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Theoretical and Practical Problems of Criminal Law Regulation of Application of Coercive Measures to Legal Entities

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The Doctoral Thesis is available in RSU Library and on RSU website:
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Abbreviations used in the Thesis

CL	Criminal Law
CML	Commercial Law
CoE	Council of Europe
CPL	Criminal Procedure Law
EC	European Council
EP	European Parliament
EU	European Union
EUROJUST	European Union Agency for Criminal Justice Cooperation
FATF	Financial Action Task Force
MONEYVAL	Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
OECD	Organisation for Economic Co-operation and Development
UN	United Nations

Introduction

As the national economy develops under free-market conditions, new challenges in combating crime increasingly arise, particularly with regard to economic offences. Alongside economic development, the criminal underworld is evolving, employing tactics and methods such as the use of legal entities to commit criminal offences and enable natural persons to evade liability. This makes the application of coercive measures against legal entities in criminal proceedings particularly acute, as well as highlighting the specific features and problems of related substantive criminal law regulations. These shortcomings hinder or even prevent the achievement of the objectives of criminal proceedings and the fair resolution of criminal legal matters.

Infiltration into lawful business structures allows organised crime to expand its power and influence. It supports, conceals or facilitates any form of criminal activity and the laundering of the proceeds of crime. Throughout criminal proceedings, legal business entities operating in various sectors are abused, and particular concern is raised by the risks associated with the misuse of inside information.[1]

As early as 29 September 2003, the UN Convention against Transnational Organized Crime of 15 November 2000 entered into force in the Republic of Latvia. Article 10 of this Convention, entitled "Liability of legal persons," provides that each State Party shall adopt such measures as are necessary and consistent with its legal principles, to establish the liability of legal persons for participating in serious crimes involving an organised criminal group, as well as for the offences set forth in Article 5, "Criminalization of participation in an organized criminal group," Article 6, "Criminalization of the laundering of proceeds of crime," Article 8, "Criminalization of corruption," and Article 23, "Criminalization of obstruction of justice."

Subject to the legal principles of the State Party, the liability of legal entities may be criminal, civil, or administrative. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences. Each State Party shall, in particular, ensure that legal entities held liable in accordance with the provisions of this article are subject to effective, proportionate, and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

By adopting the CPL on 21 April 2005, which entered into force on 1 October 2005, and the amendments to the CL on 5 May 2005, which also entered into force on 1 October 2005, Latvia has, in substance, implemented the requirements of Article 10 of the Convention into its

1 EUROPOL, 2025. Decoding the EU's most threatening criminal networks – Summary. Available at: https://www.europol.europa.eu/cms/sites/default/files/documents/EU-SOCTA%202025%20-%20Kopsavilkums%20.pdf (accessed 01.10.2025).

national legal framework. This was achieved by subjecting legal entities to criminal sanctions for criminal offences committed by natural persons in the interests or for the benefit of a legal entity, or as a result of inadequate control or supervision.

Although the criminal law framework governing the application of coercive measures to legal entities in the CL and the CPL is continuously being improved with the aim of enhancing the effectiveness of such measures, it must be noted that significant deficiencies persist in Latvian criminal law regulation. These include shortcomings regarding the scope and definition of legal entities, insufficiently imperative legal norms, the indeterminacy of essential legal concepts, limitations in the sanctions system, the exclusion of public-law legal entities from the scope of liability, the absence of criminal law regulation in cases of transfer of undertaking, procedural constraints, and the lack of methodological guidelines. These deficiencies hinder the effective and internationally compliant application of coercive measures to legal entities, as evidenced by the small number of initiated proceedings concerning the application of such measures. This issue has been repeatedly highlighted, both historically and at present, by international organisations, including MONEYVAL and the OECD, particularly in the context of money laundering cases.

The OECD Working Group on Bribery in International Business Transactions (hereinafter – the Working Group) approved Latvia's Phase 3 Evaluation Report (hereinafter – the Phase 3 Report) in October 2019. The report assesses Latvia's compliance of its legal framework with the requirements of the OECD Convention of 21 November 1997 on Combating Bribery of Foreign Public Officials in International Business Transactions and the related recommendations, as well as the implementation of the established requirements with regard to combating the bribery of foreign public officials in international business transactions. It also evaluates the capacity of investigative, prosecutorial and judicial authorities to investigate and adjudicate such criminal offences, the level of awareness among officials and the public of the negative consequences of bribery of foreign public officials, and the measures taken in the prevention and combating of money laundering. One of the issues highlighted by the Working Group in the Phase 3 Report concerns the effective application of the legal framework governing the liability of legal entities for criminal offences, with particular emphasis on jurisdictional aspects in relation to criminal offences committed by natural persons for the benefit of, in the interests of, or as a result of inadequate supervision or control by a legal person. In assessing investigations into cases of bribery of foreign public officials in Latvia, the Working Group identified several shortcomings in the application of the of the CL and CPL provisions. In particular, Latvian criminal jurisdiction was not established in a number of cases, either on the basis of the territorial principle or the nationality principle. As a result, in several cases of bribery of foreign public officials – where foreign judgements found that Latvian financial institutions and shell companies registered in Latvia had supported the bribery of foreign public officials by acting as intermediaries in the transfer of bribes – no liability was imposed in Latvia. In addition, the Working Group found that, in two cases, proceedings for the application of coercive measures against a legal entity in Latvia were initiated only after the natural person who had committed the criminal offence in the interests of that legal entity had been convicted abroad.[2]

Latvia has acceded to a number of international legal instruments, including EU conventions and directives and CoE conventions, which in the field of criminal law impose an obligation to establish the liability of legal entities for criminal offences committed in the interests or for the benefit of a legal entity, or as a result of a lack of supervision or control. These include, for example: the CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; the CoE Convention on Action against Trafficking in Human Beings; the CoE Convention on Cybercrime; the CoE Criminal Law Convention on Corruption; the CoE Convention on Offences relating to Cultural Property; Directive 2008/99/EC of the EP and of the EC on the protection of the environment through criminal law; Directive 2014/62/EU of the EP and of the EC on the protection of the euro and other currencies against counterfeiting, replacing Council Framework Decision 2000/383/JHA; Directive (EU) 2017/1371 of the EP and of the EC on the fight against fraud to the Union's financial interests by means of criminal law; and Directive (EU) 2018/1673 of the EP and of the EC on combating money laundering by criminal law, among others.

Latvia has also partially implemented these instruments in its national criminal law framework by incorporating into the CL and the CPL both substantive and procedural legal provisions applicable in proceedings concerning the application of coercive measures to legal entities.[3]

Section 70.[1] of the CL provides that, for a criminal offence envisaged in the Special Part of this Law, a coercive measure may be applied by a court, or in cases prescribed by law by a prosecutor, to a private law legal entity, including a state or local government owned capital company, as well as a partnership, if the offence has been committed in the interests of the legal entity, for its benefit, or as a result of insufficient supervision or control by the legal entity, by

2 OECD, 10 October 2019. Implementing the OECD Anti-Bribery Convention: Phase 3 Report on Latvia. Available at: https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-3-report-latvia_1c922a23-en.html (accessed 02.08.2024).

3 Jansons, M. (2022). Topicalities in the application of coercive measures to legal entities in criminal proceedings in the Republic of Latvia. Riga: Rīga Stradiņš University, Socrates, No. 3 (24). Available at: https://doi.org/10.25143/socr.24.2022.3 (accessed 20.08.2025).

a natural person acting individually or as a member of the collegial body of the respective legal entity:

1) on the basis of the right to represent the legal entity or to act on its behalf;

2) on the basis of the right to take decisions on behalf of the legal entity;

3) by exercising control within the legal entity.

From the above, it can be concluded that legal provisions aimed at ensuring that legal entities are held liable for criminal offences committed for their benefit by a natural person, as well as in cases where a lack of supervision or control has enabled a natural person to commit a criminal offence, constitute standard legal norms in CoE conventions and EU directives that impose an obligation to criminalise certain acts and to provide for the liability of legal entities for such acts, which has also been implemented in national criminal law regulation.

