



## **SPECIAL PART**

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## 1. FOREWORDS

### 1.1. Methodological Introduction

In compliance with what is set out in the Decree, this document identifies CIN's Activities at Risk of Crime, i.e. those company processes in which the cases of crime referred to in the Decree may be abstractly realised.

In order to identify the Activities at Risk of Crime within CIN's company activities, a map was made of the activities at risk, i.e. an analysis of the company context aimed at mapping all the areas of activity carried out by the company and, among these, identify the processes and activities in which the crimes set out in the Decree can be abstractly carried out.

As part of the Sensitive Activities, ones that in addition to having a direct importance as activities that could integrate criminal conduct, may also have an indirect importance due to the committing of other crimes, which are instrumental in the committing of said crimes. In particular, the activities in which the actual conditions can occur which make the committing of crimes in the realm of areas directly in charge of carrying out the activities specifically referred to by the cases of crime, are considered instrumental (e.g.: Selection and hiring of staff, bonus system, consultancies and professional services, acquisition of goods and services for the crimes of corruption).

The Special Part of the CIN organisation, management and control model comprises two sections:

#### Section One: Analysis of risks of crime (maps of areas at risk)

Section one shows the results of risk assessment carried out in the company and the phases that have distinguished the risk of crime analysis completed, defining the modes and showing the areas considered to be at risk of crime.

More in particular, in this section, the map of the areas at risk is shown which for each of the departments undergoing interviews, shows in graphs the possible exposure to the risk of committing one of the cases of crime foreseen in Leg. Decree 2310/01 and indicated in the table below.

#### Section Two: Risk management plan

Section two, taking moves from the results that the crime risk analysis has highlighted, shows the definitions for each group of crimes:

- Single crimes at risk;
- The specific Activities at risk of committing a crime;
- The protocols to alleviate the risk of crime, divided into:
  - General Protocols;
  - Specific Protocols;
- Controls and information flows with the Supervisory Body.

## 1.2. Section One: Analysis of risks of crime

The risk of crime analysis carried out by CIN is an activity that has first of all allowed identification and contextualisation of the risk of crime in relation to governance and organisational set-up of the body.

This activity allowed information to be obtained that is useful for supporting the company executive management's choices regarding updating and improvement of the company's organisation, management and control model compared with the preventive aims indicated in Leg. Decree 231/01 (such as the levels of exposure to the individual risks of crime).

More specifically, the risk of crime analysis consisted of a systematic evaluation of the following phenomena<sup>1</sup>:

- The importance of a crime (importance)
- The frequency with which a crime occurs (frequency)
- The occurrence of a crime (precedents)

The risk evaluation, in fact, can be expressed in the following formula:

$$\text{Risk of crime} = \text{F (Importance, Frequency, Precedents)}$$

In this viewpoint, below is the definition of some basic terms that are useful for understanding the method used by Socotherm:

- **Threat:** An action, an activity a process or a potential harmful event characterised by a frequency of occurrence that, depending on the specific crime, is a possible way of implementing the crime itself.
- **Vulnerability:** Lack of preventive measures that make the occurrence of a threat and the consequent carrying out of a crime possible;
- **Impact:** Penalty deriving from the carrying out of a crime;
- **Risk of crime:** It is the probability that a certain crime is carried out using implementing modes that exploit the vulnerabilities represented by the lack of preventive measures and the negative ethical climate.

To analyse the risk of crime, the procedure was as follows, based on the following operational phases:

- Identification of the case of crime and consequent identification of threats that allow realisation of the facts of crime (in terms of conduct and operational activities)<sup>2</sup>;
- Contextualisation of threats that allow realisation of crimes compared to the body using self-assessment with active collaboration by lawyers;
- Allocation of a probability value to each threat regarding occurrence, based on the following parameters:

<sup>1</sup> It must be underlined that a full investigations of the components of risk of crime should also consider other aspects that are strictly psychological and personal of the senior staff and subordinates in charge of activities identified as processes at risk (greed, personal financial problems, low loyalty to the organisation, vendettas etc). Investigations of this kind, in addition to being serious threats to the workers' rights, would give rise to uncertain and highly variable information (as it is subjective and non-objective) and would not allow decisions to be taken in terms of corrective policies, as easily merging into illegal (in referencer to the job's right to privacy etc), therefore the analysis did not take into consideration such investigations factors.

<sup>2</sup> This phase aims to define the so-called "structural components" of the risks of crime. Identification of the structural components is based on a preliminary interpretation of the legislation (i.e. the text of the law that foresees the criminal penalty and the useful, necessary legal precedents for a correct interpretation). Interpretation was carried out with the consultancy of primary legal studies that provided key elements of the so-called objective case of the crime (i.e. the conduct, whether action or omission, or of the event foreseen as punishable). These key elements have been used to define a set of questions aimed at identifying the areas and activities at risk of crime of the company which is the body (by self-assessment techniques). Identification is possible via correlation of key elements with data relevant to the company reality (organisation, processes, systems and powers).

- Company or context history or statistic;
- Economic and/or geographic context.
- Evaluation of the level of vulnerability compared to each threat, via identification of the preventive measures implemented;
- Evaluation of the impact in the case of the risk of crime being realised in terms of pecuniary and/or restrictive penalties.

From a practical point of view, the analysis was carried out via document analysis and self-assessment techniques, in order to find and highlight threats (activities at risk of crime) that cannot be found by mere document searches.

The self assessment surveys have permitted verification and highlighting of the existence of risks of crime in individual company areas or departments. The survey involved managers and some subordinates in the various areas and departments.

In particular, the managers of the following areas were interviewed:

- CHIEF EXECUTIVE OFFICER;
- FINANCE, CONTROL AND ADMINISTRATION DEPARTMENT;
- HUMAN RESOURCES DEPARTMENT;
- OPERATIONAL DEPARTMENT;
- BUSINESS DEPARTMENT;
- EQUIPMENT DEPARTMENT;
- PURCHASING DEPARTMENT;
- OPERATIONAL COMMAND OF SHIPS;
- LEGAL AND CORPORATE AFFAIRS;
- MANAGEMENT CONTROL;
- SAFETY AND MARITIME OFFICE;
- INTERNAL AUDIT.

Attached is the map of the areas at risk that shows results for each of the functions undergoing interview, in terms of exposure to risk for each of the crimes or the types of crimes included in the realm of application of the Leg. Decree 231/01.

### 1.3. **Section Two: Risk management plan**

The self-assessment surveys allowed the existence of risks of crimes within single company areas or departments to be verified and highlighted. In particular, compared to the areas identified as at risk of crime, and in particular compared to the groups of crimes at medium/high risk, the company has defined a series of preventive protocols.

In this section, for each group of crimes at risk, the following are defined:

- Single crimes at risk;
- Specific CIN activities at risk of committing crimes and the relative implementation modes of crimes;
- Protocols to alleviate the risk of crime, divided into:
  - General Protocols, or rather the protocols foreseen by the model for generally governing the profiles of risk of all crimes set out in the Decree being committed (e.g., the Code of

- Ethics, risk assessment, Board of Auditors and the auditing company, etc)
  - Specific Protocols, or rather the organisational, physical and/or logical measures foreseen by the Model for governing a specific risk profile for the committing of crimes or a specific category of crimes as set out in the Decree (e.g., operational procedures, specific policies, etc);
- The controls carried out by the company and the information flows that each of the company departments involved in the application of the General/Specific Protocols is called upon to regularly send to the Supervisory Body.

