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**Argentine Statute on**

**Criminal Liability of Legal Persons for Corruption Offenses**

*The Senate and Chamber of Deputies of the Argentine Nation gathered in Congress, sanction with force of law.*

Article 1º.- Purpose and scope. The present law establishes the criminal liability regime applicable to private legal persons, whether of national or foreign capital, with or without State ownership, for the following offenses:

a) Bribery and peddling in influence, national or transnational, established in articles 258 and 258 bis of the Criminal Code;

b) Negotiations that are incompatible with the exercise of public functions, established in article 265 of the Criminal Code;

c) Illegal exactions established in article 268 of the Criminal Code;

d) Illicit enrichment of public officials and employees, established in articles 268 (1) and (2) of the Criminal Code;

e) Aggravated false account balance sheets and reports, established in article 300 bis of the Criminal Code.

Art. 2º.- Responsibility of the legal person. Legal persons are liable for the offenses established in the preceding article which have been directly or indirectly committed with its intervention or in its behalf, interest or benefit.

They are also responsible if the person acting in the benefit or interest of the legal person is a third party lacking attributions to act on behalf of it, provided that the legal entity had ratified the act, even if the ratification was tacit.

The legal person will be exempt from liability only if the physical person who committed the offense was acting in its own benefit and its act did not generate any advantage to the legal person.
Art. 3º.- Successor liability. In case of conversion, merger, acquisition, split or any other corporate transformation, the liability of the legal person shall be transferred to the resulting or absorbent legal person.

The legal person remains liable also when, in a concealed or merely apparent manner, it continues its economic activity and maintains the substantial identity of its customers, suppliers and employees, or of the most relevant part of all of them.

Art. 4º.- Termination of the criminal action. The criminal action against the legal person shall only terminate by the grounds enumerated in articles 59 (2) and (3) of the Criminal Code.

The termination of the criminal action against the individuals who committed or participated in the commission of an offense shall not affect the validity of the criminal action against the legal person.

Art. 5º.- Statute of limitations. The limitation period for bringing a criminal action against the legal person prescribes after six (6) years from the time the crime was committed.

For this purpose, the rules of suspension and interruption of the criminal action provided for in the Penal Code shall apply.

Art. 6º.- Independent actions. The legal person may be sentenced even where it is not possible to identify or prosecute the individuals involved, provided that the circumstances of the case allow the establishment that the offense could not be committed without the tolerance of the bodies of the legal person.

Art. 7º.- Sanctions. The sanctions applicable to the legal persons are the following:

1. Fine of two (2) to five (5) times of the undue benefit obtained or that could have been obtained;
2. Partial or total suspension of the activities, which in no case shall exceed ten (10) years;
3. Suspension to participate in public tenders or bidding processes or any other State-related activities, which in no case shall exceed ten (10) years;
4. Dissolution and liquidation of the legal person when it was created for the sole purpose of committing the offense, or such acts constitute the main activity of the entity;

5. Loss or suspension of any State benefit that it may have;

6. Publication of an extract of the condemnatory sentence at the expense of the legal entity.

Art. 8º.- Quantification of the penalty. In order to calibrate the sanctions provided in article 7º of this law, the Court will take into account the failure to comply with internal rules and procedures; the amount and hierarchy of officials, employees and collaborators involved in the offense; the omission of vigilance over the activity of the authors and participants; the extent of the damage caused, the amount of money involved in the commission of the offense, the size, nature and economic capacity of the legal entity; the spontaneous reporting to the authorities by the legal entity as a result of an internal detection or investigation activity; its subsequent behavior; the disposition to mitigate or repair the damage, and recidivism.

It will be understood that there is recidivism when the legal entity is sanctioned for an offense committed within three (3) years following the date of the final judgment of a previous conviction.

In the cases in which it is essential to maintain the operational continuity of the entity, or of a work, or of a particular service, the sanctions provided in articles 7 (2) and (4), of this law will not be applicable.

The Court may order the payment of the fine in a fractioned form for a period of up to five (5) years when its amount and single-payment compliance jeopardize the survival of the legal person or the maintenance of jobs.

The provisions of article 64 of the Criminal Code shall not apply to legal persons.

Art. 9º.- Exemption from punishment. The legal person will be exempt from punishment and administrative responsibility when the following circumstances concur simultaneously:
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a) Spontaneously has denounced an offense provided for in this law as a result of an internal detection and investigation activity;

b) Would have implemented an adequate control and supervision system under the terms of articles 22 and 23 of this law, prior to the fact of the process, the violation of which would have required an effort from the parties involved in the commission of the offense; and

c) Would have returned the undue benefit obtained.

Art. 10º.- Confiscation. In all the cases provided in this law, the rules of the Criminal Code regarding confiscation will be applicable.