However, in the author's opinion, the criminal law framework currently in force is incomplete. The shortcomings of the criminal law regulation are related to the problems of applying the presumption, within proceedings for the application of coercive measures to a legal entity, that a criminal offence has been committed in the interests of the legal entity, for its benefit, or as a result of insufficient supervision or control, to the impossibility of applying coercive measures to certain legal entities, to the existence of overly general criteria for the application of a coercive measure in the form of a monetary penalty, as well as to the lack of legal regulation that allows legal entities to avoid the application of coercive measures, for example, in cases of transfer of an undertaking, and in other situations. Likewise, shortcomings in the legal framework are evidenced by the fact that Latvia has not implemented in its criminal law regulation the provision set out in Article 5 (1) of the UN International Convention for the Suppression of the Financing of Terrorism of 9 December 1999[4], which was ratified by the Saeima and entered into force on 14 December 2002. Namely, Latvian criminal law does not provide for the possibility to apply coercive measures to legal entities that are located within its territory or are organised in accordance with its laws where a person responsible for the management or control of such a legal entity, while acting in that capacity, has committed one of the offences referred to in Article 2 of the Convention for the Suppression of the Financing of Terrorism.[5]

The author's view regarding the shortcomings in the criminal law framework and the problems related to its application is also confirmed by the fact that the Working Group has

[4] United Nations, 9 December 1999. Convention for the Suppression of the Financing of Terrorism. Available at: https://likumi.lv/ta/lv/starptautiskie-ligumi/id/1419 (accessed 01.10.2025).

[5] Jansons, M. (2023). Proving the involvement of legal entities – credit institutions – in stand-alone money-laundering cases. Riga: Rīga Stradiņš University, Socrates, Issue 27, pp. 27–36. Available at: https://doi.org/10.25143/socr.27.2023.3.27-36 (accessed 20.08.2025).

concluded[6] that there is very limited case law in Latvia concerning the application of coercive measures to legal entities.

Similar conclusions were reached by MONEYVAL in 2018 and 2025 during Latvia's 5th-round and 6th-round evaluation processes concerning the technical compliance of the anti-money laundering and counter-terrorist financing system with the FATF Recommendations, as well as the effectiveness of that system. The MONEYVAL 2018 report concluded that the lack of proceedings for the application of coercive measures to legal persons for money laundering indicates that Latvia has achieved only a moderate level of effectiveness in this area and that significant improvements are necessary.[7]Although more than six years have passed since the previous MONEYVAL evaluation, the 6th round MONEYVAL evaluation of Latvia has likewise drawn attention to the continued lack of proceedings in "money laundering" cases, which particularly indicates shortcomings in the criminal law framework and problems in its application in this area.

Novelty of the Dissertation

The scientific novelty of the Doctoral Thesis lies in the fact that, within Latvian legal scholarship, no systematic and comprehensive study has so far been conducted on the criminal liability of legal persons as an independent legal institution, particularly analysing the process of applying coercive measures to legal persons from both substantive and procedural criminal law perspectives.

In the doctrine to date, issues concerning the criminal liability of legal entities and the coercive measures applicable to legal entities have been examined only fragmentarily, at the level of individual works, such as Chapter 5 of the Doctoral Thesis *"The Institute of Guilt in Criminal Law and Its Significance in the Qualification of Criminal Offences"* (2012), the monograph *"Public Legal Liability of Legal Entities: Current Issues, Problems and Possible Solutions"* (2018), as well as in separate publications, including *"The Legal Nature of Criminal Law Coercive Measures Applicable to Legal Entities"* (2013), *"Interpretation of the Concept of 'Interests' in Criminal Law Norms"* (2015), *"The Procedure for Applying Coercive Measures to Legal Entities and Its Current Problems in Latvian Criminal Procedure"* (2015), *"Criminal Law Coercive Measures Applicable to Legal Entities, the Procedure for Their Application and Its Current Problems in Latvian Criminal Procedure. Public Legal*

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[6] OECD, 10 October 2019. Implementing the OECD Anti-Bribery Convention: Phase 3 Report on Latvia. Available at: https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-3-report-latvia_1c922a23-en.html (accessed 02.08.2024).

[7] Council of Europe, MONEYVAL, 23 August 2018. Fifth Round Mutual Evaluation Report on Latvia – Anti-Money Laundering and Counter-Terrorist Financing Measures. Available at: https://www.fid.gov.lv/uploads/files/Dokumenti/Moneyval%20zi%C5%86ojumi/MONEYVAL20188_5th-Round_MER-Latvia_LV.pdf (accessed 22.10.2024).

Liability of Legal Entities" (2018), *"The Presumption of Innocence of Legal Entities in Criminal Proceedings. Public Legal Liability of Legal Entities: Current Issues, Problems and Possible Solutions"* (2018), and *"The Equivalent of an Indictment in Proceedings Regarding the Application of a Coercive Measure to Legal Entities"* (2021). These works have examined issues related to the introduction of criminal liability of legal entities, the legal nature and application procedure of criminal law coercive measures, the interpretation of guilt or culpability, as well as other related matters; however, they have not established a unified theoretical framework within the Latvian criminal law system. The scientific novelty of the dissertation is also derived from the conclusions drawn and the proposals developed therein for improving the CL and the CPL with regard to the application of coercive measures. These proposals are aimed at improving the CL and the CPL in order to expand the scope of the liability of legal entities, introduce clear definitions and imperative obligations, ensure autonomous liability and the transfer of liability in cases of transfer of an undertaking (reorganisation), improve the system of sanctions and procedural guarantees, and ensure uniform and effective application of the norms of the CL and the CPL, thereby promoting understanding of proceedings concerning the application of coercive measures to legal entities and increasing the number of such proceedings, ensuring the effective implementation of legal relations. The dissertation is a completed study of a legal institute – the application of coercive measures to legal entities based on an analysis of legal literature, the historical and current legal framework, as well as national and foreign case law.

The scientific and theoretical significance of the dissertation is substantiated by the disclosure of the essence of the legal regulation governing proceedings for the application of coercive measures to legal entities, the clarification of the content and understanding of key concepts, as well as the identification and analysis of both practical and theoretical problems.

The issues addressed in the dissertation enable primarily law enforcement authorities, as well as any other interested persons, to gain a comprehensive and thorough understanding of the essence and content of the legal institute of proceedings for the application of coercive measures to legal entities, to better understand the meaning of legal norms and problematic aspects of their application, to comprehend the rights of legal entities, their representatives and defence counsel, as well as the factors influencing the involvement of legal entities in criminal offences. By creating an in-depth understanding of these proceedings among law enforcement practitioners, the dissertation enables the uniform application of legal norms by law enforcement authorities under specific factual and legal circumstances.

Aim of the Study

To carry out an analysis of the criminal law and criminal procedural regulation governing proceedings for the application of coercive measures to legal entities, to examine the theoretical and practical problems related to their application, and to develop the theoretical understanding of the criminal liability of legal entities in Latvia. Based on the new knowledge obtained during the research, to develop a theoretical framework and proposals for the further improvement of national legal norms.

Objectives of the Study

In order to achieve the aim of the Doctoral Thesis, the following objectives have been set:

1 To characterise the theoretical foundations of the criminal liability of legal persons, its place within the system of state coercive measures, and to analyse the international, European Union and national legal framework, identifying the key development trends and the factors influencing the involvement of legal persons in criminal offences.

2 To examine and evaluate the substantive legal framework governing coercive measures applicable to legal persons, by analysing the grounds for their application, the legal link with natural persons, the preconditions for initiating proceedings, as well as identifying the main issues, including questions of legal succession and liability of legal persons in cases of business transfer.

3 To analyse the criminal procedural regulation governing proceedings for the application of coercive measures to legal entities, by assessing the specific features of judicial proceedings, the safeguarding of procedural guarantees, the application of seizure of property, and the criteria for selecting coercive measures.

