



Criminal liability of legal persons in Mongolia

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Criminal Code of Mongolia (enacted on July 1, 2017)

GENERAL PART

Chapter 9. **Criminal Liability of Legal Persons**

Article 9.1. Grounds for imposing criminal liability on legal persons

1. A legal entity is subject to criminal penalty if an **official authorized to represent** the legal entity, unilaterally or jointly, through acts or omissions, in the interest of the legal entity, committed an offence specified in the Special Part of this Code for the commission of which criminal responsibility of legal entities is envisaged.
2. A person authorized to make a decision on behalf of a legal entity shall be subject to criminal liability if he or she, by himself or herself, or through guiding others, commits an offence established in this Code through acts committed in the interests of the legal entity.
3. Imposition of criminal liability on a legal person shall not be grounds for exemption of criminal liability against the authorized person of the legal person who made the decision or gave permission for the commission of the offence.



Criminal Sanctions on Legal Persons

Article 9.2. Types of criminal liability to be imposed on legal persons:

1.1. A fine; (around USD 3500 –USD 140,000)

2. If the court deems necessary, it may apply the following coercive measures in addition to the sentence imposed on the legal entity that committed the crime:

2.1. Revoking rights (licenses);

2.2. Liquidation measures;

2.3. Confiscation of assets and income.

Article 9.7. Criminal liability of a legal entity shall be unavoidable.



Types of crimes by legal persons

SPECIAL PART

Article 18.1 Illegal use of monopoly and dominant position in the market

Article 18.2 Influence on national currency or foreign currency rate

Article 18.3 Tax evasion

Article 18.5 Smuggling goods across the state border

Article 18.6 Money laundering

Article 18.7 Production and use of counterfeit banknote, security or settlement document

Article 18.8 Illegal use of internal information of securities market for commercial purposes

Article 18.9 Misuse of securities market

Article 20.7. Illegal use of narcotic drugs and psychotropic substances



Types of crimes by legal persons (continued)

Article 20.11. Disposal of dangerous waste or toxic and hazardous chemicals

Article 20.13. Commissioning of under-quality buildings

Article 22.5. Giving a bribe

Article 24.1. Environmental pollution

Article 24.2. Illegal exploration, exploitation and extraction of minerals

Article 24.3. Illegal circulation of toxic and hazardous chemicals

Article 27.9. Violation of safety procedures on road and facility usage and maintenance

Article 29.8 Committing terrorism

Article 29.10 Financing terrorism etc.



STATISTICS

Since the adoption of the Criminal Code on July 1, 2017:

- Criminal case: 31 (Police Authority, Independent Authority Against Corruption)
- Prosecuted: 10 (Environmental and Corruption crimes)



Case Study

- In 2019, a **CEO** of a **Bank** offered a bribe to a **Public Servant/Official** requesting *an increase in the amount of funds of the National Health Insurance to be deposited in his bank.*
- The public servant/official accepted the bribe which equals to around USD 30,000 in exchange of increasing the amount of fund to be deposited in the bank.
- A total deposited amount: approximately USD 2.8 million

Company Law of Mongolia (adopted on October 6, 2011)

Article. 84.1 A person who participate directly or indirectly in the process of making official decisions of a company or concluding transactions or agreements such as members of a Board of Directors and executive management team of a company, the executive director, chief financial officer, general accountant, general specialists and secretariat of Board of Directors shall be deemed to be governing persons of the company.

Charges



CEO OF THE BANK

Criminal code. Article 22.5. Giving bribe.

1. Any acts done for the purpose of acquiring privileges or otherwise favourable position through transferring, promising or offering to transfer tangible and intangible assets and ownership rights thereof, or through providing service on a discount or free of charge to government officials or persons who has duties under law, administrative legal acts and agreements in relation to their duties, powers and positions, shall be punishable of fine of 2700 to 14000 units equal to tugrugs with deprivation of right to hold public office for a period of 2 to 5 years or restriction of travel from 6 months to 3 years or imprisonment for a period of 6 months to 3 years.

THE BANK (legal person)

3. If this crime is committed in the interest of or on behalf of a legal person, the legal person's right to conduct certain types of operation shall be dismissed and be fined in the amount of 20000 - 400000 units equal to tugrugs.

THE PUBLIC SERVANT

Criminal Code. Article 22.4. Receiving bribe

5. If the crimes specified in Article 2 of this section is committed by politically exposed person or a syndicated criminal organisation by way of creating impediments shall be punishable of fine of 10000 to 40000 units equal to tugrugs with deprivation of right to hold public office for up to 8 years or be imprisoned for a period of two to eight years.



Court decision (2020)

CEO OF THE BANK

Fine: 7,000 units. Deprivation of right to hold public office for 2 years

THE BANK (legal person)

Return the total deposited amount USD 2.8 million to the state fund

Fine: 125,000 units. Dismissed its right to deposit the funds of National Health Insurance and Social Insurance for the period of three years.

THE PUBLIC SERVANT

Return the bribe of \$30,000 to state budget

Fine: 30,000 units, Deprivation of right to hold public office for 2 years



Thank you for your attention!

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