



TU 122 Law in Everyday Life

Juristic Persons

Pananya Larbprasertporn
Pananya.larbpr@gmail.com



What does law regard as a person?



Source: David Slater



Juristic Persons

Outline

1. Definition
2. Establishment of juristic persons by law
3. Rights and duties of juristic persons
4. Representatives
5. Representatives acting beyond the scope
6. Conflict of Interest
7. Liability of juristic persons



1. Definition

- **What is a Juristic Person?**

Juristic person is an entity created by law and given certain legal rights and duties of a human being.





2. Establishment of Juristic Persons by Law

- **Juristic Persons can only be established by law**

Section 65 of the TCCC

“A juristic person can come into existence only by virtue of this Code or of other law.”



2. Establishment of Juristic Persons by Law

มาตรา 65 ป.พ.พ. นิติบุคคลจะมีขึ้นได้ก็แต่ด้วยอาศัยอำนาจแห่ง
ประมวลกฎหมายนี้หรือกฎหมายอื่น



2. Establishment of Juristic Persons by Law

5 types of juristic persons under TCCC:

- 1) Registered ordinary partnership (ห้างหุ้นส่วนจดทะเบียน);
- 2) Limited partnership (ห้างหุ้นส่วนจำกัด);
- 3) Limited company (บริษัทจำกัด);
- 4) Association (สมาคม); and
- 5) Foundation (มูลนิธิ)



2. Establishment of Juristic Persons by Law

For example:

Section 1015 A partnership or company, upon registration being made according to the provisions of this Title, continues a juristic person distinct from the partners or shareholders of whom it is composed.

มาตรา ๑๐๑๕ ห้างหุ้นส่วนหรือบริษัทเมื่อได้จดทะเบียนตามบัญญัติแห่งลักษณะนี้แล้ว ท่านจัดว่าเป็นนิติบุคคลต่างหากจากผู้เป็นหุ้นส่วนหรือผู้ถือหุ้นทั้งหลายซึ่งรวมเข้ากันเป็นหุ้นส่วนหรือบริษัทนั้น

สำนักงานคณะกรรมการกฤษฎีกา สำนักงานคณะกรรมการกฤษฎีกา สำนักงานคณะกรรมการกฤษฎีกา



2. Establishment of Juristic Persons by Law

Juristic persons established by other laws:

For example:

- Thammasat University
- Temples
- Office of the Council of State



3. Rights and Duties of Juristic Persons

- **Rights and Duties of Juristic Persons**

Section 66 of TCCC

“A juristic person has rights and duties conformity with the provisions of this Code or of other law within the scope of its power and duties, or its object as provided by or defined in the law, regulation or constitutive act.”



3. Rights and Duties of Juristic Persons

- **Rights and Duties of Juristic Persons**

Section 67 of TCCC

“Subject to Section 66, a juristic person enjoys the same rights and is subject to the same duties as a natural person, except those which, by reason of their nature, may only be enjoyed or incurred only by a natural person.”



3. Rights and Duties of Juristic Persons

- Rights, which can be enjoyed only by a natural person, for example, right to life, family, etc.
- Rights, which can be enjoyed by a juristic person, for example, right to name, property, etc.



Exercise

In operating business within its registered objects, Company ABC entered into a sales contract with Mr. Peter. Later, Mr. Peter failed to perform his obligations under such contract.

Can Company ABC sue Mr. Peter for a breach of contract, if filing a lawsuit is not in the objects of the Company?



4. Representatives

- **Management of Juristic Persons**

Section 70 of TCCC

“A juristic person must have one or several representatives as prescribed by the law, regulations or its constitutive act.

The will of a juristic person is declared through its representatives.”



4. Representatives

- For example, a representative(s) of a limited company is(are) a “director(s)” (กรรมการ).
- Manager (ผู้จัดการ), who is not at the same time a director, is not a representative of a limited company.



4. Representatives

- **Management of Juristic Persons**

Majority Rule

Section 71 of TCCC

“In the case where a juristic person has several representatives, if it is not otherwise provided by the law, or defined in regulations or constitutive act, decisions as to the affairs of juristic person are made by a majority of representatives.”



4. Representatives

- **Management of Juristic Persons**

Majority Rule, if not otherwise provided, e.g., by two-third majority or unanimity.

Q: If one representative abstains?

(refusing to vote)



4. Representatives

- **Temporary Representatives**

Section 73 of TCCC

“If a vacancy occurs among the representatives of juristic person, and there is reason to believe that damage might ensue from delay, the Court may, on the application of any interested person or of the Public Prosecutor, appoint a temporary representative”



4. Representatives

- **Temporary Representatives**
- Only when the law, regulations or constitutive act do not rule about the temporary representative
- Examples of vacancy include death, resignation (ลาออก), etc.



5. Representative acting beyond the scope

5.1. Scope of objects of the juristic person

If representatives act within the scope of the juristic person's registered objects ...

- ➔ Such act binds the juristic person.
- ➔ Representatives are not personally liable for such act.



5. Representative acting beyond the scope

5.1. Scope of objects of the juristic person

If representatives act within the scope of the juristic person's registered objects ...

E.g. Company A's object is to sell flowers online. Ms. B, a representative, buys flowers to make bouquets as ordered by customers. The sell contract binds Company A and not Ms. B.



5. Representative acting beyond the scope

5.1. *Scope of objects of the juristic person*

If representatives act beyond the scope of the juristic person's registered objects ...

→ Such act does not bind the juristic person.

→ Representatives are personally liable for such act.



5. Representative acting beyond the scope

5.1. Scope of objects of the juristic person

If representatives act beyond the scope of the juristic person's registered objects ...

E.g. Company A's object is to sell flowers online. Ms. B, a representative, lends money to C for interest (ดอกเบี้ย). The contract binds Ms. B and not Company A.



5. Representative acting beyond the scope

5.2. *Scope of registered power of representatives*

If representatives act beyond the scope of their registered power, but within the objects of the juristic person ...

➔ The juristic person can either deny or ratify the act.



5. Representative acting beyond the scope

5.2. Scope of registered power of representatives

E.g. Company A's object is to sell flowers online. Ms. B, a representative, has the registered power only to buy flowers to make bouquets as ordered by customers. One day, a motorbike used to deliver flowers was broken, so Ms. B bought a new motorbike.



6. Conflict of Interest

Section 74 TCCC “In a matter in which the interested of a juristic person conflict with those of the representative of juristic person, the latter has no representative power.”



7. Juristic Person's Liability

7. Juristic person's liability

7.1. Contractual liability

7.2. Tortious liability



7.1. Juristic Person's Contractual Liability

- **Considerations for Binding Contracts**
 - (1) Being a representative;
 - (2) Acting within the scope of objects;
 - (3) Acting within the scope of the registered power of representatives;
 - (4) Having no conflict of interest (see (1) and Section 74 TCCC)



7.2. Juristic Person's Tortious Liability

- **Tortious Liability of a Juristic Person to a third party** (Section 76 TCCC)

If damage is caused by an act of representatives or the person empowered to act on behalf of the juristic person ...

- in performing their of duties → A juristic person is bound to make compensation for any damage done to other persons.
- not within the scope of the object or power and duties of the juristic person → The underlined persons are jointly liable to make compensation.



7.2. Juristic Person's Tortious Liability

- **Tortious Liability of a Juristic Person to a third party** (Section 76 TCCC)

E.g. Company A's object is to sell flowers online. Ms. Z works at Company A as a courier to deliver flowers to customers. One day, Ms. Z was riding a motorbike to deliver flowers to one customer. With negligence, she hit a boy, who was crossing the street.