#### 1.4. Risk analysis: Exclusion of crimes

We must state that the company has decided not to implement Specific Protocols for the following categories of crimes, on the presumption that, for the crimes listed below:

- i. The interest or advantage for the company is difficult to configure or does not exist, or,
  - ii. the probability of occurrence of the risk in question is low, in consideration of the type of business.
  - iii. The level of vulnerability of the company's organisational and management system compared to the risk in object is low.
- **Art. 25-bis of Leg. Decree 231/01- counterfeit money, public credit cards, duty stamps and in instruments or signs of acknowledgement.** The company does not use cash or revenue stamps and does not have a cash fund (there is only a small cash fund available) therefore the probability of the occurrence of this risk is very low in consideration of the type of CIN's business. Also, the level of vulnerability of the company's organisational and management system compared to the risk in object is low as the company has implemented the General Protocols.
  - **Art. 25-querter 1 of the Leg Decree 231/01- Female genital mutilation practices.** The company is not active in sectors at risk of committing such crimes, therefore the probability of the occurrence of the risk in question is zero, in consideration of the type of CIN business. Medical services and a doctor are present on board each ship for emergency treatment, however the ships are not equipped with operating instruments. Also, the level of vulnerability of the company's organisational and management system compared to the risk in object is low as the company has implemented the General Protocols. In all cases, the practice of such criminal conduct would not constitute any advantage for the company.
  - **Art. 25-sexies of the Leg. Decree 231/01- Market abuse.** The company is not listed and does not handle privileged information therefore the probability of the occurrence of the risk in question is zero, in consideration of the type of CIN's business. Also, the level of vulnerability of the company's organisational and management system compared to the risk in object is low as the company has implemented the General Protocols. In all cases, the practice of such criminal conduct would not constitute any advantage for the company.
  - **Art. 25-duodecies – Use of citizens of third party countries, with irregular permits of stay.** The probability of occurrence of the risk in question is low, in consideration of the type of business, environment and professional profile of the staff in the sector in which CIN operates. Also, the low level of probability of occurrence is validated by the fact that the risk is linked to the occurrence of particular aggravating circumstances (more than three workers, minors or particularly serious treatment conditions). Lastly, the company's management system's level of vulnerability compared to the risk in question is low, considering the staff recruitment and hiring procedures in existence.





## **Special Part I**

**Undue receipt of public funds, fraud against the state or a public body or to achieve public funding  
(Article 24) and IT fraud against the state or a public body (Article 24 bis)**

**Concussion, undue incitement and corruption (Article 25)**

**Private corruption (Article 25 ter)**

**Incitement to not make declarations or to make untruthful declarations to the Judicial Authorities  
(Article 25 decies)**

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### A) The crimes involving public funding (article 24 bis of Leg. Decree 231/01)

- **Misappropriation to the damage of the State or the European Union (article 316 bis, Italian Criminal Code)**

This is the hypothesis in which, after receiving public funding or contributions from the State (from any State body, also territorial, such as the Region or the Municipality) or from the EU, the amounts received (or part thereof) are not used for the purposes for which they were issued, and this is also in the hypothesis in which the planned activity was carried out in any case.

- **Undue receipt of public funds against the State or EU (article 316 ter Italian Criminal Code)**

This criminal offence is carried out when contributions, funding, subsidised loans or other provisions of this type are obtained without having a right thereto, from the State, other public bodies, or from the EU, by submitting false declarations or documents, omitting necessary information.

Compared to the hypothesis of fraud, this has a residual nature and is applied when, for example, the implementation of contrived or fraudulent acts has not been proven.

- **Fraud against the State, another public body or the EU (article 640, paragraph 2, no. 1 Italian Criminal Code)**

This type of crime is carried out when, in order to achieve an unfair profit, contrived or fraudulent acts have been enacted to induce the public body to make an error and cause damage to itself.

This is the hypothesis, for example, of the submitting of false documents or declarations when taking part in a tender bid, in order to obtain the tender contract.

- **Aggravated fraud to achieve public funding (article 640 bis Italian Criminal Code)**

This is the same previous hypothesis, but aggravated by the purpose of obtaining public money, such as funding, contributions or financial subsidies.

- **IT Fraud against the State or another public body (article 640 ter Italian Criminal Code)**

This is the hypothesis in which, by altering the working of an IT or computer system, or by manipulating the data contained therein, an unfair profit is obtained, causing damage.

### B) Crimes of corruption (article 25 legislative decree 231/01)

- **Concussion (article 317 Criminal Code)**

This offence is configured in the event in which a public official, abusing his position or his powers, forces someone to unduly give or promise money or other benefits to him or another third party.

The offence of concussion could occur in the realm of application of the decree in the hypothesis in which a company exponent or external collaborator will contribute to the public official's crime, who, taking advantage of this position, asks third parties for undue services (on the condition that some advantage for the company derives in some way from such behaviour).

- **Corruption by exercising position (Article 318 Criminal code)**

The public official who, in relation to carrying out his functions or powers, receives money or another benefit or accepts a promise thereof, for himself or a third party, commits this crime in question.

The offences of corruption foreseen pursuant to the Decree must be evaluated under a dual profile: Active corruption, when a company employee corrupts a public official or a public service appointee to obtain some advantage to the company's advantage (e.g.: So that any irregularities that emerged during an inspection are not reported); b) passive corruption, when a company employee, as a public official or public service appointee, receives money or the promise of money or other benefit to carry out acts that go against the duties of his own position. This latter hypothesis is, actually difficult to realise as the employee is corrupted not in the interest of the company but in his own interest.

Corruption occurs when the parties, being in equal positions, carry out an agreement, differently from concussion that, to the contrary, presumes exploitation of his own position of superiority that is opposed to the position of the private party's position of subjection, by a Public official or Public Service Appointee.

This conduct could occur, for example by hiring staff suggested by the Public Official or the Public Service Appointee, by paying the Public Official or Public Service Appointee or third parties connected to them a fee that is not in line with the service/goods supplied, by issuing invoices for non-existent services/operations, by reimbursing fictitious expenses, also presented via consultants, or via the allocation of goods that are fictitiously free gifts or donations.

- **Corruption by an act that is contrary to public duties (Article 319 Criminal Code)**

The Public Official who, by omitting or delaying or by having omitted or delayed an act by his office, or by carrying out or having carried out an act that is contrary to his official duties, receives money or other benefits or accepts the promise thereof, commits this crime.

- **Corruption in judicial acts (Article 319 ter Criminal Code)**

The crime takes place on the condition that the facts of corruption, indicated in articles 318 and 319 Criminal Code, are committed to favour or damage a party in a civil, penal or administrative judicial procedure. The penalty is increased if someone is unfairly convicted as a result of this deed.

- **Undue incitement to give or promise benefits (Article 319 quater Criminal Code)**

The public official or public service appointee who, by abusing his position or powers, incites someone to unduly give or promise, to himself or a third party, money or another benefit, is punished for this conduct.

Anyone who gives or promises money or another benefit is also punished.

- **Corruption of a person appointed to a public service (Article 320 Criminal Code)**

The provisions as set out in article 318 and 319 of the Criminal Code are also applied to the public service appointee.

- **Penalty for the corruptor (Article 321 Criminal Code)**

The provision foresees that the penalties established in paragraph 1 of article 318 Criminal Code, in article 329 Criminal Code, in article 319 bis Criminal Code, in article 319 ter Criminal Code and in article 320 Criminal Code in relation to the above offences from articles 318 and 319 Criminal Code are also applied to those who give or promise money or other public benefits to a Public Official or a Public Service Appointee.

- **Abetting corruption (Article 322 Criminal Code)**

This offence occurs in the event in which money or another benefit is offered or promised to a Public Official or Public Service Appointee (to incite them to carry out, omit, delay or carry out an act that is contrary to his official duties) and said offer or promise is not accepted.

- **Misappropriation, concussion, corruption and abetting of members of European Community bodies and European Community and Overseas States officials (Article 322 bis Criminal Code)**

The provisions as set out in article 321 (i.e. penalties for the corruptor) and 322 (i.e. abetting corruption), paragraphs one and two of the Criminal Code are applied also if the money or other benefit is given, offered or promised:

- ☐ To the members of the European Community Commission, the European Parliament, the European Community Court of Justice and the Court of Auditors;
- ☐ To the officials and agents hired by contract according to the European Communities officials' statute or the system applicable to agents of the European Communities;
- ☐ To the people commanded by members states or by any public or private body at the European Communities, who have corresponding positions to those of European Communities officials or agents;
- ☐ to the people who carryout roles or activities corresponding to those of public officials and public service appointees in the realm of other foreign countries or international public organisations, if the deed is committed to procure for himself or for other an undue advantage in international economic operations or in order to obtain or maintain a financial-economic activity.