Research Questions

1 What are the theoretical foundations of the criminal liability of legal entities, and how are they reflected in the Latvian criminal law and criminal procedural regulation?

2 What are the similarities and differences between the regulation of the criminal liability of legal entities in Latvia and in certain European Union Member States with regard to the application of coercive measures?

3 What are the main problematic aspects related to the application of coercive measures to legal entities, and what are the possible solutions for improving their regulation and application?

Object of the research – criminal law and criminal-procedural relations that arise between the appliers of criminal law norms and legal entities in the application of coercive measures to legal entities.

Subject of the research – the criminal law and criminal-procedural framework governing the application of coercive measures to legal entities.

Methods – the following scientific research methods were used in the preparation of the doctoral dissertation: the analytical method, the comparative research method, the quantitative research method (survey), and the qualitative research methods (case analysis, interviews).

The analytical method was applied in studying and analysing international and national legal acts, Latvian and foreign case law, judicial practice, legal doctrine, and other available materials of legal practice. The analysis forms the basis for the assessments, conclusions, and proposals presented in the dissertation.

The comparative research method was used to identify and assess the interaction of the institution of coercive measures applied to legal entities in criminal proceedings with the legal system as a whole, by comparing legislation, case law, and other materials.

The quantitative research method (survey) was applied to obtain information on the conduct of proceedings in foreign jurisdictions.

The qualitative research methods (case analysis, interviews) were used to identify practical problems and to examine the practice of other states.

Monographic method (monograph method) was used to examine aspects of the criminal liability of legal persons in Latvia and abroad by analysing legal doctrine, legislation, case law, and law enforcement practice.

The interpretation and analysis of legal norms, aimed at clarifying the meaning, objectives, and purposes of criminal law provisions, as well as interpreting other materials used in the course of the research in connection with the application of coercive measures to legal entities, were carried out using grammatical, historical, systemic, and teleological methods of interpretation, namely:

The grammatical (philological) method was used to determine the meaning of legal norms from a linguistic perspective, clarifying the understanding of words and concepts and their application in the field of coercive measures applied to legal entities.

The historical method was applied to determine the meaning of legal norms by taking into account the circumstances under which those norms were created. Through this method, the reasons for amendments to the criminal law and criminal-procedural framework concerning the application of coercive measures to legal entities were identified and assessed.

The systemic method was used to determine the meaning of legal norms in conjunction with other legal norms in different sub-branches of law, including those in which the same concepts are used as in the application of coercive measures to legal entities.

The teleological (purpose-oriented) method was applied to determine the meaning of legal norms based on the expedient and just objectives that are to be achieved by the respective legal provisions.

Approbation of the Doctoral Thesis Results

The results of the Doctoral Thesis have been approbated at both national and international levels, with the author presenting the findings of the research at scientific conferences and professional discussions/seminars in Latvia and abroad. The author has delivered presentations at international scientific and practical conferences, thereby ensuring the validation of the research results within the professional community and their alignment with current law enforcement practice.

On the topic of the Doctoral Thesis, the author has published three scientific articles in an internationally peer-reviewed scientific journal (ERIH+), addressing key aspects of the criminal liability of legal persons and the application of coercive measures, including issues related to the burden of proof and factors influencing criminal offences.

In addition to academic work, the approbation of the Doctoral Thesis results is significantly strengthened by the author's pedagogical activities and professional experience.

The author is actively involved in the study process and professional continuing education[8], delivering lectures and seminars both in higher education institutions and in training centres of law enforcement and judicial authorities in Latvia, as well as in international training activities for representatives of law enforcement and judicial authorities in connection with the author's professional duties.

This pedagogical and practical work within the Prosecutor General's Office of the Republic of Latvia – performing supervision of pre-trial investigations, prosecution, maintenance of public prosecution, exercising the functions of a prosecutor of a higher rank, as well as acting as a coordinating prosecutor at the national level in proceedings concerning the application of coercive measures to legal persons, representing the Prosecutor General's Office in interinstitutional and international working groups (e.g., EUROJUST, CoE), and in the evaluation processes of Latvia by MONEYVAL/FATF and the OECD, including matters related to proceedings on the application of coercive measures to legal persons – ensures

[8] For example, at Rīga Stradiņš University, the State Police College, the Prosecutor General's Office, the Latvian Judicial Training Centre, the Latvian Association of Insolvency Administrators, the Continuing Education Centre for Civil Society, etc.

continuous validation of theoretical findings in practice and facilitates the integration of research results into the professional environment.

Thus, the results of the Doctoral Thesis have been approbated in a multidimensional manner – within the scientific, professional, and pedagogical spheres – demonstrating their relevance, practical significance, and contribution to the development of criminal law.

Structure of the Doctoral Thesis

The Doctoral Thesis consists of an introduction, three chapters with subchapters, the purpose of which is to comprehensively cover and reveal the essence of the legal regulation governing the application of coercive measures to legal entities, and a concluding part containing the conclusions identified in the course of the research and proposals for improving substantive and procedural norms.

The first chapter examines the concept of a legal entity, its emergence and development in Latvia, analyses international and national legal instruments, the factors influencing the involvement of legal entities in the commission of criminal offences, as well as the emergence and main features of the criminal liability of legal entities namely, coercive measures applicable to legal entities in the Republic of Latvia and abroad, primarily in Estonia, Lithuania, and Belgium.

The second chapter analyses the substantive-law aspects of the legal institute, the substantive legal basis for the application of coercive measures, the legal link with a natural person, the types and specific features of the completion of pre-trial proceedings, as well as the legal status and liability of a legal entity as a successor in obligations in cases of transfer of an undertaking.

The third chapter examines the criminal procedural aspects and specific features of judicial proceedings relating to the application of coercive measures to legal entities, including the particularities of imposing seizure on the property of a legal entity, the role of the representative and defence counsel of a legal entity, the right of a legal entity to defence, as well as the types of coercive measures applicable to legal entities and the problematic aspects of applying the relevant criteria.

The Thesis is supplemented by three annexes. The first annex compiles information on pre-trial proceedings completed in the period from 1 January 2019 to 31 December 2024 in which coercive measures were applied to legal entities, indicating both the total number of such proceedings and their distribution among prosecutors. The second annex contains a compilation of international legal instruments binding on Latvia that impose an obligation on Member States to establish or improve the regulatory framework for the liability of legal entities. The third annex sets out the questions used in surveys and interviews.

Final Remarks

As a result of the development of the Doctoral Thesis, a comprehensive and interdisciplinary study has been conducted on the theoretical and practical problems of the criminal law regulation governing the application of coercive measures to legal entities in the Republic of Latvia, both in the national and international context. The Thesis provides an in-depth analysis of the development and application of legal norms, as well as the findings of legal doctrine and case law, and comparatively evaluates foreign regulatory models in order to determine their suitability and adaptability to the Latvian legal system.

The study examined the following issues: the concept of a legal entity; its development and place within the Latvian legal system; the historical development and justification for introducing the institution of criminal liability of legal entities in Latvia and abroad; the grounds for applying coercive measures to legal entities under the CL; and the problems related to their application; evidentiary specificities in proceedings concerning the application of coercive measures to legal entities; types of coercive measures and the criteria for applying them; forms of termination of proceedings concerning the application of coercive measures to legal entities; obstacles to applying liability to legal entities (including in cases of transfer of an undertaking); and the recommendations and critical findings of international organisations regarding the Latvian legal framework and its effectiveness.

The study found that, although Latvia has implemented the obligations laid down in international legal instruments by providing for the possibility of applying coercive measures to legal entities, the legal framework remains incomplete and is often ineffective in practice. The main shortcomings identified in the study include overly general criteria for applying the coercive measure of monetary recovery, which hampers the consistency of case law; limited possibilities for applying coercive measures to legal entities in certain situations, such as in cases involving the transfer of an undertaking; incomplete implementation of the requirements of the 1999 UN Convention for the Suppression of the Financing of Terrorism; and a comparatively small number of proceedings in which coercive measures have been applied to legal entities, particularly in cases of money laundering and corruption offences.