Art. 11º.- Procedural status of legal persons. Legal persons shall have the rights and obligations prescribed for an accused individual pursuant to the applicable provisions of the procedural codes, to the extent that they are applicable.

Art. 12º.- Notices. If the legal person has not appeared in the proceedings, notices shall be sent to its legal domicile, which will be deemed to be its valid address for the purposes of the proceedings. Notwithstanding this, notices may be sent to any other known address.

Art. 13º.- Representation. Legal persons shall be represented by their legal representative or by any other individual holding a special power of attorney for such purpose compliant with all formalities relevant to the type of entity; in any case, they shall appoint a defense attorney. Upon failure to do so, a public defender shall be appointed, which shall be the public defender on duty at the time of the appointment.

The representative shall inform the entity’s address and establish an address for notification purposes on the first submission. Thereafter, notices addressed to the legal person shall be sent to that address.

Legal persons may replace their representative at any time throughout the proceedings. If replacement occurs after commencement of the oral trial, the legal person shall provide grounds for such replacement, and may interrupt the process within the limit of the corresponding procedural deadlines.
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The replacement shall not affect the validity of the acts performed by the previous representative.

The faculties, number and intervention of the defenders that assist it will be governed by the corresponding procedural provisions.

Art. 14º.- Default. Should the legal person fail to enter an appearance, it shall be declared to be in default by the judge, at the request of the prosecutor.

The judge that declares the default shall inform the GENERAL INSPECTION OF JUSTICE or the equivalent entity in local jurisdictions, and the FEDERAL ADMINISTRATION OF PUBLIC INCOME, and the NATIONAL REGISTER OF RECIDIVISM, to its effects.

In addition, it must immediately decide all the necessary precautionary measures to ensure the timely continuation and purpose of the process, in accordance with the last paragraph of article 23 of the Criminal Code.

Art. 15º.- Conflict of interests. Abandonment of representation. If a conflict of interest between the legal person and the person appointed as its representative is detected, the entity will be demanded to replace its representative.

Art. 16º.- Effective collaboration agreement. The PUBLIC PROSECUTOR’S OFFICE and the legal entity may enter into an effective collaboration agreement, whereby the latter undertakes to cooperate through the disclosure of information or accurate, useful and verifiable data for the elucidation of the facts, the identification of its authors or participants or the recovery of the product or the profits of the crime, as well as through the fulfillment of the conditions established by virtue of the provisions of article 18 of this law.

The collaboration agreement can be held until the summons to trial.

Art. 17º.- Confidentiality of the negotiation. The negotiation between the legal person and the PUBLIC PROSECUTOR’S OFFICE, as well as the information exchanged in the context of the negotiation until the approval of the agreement, shall be classified as strictly confidential. The release of such information may be subject to the provisions
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of Chapter III - Breach of secrecy and privacy, Title IV of Volume Two of the Argentine Criminal Code.

Art. 18º.- Content of the agreement. The agreement shall identify the type of information, data or evidence to be provided by the legal person to the PUBLIC PROSECUTOR'S OFFICE, under the following conditions:

a) Paying a fine equivalent to half of the minimum established in article 7 (1) of this law;
b) Restituting the things or profits that are the product or the benefit of the crime; and
c) Abandoning in favor of the State the property that would presumably be confiscated in the event of a conviction;

Besides, the following conditions may be established as well, without prejudice to others which may be agreed according to the circumstances of the case:

d) Performing the necessary actions to repair the damage caused;
e) Providing a certain service in favor of the community;
f) Applying disciplinary measures against those who have participated in the crime;
g) Implementing an integrity program in the terms of articles 22 and 23 of this law or make improvements or modifications to a pre-existing program.

Art. 19º.- Form and judicial control of the collaboration agreement. The agreement must be in writing. It will bear the signature of the legal representative of the legal entity, its defense counsel and the representative of the PUBLIC PROSECUTOR'S OFFICE, and it will be submitted before the judge, who will assess the lawfulness of the agreed-upon terms and cooperation before deciding on its approval or rejection.

Art. 20º.- Rejection of the collaboration agreement. If the effective collaboration agreement is not reached or is rejected by the court, the information and the evidence submitted by the legal entity during the negotiations will be returned or destroyed and may not be used for the allocation of liability to the legal person, except where the PUBLIC PROSECUTOR'S OFFICE had known them independently or could have obtained
them on the grounds of a course of investigation already existing in the proceedings before the agreement.

Art. 21º.- Monitoring compliance with the effective collaboration agreement. Within a period not exceeding one (1) year, the PUBLIC PROSECUTOR'S OFFICE or the judge will corroborate the verisimilitude and usefulness of the information provided by the legal entity in compliance with the effective collaboration agreement.

