

## Question 14.c.

### Section 8 – Criminal Liability of a Legal Person

(1) Criminal act committed by a legal person is an unlawful act in its interest or within its activity, if committed by

- a) statutory body or member of the statutory body or other person in a leading position of the legal person entitled to act on behalf of or for the legal person,
- b) a person in a leading position of the legal person performing managerial or controlling activity within the legal person, even if he/she is not a person as mentioned in Letter a),
- c) a person with a decisive authority on management of this legal person, if his/her act was at least one of the conditions leading to a consequence establishing criminal liability of a legal person, or
- d) employee or a person with similar status (thereinafter “employee”) while fulfilling his/her duties/tasks, even if he/she is not a person as mentioned in Letters a) to c),

given that the act can be attributed to the legal person in accordance with Paragraph 2.

(2) Commitment of a criminal act as specified in Section 7 can be attributed to a legal person, if committed by

- a) action of bodies of the legal person or persons mentioned in Paragraph 1 letters a) to c), or
- b) an employee mentioned in Paragraph 1 Letter d) on the grounds of a decision, approval or guidance of bodies of the legal person or persons mentioned in Paragraph 1 Letters a) to c), or because the bodies of the legal person or persons mentioned in Paragraph 1 Letters a) to c) did not take measures required by other legal regulation or that can be justly required, namely that they did not perform obligatory or necessary control (supervision) over the activities of employees or other persons, they are superiors to, or they did not take necessary measures to prevent or stave off the consequences of a committed criminal act.

(3) Criminal liability of a legal person is not obstructed by the fact that a concrete natural person who has acted in a way specified in Paragraphs 1 and 2 cannot be identified.

(4) Provisions of Paragraphs 1 and 2 will apply also if

- a) the activity specified in Paragraphs 1 and 2 took place prior to establishing the legal person,
- b) the legal person has been established but the court decided on nullity of the legal person,
- c) the legal act establishing authorisation for action on the legal persons behalf is invalid or ineffective, or
- d) the acting natural person is not (held) criminally liable for such criminal act.

(5) If a legal person has made all effort that can be justly required to prevent the commitment of an unlawful act by persons specified in Paragraph 1, such a legal person shall be exempt a criminal liability under Paragraphs 1 to 4.