The national legal framework was assessed in comparison with the experience of Estonia, Lithuania, Belgium, and other countries. The comparative analysis demonstrated that, in other jurisdictions, the grounds for the liability of legal entities are often defined more precisely, and a broader range of sanctions is available – including reputational sanctions, such as the publication of judgements.

The aim of the study has been achieved, all the tasks set have been fulfilled.

Comprehensive answers to the research questions have been provided on the basis of legal acts, case law, legal doctrine, empirical data, and the results of comparative analysis, namely:

1 The theoretical foundations of the criminal liability of legal entities are based on the theories of vicarious liability, identification, and corporate liability. In the Latvian criminal law framework, these theories are manifested through the application of coercive measures to a legal entity for a criminal offence committed by a natural person in the interests or for the benefit of the legal entity, or as a result of inadequate supervision or control. In criminal procedural regulation, this is reflected in the form of a special procedure applicable to legal entities, with specific procedural guarantees and particular features of judicial proceedings.

2 The comparative analysis of the Latvian regulation and that of certain European Union Member States demonstrates that all of the examined jurisdictions recognise the institution of liability of legal entities; however, differences exist in the models of liability, sanctioning systems, procedural approaches, and the scope of liability. For example, Estonia and Belgium have developed a broader approach to autonomous liability of legal entities, whereas the Latvian regulation still retains a pronounced character of derivative liability.

3 The main problematic aspects related to the application of coercive measures to legal entities include the absence of definitions of legal entities and other essential legal concepts, the insufficiently imperative nature of legal norms, the complexity of proving the legal connection with a natural person, the limited scope of sanctions, and the incomplete regulation concerning business transfers. In order to improve the framework, it is necessary to clarify the provisions of the Criminal Law and the Criminal Procedure Law, introduce clear definitions and specify the elements of liability, expand the scope of liability of legal entities, and ensure a more effective and consistent application of legal norms.

The conclusions reached and the proposals developed may serve as a basis for improving the work of the legislator, investigative authorities, courts, and prosecution services, as well as for ensuring compliance with international obligations and the effective implementation of legal norms within the national legal framework.

The Doctoral Thesis is significant both on the theoretical and practical levels, as it provides an in-depth understanding of the institution of liability of legal entities and offers concrete solutions for increasing the effectiveness of the application of the legal framework.

Conclusions

1 In Latvia, there is no legally enshrined, unified definition of a legal entity, and legal doctrine has not reached a consensus on its essence. This circumstance complicates the development, improvement, and practical application of criminal law regulation.

2 The Latvian model categorises coercive measures as separate from criminal penalties, and applies them to legal entities. In Latvia, legal entities cannot be held fully autonomously liable, as proof of a direct link to the criminal conduct of a particular natural person is required.

3 Under the Latvian criminal law system, a legal entity is not considered to be a subject of a criminal offence. Although direct criminal liability of legal entities is not provided for in Latvia, derivative criminal liability – namely, proceedings for the application of coercive measures against a legal entity – nevertheless performs the function of punishing legal entities, though with minor differences.

4 The concept of guilt does not apply to legal entities, as they cannot manifest a psychological attitude towards a criminal offence. Accordingly, the application of coercive measures to legal entities is based on the actions of a related natural person.

5 The criminal liability of legal entities in Latvia is based on a combined model, in which the theory of vicarious liability predominates, supplemented by elements of the identification doctrine and principles of organisational fault.

6 The liability of a legal entities is primarily derived from the conduct of a natural person; however, the employee's status and influence on decision-making are taken into account, meaning that not every action automatically gives rise to liability.

7 The criterion of "lack of proper supervision or control" introduces elements of organisational fault, allowing a legal entity to be held liable also in cases where a criminal offence has resulted from deficiencies in the company's internal mechanisms.

8 The Latvian legal framework reflects a transitional stage from the traditional concept of individual guilt towards a modern approach in which the legal entity is regarded as an independent subject of law with organisational liability.

9 The evidentiary process in proceedings concerning the application of coercive measures to legal entities is complex, as, in addition to establishing the elements of a criminal offence, it is also necessary to prove that the offence was committed in the interests of, for the benefit of, or as a result of inadequate supervision or control by the legal entity.

10 Proceedings concerning the application of coercive measures to legal entities involve the collection and analysis of evidence, as well as the establishment of a link between offences committed by natural persons and offences committed in the interests of, for

the benefit of, or as a result of inadequate supervision or control by legal entities. This is a complex process requiring a high level of professional expertise. Latvia lacks specialised prosecutors in this field, and many procedural officials lack sufficient practical experience in such proceedings, as well as methodological guidelines, which negatively affects the number of initiated proceedings.

11 Implementation of the requirements of international conventions in Latvia has been partial. While the principles of the UN, OECD and CoE conventions have been incorporated into national criminal law, the requirements of Article 5 of the 1999 UN Convention for the Suppression of the Financing of Terrorism have not yet been fully implemented. This results in non-compliance with international standards, since Section 12 of the CL currently does not provide for the autonomous liability of legal entities. Instead, it links liability to offences committed by natural persons in the interests of, for the benefit of, or as a result of inadequate supervision or control by a legal entity. Article 5 (1) of the UN Convention provides that each State Party shall, in accordance with its national legal principles, take the necessary measures to ensure the liability of a legal entity where a person responsible for the management or control of that legal entity, acting in that capacity, commits an offence set forth in Article 2 of the Convention (i. e. terrorist financing). In cases of terrorist financing, money laundering, financing of armed conflicts and similar offences, situations may arise where none of the statutory grounds for applying coercive measures can be established, as the legal entity is merely being used as an instrument for such activities , which are carried out by the sole official of the company.

12 The case-law of the European Court of Human Rights (ECtHR) demonstrates that the nature of sanctions imposed on a legal person, for the purposes of the European Convention on Human Rights, is determined by their substantive character rather than by their classification under national law. Consequently, the coercive measures provided for in the Latvian Criminal Law should be regarded as sanctions of a criminal nature, and their application to legal persons requires that all procedural guarantees enshrined in Article 6 of the European Convention on Human Rights be fully ensured. During the period from 1 January 2019 to 31 December 2024, out of 188 criminal offences imputed to natural persons committed in the interests or for the benefit of a legal entity, or as a result of inadequate supervision or control, the vast majority were financial, economic or corruption-related offences, so-called “white-collar” crimes, accounting for approximately 94% of all offences and being closely linked to the shadow economy.

13 The shadow economy accounts for a significant proportion of the economy and is not decreasing rapidly enough. In Latvia, the shadow economy is substantially larger than

the OECD average of 12–15 %, accounting for approximately 20–26 % of GDP. This indicates a systematic circumvention of economic norms, even among legal entities.

14 The main drivers of corporate crime are profit maximisation and cost reduction. These motives often prevail over legality and ethics in business processes.

15 The effective application of coercive measures to legal entities is one of the most important instruments of state criminal policy, as it can directly reduce financial, economic and corruption risks, ensuring not only individual but also general prevention. Properly regulated and consistently applied corporate liability mechanisms can significantly reduce the risk of criminalisation of the business environment, increase business transparency and promote fair competition among market participants. This is particularly important in the context of financial, economic and corruption offences, where the infrastructure, resources and governance structures of legal entities are often used to commit or facilitate criminal offences.

16 The CL should clearly establish that coercive measures may also be applied to a legal person registered abroad for criminal offences committed in the Republic of Latvia by a natural person in the interests of, for the benefit of, or as a result of inadequate supervision or control by a foreign legal entity.

17 Section $70.^1$ of the Criminal Law is an enabling rather than a mandatory provision, granting broad discretion to the person directing the proceedings when deciding whether to initiate proceedings; however, such discretion may lead to inconsistent practice.

18 Coercive measures applied to legal entities are an effective instrument for strengthening the rule of law and protecting public interests; however, they are rarely applied in Latvia due both to the flexible wording of legal provisions and the subjective nature of decisions on initiating proceedings.

