

## LIABILITY OF LEGAL PERSONS FOR VIOLATIONS OF INTERNATIONAL CRIMINAL LAW

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**Purpose** – The purpose of this article is to provide the reader with some information on the development of liability of legal persons for violations of international criminal law, its implementation practice in common and civil law countries as well as its perspectives of development in the European Union;

**Design/methodology/approach** – The first part of this article presents the theoretical basis of this topic, which using analysis and comparative-historical methods distinguishes the scope of liability of legal persons for violations for international criminal law in different historical periods; next, legislation is discussed, which had impact to the development of liability of legal persons; finally, the scope of corporate liability and legal regulation is compared. The second part of this article, using the method of document analysis, examines the practice of liability of legal persons across countries with different legal traditions. Court judgements, which have impact to the present topic, are presented. Finally, using generalisation and other methods, last part presents the need of further development of corporate liability in the European Union as well as it presents impact of case law to the development of corporate liability;

**Findings** – Corporate liability for violations of international criminal law originated in common law countries as far back as in the 18<sup>th</sup> century, whilst first business representatives on the basis of personal responsibility were convicted in International Military Tribunals in the middle of the 20<sup>th</sup> century. At the end of 20<sup>th</sup> century and beginning of the 21<sup>st</sup> century, many international, regional and national institutions recognised that corporate liability is a priority of national prosecution and international jurisdiction is regarded just as an additional measure and a measure of last resort. The Arab Spring provoked such type of cases in civil law countries. It should be noted, that such form of liability of legal entities, both according to common and civil law practice, is



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in accordance with international law and may be considered as a part of international customary law. According to data of 2013, corporate liability for grave breaches of international law is not established on the European Union level, however, notwithstanding this fact, 22 out of 28 European Union member states, in principle, allows such form of corporate liability in their own domestic laws. For constitutional and statutory reasons it is difficult to achieve the unification of corporate liability on the national level, however committed grave breaches of legal persons pose a great threat both in national and international level. For all these reasons, there is the need to harmonise jurisdiction of corporate liability in national prosecution as well as the relationship of implementation of such liability on international and national levels; finally, there is the need to rely on the good foreign practices;

**Research limitations/implications** – This article examines liability of legal persons for genocide, war crimes and crimes against humanity. The development of corporate liability, its case law in different legal systems, i.e. how countries having different jurisdictions deal with issues of corporate liability, is presented either. Finally, this article presents the relationship between national and international law and possible perspectives of corporate liability in the European Union;

**Practical implications** – This study provides information on the development of corporate liability for violations of international criminal law since the 18<sup>th</sup> century to the present, it also presents examples of case law, relevant to corporate liability issues and issues of passing of laws and assessment of litigation. Issues of corporate liability are important in the context of international law harmonisation and regulation. As the number of legal entities involved in armed conflicts and contributing to grave breaches raise, this issue in its turn raises problems of legal assessment and legal status of such offences, besides, these problems may get evident in the European Union soon;

**Originality/Value** – The study provides a new context of corporate liability, which, according to the present information, has been only very little examined in Lithuania. This is an interdisciplinary study, that combines works of professor Dr. I. Vėgėlė, professor Dr. R. Drakšas, Dr. E. Sinkevičius, Dr. D. Soloveičikas and other academic works on criminal corporate liability and international criminal liability for grave international breaches. In Lithuania, issues of liability in international humanitarian law were analysed by professor Dr. J. Žilinskas and professor Dr. D. Žalimas. In this article, collected information and case law assessment is an actual and a conceptual analysis of works of foreign authors and case law.



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**Keywords:** liability of legal persons, individual responsibility, International Criminal Law, international customary law;

**Research type:** conceptual paper.