If the verisimilitude and usefulness of the information provided is corroborated, the judgment must respect the conditions established in the agreement, and no other penalties may be imposed.

Otherwise, the judge will declare the agreement void and the process will continue according to the general rules.

Art. 22º.- Integrity Program. The legal persons included in the present regime may implement integrity programs, consisting of a set of internal actions, mechanisms and procedures for the promotion of integrity, supervision and control, aimed at preventing, detecting and correcting irregularities and unlawful acts included in this law.

The required integrity program must be related to the risks inherent to the activity carried out by the legal person, its size and economic capacity, in accordance with what the regulation establishes.

Art. 23º.- Content of the Integrity Program. The Integrity Program shall contain, in accordance with the guidelines established in the second paragraph of the preceding article, at least the following elements:

a) A code of ethics or conduct, or the existence of integrity policies and procedures that apply to all directors, managers and employees, irrespective of their position or functions, for the purpose of guiding the planning and fulfillment of their tasks or duties in such a way as to prevent the commission of the offenses described in this Law;
b) Specific rules and procedures to prevent unlawful acts in bidding processes, during the implementation of administrative contracts, or in any other interaction with the public sector;

c) The realization of regular training sessions on the integrity program for directors, managers, and employees.

It may also contain the following elements:

I. A periodic analysis of risk and the subsequent adaptation of the integrity program;

II. Visible and unequivocal support for the integrity program by top managers and directors;

III. Internal channels to report irregularities, open to third parties and appropriately disclosed;

IV. A policy for the protection of whistleblowers against retaliation;

V. An internal investigation system that respects the rights of the persons under investigation and imposes effective sanctions for violations against the code of conduct;

VI. Procedures to verify the integrity and track record of third parties or business partners, including suppliers, distributors, service providers, agents and intermediaries, at the time of engaging their services during the business relationship;

VII. Due diligence during company transformation processes and acquisitions, in order to monitor irregularities, unlawful acts or the existence of vulnerabilities in the legal entities involved;

VIII. Continuous monitoring and assessment of the effectiveness of the integrity program;

IX. An internal officer responsible for the development, coordination and monitoring of the integrity program;

X. The fulfillment of the regulatory requirements that on these programs dictate the respective authorities of the national, provincial, municipal or communal police power governing the activity of the legal person.
Art. 24º.- Contracting with the National State. The existence of an adequate integrity program in accordance with articles 22 and 23 will be a necessary condition to contract with the National State, within the framework of the contracts that:

a) According to the regulations in force, because of their amount, must be approved by a competent authority with a rank not inferior to Minister; and

b) are included in article 4 of Delegated Decree No. 1023/01 and/or governed by laws 13.064, 17.520, 27.328 and public service concession or license contracts.

Art. 25º.- National Register of Recidivism. The National Registry of Recidivism, under the Ministry of Justice and Human Rights of the Nation, will register the sentences that fall for the crimes foreseen in this law.

Art. 26º.- Jurisdiction. The competent judge to understand in the application of penalties to legal persons will be the one competent to understand in the offense for the commission of which the human person is imputable.

Art. 27º.- Complementary application. This Law complements the Argentine Criminal Code.

Art. 28º.- Supplementary application. In the cases of national and federal jurisdiction reached by this Law, the Argentine Criminal Procedural Code shall apply in a supplementary manner.

The provinces and the Autonomous City of Buenos Aires are invited to adequate their legislations to the guidelines of this law.

Art. 29º.- ARTICLE 1° of the Argentine Criminal Code is hereby replaced as follows:

“ARTICLE 1.- This Code shall apply to:

1.- Offences committed or the consequences of which take place in the territory of the ARGENTINE REPUBLIC, or in places under its jurisdiction;

2.- Offences committed abroad by representatives or employees of Argentine authorities in the exercise of their duties.
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3.- The offence provided in ARTICLE 258 bis that is committed abroad by Argentine citizens residing or legal entities with registered offices in the ARGENTINE REPUBLIC, including both the address established in their Articles of Incorporation and that of their establishments or branches in the Argentine territory.”

Art. 30º.- ARTICLE 258 bis of the Argentine Criminal Code is hereby replaced as follows:

“ARTICLE 258 bis.- It shall be punished with a prison term from one to six years and perpetual special debarment for the exercise of public functions the person who, directly or indirectly, offers, promise or gives, unlawfully, to a public official of a foreign State or of a public international organization, whether in their own benefit or that of a third party, a monetary sum or any other object of monetary value or other compensations such as gratuities, favors, promises or advantages, in exchange for the public official to do or abstain from doing an act related to the exercise of their public functions, or to assert the influence derived from their position, in a matter related to a transaction of an economic, financial or commercial nature.