- **Private corruption**

The law no. 190 dated 6<sup>th</sup> November 2012 containing "Provisions for the prevention and repression of corruption and illegality in the Public Administration" published in the Official Gazette no. 265, dated 13<sup>th</sup> November 2012, amended some predicate offences in the regime of the administrative responsibility of bodies, introducing amendment that have a better statement of conduct and further severity of penalties and the introduction of the crime of corruption between private parties, in line with OECD guidelines.

The opposition to corruption strategy is enacted by strengthening the current penal response to illegal actions in the private sphere. The goal is completed by a revision of article 2635 of the Italian Civil Code, entitled corruption between private parties (that foresees penalties of one to three years of imprisonment). The amendments influence the authors, above all, including directors, general directors, executives in charge of drawing up corporate accounting documents, auditors and liquidators (paragraph 1), and also those who are controlled by or employed by the former (paragraph 2). For this offence, official steps are taken, if there is a distortion of competition in acquiring goods and services (no longer just a lawsuit) and the pledge or promise of liquidity or other benefits is no longer only referred to active subjects, but to third parties too. In particular, article 2635 of the Civil Code is introduced among the offences of the body responsibility, pursuant to

Legislative Decree 231/2001, in regard to the conduct of those who give or promise money or other benefits (paragraph 3 of the article), which will have the possibility of acting well in the interest of the body he belongs to.

With regards, however, to the additional penalties, the news also affects article 317 bis of the criminal code, increasing the list of offences, which, after conviction is followed by continuous ban on holding public offices. The figures of direct corruption and in judicial acts are associated with the indication of the offences of misappropriation and concussion now foreseen by the law.

With regard to confiscation, an amendment to article 322 ter is enacted in which, compared to the confiscation by equivalent, based on specific cases other than active corruption referred to in paragraph two of article 322 ter, reference is now only made to the price and not to the profit, making the internal legislation consistent with European Union Law.

- **Incitement to not make declarations or to make untruthful declarations to the Judicial Authorities (Article 25 decies)**

The law ratifies the body's responsibility in the event of committing the offence as set out in article 378 bis of the Criminal Code, in the interest of and to the advantage of the body.

Article 377 bis of the Criminal Code punishes anyone who, by violence or threat, or by the offer or promise of money or other benefits, incites a person called before the judicial authorities to make declarations that can be used in a criminal procedure, when he has the right to not answer, to not make said declarations or to make untruthful declarations.

## 2. SENSITIVE PROCESSES

The analysis of CIN's corporate processes has allowed the identification of activities in which realm the offences in question may be abstractly committed, referred to in articles 24-bis, 25, 25-ter and 25-decies of the Decree. Below is a list of sensitive processes:

1. Application for and management of contributions and funding, i.e. the activities that can be individual activities at risk, defined over time and identifiable separately; the risk for the company may arise at the time of start-up and management of procedures for obtaining grants, contributions or funding by the body, and their actual use. For example, the activities at risk for CIN could be:
  - The application of public funding or contributions for training activities (For.te Fund) or in the renegotiation request of the "Agreement for the carrying out of maritime connection services as a public service" between CIN and the Ministry of Infrastructures and Transport in the preparation of documents supporting the application;
  - In obtaining and using the public funding or contribution obtained;
  - In the report to the body providing the activities being carried out.
2. Management of relations with the public administration (including, for example, AGCM, port authorities, customs, MEF, MIT) to obtain certifications, authorisations, licences, concessions and other administrative provisions for conducting company activities;
3. Management of relations with the Public Administration for drawing up tax and social security declarations and payment of relative duties;
4. Management of relations with public subjects for aspects concerning safety and hygiene in the workplace (Leg. Decree 81/2008 and later amendments and integrations), security on the ships;

5. Hiring of staff belonging to protected categories or subsidised hiring. Relations with social security and national insurance bodies in general (for all employees);
6. Relations with public police forces (Carabinieri, State Police, Municipal Police, Finance Police, Food Hygiene Inspection Police Corps);
7. Management of relations with Public Authorities (e.g. Electrical Energy and Gas Authorities, Communications Watchdog, MEF, MIT, Personal data Watchdog, Banca d'Italia) in the event of fulfilments and obligations;
8. Management of relations with the financial administration;
9. Management of judicial and extrajudicial disputes;
10. Management of public software or software provided by third parties on behalf of public subjects and online connections (incoming and outgoing) or transmission of data on IT support material to public subjects (e.g. Entratel, Siveq, NIS, tax register);
11. Management of commercial and contractual relations with clients and private third parties;
12. Gratuitous loans, sponsorships, donation and other forms of gratuities.
13. Commanding of ships

Other Sensitive Activities for instrumental processes known as “budget”, i.e. those processes that constitute the support and prerequisite (financial and operational) for the creation of exchanges for the purpose of committing crimes of corruption. Below is an indication of the sensitive activities crimes regarding budget processes identified at CIN:

1. Management of purchasing cycle (selection and management of suppliers);
2. management and awarding of professional appointments;
3. Management of corporate movables;
4. Selection, hiring and management of staff;
5. Management of *financial resources*.

### 3. THE PROTOCOLS FOR ALLEVIATE THE RISK

#### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

#### ➤ Specific Protocols;



In addition to the general protocols, the company has developed and implemented the following Specific Protocols for reducing the risk of committing the offences against the public administration compared to the activities highlighted above.

- **Anti-corruption Code of Conduct:** On the assumption that the company is totally intransigent towards any form of abuse of power and corruption, even towards staff from private companies, the protocol's main objective is to define rules of conduct that indicate the conduct that the recipients must and must not have towards third parties, so that any conduct suitable for committing offences as per the Decree is prevented;
- **Code of Conduct for Relations with the Public Administration:** The protocol's main aim is to define the rules of conduct that indicate the conduct that recipients must have and not have towards Public Officials, so that conduct suitable for committing the offences as per the Decree is prevented;
- **Procedure for accessing public funding:** The procedure defines the operating modes for access subsidies and benefits of an economic or fiscal nature, in any form, type and configuration mode, foreseen by EU, national, regional, provincial or municipal laws, with the aim of regulating access modes, use modes and internal management of funding and subsidies, as well as reporting modes, describing the activities of the different organisational units that take part in the process in detail and in the logical order.

The procedure foresees the following sections:

- Division of the procedure into different phases (initiative-proposal, preliminaries on relevant phases, training on the content of the operations and its essential terms)
  - Accounting separation
  - Management on segregated current accounts
  - Controls on the use of public financial resources
  - Controls on the progress of funded projects
  - Functional separation between who manages the realisation activities and who presents the progress documentation.
  - Specific hierarchical control activities on the documentation to be submitted (for both project documentation and the documents certifying the technical, economic and professional requisites of the company presenting the project).
  - Consistency of proxies towards the outside with the system of responsibilities.
- **Procedure for awarding professional appointments:** The procedure aims to define the roles, responsibilities, operational modes and conduct principles that the recipients must abide by in acquiring and managing consultancies and professional appointments with third parties. More specifically, the document governs the allocation and management of professional appointments to third parties process, intending as such consultancies, professional services with intellectual content of any kind (e.g. In this way, by observing the model, and by awarding said appointments (e.g. using consultancies and project contracts), the aim is to avoid crimes being committed and in particular, the ones contained in articles 317, 318, 319, 319 bis, 322, 322 bis of the Criminal Code. The document also governs the allocation and management of professional appointments to third parties process, intending as such the professional services of any kind, also supplied by external contracting companies.
- **Selection, hiring and management of human resources procedure:** The aim of the procedure is to define the rules of conduct that indicate the conduct that the recipients must abide by in determining the need for resources, selection, hiring and, generally, management of employed staff so that conduct suitable for committing the crimes as per the Decree is prevented.
- **Corporate moveable assets management procedure:** Aim of the procedure is to define the

company rules for allocating corporate moveable assets such as cars, cell phones, laptops, tablets etc.

