure, apply more than one measure, apply a different measure, or dispense with the application of a measure to the legal person.

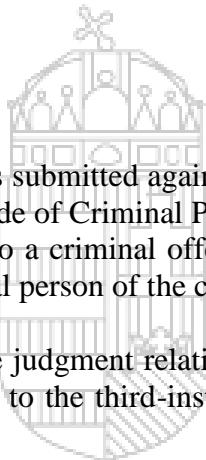
(2) The second-instance court shall set aside the judgment of the first-instance court, and terminate the part of the proceeding relating to the legal person by means of a non-conclusive order if the first-instance court applied a measure to the legal person in the absence of a motion by the prosecutor.

(3) If the second-instance court acquits the accused, with regard to whom the first-instance court applied a measure to a legal person, or sets aside the part of the first-instance judgment relevant to that accused and terminates the proceeding against him, or instructs the first-instance court to conduct a new proceeding, the second-instance court shall set aside also the provision of the judgment relating to the measure applied to the legal person and, where necessary, instruct the first-instance court to conduct a new proceeding

(4) If paragraph (3) applies, the provision of the judgment relating to the legal person shall not be set aside if the acquittal or the termination of the proceeding was based on a ground specified in section 3 (2) f) to h). In such a situation, the second-instance court shall uphold in effect or amend the provision of the first-instance court judgment relating to the legal person.

(5)

*Court procedure at third instance*



**Section 21/A** (1) Where an appeal was submitted against a second-instance court judgment in accordance with section 615 of the Code of Criminal Procedure, the third-instance court shall, if it revises also a provision relating to a criminal offence referred to in section 2, *ex officio* revise the provision relating to the legal person of the challenged second-instance judgment.

(2) A provision of the second-instance judgment relating exclusively to the legal person may be challenged by an appeal submitted to the third-instance court only if the second-instance court

a) applied a measure to a legal person, in respect of which the first-instance court dismissed a motion by the prosecution service to apply a measure, dispensed with the application of the measure, or terminated the part of the proceeding relating to the legal person;

b) dismissed a motion by the prosecution service to apply a measure, dispensed with the application of the measure, or terminated the part of the proceeding relating to the legal person, in respect of a legal person to which the first-instance court applied a measure;

c)

*Decisions by the court of third instance*

**Section 21/B** (1) If the second-instance court amends a provision of a judgment relating to a legal person, the third-instance court may, in the absence of a provision to that effect, apply a measure, apply more than one measure, apply a different measure, or dispense with the application of a measure to the legal person.

(2) If section 21 (2) applies, the third-instance court shall set aside the judgment by the first- and the second-instance courts, and terminate the part of the proceeding relating to the legal person by means of a non-conclusive order.

(3) The third-instance court shall set aside the judgment of the second-instance court and, where necessary, the first-instance court, and instruct the second-instance court or the first-instance court to conduct a new proceeding if partial groundlessness cannot be eliminated in accordance with section 619 (3) of the Code of Criminal Procedure, and it had a material effect on the judgment provision on the measure applied to the legal person.

*Repeated proceeding*

**Section 22** (1) In the absence of an appeal submitted to the detriment of the legal person, in the repeated proceeding, no measure shall be applied to the legal person if no measure was applied to it in the judgment set aside, nor shall a measure more severe than that applied in the judgment set aside, or an additional measure alongside the measure applied, be applied.

(1a) If the Constitutional Court annuls a judgment, in the repeated proceeding, no measure shall be applied to the legal person if no measure was applied to it in the judgment set aside, nor shall a measure more severe than that applied in the judgment set aside, or an additional measure alongside the measure applied, be applied.

(2) Paragraph (1) shall not apply if

- a) the first-instance court judgment was set aside for a ground referred to in section 21 (2);
- b) the second-instance court judgment was set aside for a ground referred to in section 21/B (2) or (3);
- c) on the basis of new evidence taken in the repeated proceeding, the court establishes a new fact, as a result of which a measure, a more severe measure, or an additional measure alongside the measure applied, is to be applied to the legal person, provided that the prosecution services submits a motion to that effect;
- d) the accused is to be found guilty also of another criminal offence as a result of the extension of the indictment by the prosecution service, and consequently a measure is to be applied to the legal person;
- e) the first- or the second-instance court decision was set aside in a review procedure as a result of a motion for review submitted to the detriment of the defendant, and consequently a measure is to be applied to the legal person.