A public official of a foreign State, or of any territorial entity recognized by the Argentine Republic, shall be defined as any person who has been designated or elected to exercise public functions, at any level or territorial division of the Government, or within any kind of body, agency or state-owned enterprise where that State exerts a direct or indirect influence”.

Art. 31º.- It is hereby incorporated as ARTICLE 259 bis of the Criminal Code the following:

“ARTICLE 259 bis. – With respect to the crimes provided in this chapter, a fine shall be imposed jointly, from two (2) to ten (10) times the amount or value of the money, gratuity, benefit or monetary advantage offered or given”.

Art. 32.- ARTICLE 265 of the Criminal Code is hereby replaced with the following:

“ARTICLE 265.- Shall be punished with imprisonment or imprisonment of one (1) to six (6) years and special perpetual disqualification, the public official who, directly, by
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interposed person or by simulated act, is interested in view of his own benefit or that of a third party, in any contract or operation in which it intervenes due to its position.

A fine of two (2) to five (5) times of the value of the improper benefit sought or obtained shall also be applied.

This provision shall be applicable to the arbitrators, amicable conciliators, experts, accountants, guardians, curators, executors, liquidators and liquidators, with respect to the functions fulfilled in the character of such ".

Art. 33º.- ARTICLE 266 of the Criminal Code is hereby replaced with the following:

“ARTICLE 266.- Shall be punished with imprisonment of one (1) to four (4) years and special disqualification from one to five years, the public official who, abusing his position, solicits, demands or makes to pay or deliver improperly, by himself or by interposed person , a contribution, a right or a gift or collect higher rights than those that correspond.

A fine of two (2) to five (5) times the amount of the levy will also be applied."

Art. 34º.- ARTICLE 268 of the Criminal Code is hereby replaced with the following:

“ARTICLE 268.- Shall be punished with imprisonment of two (2) to six (6) years and absolute perpetual disqualification, the public official who converts the exactions expressed in the previous articles to his own or a third party's benefit.

A fine of two (2) to five (5) times the amount of the levy will also be applied."

Art. 35º.- It is hereby incorporated as second paragraph to ARTICLE 268 (1) of the Penal Code the following text:

"A fine of two (2) to five (5) times of the profit obtained will also be applied."

Art. 36º.- Amend the first paragraph of ARTICLE 268 (2) of the Penal Code, which will be worded as follows:

"Shall be punished with imprisonment of two (2) to six (6) years, a fine of two (2) to five (5) times the value of the enrichment, and perpetual absolute disqualification, which upon being duly required, will not justify the provenance of an appreciable
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patrimonial enrichment of yours or of person interposed to disguise it, occurring after the assumption of a position or public employment and up to two (2) years after having ceased in his performance”.

Art. 37º.- It is hereby incorporated as ARTICLE 300 bis of the Criminal Code the following:

"ARTICLE 300 bis.- When the criminal acts provided for in subsection 2 of article 300 have been carried out in order to conceal the commission of the offenses set forth in articles 258 and 258 bis, a prison sentence of one (1) shall be imposed to four (4) years and a fine of two (2) to five (5) times the value falsified in the documents and acts referred to in the aforementioned clause ".

Art. 38º.- ARTICLE 33 of the Code of Criminal Procedure of the Nation, Law 23.984, is hereby replaced by the following:

"ARTICLE 33. - The federal judge will know:

1. In the instruction of the following crimes:
   a) The ones committed on the high seas, on board national ships or by pirates, citizens or foreigners;
   b) The ones committed in Argentine waters, islands or ports;
   c) The ones committed in the territory of the Capital or in that of the provinces, in violation of national laws, as are all those that offend the sovereignty and security of the Nation, or tend to defraud their revenues or obstruct and corrupt the good service of its employees, or violate or hinder or falsify the correspondence of the couriers, or hinder or falsify national elections, or represent falsification of national documents, or of national currency or bank notes authorized by Congress;
   d) Those of any kind that are committed in places or establishments where the national government has absolute and exclusive jurisdiction, with the exception of those that by this law are subject to the ordinary jurisdiction of the investigating judges of the Capital;
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e) The offenses set forth in articles 41d, 142a, 142b, 145a, 145b, 149b, 170, 189 bis (1), (3) and (5), 212, 213 bis and 258 bis and 306 of the Criminal Code.

2. In the trial in a single instance of those crimes indicated in the previous paragraph that are repressed with non-custodial penalty or deprivation of liberty whose maximum does not exceed three (3) years."

Art. 39º.- Entry into force. This law shall enter into force ninety (90) days after its publication in the Official Gazette of the Argentine Republic.

Art. 40º.- It is hereby communicated to the NATIONAL EXECUTIVE BRANCH.