



**The presumption of  
innocence of legal  
persons:  
an illusory or a  
genuine guarantee?**

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# Introduction



## **Legal Framework in Latvia**

- Latvian law does not hold companies criminally responsible
- Coercive measures have been allowed for crimes defined by Criminal Law for the past twenty years

## **Historical Context**

- Company accountability in Latvia has been ineffective due to a lack of understanding and skills
- Legislative Improvements in 2013 and Increasing Prosecution of Companies

## **Our Client**

- Reputable companies accused of crimes, facing devastating impacts from investigations

## **The Presumption of innocence**

- A key principle in criminal law, applied to individuals. Its application to companies is less clear due to vague legal guidelines

## **Defence Strategy**

- We strive to demonstrate the client's innocence



# Understanding the Presumption of Innocence for Companies (I)

## MULTI-STEP APPROACH

### Step 1: EU Directive

- Reference to Directive 2016/343

### Step 2: National Law and Case Law

- Reference to Article 19 of the Criminal Procedure Law. Judgements of the Constitutional Court

### Step 3: EU Case Law

- EU case law supports the presumption of innocence for companies, particularly in competition law contexts.

## CONCLUSION

- The presumption of innocence is a real procedural guarantee for companies, equating their rights to those of individuals.
- Clearer laws would simplify this framework for businesses.

# Understanding the Presumption of Innocence for Companies (II)

**Companies often receive vague investigative assertions**, such as:

- Failure to prevent the crime
- Decreased taxable income indicating corporate benefit
- Employee misconduct due to inadequate oversight

**Law and Case law requires proof of:**

- Connection to the Crime
- Linking Individuals

**The Burden of Proof**

- Usually lies with the investigator

**Challenges**

- Relying solely on the presumption of innocence can lead to conviction
- Shifting the presumption toward guilt based on investigative narratives



# Top 10 Red Flags in Corporate Liability

- **Lack of Regular Audits:** Insufficient asset verification and unclear partner checks
- **Ineffective Structure:** Unclear organizational chart not meeting legal requirements
- **Weak Compliance Policies:** No adopted anti-corruption or AML policies with no oversight
- **No Complaint Process:** Absence of a system for handling complaints
- **Parent Company Bias:** Decisions often favouring parent company interests
- **Missing Background Checks:** No employee background checks in compliance with GDPR
- **Low Expense Approval Thresholds:** Minimal scrutiny on expense approvals
- **Risky Employee Behaviour:** Known issues among key staff, like addictive disorders
- **Management Detachment:** Lack of managerial engagement in financial matters
- **Overreliance on Trust:** Dependence on trust without sufficient oversight

# Contact us



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