*Retrial*

**Section 23** (1) In addition to the cases listed in section 637 (1) d), e), and g) of the Code of Criminal Procedure, retrial may be granted regarding a judgment provision relating to a legal person if

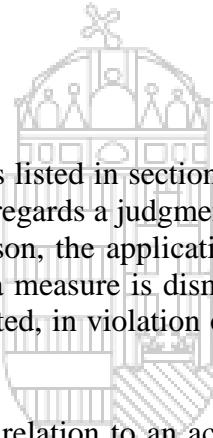
- a) new evidence is brought up regarding a fact, either covered or not covered in the main case, indicating the likelihood that
  - aa) a measure applied to a legal person is to be dispensed with, a considerably more lenient measure is to be applied, the motion by the prosecution service to apply a measure is to be dismissed, or the part of the proceeding relating to the legal person is to be terminated; or

- ab) a measure, another measure, or a considerably more severe measure is to be applied to the legal person;
- b) more than one judgment applied a measure to the legal person in relation to the act of the same defendant;
- c) in the conclusive decision, the legal person is referred to using data other than the true data recorded in the court register, and the situation cannot be remedied by rectifying the decision.

(2) Where retrial is granted in relation to an accused with regard to whom a measure was applied to the legal person, ordering retrial shall also affect the judgment provision relating to the legal person. Where the court finds the retrial well-grounded, and adopts a new judgment, the provisions of section 3 shall apply to also the new judgment.

(3) A motion for retrial as regards a judgment provision that affects exclusively the legal person shall be submitted by the prosecution service, the statutory representative of the legal person subject to proceeding, or the defence counsel for the legal person subject to proceeding.

#### *Review*



**Section 24** (1) In addition to the cases listed in section 649 (2) to (5) of the Code of Criminal Procedure, review may be granted as regards a judgment provision relating to a legal person if a measure is applied to the legal person, the application of a measure to the legal person is dispensed with, the motion to apply a measure is dismissed, or the part of the proceeding in relating to the legal person is terminated, in violation of the rules of substantive criminal law or the rules laid down in this Act.

(2) Where review may be granted in relation to an accused with regard to whom a measure was applied to the legal person, the revision shall also cover the judgment provision relating to the legal person. The provisions of section 3 shall apply to also a review proceeding and a decision adopted in a repeated procedure.

(3) A motion for review as regards a judgment provision that affects exclusively the legal person shall be submitted by the prosecution service, within six months if it seeks the application of a measure to the legal person, by the statutory representative of the legal person subject to proceeding, or by the defence counsel for the legal person subject to proceeding.

(4) The Curia shall set aside a provision of the challenged decision that relates to the legal person, and order the court that proceeded previously to conduct a new proceeding if

- a) the first- or the second-instance court adopted its conclusive decision in a manner referred to in paragraph (1);
- b) the third-instance court adopted its conclusive decision in violation of procedural rules as described in paragraph (1);
- c) it adopted a setting-aside provision as regards an accused with regard to whom a measure was applied to the legal person, in accordance with paragraph (2).

(5) A decision in compliance with legal requirements may be adopted also by the Curia where the measure applied to the legal person is to be dispensed with, the motion to apply a measure is to be dismissed, or the part of the proceeding that relates to the legal person is to be terminated.

(6) If paragraph (4) c) applies, the judgment provision relating to the legal person need not be set aside if, in accordance with paragraph (5) or section 662 (2) of the Code of Criminal Procedure, the Curia itself adopts a decision in compliance with legal requirements.

(7) Review shall not be granted for a violation of a rule of substantive criminal law as regards a provision relating to the legal person of the final and binding conclusive decision adopted by the third-instance court.

*Legal remedy submitted on the ground of legality, procedure for the uniformity of jurisprudence*

**Section 25** (1) Where the Prosecutor General submits an application for legal remedy on the ground of legality in relation to an accused with regard to whom a measure was applied to a legal person, the legal remedy proceeding shall cover also the judgment provisions relating to the legal person. The provisions of section 3 shall, however, apply to also a decision adopted on the basis of an application for legal remedy submitted on the ground of legality.