- **Reimbursement of expenses Procedure:** Aim of the procedure is to define the rules of conduct that indicate the conduct that the recipients must and must not have in the management of expense reimbursement for employees and entertainment expenses, so that suitable conduct for committing the crimes is prevented.
- **Management of financial resources procedure** the procedure aims to govern the management of financial flows, determining and formalising the relative responsibilities and tasks.
- **Management procedure for bunkering on ships:** The procedure aims to govern the refuelling activities of all fuels carried out by the ships.
- **Procedure for managing provision of money, goods (gifts) or other:** The procedure aims to govern the provision of money and goods, sponsorships or other benefits for beneficial-assistance purposes, in order to avoid any crimes being committed by such provisions, in particular corruption and concussion.
- **Contractual Clauses 231:** The procedure aims to govern the activity of drawing up contracts with third parties, with the aim of avoiding any crimes being committed in the provision of contracted services.

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing sensitive activity gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

Also, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested:

In all cases, the company manager in charge of sensitive activity will send the following information flows to the Supervisory Body **every six months**:

- The decisions taken in any realm within the organisational structure that haven't followed the normal authorisation procedure foreseen by the internal procedures;
- Management of operations concerning money, goods or benefits that may generally be used as exchange goods or originate from crime or be intended for the creation of "black funds";
- Requests for assistance, consultancy, supplies, with payments higher than certain thresholds
- Significant circumstances (such as, for example, inspection procedures or requests for clarification) from which examinations/requests have arisen from the authorities, specifically indicating all the important information (such as, for example, the requesting authority, the documents requested and/or delivered, a summary of verbal information requested by the authority and/or supplied to the latter, highlighted critical factors, sanctions imposed or other issued deeds etc);
- Free gifts and gratuities received by subjects belonging to the Public Administration or PU or Public Service Appointees.

Also, the Internal Audit department carries out inspections to check:

- Ex ante efficacy of internal protocols
- *Legality of internal protocols*
- *effectiveness of internal protocols*

Making suitable reports to the Supervisory Body if necessary. Please refer to the Audit inspection plan.



## **SPECIAL PART II**

### **Corporate Crimes (Article 25 ter)**

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### • **False corporate communications and false corporate communications against the shareholders and creditors (articles 2621 and 2622 Civil Code).**

The offences in question are divided into three distinct crimes:

- The violation that occurs if the directors, general directors, executives in charge of drawing up the corporate accounts, the auditors and the liquidators draw up false accounts<sup>3</sup> wholly or partly in such a way as to deceive the recipients of said communications (shareholders or the public). The crime in this case is prosecuted automatically;
- A crime that occurs if the conduct described above causes pecuniary damage to the company, shareholders or creditors. The crime is in this case prosecuted by lawsuit;
- A crime that occurs when the deed above refers to a company issuing listed financial instruments; in this case too, the offence is prosecutable automatically.

It is stated that:

- Conduct must be aimed at achieving at unjust profit for oneself or for others;
- False or omitted information must be important and such as to significantly alter representation of the company or group's economic, pecuniary or financial information;
- Punishability is excluded if the falsification or omissions cause a variation in the pre-tax financial year results of no more than 5% or a variation in net equity no more than 1%; in all cases, the fact cannot be punished if it is the consequence of estimates that, if taken singly, do not differ more than 10% from the correct one. Below these thresholds, the conduct is not a crime, but a mere administrative offence;
- Responsibility is also extended in the hypothesis in which the information concerns assets owned or managed by the company for third parties.

As for the actual modes of conduct, exposing facts that do not correspond to the truth or hiding information that must be notified by law can be carried out via that actual alteration of accounts (e.g. in the case of recording services never provided or provided at a lower value to the real one in the balance sheet) but also by a factitious estimate of assets or values entered in said communications: Think, for example, of the estimate value of tangible fixed assets or financial assets that are part of the company's equity, carried out differently than in the criteria indicated in the report or those foreseen by law or based on parameters that are unreasonable, and such as to deceive shareholders or creditors.

Thus, in particular, the crime could be committed in the interest of the company in the event, for example, of creating long-term restricted hidden reserves, obtained through the undervaluation of active receivables or the overvaluation of payables to favour the self-financing of the company or to cover up any losses that may have occurred during the financial year.

The economic-financial instruments that can be used to transfer money from one company to another are almost never-ending: Over-billing or false billing (e.g. for fictitious consultancies or provision of services or goods), active loans etc.

### • **Falsification of auditing company reports or communications (article 2624 Civil Code)**

<sup>3</sup> The deceit occurs when, in financial statements, reports or other corporate communications foreseen by law (for the shareholders or the public) material facts occur that do not correspond to the truth, although object of evaluations or information is omitted which is required by law concerning the company's economic, equity financial situation or that of the group to which it belongs.

The crime consists of false declarations or the hiding of information, by the auditor or the auditing company managers, concerning the company's economic, pecuniary or financial situation, in order to obtain an unjust profit for itself or for others.

The penalty is more serious if the conduct has caused pecuniary damage to the recipients of said communications.

Active subjects of the crime are the auditing company managers (own crime), but the members of the company's board of directors and board of auditors and its employees could be involved as participating in the crime, in the hypothesis of incitement or determination of the auditors to commit the falsification.

- **Impeded Control (Art. 2625 Civil Code)**

There are two types of conduct ratified by the law: The hiding of documents and use of other suitable artifices for impeding or obstructing the carrying out of control or auditing activities that are legally attributed to shareholders, other corporate bodies, or the auditing companies.

Impeded control is a crime, therefore it can only be committed by the directors.

The criminal penalties are only foreseen in the event that the conduct leads to damage to shareholders, whereas in other cases it is downgraded to an administrative offence.

The crime de quo is carried out through the following typical conduct:

- Denial or access to offices or accounts;
- Alteration or removal of accounts;
- Hiding of company registers;
- Refusal to provide clarification or news on certain operations;
- Omitted summons of assembly even in presence of request from shareholders as foreseen by law, when said assembly is requested for control purposes.

The law therefore provides for protection of:

- Internal controls carried out by the board of auditors;
- Internal controls carried out by the board of auditors (in joint stock companies, pursuant to article 2403 Civil Code) or by shareholders (in the cases foreseen, for example, by the Civil Code);
- External private controls carried out by the auditing company on listed companies (and not only).

- **Undue returning of awards (article 2626 civil code);**

The crime is committed when the directors, outside the cases of lawful reduction of share capital, return moneys awarded to shareholders, also simulated, or free them from the obligation of awarding said moneys.

Returning awarded money can take place both clearly, although indirectly (e.g. via payment of a shareholder's debt towards the company), and simulated (e.g. by acknowledging credit to a shareholder that is actually non-existent, stipulating a fictitious loan, granting a loan without any serious prospect of return, paying fees for non-existent or inadequate professional services), or by distributing deposits-dividends or false profits made with sums taken from the share capital.

The second hypothesis of conduct exempts the shareholders from the obligation of awarding money that is all or in part not fulfilled.

Active subjects of the crime can only be the directors (offence of own office): The law, therefore, does not intend to also punish the beneficiaries of the returned or freed money, excluding the necessary contribution.

However, the possibility of participation in the crime remains, for which they the shareholders who have incited or determined the directors' activities will respond for the crime, according to the general rules of participation as set out in article 110 Criminal Code.

- **Illegal division of profits and reserves (article 2627 civil code);**

The crime is committed by the directors who share out profits or deposits on profits that have not actually been obtained or are destined by law to reserve funds, or share out reserves, even if not comprising profits, that cannot be legally distributed.

However, returning the profit or reforming the reserve funds before the deadline foreseen for approving the financial statements cancels the crime.

The criminal conduct in this crime is committed by sharing out profits or deposits on profits that have not actually been obtained or are destined by law to reserve funds, or share out reserves, even if not comprising profits, that cannot be legally distributed.

The notion of "profits" must be intended in its broadest sense, as "financial statement profit" i.e. any increase in the net equity compared to the nominal value of the capital, even if independent (differently from the financial year profit) from the use of economic activity.

For the purpose of the existence of the crime, the profits must not actually be achieved (and therefore fictitious) or not distributable, as allocated by law to reserve funds: they only observe legal reserve therefore, for example, the ones imposed on the company by articles 2423, paragraph 4, 2426, no. 4 Civil Code.

The distribution of reserves is also criminally relevant, even if not established with profits that are unavailable by law: The report on this matter, expressly refers to the case, now controversial, of the overcharge reserves and the revaluation reserves.

