

Organisational fault and behavioural rules in the indicting of legal persons

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Abstract

This paper provides a critical analysis of the traditional perception of the organisational fault as a rule of attribution in the criminal liability of corporations. In the following pages, the author sustains that the obligations of direction and supervision stipulated in the law are equivalent to organisational rules of behaviour of non-criminal nature. This thesis is based on a doctrinal analysis, on a study of Act No. 20.393, of precedents and of comparative law, that fundament the nature and content of these obligations. Finally, the article proposes a categorization of the obligations and states the fundamental criteria for its future specification.

Author keywords

Compliance

Corporate governance

Criminal liability

Organisational fault

Rules of behaviour