19 The wording of Section $70.^1$ of the CL should be changed from empowering to imperative, in order to ensure that Latvia duly fulfils the requirements set by international organisations, by establishing an obligation for the procedural authority to initiate proceedings against a legal entity to apply coercive measures where there are sufficient grounds to believe that a criminal offence committed by a natural person was committed in the interests of, for the benefit of, or as a result of inadequate supervision or control by a legal entity.

20 In all three Baltic States, state and municipal institutions are not subject to criminal liability.

21 Belgium's approach to corporate criminal liability is universal and comprehensive. It applies to any legal entity, regardless of whether it is governed by private or public law,

with certain exceptions only concerning the types of penalties applicable to public-law legal entities.

22 In Belgium, criminal proceedings may be initiated against public-law legal entities, however, no penalty is imposed. Instead, the legal entity's guilt is established. This allows for determining whether a public-law legal entity is culpable of committing a criminal offence and simultaneously creates reputational risks for the entity and its senior officials and employees, without imposing a financial burden, while ensuring a general preventive effect.

23 Absolute immunity of public law legal entities is inconsistent with modern trends in the development of corporate criminal liability and creates a risk of impunity in cases where criminal offences are committed in the interests or for the benefit of state or municipal institutions, or as a result of inadequate supervision. Therefore, the limited imposition of criminal liability on public law legal entities through the application of a special and proportionate sanctioning model – namely, the publication of a court judgment or a prosecutor's penal order – is not contrary to the theories of derivative liability, identification, and organisational fault.

24 The limited imposition of liability on public law legal entities is not contrary to the theories of identification, corporate culture, and organisational fault of legal entities, provided that the principle of proportionality and a specific sanctioning model are observed. Based on theoretical findings and research materials, a justification has been developed for creating a new legal framework providing for the criminal liability of public law legal entities as well.

25 The study substantiates the conclusion that the reorganisation of a legal entity or the establishment of a new legal entity should not, in itself, preclude the application of coercive measures where factual economic continuity, control, or organisational identity is preserved, besides the succession of liability in cases of business transfer is not contrary to the theories of derivative liability, identification, and organisational fault. Through the combined application of the theories of derivative liability, identification, and corporate culture, as well as on the basis of the research materials, sufficient justification has been established for developing a new legal framework providing for criminal liability in cases of business transfer.

26 In cases of business transfer, the legal provisions and case law of Lithuania and Estonia allow for the criminal liability of a legal entity where the succession of the legal entity itself or of its rights and obligations is preserved, for example in cases of reorganisation, or where

a company is liquidated and a newly established company effectively becomes the successor to the rights and obligations of the liquidated company.

27 A comparative perspective demonstrates that in several European jurisdictions, such as Lithuania, Estonia, and Belgium, both legal provisions and case law have established the principle of continuity of liability where the actual continuity of the economic entity exists, including the transfer of economic and organisational elements, the identity of management and beneficial owners, market position, clients, and contractual relationships. The establishment of a new legal entity in itself does not constitute a legal obstacle to the application of sanctions. In Latvia, the absence of such a link between the original and the successor (newly established) legal entity makes it possible to avoid the application of coercive measures, even where identical economic activities are in fact continued for the purpose of generating profit.

28 The experience of Lithuania, Belgium, and other countries demonstrates that continuity of legal liability is possible where actual economic and operational continuity between the original and the newly established legal entity can be proven.

29 . There is a significant gap in the Latvian criminal law framework with regard to the continuity of liability of legal entity in cases of deliberate business transfer or reorganisation. Although the institute of business transfer under commercial law, established in Section 20 of the Commercial Law, is clearly recognised and applied to the succession of civil law obligations, the Criminal Procedure Law lacks explicit provisions and procedural mechanisms that would allow for the determination of the continuity of economic and organisational identity and, consequently, ensure the possibility of applying coercive measures. The practical consequences are twofold. First, companies may deliberately change their legal form, ownership structure, or reorganise before the initiation of proceedings and the application of securing measures in order to avoid proceedings or sanctions. Second, the person directing the proceedings often remains without a clear legal basis for continuing proceedings against the newly established (successor) entity, even where the same business activity, assets, management, and customer base are preserved.

30 The existing legal framework in Latvia does not provide for the possibility of continuing proceedings against a newly established legal entity in cases of business transfer. Section 377(5.^{1}) of the Criminal Procedure Law provides that the liquidation of a legal entity constitutes grounds for terminating the proceedings, without requiring an assessment of whether the company’s assets and essential operational elements have been transferred to another entity for the purpose of avoiding the application of coercive measures.

31 Under the current criminal law framework, the liquidation of a legal entity automatically results in the termination of proceedings, without any obligation to assess a possible business transfer. This, in turn, weakens general prevention, as company management understands that formal reorganisation (liquidation of the company) may be used to avoid the application of coercive measures to legal entities.

32 The principle of effectiveness in criminal proceedings is particularly important in cases involving "shell companies." If a legal entity, or a newly established legal entity in the context of a business transfer, has no assets or financial resources, the application of coercive measures may be impossible or economically unjustified. Therefore, in such situations, an alternative should be considered – initiating the termination of the company's activities by using the mechanisms established in Section 314.[1] of the Commercial Law.

33 The Criminal Procedure Law should define the concept of business transfer within the context of criminal procedure and introduce procedural exceptions into the Latvian criminal law framework regarding the application of coercive measures to legal entities, by providing that proceedings may also continue against the acquiring legal entity in cases of business transfer where the transfer was carried out for the purpose of avoiding liability.

34 The active participation and consent of the representative of a legal entity in the conduct of proceedings is desirable, but not mandatory, which significantly differs from proceedings against a natural person, where the individual is directly liable for the offence. However, pre-trial criminal proceedings cannot be concluded through a settlement agreement or by applying a prosecutor's penal order if the representative of the legal person does not participate in the proceedings, which consequently delays the progress of the process.

35 The rules governing the questioning of representatives are open to contradictory interpretation, since the representative retains their procedural status even when giving testimony, while at the same time being subject to the rules applicable to the questioning of witnesses, including a warning regarding liability for false testimony. This hybrid position may create uncertainty regarding the procedural status of the person concerned.

36 The participation of defence counsel is mandatory only in certain trial situations, whereas during the pre-trial stage a legal entity may not participate at all, creating a risk that defence rights remain merely formal rather than real and effective.

37 The mandatory involvement of the representative of a legal entity is necessary already at the pre-trial stage in order to promote the use of alternative forms of concluding pre-trial proceedings also in proceedings concerning the application of coercive measures to legal entities. Practice should be developed to make greater use of settlement agreements in

proceedings against legal entities, particularly in cases where a proportionate coercive measure may be achieved without lengthy litigation, while at the same time ensuring the protection of the interests of victims.

38 . The system of coercive measures is not sufficiently effective. The amounts of monetary recovery imposed in criminal proceedings are often disproportionately low in comparison with administrative fines for violations of competition law, thereby failing to create a sufficiently deterrent effect.

39 . It is necessary to improve the criteria for the application of monetary recovery under the Criminal Law. Similarly to competition law, the amount of monetary recovery should be linked to the annual turnover or profit of the legal entity in order to ensure a proportionate yet deterrent effect, depending on the gravity of the criminal offence.

40 The catalogue of sanctions applicable to legal entities in Belgium is considerably broader than in Latvia. In addition to the coercive measures available in Latvia, the Belgian legal framework also provides for the termination of the activities of structural units (branches and representative offices) and reputational sanctions, namely the publication of a conviction judgment.