As for the illegal division of deposits on dividends, i.e. the distribution of deposits on a future dividend during a financial year, the law-making body limits penalties to the sharing out of deposits on profits only if they are not actually achieved or are allocated to legal reserve funds.

Active subjects of the crime are the directors (offence of own office):

- **Illegal operations on shares and stock of company or the holding company (2628 civil code);**

The directors who, outside the cases allowed by law, purchase or underwrite shares or stock, also of the holding company (see article 2359 Civil Code), who, outside the cases allowed by law (see in particular articles 2357, 2359 bis, paragraph. 1, 2360, 2483 and 2529 Civil Code), causing damage to the integrity of share capital or the reserves that cannot be distributed by law, commit the crime in question.

It is stated that the crime is cancelled if the share capital or the reserves are restored before the deadline foreseen for approval of the financial statement for the financial year in which the conduct was carried out.

- **Operations to the detriment of the creditors (article 2629 civil code);**

The crime in question is committed when the directors, by violating the legal provisions for protecting creditors, make reductions on share capital or mergers with other companies or spin-offs, causing damage to creditors.

It is stated that compensation for the damage to the creditors before the trial cancels the crime.

The protected asset is the integrity of the share capital, as a general guarantee of creditors.

Active subjects of the crime are, also in this case, the directors. However, shareholders that vote to decide on the reduction of share capital, and aware that they are inciting the directors to do that act, may also be participants in the crime ex article 110 Criminal Code.

- **Non communication of a conflict of interest (Article 2629 bis, Civil Code)**

The offence was introduced by art. 31 of the Law no. 262 dated 2005 that also foresaw the introduction of art. 2629 bis Civil Code among the crimes that, pursuant to art. 25-ter of the Decree can bring about its administrative responsibility, when committed in the interest of or to the advantage of the body.

The executive conduct of the crime is hinged on violating the civil law precept set out in article 2391 Civil Code in the hypothesis in which damage is caused to the company or third parties.

This law - intended to ensure the value of transparency in management – now imposes the members of the board of directors to provide news to other directors and the board of auditors of all interests that, on their own behalf and on that of third parties, have abstained from carrying out the operation in a given operation or when it is the CEO.

The law only applies to:

- “companies with listed stock in regulated Italian markets or those of another State of the European Union”;
- "companies with stock (...) spread among the public in a significant measure, pursuant to article 116 of the Consolidated Act as set out in the Leg. Decree no. 58 24<sup>th</sup> February 1998”;
- "subject under supervision pursuant to the Consolidated Act as set out in the Legislative Decree no. 385, 1<sup>st</sup> September 1993”, i.e. banks, banking groups and financial brokers;
- “subject under supervision pursuant to the consolidated act as set out in the legislative decree no. 58 dated 1998”, i.e. investment companies (SIM and EU and non-EU investment companies), SGR, harmonised management companies, variable capital investment companies (SICAV), financial brokers enrolled in the list foreseen in article 107 of the Consolidated Banking Act and the banks authorised to carry out investment services;
- “subject under supervision pursuant to law no. 576 dated 12<sup>th</sup> August 1982” i.e. insurance and reinsurance companies;
- “subject under supervision pursuant to the legislative Decree no. 124 dated 21<sup>st</sup> April 1993, i.e. established and organised pension funds.

- **Fictitious paid up share capital (article 2632 civil code);**

This hypothesis of crime aims to protect the integrity of share capital, punishing the awarding directors and shareholders who:

- a. Form or increase the share capital in a fictitious manner so it is overall higher than the total of share capital. behave with conduct that prevents full coverage of the nominal capital;
- b. Carry out reciprocal underwriting of shares or stock. The reciprocity does not necessarily require simultaneous operations, or connection between them. Reciprocal underwriting can, in fact, regard homogeneous operations (e.g. increase of capital) and heterogeneous operations (regarding, for example, the establishment of the company and increase of capital). What it reveals is the previous existence of a non-random, specific agreement (also tacit) focused on an ad hoc understanding, for the exchange of shares or stock., This is a crime that must have more than one subject;
- c. They carry out an important overvaluation of the awarding of goods in kind and credit or of corporate

equity in the event of transformation. The third type of conduct punished by the law in question can be carried out in the genetic phase of company establishment or in the later moment of increase in share capital. Subject of overvaluation may be assets, credits and equity.

Active subjects of the crime are directs and shareholders awarding the capital.

An active subject may also be the expert appointed by the court who draws up the sworn estimate report to be attached to the articles of association or of increase in share capital.

- **Undue division of corporate assets by the liquidators (article 2633 civil code);**

This offence occurs in the cases where the liquidator causes damage to the company's creditors by dividing the company assets among the shareholders before having satisfied the corporate creditors or before setting aside the sums required to satisfy them.

The crime is cancelled if the damage caused by the illegal conduct is repaired by the same parties to the creditors before the court case.

Active subjects of this crime are the liquidators.

- **Illegal influence over assembly (article 2636 civil code);**

This hypothesis of crime occurs when anyone (directors, general directors, executive in charge, auditors, liquidators and/or auditing managers) determines the majority at the assembly meetings, by simulated or fraudulent acts, with the purpose of acquiring unjust profit for himself or others.

The law is also applied to companies with a single shareholder or, almost totalitarian, as in these cases it is clearly possible to alter the wishes of the shareholder as expressed in the assembly.

- **Market Manipulation (Art. 2637 Civil Code)**

The realisation of the offence foresees that false news is spread or simulated operations or other contrivances, that are suitable for causing a clear alteration of the price of non-listed financial instruments, or significantly affecting the public's trust in the banks' or banking groups' asset stability.

This crime is also a common crime that can be committed by anyone.

- **Obstruction to the carrying out of the functions of the public supervisory authority (Article 2638 Civil Code)**

This is a general crime, for the purposes of the coordination and uniformity of penalties. It replaces the various figures of false communications, omission of communications, obstruction in the carrying out of the functions of the Supervisory Authorities foreseen outside the Civil Code (e.g. Banca d'Italia, UIF, ISVAP).

The law identifies two separate hypotheses of crime:

- The first is via the exposure of material facts that do not correspond to the truth, even if the subject of evaluations, on the economic, pecuniary or financial situation of the subjects under supervision, or the hiding of facts that should have been communicated to the Supervisory Authorities foreseen by law, about the same situation, wholly or in part, using fraudulent means, in order to obstruct their work;
- The second, that is a crime of result, is carried out with the simple obstruction to carrying out the supervisory functions, carried out deliberately, in any form, also by omitting due communications to the supervisory authorities.



The de qua fact identifies a crime of office, therefore active subjects are the directors, the general directors, the executives in charge of drawing up corporate accounts, auditors, liquidators of companies and bodies and other subjects who by law are obliged to inform the public supervisory authorities.

## 2. SENSITIVE PROCESSES

In relation to the offences described above, the Sensitive Processes identified in the realm of company activities are the following:

1. The acquisition, processing, evaluation and illustration of data and information required to draw up the balance sheet and other communications to shareholders, creditors, the auditing company, the authorities and the public, regarding the economic, pecuniary and financial situation of the company, including the forecast data, quantitative goals and accounting data, and also communications about other information regarding the company;
2. The drawing up of the balance sheet and other communications to shareholders, creditors, the auditing company, the authorities and the public, regarding the economic, pecuniary and financial situation of the company, including the forecast data, quantitative goals and accounting data, and also communications about other information regarding the company;
3. Preparation of assembly meetings, the carrying out and reporting of the assembly meetings;
4. Management of relations with shareholders, panel of auditors, the auditing company and the public supervisory authorities; the risk could occur in all phases of collaboration or contact with the internal control bodies, with the board of auditors and with the auditors;
5. Operations on capital
6. The company operations on which the director has an interest, on his own behalf or for others.