(2) If a violation of an Act is established, the Curia may dispense with a measure applied to a legal person, terminate the part of the proceeding that relates to the legal person, or set aside the challenged decision and, where necessary, instruct the court that proceeded in the case to conduct a new proceeding, with a view to the adoption of a decision to that effect.

(3) In a situation other than those specified in paragraph (2), the decision by the Curia may only establish the fact that a violation was committed.

(4) Where, following a guidance on a question of principle, the measure applied to a legal person in a final and binding court decision affected by a uniformity decision is unlawful, the uniformity chamber shall set aside the unlawful provision, and dispense with the measure applied to the legal person, or terminate the part of the proceeding that relates to the legal person.

*Immediate summary procedure*

**Section 25/A** The prosecutor may not bring the accused before the court in accordance with immediate summary procedure where, based on the evidence available, data indicate that the application of a measure to a legal person may be in order in the criminal proceeding.

**Section 25/B**

*Agreement procedure*

**Section 25/C**

### *Procedure for passing a punishment order*

**Section 25/D** (1) Where, on the basis of evidence available, data indicate that applying a measure to a legal person may be in order in the criminal proceeding, the prosecution service may move for the application of the measure also in a proceeding for passing a punishment order, provided that the assessment of the part of the proceeding that is related to the legal person is also simple.

(2) In the punishment order, the court may also provide for measures applicable to a legal person.

(3) The operative part of a punishment order shall include appropriate advisement about the provisions of sections 742 and 744 of the Code of Criminal Procedure for the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding.

(4) Within eight days from the service of the punishment order, both the statutory representative of the legal person subject to proceeding and the defence counsel for the legal person subject to proceeding may request a trial to be held, with reference to the provision on the legal person or the statement of reasons for that provision.

(5) The provisions of Chapter C of the Code of Criminal Procedure shall apply accordingly to a preparatory session and a trial, subject to the derogations laid down in paragraphs (6) and (7).

(6) Where a motion for holding a trial challenges exclusively a provision of a punishment order relating to a measure applied to a legal person, the court shall decide on that matter only.

(7) In the absence of a motion filed to the detriment of the legal person, the court may apply a more severe measure only if new evidence arises at trial and, on the basis of that evidence, the court establishes a new fact in light of which the act is to be classified as one of greater gravity, or a considerably more severe measure is to be applied.

(8)

**HUNGARY**

*The tasks of the court in the enforcement of decisions*

**Section 26** (1) In cases of the declaration of termination or the restriction of activities, the court shall put forward a request to the court of registration of the legal person to enforce the measure applied to the legal person.

(2) If a legal person is terminated, the court of registration shall proceed in accordance with the rules on declaration of termination and dissolution set out in specific Acts on certain legal persons.

(3) The rule on liability under the Civil Code for acquisition of ownership by the State by authority decision without recompense shall also apply to forfeiture of assets enforced as regards the assets of a legal person.

(4)

(5)

(6) Where the subject of sequestration was replaced by a specific amount, the transfer to the account of the legal person, with notification to the liquidator appointed in the liquidation proceeding ordered against the legal person, of the amounts remaining, after the enforcement of the fine, on the separate account, used for the receipt and administration of amounts paid as a result of compulsion for enforcement, at the national tax and customs authority, shall be provided for upon the termination of the proceeding or in the conclusive decision.

*Procedure in case of suspension or termination of a criminal proceeding*

**Section 26/A** (1) The provisions of this Act shall apply subject to the derogations set out in this subtitle, if a measure is to be applied to a legal person, but

- a) no investigation was instituted;
- b) a criminal proceeding was suspended, because
  - ba) the identity of the perpetrator could not be determined during the investigation;
  - bb) the perpetrator cannot participate in the proceeding due to his permanent and serious illness or a mental disorder that occurred after the commission of the criminal offence;
  - bc) the perpetrator is staying at an unknown location or in another country; or
- c) the criminal proceeding was terminated or the defendant was acquitted because
  - ca) the criminal offence was committed by a person other than the defendant;
  - cb) it cannot be established on the basis of available data or means of evidence that the criminal offence was committed by the defendant.