41 Latvian law does not provide for such coercive measures as the termination of the activities of structural units, branches, or representative offices, nor for the publication of judgments. The publication of judgments concerning legal entities is an important sanctioning instrument with a particularly strong general preventive effect, as it informs society and market participants about the application of a coercive measure (or, in foreign jurisdictions, a criminal penalty), thereby reducing tolerance toward criminal conduct in business activities and increasing the motivation of other legal entities to introduce control and supervision mechanisms to prevent such conduct. Unlike one-time financial penalties, the consequences arising from publicity – such as the loss of trust of clients and business partners, investor caution, and increased "know your customer" (KYC) risk assessments by banks – are long-lasting, which means that in practice this measure often has a stronger effect than financial sanctions. Furthermore, the termination of the activities of structural units, branches, or representative offices would eliminate a deficiency in the legal framework relating to the liquidation or closure in Latvia of branches and representative offices of foreign merchants, where criminal offences are committed in the interests or for the benefit of, or as a result of inadequate supervision or control by, branches or representative offices of foreign legal entities registered in Latvia.

42 A new coercive measure is necessary – the publication of judgments, which in foreign jurisdictions such as Belgium and France is recognised as an effective instrument of general

prevention, particularly in cases involving financial, economic, and corruption offences, as well as the compulsory termination of the activities of branches and representative offices, which would broaden the range of coercive measures and eliminate deficiencies in the legal framework.

43 Section 476 of the Criminal Procedure Law does not expressly provide courts with the right to separate proceedings against a legal person into separate proceedings at the trial stage. The current regulation (Section 439(3) of the Criminal Procedure Law) applies only to pre-trial investigation, and in practice this creates situations where proceedings against a legal entity are delayed due to the prolonged duration of proceedings against natural persons.

44 Section 368 of the Criminal Procedure Law, concerning the recovery of procedural expenses, does not provide for the reimbursement or recovery of such expenses from legal entities that are subjects in proceedings concerning the application of coercive measures. This deficiency in the legal framework creates a situation where procedural expenses are not recovered from legal entities in such proceedings.

45 In Latvia, a significant problem in proceedings concerning the application of coercive measures to legal entities is the lack of uniform methodological guidelines for investigators and prosecutors regarding the interpretation of the concepts "in the interests of," "for the benefit of," "inadequate supervision," and "inadequate control," the information necessary to establish the connection between the legal entity and the criminal offence, the determination of the connection between natural and legal entities, standards for obtaining and evaluating evidence, the choice of procedural tactics, interinstitutional cooperation, and the criteria for recognising procedural succession in order to continue proceedings against a successor entity in cases of business transfer.

46 The Criminal Law should clearly define the concepts "in the interests of a legal entity," "for the benefit of a legal entity," "inadequate supervision," and "inadequate control."

47 Latvian judicial practice in cases concerning coercive measures against legal entities is characterised by substantial fragmentation, which is also confirmed by the lack of case law from the Supreme Court. The infrequent application of the relevant legal norms has resulted in a situation where judicial findings are very limited and existing judgments do not address all of the most significant problematic issues, such as the recognition of business transfer in criminal proceedings, the impact of reorganisation on the course of proceedings, and the interpretation of the grounds "in the interests of," "for the benefit of," "inadequate supervision," and "inadequate control." This situation also affects the work of investigative authorities and prosecution services – the decision-making process becomes more cautious

and prolonged, and in more complex cases procedural actors choose to avoid foreseeable procedural disputes.

48 The full implementation of the criminal liability of legal entities is not merely a matter of domestic application of law, but also a significant factor in foreign policy and international economic relations. Increasing effectiveness requires not only the improvement of the legal framework and the development of case law, but also the strengthening of institutional capacity, including the establishment of specially trained units of investigators and prosecutors, as well as the introduction of detailed methodological materials to ensure a uniform approach to the interpretation and application of legal norms.

Proposals

1 CL should expressly provide that coercive measures may also be applied to a legal entity registered abroad for criminal offences committed by a natural person in the Republic of Latvia in the interests of, for the benefit of, or as a result of inadequate supervision or control by the foreign legal entity, and not only to legal entities registered in the Republic of Latvia.

- Supplement CL Section 4 with Paragraph $1.^{2}$ as follows: *"Coercive measures may also be applied to a legal entity registered abroad for criminal offences committed by a natural person in the Republic of Latvia, in the interests of, for the benefit of, or as a result of inadequate supervision or control by the foreign legal entity."*

2 The wording of CL Section 12 and CL Section $70.^{1}$ (1) should be changed from an enabling provision to an imperative provision to ensure that Latvia properly fulfils the requirements set by international organisations, by establishing that the person directing the proceedings has, in effect, a duty to initiate proceedings against the legal entity for the application of coercive measures where there is sufficient ground to believe that a criminal offence committed by a natural person was committed in the interests of, for the benefit of, or as a result of inadequate supervision or control by the legal entity.

- Restate CL Section 12 (1) as follows: *"For a criminal offence committed by a natural person in the interests of, for the benefit of, or as a result of inadequate supervision or control by a private-law legal entity, including a State- or local government-owned capital company, as well as a partnership, the relevant natural person shall be held criminally liable, and the legal entity shall be subject to the coercive measures provided for in this Law."*
- Restate CL Section $70.^{1}$ (1) as follows: *"For a criminal offence provided for in the Special Part of this Law, the court, or, in the cases provided for by law, the prosecutor shall apply a coercive measure to a private-law legal entity, including a State- or local government-owned capital company, as well as a partnership, if the offence was committed by a natural person on behalf of, in the interests of, for the benefit of, or as a result of inadequate supervision or control by the legal entity, acting individually or as a member of the collegial body of the relevant legal entity:*
  1) on the basis of the right to represent the legal entity or to act on its behalf;
  2) on the basis of the right to take decisions on behalf of the legal entity;
  3) by exercising control within the legal entity.".

3 CL should be supplemented with definitions covering the concepts of private-law legal entity, partnership, and State or local government-owned capital company, in order to eliminate uncertainty when determining the status of the subject in proceedings for the application of coercive measures to legal entities.

- Supplement CL Section 70.[1] with Paragraph 2 as follows: *"Coercive measures may be applied to the following legal entities:*
  4) A private-law legal entity – a limited liability company, a joint-stock company, a European company, a sole proprietorship, a farmer's or fisher's holding, a cooperative society, a European cooperative society, an association, a foundation, a trade union, an association of trade unions, an independent unit of a trade union, a religious organisation and an institution of a religious organisation registered in the register, a political party, an association of political parties.
  5) A partnership – a general partnership and a limited partnership.
  6) A State- or local government-owned capital company – a capital company in which all shares or voting shares belong to the State or to one local government.".

4 CL should clearly define the concepts "in the interests of a legal entity", "for the benefit of a legal entity", "inadequate supervision", and "inadequate control" in order to ensure uniform practice and facilitate the assessment of the applicable ground.

- Supplement CL Section 70.[1] with Paragraph 3 as follows: *"A criminal offence is committed in the interests of a legal entity if it is aimed at achieving the goals of the legal entity, irrespective of whether the legal entity actually benefited from such conduct.";*
- Supplement CL Section 70.[1] with Paragraph 4 as follows: *"A criminal offence is deemed to have been committed for the benefit of a legal person if, as a result thereof, the legal person could have obtained or in fact obtained a direct or indirect benefit or advantage.";*
- Supplement CL Section 70.[1] with Paragraph 5 as follows: *"A criminal offence is committed as a result of inadequate supervision by a legal entity if a senior official of the legal entity failed to ensure appropriate supervision over the conduct or performance of tasks by subordinate persons, as a result of which criminal conduct was allowed.";*
- Supplement CL Section 70.[1] with Paragraph 6 as follows: *"A criminal offence is committed as a result of inadequate control by a legal entity if the legal entity has not established or has not ensured an appropriate internal control/compliance system that would have prevented or detected criminal conduct.";*

- Supplement CL Section 70.[1] with Paragraph 7 as follows: *"If the specific natural person who committed the criminal offence has not been identified in the criminal proceedings, but there is sufficient evidence that a criminal offence was committed on behalf of, in the interests of, for the benefit of, or as a result of inadequate supervision or control by the legal entity, the court may decide on the application of a coercive measure."*.