## 3. THE PROTOCOLS FOR ALLEVIATE THE RISK

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

### ➤ Specific Protocols

In addition to the general protocols, the company has developed and implemented the following specific protocols for the reduction of the risk of committing and carrying out **corporate crimes**:

- **Procedure for the drawing up, verification, approval and publication of balance sheets and the reporting on management and corporate communications** The procedure aims to define the roles, responsibilities, controls and principles of conduct that the CIN staff must abide by in management activities of accounts at the end/mid period, of drawing up the annual balance sheet required by law, the quarterly and annual reports and the corporate communications in general;
- **Procedure for managing information flows** between the departments involved in the process and individual steps for the drafting of support documents;
- **Procedure for the directors' interests in corporate operations:** The procedure aims to guarantee the observance of provisions as set out in article 2391 of the Civil Code, and must be applicable in all cases in which a Director has any interest in a given operation, for himself or for third parties;
- **Procedure-Rules of Conduct for Control or Supervisory Authorities in inspections:** The aim of the procedure is to define the rules of conduct that indicate behaviour that the recipients must hold in relations with public bodies and with control/supervisory authorities in the realm of inspections so that any conduct suited for the committing of the crimes set out in the Decree are prevented;
- **Procedure for management of the Treasury service;**
- **Corporate Governance Rules**

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing the activity at risk gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

In particular, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested:

More tangibly, the company departments involved will report to the Supervisory Body every six months:

- The decisions taken in any realm within the organisational structure that haven't followed the normal authorisation procedure foreseen by the internal procedures;
- The results of any surveys carried out;
- Any communications from the auditing company about aspects that can indicate a shortcoming in internal controls;
- The annual balance sheet, together with explanatory notes, and the six-monthly statement of assets and liabilities;
- The appointments given to the auditing company;
- Communications from the board of auditors and the auditing company about each critical factor that emerged, even if resolved.

In reference to the balance sheet and other corporate communications, due to the circumstance that the company balance sheet is certified by an auditing company, the Supervisory Body controls are as follows:

- Monitoring of the efficacy of protocol systems (proxies, procedures, powers etc) for preventing the crimes of false corporate communications;
- Check on any specific situations or circumstances reported by the internal and external control



bodies or by any employee and carrying out of the verifications considered necessary after the reports received;

- Supervision of the actual maintaining of the auditing company's/auditor's independence required to guarantee real control over documents prepared by the company.

The departments involved in the process at risk of corporate crimes also promptly communicate with the Supervisory Body about any violation or suspicion thereof of their own knowledge compared to the executive modes governed by company protocols and the Code of Ethics.

Also, the Internal Audit department carries out inspections to check:

- Ex ante efficacy of internal protocols
- *Legality of internal protocols*
- *effectiveness of internal protocols*

Making suitable reports to the Supervisory Body if necessary Please refer to the Audit inspection plan.



### **SPECIAL PART III**

#### **Crimes regarding Terrorism and Subversion of the Democratic Order (article 25 quater)**

## FOREWORD

Article 25-*quater* was included in the Decree by art. 3 of Law no. 7 dated 14th January 2003 (Approval of the international convention against the funding of terrorism) in virtue of which the body answers for the administrative offence depending on the crimes with the aim of terrorism or the subversion of democratic order, foreseen by the Criminal Code and by special laws. Article 25 *quater* does not contain an analytical list of the crimes for which the bodies' administrative responsibility is foreseen, but refers generally to crimes with the common particular aim of terrorism or the subversion of democratic order.

The notion of "conduct with the aim of terrorism" is identified by article 270 *sexies* of the Criminal Code that defines such as:

- "conduct which by its nature or context may cause damage to a country or international organisation and is carried out with the intention of intimidating the population or forcing public powers or an international organisation to carry out or abstain from carrying out any act or destabilise or destroy the basic political constitutional, economic and social structures of a country or an international organisation";
- "the other conduct defined as terroristic or committed for terroristic purposes by conventions and by other international laws that Italy is bound by".

Pursuant to article 11 of Law no. 304/1982, the notion of "subversion of the constitutional order" concerns the carrying out of acts that are aimed at damaging or endangering our constitution and subverting the modes with which the constitution states and protects individual freedom, the relations between individual and state and politic dialogues.

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### • Crimes concerning terrorism and subversion of the democratic order

In the realm of this group of crimes, there are three general categories of offences that, where upheld by the purposes as above, take on significance pursuant to article 25 *quater* of the Decree, foreseen respectively:

1. By the Criminal Code;
2. By special laws;
3. By the New York Convention.

#### A) Crimes foreseen by the Criminal Code

##### ***Subversive associations (article 270 Criminal Code)***

This crime takes place when anyone in the territory of the State promotes, constitutes, organises or directs associations aimed at violently establishing the dictatorship of a social class over the others, or to violently suppress a social class or violently subverts the economic or social orders established by the state, or with the aim of violently suppressing any political and legal order in society.

##### ***Associations with aims of terrorism, including international terrorism and the subversion of democracy (article 270 bis penal code);***

This crime takes place when anyone promotes, constitutes, organises, directs or finances associations that propose the carrying out of acts of violence with the aim of terrorism or subversion of the democratic order.

For the purpose of criminal law, the aim of terrorism also recurs when acts of violence are aimed against a foreign state, an institution and an international body.

***Assistance to associates (article 270 ter criminal code);***

This crime takes place when anyone, outside the cases of participation in the crime or aiding and abetting, gives refuge or provides board and lodging, transport, communication instruments to any of the people who take part in the associations indicated in the articles 270 and 270 bis criminal code. Anyone who commits the fact in favour of a close relative cannot be punished.

***Recruitment for the purpose of terrorism, including international terrorism (article 270 quater criminal code);***

This crime takes place when anyone, outside the cases set out in article 270 bis, enrolls one or more people for carrying out acts of violence, with the aim of terrorism, even if aimed at a foreign state, an institution or an international body.

***Training for the purpose of terrorism, including international terrorism article 270 quinquies criminal code);***

This crime takes place when anyone, outside the cases as foreseen in article 270 bis, trains or provides instructions on the preparation or use of explosives, firearms or other weapons, harmful or dangerous chemical or bacteriological substances, and on any other technique or methods for carrying out acts of violence, with the aim of terrorism, even if aimed at a foreign state, an institution or an international body.

***Conduct for the purpose of terrorism, article 270 sexies criminal code);***

When carried out with the aim of terrorism, the conduct which by its nature or context may cause damage to a country or international organisation and is carried out with the intention of intimidating the population or forcing public powers or an international organisation to carry out or abstain from carrying out any act or destabilise or destroy the basic political constitutional, economic and social structures of a country or an international organisation”, and also the other

Types of conduct defined as terroristic or committed for terroristic purposes by conventions and by other international laws that Italy is bound by.

***Attacks for terrorism or subversion purposes (article 280 criminal code);***

This crime takes place when anyone attempts to take the life or endanger a person for the purpose of terrorism or to subvert the democratic order.

The crime is aggravated if the person is seriously harmed or dies from the attack, or if the act is aimed against persons who hold judicial or penitentiary, or public security positions .

***Act of terrorism with deadly or explosive devices (article 280 bis criminal code);***

This crime takes place when anyone carries out any act aimed at damaging other persons’ movables or real estate, using explosives or deadly methods, for the purpose of terrorism.

***Kidnapping for the purpose of terrorism or subversion (article 289 bis criminal code);***

This crime takes place when anyone kidnaps a person for the purpose of terrorism or to subvert the democratic order. ***The crime is aggravated when the kidnapped person, whether deliberately or not, dies.***

***Incitement to committing one of the crimes against the personality of the state (article 302 criminal code)***

This crime takes place when anyone instigates someone to commit one of the crimes with criminal intent foreseen in the criminal code dedicated to crimes against the personality of the state, for which the law sets a sentence of life imprisonment or imprisonment. Mitigating circumstances are the cases in which incitement does not appear to have been accepted or, if accepted, the crime was not committed.

***Political conspiracy by agreement and political conspiracy by association (articles 304 and 305 criminal code)***

These crimes are committed respectively when someone agrees or associates himself with the purpose of committing one of the crimes as set out above (article 302 criminal code).

***Armed group, training and participation, assistance to the participants in the conspiracy or the armed group (articles 306 and 307 criminal code)***

These crimes are committed by (i) anyone who promotes, constitutes, organizes an armed group for the purpose of committing one of the crimes indicated in article 302 of the Criminal Code or (ii) anyone, outside the cases of participation in the crime or aiding and abetting, provides refuge, board and lodging, transport or means of communication to any of the people who take part in the association or group, pursuant to articles 305 and 306 of the Criminal Code.