(2) If the conditions listed in paragraph (1) are met, the prosecution service or the investigating authority may order an investigation in relation to the legal person to ascertain whether the conditions for applying a measure are met. The investigation shall be conducted by the investigating authority with subject-matter and territorial competence over conducting the investigation for the criminal offence on which the measure applicable to the legal person is based.

(3) In an investigation under paragraph (1), the following may be ordered, in accordance with the provisions of this Act:

- a) data acquisition activities;
- b) obtaining means of evidence, and performing evidentiary acts;
- c) coercive measures other than coercive measures affecting personal freedom.

(4) If the whereabouts of the statutory representative of the legal person are unknown, a guardian *ad litem* shall be appointed for the legal person subject to proceeding.

**Section 26/B** Where data and means of evidence available indicate that measures are to be applied to a legal person, the prosecution service shall individually move for the application to the legal person of a measure applicable to the legal person subject to proceeding. The subsequent proceeding shall be conducted in line with the general rules.

### *Chapter III*

#### *FINAL PROVISIONS*

**Section 27** (1) Should this Act be amended, the provisions of the amending Act shall apply also to criminal proceedings pending at the time of its entry into force, subject to the derogations laid down in this section.

(2) Should the provisions of this Act relating to measures applicable to a legal person be amended, the provisions of the amending Act relating to measures applicable to a legal person shall apply only if, under the amending Act, a more lenient measure is applied to the legal person.

(3) The court that had subject-matter and territorial jurisdiction under the rules of this Act as in force before the entry into force of Act XLIX of 2025 amending justice-related Acts shall proceed in a case received by the court before the entry into force of the amending Act.

(4) A procedural act that was carried out in accordance with the regulations of this Act as in force before the entry into force of the amending Act shall remain valid, even if regulated differently by the amending Act

(5) The official appointment or authorisation of an attorney-at-law acting on behalf of the legal person shall not cease to have effect even after the entry into force of Act XLIX of 2025 amending justice-related Acts; following the entry into force of Act XLIX of 2025 amending justice-related Acts, the rules on the defence counsel for the legal person subject to proceeding shall apply accordingly to an attorney-at-law acting on behalf of the legal person.

(6) Where, on the basis of data and means of evidence available, it is reasonable to assume that a measure applicable to a legal person is to be applied in relation to a criminal offence subject to the proceeding, and the measure was not applied before the entry into force of Act XLIX of 2025 amending justice-related Acts, the investigating authority or the prosecution service shall, in writing or orally, communicate to the statutory representative of the legal person subject to proceeding the facts of the case, and the classification under the Criminal Code, of the criminal offence on which the measure applicable to a legal person is based, the facts relating to the involvement, as defined in section 2, of the legal person, and the provision or provisions of section 2 based on which the legal person is involved in the commission of the criminal offence.

(7) Where the court of registration of the legal person subject to proceeding and the organ supervising legality, and the organ providing professional supervision, of the legal person subject to proceeding were already notified before the entry into force of Act XLIX of 2025 amending justice-related Acts, the investigating authority or the prosecution service, before indictment, or the court, following indictment, shall review, within three months following the entry into force of Act XLIX of 2025 amending justice-related Acts, whether notification in accordance with the provisions of Act XLIX of 2025 amending justice-related Act is required, and where the conditions for notification are not met, shall, without delay, arrange for the termination of the measure taken on the basis of the notification.

**Section 28** This Act shall enter into force on the day of entry into force of the Act promulgating the international treaty on the accession of the Republic of Hungary to the European Union.

**Section 29** Within the scope of the Europe Agreement establishing an association between the Republic of Hungary, of the one part, and the European Communities and their Member States, of the other part, signed in Brussels on 16 December 1991, and in accordance with section 3 of Act I of 1994 promulgating the Agreement, this Act contains provisions compatible with the following sources of European Union law:

- a) Joint Action of 24 February 1997 adopted by the Council concerning action to combat trafficking in human beings and sexual exploitation of children [Title II A (c)];
- b) Joint action of 21 December 1998 adopted by the Council on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union (Article 3);
- c) Joint Action of 22 December 1998 adopted by the Council on corruption in the private sector (5 to 6);
- d) Council framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (Articles 8 to 9);
- e) Second Protocol to the Convention on the protection of the European Communities' financial interests (Articles 3 to 4).

**Section 30** This Act serves the purpose of compliance with Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673.