

Issuance of a Ruling on Criminal Liability of Legal Entities.

On February 21, 2025, the Federal Judicial Weekly issued a ruling concerning the criminal liability of legal entities in Mexico. The opinion, recorded under digital registration number 2029987 and arising from the amparo en revisión¹ 318/2023 before the Second Collegiate Tribunal in Criminal Matters in the State of Mexico, is entitled: **“Criminal liability of legal entities. Requirements for adequate justification in accordance with Article 11 bis of the Criminal Code of the State of Mexico.”**

The underlying facts concern to an instance of illegal dispossession that occurred in July 2017 in Valle de Bravo, State of Mexico. The aggrieved party, Mr. Rodolfo, claimed that he acquired a parcel of land on the outskirts of Avándaro in 1996 and had maintained continuous use thereof—renting it between 2016 and 2017. According to Mr. Rodolfo, upon returning to the property in July 2023, he discovered that approximately sixty individuals were building a wall and had removed all of his belongings from inside his property after forcibly breaching the access barrier.

Apparently, a corporation—referred to as a paper company—claimed the ownership of the property and asserted to have authorization from the municipal council to perform fencing and maintenance work. Mr. Rodolfo filed a complaint with the Attorney General’s Office, and in 2023, the company was formally charged through its legal representative for its alleged involvement in the crime of illegal dispossession, characterized as the occupation of its own property to the detriment of a third party with lawful possession.

Challenging the indictment via amparo: The company filed an amparo before the Fifth District Court of the State of Mexico, which was granted on the basis of deficiencies regarding the observance of the principle of oral argument. The court held that the Attorney General’s Office had read its arguments and evidence during the hearing, rather than presenting them orally. As a result, the ruling mandated a new initial hearing in which the principle of oral presentation was observed.

Appeal before the Collegiate Tribunal: The company subsequently filed an appeal, prompting the Collegiate Tribunal to assess issues concerning the attribution of criminal liability to a legal entity. The Collegiate Tribunal identified four key factors that must be considered to comply with the requirement of adequate justification when evaluating criminal acts committed by companies:

1. The nature of the offense and its compatibility with the corporation’s operational functions.
2. The fact that the conduct of any administrator or representative is not automatically attributable to the company in criminal matters.
3. The requirement that the perpetrator’s conduct must be committed with the intention of profiting from, benefiting, or acting on behalf of the company, as defined by criminal law.
4. Verification of the specific authority of those acting on behalf of, or in the administration of, the corporation to attribute their actions to the company.

1. In Mexico’s legal system, an “amparo en revisión” is a stage in the constitutional trial where a higher court reviews a prior amparo decision. The amparo remedy itself is designed to safeguard individuals from actions by public authorities that violate their constitutional rights. During the “revisión” phase, the reviewing court reexamines the decision of a lower court to ensure that the constitutional guarantees have been properly applied and that no legal errors were made.

Key Findings: Based on the four factors described above, the Collegiate Tribunal concluded that the pre-trial judge had failed to adequately justify the criminal liability of the company for the alleged illegal dispossession. Specifically, the Collegiate Tribunal noted an absence of arguments addressing (i) how the people who carried out the dispossession did so for the benefit of, or on behalf of, the company, (ii) the manner in which these people were connected to the company, (iii) whether the perpetrators were aware that their actions were intended to benefit the company, and (iv) whether they were acting within the scope of the authority conferred upon them by the corporation. Consequently, the Tribunal granted the amparo, directing that the trial court address these deficiencies in a new initial hearing.

Conclusion: This ruling is fundamental in understanding the application of criminal liability to legal entities in Mexico and provides a framework for addressing similar cases in the future.

It should be noted that the ruling pertains solely to the Penal Code of the State of Mexico and does not address the requirements of due organizational control established by the National Code of Criminal Procedure. Unfortunately, the Tribunal did not provide an explanation for the omission of an analysis of these requirements. We infer that the court's methodology requires first meeting the four outlined factors before subsequently evaluating the existence of adequate organizational controls.

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