**B) Crimes concerning terrorism and subversion of the democratic order foreseen by special laws**

Alongside the crimes expressly governed by the above-stated articles of the criminal code, there are also the crimes foreseen on the matter by specific special laws.

Among these, it is necessary to remember article 1 of Law no. 15 dated 6<sup>th</sup> February 1980, that foresees aggravating circumstances that are applied to any crime “committed for the purpose of terrorism or subversion of the democratic order”: Basically, therefore, any crime foreseen by the criminal code or by special laws, also differing from the ones expressly aimed at punishing terrorism, can become one of the ones, according to article 25 quater of the Decree, that can constitute a prerequisite for stating the body’s responsibility, if committed with said purposes.

It is clear, therefore, that where the company exponent supports anyone in carrying out a certain operation that constitutes a crime, in the awareness of the terroristic aim that the former pursues, he may also give rise to the penal responsibility of the body in whose interest he has acted.

Limiting the investigation to economic crimes foreseen by the criminal code, attention must be most of all placed on the ones intended to protect the assets, and in particular the offence of on money laundering (article 648 bis Criminal Code) and the use of money, goods or benefits of illegal origin (article 648 ter Criminal Code). Said crimes can be committed with the purpose of terrorism by criminal groups that, with the intention of “laundering” money from the committing of other crimes or by “marked” subjects, introduce the money into the legal economic circuit.

Continuing the analysis, we can refer to the provisions of the Criminal Code on the matter of public order (articles 414-421 Criminal Code), public safety (articles. 422-448 Criminal Code), public faith (articles. 476-498 Criminal Code) and public economy (articles. 499-517 Criminal Code).

**C) Crimes of terrorism foreseen by the New York Convention**

With regards to the third category of crimes, article 2 of the New York Convention establishes that: “Anyone who by any means, directly or indirectly, illegally and intentionally, provides or collects funds with the intention of using them or knowing that they will be used, fully or in part, to carry out the following, is committing a crime pursuant to the herein Convention:

- An act that constitutes a crime pursuant to and as defined in one of the treaties listed in the attachment 4; or

<sup>4</sup> In particular, the conventions referred to are: the Convention for the repression of the illegal hijacking of airplanes (The Hague, 16 December 1970); the Convention for the repression of illegal acts against civil aviation safety (Montreal, 23<sup>rd</sup> September 1971); the Convention on the prevention and repression of crimes against people enjoying international protection, including diplomats, adopted by the United Nations General Assembly on 14<sup>th</sup> December 1973; the international Convention against the capture of hostages, adopted by the United Nations General Assembly on 17<sup>th</sup> December 1979; the international Convention on the protection of nuclear material (Vienna, 3<sup>rd</sup> March 1980); the Protocol for the repression of illegal acts of violence airports used by international civil aviation, complementary to the Convention for the repression of illegal acts against civil aviation safety

- Any other act aimed at causing the death or serious physical injury to a civilian, or to any other person who does not have an active part in situations of armed conflict, when the purpose of said act, by nature or context, is to intimidate a population, or force a government or international organisation to carry out or abstain from carrying out anything”.

The crimes referred to have in common the penalising the same conduct (providing or collecting funds) and are distinguished from each other by the specific purposes that define the terroristic act for which the economic resources are destined.

Therefore, it is believed that the criminal offences foreseen in the above-stated article 25 quater, paragraph 4 of the Decree, can substantially be traced to crimes already foreseen and punished in our system, with particular reference to the crimes foreseen by article 270 bis Criminal Code, and the specific provision, referred to above, foreseen by the Criminal Code and by special laws.

In fact, with regards to the acts indicated in sub (a), funding carried out, directly or indirectly, in the awareness that the financial resources will be used to commit acts of terrorism, that occur, in particular as attempts on the safety of transport and airports, the life and safety of diplomats, kidnapping, circulation of weapons, including nuclear weapons, are punishable.

Thus, the subject who “by any means, directly or indirectly, illegally and intentionally, provides or collects funds” aware of their destination for the specific criminal purposes indicated above, will respond as a participant in these crimes. In the hypothesis that the subject “is not fully aware of the specific purpose that the terrorist association that he is funding intends to allocate the assets received to, will be acknowledge the more general provision contained in article 270 bis Criminal Code where the prerequisites exist.

Likewise, the indication contained in the stated article 2 sub (b), concerns the hypothesis of funding aimed at the committing of the crime foreseen in article 280 Criminal Code (Attacks for terroristic or subversion purposes). Therefore the subject who “by any means, directly or indirectly, illegally and intentionally, provides or collects funds” destined to be used for the carrying out of attacks on the life or safety of people for terroristic purposes” will be considered a participant in the crime.

## 2. SENSITIVE PROCESSES

The Sensitive Processes are identified as follows:

1. Management of commercial and contractual relations with clients and private third parties;
2. Commanding of ships

In the realm of the above Sensitive Processes, situation needing special attention are the carrying out of activities in geographical areas in which suitable conditions of transparency or legality compared to the committing of said crimes is not guaranteed.

Other Sensitive Activities concerning instrumental processes, the so called “budget” ones, i.e. those processes that constitute support and prerequisite (financial and operational) for the creation of funds to be allocated to the funding of terrorism have also been identified. Below are the sensitive activities regarding the budget processes identified in CIN:

1. Management of purchasing cycle (selection and management of suppliers);

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(Montreal, 24<sup>th</sup> February 1988); the Convention for the repression of illegal acts against the safety of maritime vessels (Rome, 10<sup>th</sup> March 1988); the Protocol for the repression of illegal acts against safety on fixed platforms on the continental platform (Rome, 10<sup>th</sup> March 1988); the international Convention for the repression of terrorist attacks carried out with explosives, adopted by the United Nations General Assembly on 15<sup>th</sup> December 1997.

2. management and awarding of professional appointments;
3. Management of corporate movables;
4. Selection, hiring and management of staff;
5. Management of *financial resources*.
6. Gratuitous loans, sponsorships, donation and other forms of gratuities.

### 3. THE PROTOCOLS FOR ALLEVIATE THE RISK

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

#### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

#### ➤ Specific Protocols

In addition to the general protocols, the company has developed and implemented the following specific protocols for the reduction of the risk of committing and carrying out **crimes**:

- **Purchase of Goods and Services procedure:** The procedure aims to define the roles, responsibilities, operational modes and conduct principles that the recipients must abide by in acquiring goods and services from third parties.
- **Procedure for awarding professional appointments:** The procedure aims to define the roles, responsibilities, operational modes and conduct principles that the recipients must abide by in acquiring and managing consultancies and professional appointments with third parties. More specifically, the document governs the allocation and management of professional appointments to third parties process, intending as such consultancies, professional services with intellectual content of any kind (e.g. In this way, by observing the model, and by awarding said appointments (e.g. using consultancies and project contracts), the aim is to avoid crimes being committed and in particular, the ones contained in articles 317, 318, 319, 319 bis, 322, 322 bis of the Criminal Code. The document also governs the allocation and management of professional appointments to third parties process, intending as such the professional services of any kind, also supplied by external contracting companies.
- **Selection, hiring and management of human resources procedure:** The aim of the procedure is to define the rules of conduct that indicate the conduct that the recipients must abide by in determining the need for resources, selection, hiring and, generally, management of employed staff so that conduct suitable for committing the crimes as per the Decree is prevented.



- **Management of financial resources Procedure:** the procedure aims to govern the management of financial flows, determining and formalising the relative responsibilities and tasks.
- **Contractual Clauses 231:** The procedure aims to govern the activity of drawing up contracts with third parties, with the aim of avoiding any crimes being committed in the provision of contracted services.
- **Storing documentation procedure**

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing the activity at risk gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

In particular, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested:

More tangibly, the Supervisory Body, for the purpose of carrying out controls that it is responsible for:

- (i) Examines the supplier and/or overseas collaborators contracts, the reports on the selection procedure for said collaborators and the reports on the company's relations with the latter, at random;
- (ii) Examines the contracts regarding the contractual relations with third parties at random;
- (iii) Examines the documents on the selection of company staff (also) in reference to checking the prevention of the crimes contained in the herein Special Part III, at random.