5 Given that Latvia has not implemented the requirements of Article 5 of the 1999 UN International Convention for the Suppression of the Financing of Terrorism, creating inconsistency with international standards, because CL Section 12 currently does not provide for autonomous liability of a legal entity, but rather links it to criminal offences committed by a natural person in the interests of, for the benefit of, or as a result of inadequate control or supervision by the legal entity, it is necessary to supplement criminal law regulation with a provision allowing coercive measures to be applied also for criminal offences committed in the name of the legal entity by its sole senior official.

- Supplement CL Section 12 with Paragraph 2 as follows: *"For a criminal offence committed in the name of a private-law legal entity, including a State- or local government-owned capital company, as well as a partnership, by a senior official of the legal entity, the legal entity shall be subject to the coercive measures provided for in this Law, irrespective of whether the criminal offence was committed in the interests of, for the benefit of, or as a result of inadequate supervision or control by the legal entity.";*
- Restate CL Section 70.[1] with Paragraph 1 as follows: *"For a criminal offence provided for in the Special Part of this Law, a coercive measure may be applied to a legal entity governed by private law, including a state or municipal capital company, as well as a partnership, by a court or, in cases provided for by law, by a prosecutor, if the offence has been committed by a natural person acting on behalf of, in the interests, for the benefit of, or as a result of the lack of proper supervision or control of the legal entity, acting either individually or as a member of the collegial body of the respective legal entity:1) on the basis of the right to represent the legal entity or to act on its behalf; 2)on the basis of the right to make decisions on behalf of the legal entity; 3)by exercising control within the legal entity. "*.

6 The scope of the coercive measure "liquidation" provided for in CL Section 70.[3] should be expanded to also include the possibility to terminate the activities of a legal entity's branch, representative office, or structural unit, as was the case prior to the amendments of 14 March 2013.

- Restate CL Section 70.[3] (1) as follows: *"Liquidation is the compulsory termination of the activities of a legal entity, its branch, representative office, or structural unit.";*
- Restate CL Section 70.[3] (2) as follows: *"A legal entity shall be liquidated only in cases where the legal entity has been specifically established for the commission of a criminal offence or where a serious or especially serious crime has been committed. The activities of a legal entity's branch, representative office, or structural unit shall be compulsorily terminated if the criminal offence was committed directly in the interests of, for the benefit of, or as a result of inadequate supervision or control by the branch, representative office, or structural unit.";*

7 It is necessary to introduce publication of the judgement as a separate type of coercive measure applicable to legal entities. CL should, similarly to Article 37bis of the Belgian Criminal Code, grant the court and the prosecution the right to publish information on the coercive measure applied to a legal entity in an official publication (e. g. *Latvijas Vēstnesis*), regional or sectoral publications, and electronic platforms. This mechanism would be particularly effective in cases involving financial, economic, corruption, competition, and environmental offences.

- Supplement CL Section 70.[2] (1) with Clause 5 as follows: *"Publication of information on a court ruling or a prosecutor's order on the application of a coercive measure.";*
- Restate CL Section 70.[2] (2) as follows: *"One or more of the coercive measures referred to in Paragraph 1 of this Section may be applied to a legal entity. Where liquidation is applied, only publication of information on the court ruling may be applied.";*
- Restate CL Section 70.[2] (4) as follows: *"For a criminal violation, a less serious crime, or a serious crime punishable by deprivation of liberty for up to five years as provided for in the Special Part of this Law, the prosecutor, when drawing up an order on a coercive measure, may impose on a legal entity a monetary recovery, restriction of rights, and publication of information on the prosecutor's order on the application of a coercive measure.";*
- Restate CL Section 70.[7] as follows: "Section 70.[7] Publication of Information on a Court Judgment or a Prosecutor's Penal Order Imposing a Coercive Measure *Publication of information on a court ruling or a prosecutor's order on the application of a coercive measure means publication, ordered by a court or the prosecution, of information on the coercive measures applied to a legal entity in one or more official, regional, or sectoral publications or electronic platforms, whereby the public is informed of the coercive measures and the criminal offence for which the coercive measure was applied to the legal entity.";*

- Supplement CL Section 70.[8] (4) with Clause 4 as follows: *"Publication of information on a court ruling or a prosecutor's order on the application of a coercive measure, calculated in full.";*
- Supplement CL Section 70.[8] (5) with Clause 4 as follows: *"Publication of information on a court ruling or a prosecutor's order on the application of a coercive measure, calculated in full.";*
- Restate CL Section 70.[8] (6) as follows: *"If liquidation is applied, then, in the cases referred to in Paragraphs 4 and 5 of this Section, monetary recovery, restriction of rights, and confiscation of property are included in liquidation.".*

8 The dissertation substantiates the necessity of extending the liability of legal entities also to public law legal entities and state or municipal-owned capital companies in certain cases. In particular, Latvia should broaden the scope of criminal liability to include public law legal entities and their structural units by providing for the possibility of initiating proceedings for the application of coercive measures also against state and municipal institutions and their structural units. It is proposed that the only coercive measure applicable to such legal entities should be the publication of information concerning a court judgment or a prosecutor's penal order regarding the application of a coercive measure. During the proceedings, it should be established whether the criminal offence was committed in the interests or for the benefit of the legal entity, or as a result of inadequate supervision or control. Such an approach would avoid jeopardising the financial capacity of these institutions while at the same time ensuring public awareness, transparency of proceedings, and reputational accountability.

- Supplement CL Section 12 with Paragraph 3 as follows: *"For public-law legal entities – State and local government institutions – a coercive measure is applicable for a criminal offence committed by a natural person on behalf of, in the interests of, for the benefit of, or due to inadequate supervision or control by the legal entity.";*
- Supplement CL Section 12 with Paragraph 4 as follows: *"For public-law legal entities – State and local government institutions – upon a court ruling or a prosecutor's order on the application of a coercive measure for a criminal offence committed on behalf of, in their interests of, for their benefit of, or due to inadequate supervision or control, the coercive measure 'publication of information on a court ruling or a prosecutor's order on the application of a coercive measure' shall be applied. Liquidation, confiscation of property, restriction of rights, and monetary recovery may not be applied to public-law legal entities – State and local government institutions.".*

9 Corporate reorganisation, liquidation, and business transfer in Latvia create a real possibility for legal entities to avoid criminal law consequences, since the principle of succession of liability is not sufficiently established in the regulatory framework. Therefore, Latvia must develop procedures providing that criminal procedural consequences are transferred to the legal successors of an undertaking in cases of reorganisation, in order to ensure the inevitability of punishment.

- Supplement CL Section 12 with Paragraph 5 as follows: *"If a legal entity has acquired another legal entity's assets or other essential elements of economic activity (transfer of an undertaking), coercive measures shall be applied to the legal entity that is the transferee of the undertaking.";*
- Supplement CL Section 12 with Paragraph 6 as follows: *"In assessing the fact of a transfer of an undertaking, account shall be taken of the materiality of the assets and other elements of economic activity for ensuring the continuation of the undertaking's activity, as well as the economic substance and circumstances of the transfer of the undertaking.";*
- Supplement CL Section 12 with Paragraph 7 as follows: *"Where a transfer of an undertaking is established, the proceedings for the application of coercive measures shall be continued against the legal entity that is the transferee of the undertaking.";*
- Supplement the CPL with Section 441.[9] (Transfer of an undertaking) as follows: *"(1) A transfer of an undertaking is the transfer to another legal entity of an undertaking or a part thereof, including essential elements of economic activity, enabling the transferee to continue the undertaking's economic activity while fully or partially preserving the identity of the transferor. (2) Within proceedings, the person directing the proceedings assesses whether there are indicia of a transfer of an undertaking and decides on initiating or continuing proceedings against the legal entity that has acquired the undertaking. (3) In the case of a transfer of an undertaking, criminal-procedural consequences transfer to the legal entity that has acquired the undertaking. (4) The legal entity that has acquired the undertaking assumes the procedural status, rights, and obligations of the initial legal entity in criminal proceedings."*.
- Delete CPL Section 547.[1] (2).
- Supplement CPL Section 547.[1] with Paragraph 4 as follows: *"If, during trial, it is established that a transfer of an undertaking has taken place, the court, having assessed the circumstances of the transfer of the undertaking, decides to terminate proceedings against the liquidated legal entity against which proceedings for the application of a*

coercive measure are conducted, and to continue the proceedings against the legal entity that has acquired the undertaking.”.

