

Art. 102 Corporate criminal liability (unofficial translation)

1. If a felony or misdemeanour is committed in an undertaking in the exercise of commercial activities in accordance with the objects of the undertaking and if it is not possible to attribute this act to any specific natural person due to the inadequate organisation of the undertaking, then the felony or misdemeanour shall be attributed to the undertaking. In such cases, the undertaking shall be fined up to 5 million francs.
2. If the offence committed falls under Articles 260ter, 260quinquies, 305bis, 322ter, 322quinquies or 322septies paragraph 1 or is an offence under Article 4a paragraph 1 letter a of the Federal Act of 19 Dec. 19861 on Unfair Competition, the undertaking shall be penalised irrespective of the liability under the criminal law of any natural persons provided the undertaking must be accused of failing to take all the reasonable organisational measures that were required in order to prevent such an offence.
3. The court assesses the fine in particular in accordance with the seriousness of the offence, the seriousness of the organisational inadequacies and of the loss or damage caused, and based on the economic ability of the undertaking to pay the fine.
4. A undertaking within the meaning of this title is:
 - a. any legal entity under private law;
 - b. any legal entity under public law with exception of local authorities;
 - c. companies;
 - d. sole proprietorships.