10 The criteria for applying coercive measures in CL should be improved. Similar to competition law, the amount of monetary recovery should be linked to the net turnover of the legal entity in order to ensure a proportionate and preventive effect.

- Restate CL Section 70.[6] (1.[1]) as follows: *“A monetary recovery, taking into account the harmfulness of the criminal offence and the financial situation of the legal entity, shall be determined by linking it to the legal entity’s net turnover in the last closed financial year:*
  7) for a criminal violation – in the amount of five to ten thousand minimum monthly wages set in the Republic of Latvia, but not less than 3 % of the legal entity’s net turnover for the last closed financial year;
  8) for a less serious crime – in the amount of ten to fifty thousand minimum monthly wages set in the Republic of Latvia, but not less than 5 % of the legal entity’s net turnover for the last closed financial year;
  9) for a serious crime – in the amount of twenty to seventy-five thousand minimum monthly wages set in the Republic of Latvia, but not less than 10 % of the legal entity’s net turnover for the last closed financial year;
  10) for an especially serious crime – in the amount of thirty to one hundred thousand minimum monthly wages set in the Republic of Latvia, but not less than 15 % of the legal entity’s net turnover for the last closed financial year.”.

11 CPL Section 361 should be supplemented with a specific purpose – ensuring enforcement of a coercive measure in cases of a transfer of an undertaking, to enable application of the coercive measure to the transferee.

- Restate CPL Section 361 (2) as follows: *“An arrest of property may also be imposed in proceedings for the application of a coercive measure to a legal entity, including in cases of a transfer of an undertaking, in order to secure the enforcement of coercive measures against the successor of obligations, and in proceedings for the imposition of compulsory measures of a medical nature, where it is necessary to secure the resolution of property issues in criminal proceedings or possible liquidation, monetary recovery, confiscation of property, or restriction of rights.”.*

12 Recovery of procedural expenses should be extended also against legal entities, by providing for the possibility to recover procedural expenses also from the legal entity to which a coercive measure has been applied.

- Restate CPL Section 368 (1) as follows: *"Procedural expenses shall be recovered by a court ruling from convicted persons and from the legal entity to which a coercive measure has been applied, except in the cases referred to in Paragraphs 3, 4, and 6 of this Section. The obligation to reimburse procedural expenses also rests with the parents or guardians of a convicted minor."*.

13 CPL should include a clear indication that severance of proceedings also applies to legal entities at the trial stage, provided it does not prejudice achievement of the aim of criminal proceedings and timely settlement of criminal law relations.

- Restate CPL Section 476 (1) as follows: *"In the interests of the accused or the victim, the court may sever criminal proceedings in which several persons are accused or one person is accused of several criminal offences, as well as proceedings in which proceedings for the application of coercive measures to legal entities are conducted, if severance does not prejudice achievement of the aim of criminal proceedings."*.

14 CPL Section 83 should be supplemented with a provision providing that participation of defence counsel is mandatory also at the pre-trial stage if the legal entity has not authorised a representative to participate in the proceedings. It should be provided that defence counsel is required in all cases where the legal entity's representative does not participate in the proceedings, regardless of whether the proceedings have been severed into separate proceedings. Such a procedure would fully ensure the legal entity's right to defence and would comply with Article 92 of the Satversme.

- Supplement CPL Section 83 (1) with Clause 6 as follows: *"in proceedings for the application of coercive measures to legal entities, if the legal entity has not authorised a representative to participate in the proceedings."*;
- Delete from CPL Section 83 (3) the following words: *"as well as where trial takes place in separately severed proceedings for the application of a coercive measure to a legal entity and the legal entity's representative does not participate in the trial."*.

15 Methodological guidance materials should be developed for investigators and prosecutors on proceedings for the application of coercive measures to legal entities, which should include an action algorithm for the course of the proceedings, criteria for establishing the link between the natural person and the legal entity, raising and assessing presumptions and their criteria, indicators pointing to a transfer of an undertaking, actions to be taken when a transfer of an undertaking is identified, and other related issues.

List of publications and reports on the topic of the Thesis

Publications:

1. Jansons M., 2022, Topicalities in coercive measures application process to legal entities in criminal proceedings in the Republic of Latvia, Riga, RSU, Socrates 2022, Nr.3 (24), 78–90., ERIH+, https://doi.org/10.25143/socr.24.2022.3
2. Jansons M., 2023, Proving the involvement of legal entities – credit institutions – in 'stand-alone' money-laundering cases, Riga, RSU, Socrates 2023, Issue 1-27 (December 2023), 27–36, ERIH+, https://doi.org/10.25143/socr.27.2023.3.27-36
3. Jansons M., 2024, Involvement of legal entities in committing criminal offences influencing factors, Riga, RSU, Socrates 2024, Issue 1-29 (September 2024), 16–21., ERIH+, https://doi.org/10.25143/socr.29.2024.2.16-21

Reports:

1. Jansons, M., 2022. Current issues in the application of coercive measures to legal entities. Riga Stradiņš University International Scientific and Practical Conference "Current Issues of the Legal System in the Context of the Centenary of the Constitution", 21 April 2022.
2. Jansons, M., 2022. Jurisprudence on the criminal liability of legal persons in Latvia. International scientific and practical conference of the European Commission co-funded project jointly implemented by the Prosecutor General's Office of the Republic of Latvia, the Prosecutor General's Office of the Republic of Lithuania, and the Prosecutor General's Office of the Republic of Estonia, "Strengthening Cooperation in the Investigation of Financial and Economic Crimes for Legal Professionals of the Baltic States – BALTICS", 17 May 2022.

References

1. Council of Europe, MONEYVAL, 23 August 2018. Fifth Round Mutual Evaluation Report on Latvia – Anti-Money Laundering and Counter-Terrorist Financing Measures. Available at: https://www.fid.gov.lv/uploads/files/Dokumenti/Moneyval%20zi%C5%86ojumi/MONEYVAL20188_5th-Round_MER-Latvia_LV.pdf (accessed 22.10.2024).
2. EUROPOL, 2025. Decoding the EU's most threatening criminal networks – Summary. Available at: https://www.europol.europa.eu/cms/sites/default/files/documents/EU-SOCTA%202025%20-%20Kopsavilkums%20.pdf (accessed 01.10.2025).
3. Jansons, M. (2022). Topicalities in the application of coercive measures to legal entities in criminal proceedings in the Republic of Latvia. Riga: Rīga Stradiņš University, Socrates, No. 3 (24). Available at: https://doi.org/10.25143/socr.24.2022.3 (accessed 20.08.2025).
4. Jansons, M. (2023). Proving the involvement of legal entities – credit institutions – in stand-alone money-laundering cases. Riga: Rīga Stradiņš University, Socrates, Issue 27, 27–36. Available at: https://doi.org/10.25143/socr.27.2023.3.27-36 (accessed 20.08.2025).
5. Jansons, M. (2025). Report on the MONEYVAL 6th Round Evaluation of Latvia. Report of a Prosecutor of the Specialised Prosecutors' Division of the Criminal Law Department of the Prosecutor General's Office of the Republic of Latvia, 13 June 2025 (unpublished material).
6. OECD, 10 October 2019. Implementing the OECD Anti-Bribery Convention: Phase 3 Report on Latvia. Available at: https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-3-report-latvia_1c922a23-en.html (accessed 02.08.2024).
7. United Nations, 9 December 1999. Convention for the Suppression of the Financing of Terrorism. Available at: https://likumi.lv/ta/lv/starptautiskie-ligumi/id/1419 (accessed 01.10.2025).