The departments involved in the process at risk also promptly communicate with the Supervisory Body about any violation or suspicion thereof of their own knowledge compared to the executive modes governed by company protocols and the Code of Ethics.



**Special Part IV**  
**Crimes against individuals**  
  
**Transnational Crimes,**  
  
**Organised Crime (article 24 ter)**

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### • Crimes against individuals

The criminal offences included in the category of crimes against individuals can be grouped into two separate types, indicated below:

1. Crimes against the protection of individual freedom (articles 600, 601 and 602 Criminal Code)
2. Sexual crimes against minors (articles 600-bis, 600-ter, 600-quater, 600-quinquies Criminal Code)

The crimes in question are punished even if committed overseas by an Italian citizen, or against an Italian citizen, or by an Italian citizen together with a foreign citizen.

#### Crimes against individual freedom

The crimes stated in articles 600, 601 and 602 Criminal Code penalise the so-called new forms of slavery, comprising conduct that leads to:

- The reduction or keeping in slavery, servitude or in a state of continuous subjection<sup>5</sup> of someone in such a way as to force him to provide working, sexual or begging services, or services that include exploitation. (article 600 penal code);
- The trafficking of persons in slavery, servitude or in the state of subjection or the incitement by someone to have enter, stay or leave the country using violence, threats, abuse of authority or exploitation of a situation of mental or physical inferiority or the state of need that the subject is in, or after offering advantages to those who have authority over him (article 601 Criminal Code).

In reference to this category of crimes, the difficulty in identifying the risk of committing them in the company's interest or advantage.

Therefore, in the specific hypothesis of CIN, the afore-mentioned offences could be added to, for participation in the crime, with the aware awarding of service or supply contracts to subjects or companies that use labour in such a way as to integrate the crimes of reduction or keeping in slavery, human trafficking or purchase and alienation of slaves. In this case, the company's interest may be recognised in the more advantageous economic conditions practised by these companies compared to their competitors.

#### Sexual crimes against minors

The crimes stated in articles 600 bis - 600 quinquies Criminal Code penalise the forms of sexual abuse against minors or by the exploitation of minors for sexual purposes.

In particular the following are punished:

- Child prostitution, i.e. the incitement, aiding or exploitation of prostitution of a person below the age of 18; and the carrying out of sexual acts with a minor between the ages of 14 and 18, in exchange for money or other economic benefits (article 600 bis Criminal Code);
- Child pornography, or the exploitation of children under the age of 18 to create pornographic exhibitions or produce pornographic material, trade pornographic material and transfer said material, also free of charge. Anyone who by any means, also online, distributes, divulges or publishes child pornographic material, or distributes or divulges news or information aimed at the capture or sexual

<sup>5</sup> The reduction or keeping in the state of subjection takes place when the conduct is implemented using violence, threats, deceit, abuse of authority or exploitation of a physical or mental situation or a situation of need, or by promising or pledging money, or other advantages to those who have authority over the person.

exploitation of children under the age of 18 (article 600 ter Criminal Code);

- The holding of pornographic material, or procuring or simply having (aware thereof) the indicated pornographic material (article 600 quater Criminal Code);
- Virtual pornography. The provisions as set out in art. 600-ter criminal code and 600-quater Criminal Code are applied when the pornographic material represents virtual images created by using images of children under the age of 18 or parts of them, but the penalty is reduced by one third. (article 600 quater1 penal code);
- Touristic initiatives aimed at exploiting child prostitution, pertinent to the organisation or propaganda of trips aimed at using child prostitution activities (article 600 quinquies).

More generally, an interest could be noted for all the companies, regardless of the business activity, to organise company trips to overseas locations known for the phenomenon of "sexual tourism", in order to motivate/gratify the employees and thus, indirectly, obtain an advantage, i.e. the committing of a crime as participation, by using travel agents to procure them, that are known for organising trips overseas that are known for the "sexual tourism" phenomena, as they offer lower prices than those of their competitors.

- **Transnational Crimes,**

Law no. 146 dated 16<sup>th</sup> March 2006, which ratifies the United Nations Convention and Protocols against transnational organized crime, foresaw administrative responsibility of legal entities, companies and association, also without legal status, for some crimes with a transnational character.

For the purpose of qualifying a criminal offence as "transnational crime", it is necessary that the following conditions indicated by the law making body exist:

- An organized crime group must be involved in carrying out the offence – the fact must be punishable with a punishment of at least 4 years' imprisonment;
- The illegal conduct must be carried out in more than one State;

Pursuant to Law no. 146/2006, the crimes that are relevant for the Body's administrative responsibility are:

- - Criminal Conspiracy (article 416 Criminal Code)
- - Mafia association or similar (article 416 bis Criminal Code)
- Association aimed at the illegal trafficking of narcotics or psychotropic substances (article 74 of the Presidential Decree nr. 309 dated 9 October 1990)
- Migrant trafficking (art. 12, paragraphs 3, 3 bis, 3-ter and 5, Leg Decree no. 286, from 25th July 1998);
- Obstructing justice, in the form of not making declaration or making false declarations to judicial authorities and personal aiding and abetting (art. 377-bis and 378 Criminal Code).

- **Crimes of Organized Crime** (Article 416 Criminal Code)

The provision in question ratifies the body's responsibility in the event of committing the following crimes, in the interest and to the advantage of the same body:

- Criminal conspiracy aimed at reducing or maintaining people in slavery or in servitude, human trafficking, the purchase and sale of slaves;
  - Mafia type associations, including foreign ones;
  - Political-mafia electoral voting favours;

- Criminal syndicates aimed at the illegal trafficking of drugs or narcotics

And in the case of crimes committed by using the conditions foreseen in article 416 bis Criminal Code, with reference to mafia associations, or in order to aid the activities of said associations.

In particular:

- Criminal syndicates, aimed at committing one of the crimes stated in articles 600, 601 and 602, and also article 12, paragraph 3-bis, of the Consolidated Text on matters of immigration and foreigners' status, as set out in Legislative Decree nr. 286 dated 25 July 1998;
- Association aimed at committing some of the crimes foreseen by articles 600 bis, 600 ter, 600 quater, 600 quater 1, 600 quinquies, 609 bis, when the deed is committed against a minor of under eighteen years of age, 609 quater, 609 quinquies, 609 octies, when the crime is committed against a minor or under eighteen years of age, and 609 undecies,
- Article 600 criminal code (Reduction or maintaining in slavery or servitude)
- Article 600-bis criminal code (child prostitution)
- Article 600-ter criminal code (child pornography)
- Article 600-quater criminal code (Holding of pornographic material)
- Article 600-quater 1 criminal code (virtual pornography)
- Article 601 criminal code (Human trafficking)
- Article 602 criminal code
- (purchase and alienation of slaves)
- Article 609-bis criminal code (sexual violence)
- Article 609 quater criminal code (sexual acts with minors)
- Article 609-quinquies criminal code (Corruption of minors)
- Article 609-octies criminal code (group sexual violence)
- Article 609-undecies criminal code (enticement of minors)
- Article 12 Legislative Decree 286 dated 25th July 1998 (Provisions against illegal immigration)
- Article 416-bis criminal code (Mafia type associations and syndicates, also foreign ones)
- Article 416 ter criminal code (political-mafia voting exchanges)
- Article 630 criminal code (Kidnapping for the purpose of robbery or extortion)
- Article 74 Presidential Decree no. 309, 9<sup>th</sup> October 1990 (association aimed at illegal trafficking of drugs or narcotics)
- Article 73 Presidential Decree no. 309, 9<sup>th</sup> October 1990 (association aimed at illegal trafficking of drugs or narcotics)

The association crimes, and in particular as set out in articles 416 and 416 bis criminal code, are characterised by the stable and permanent nature of the criminal agreement between the subjects who constitute, participate, promote or organise the association.

For this purpose, the association needs a minimum stable organisation that can realise the criminal objectives that are destined to last beyond the realisation – even if only a possibility – of the crimes that have actually been planned.

The association – that must be formed by at least three people – is also distinguished by the non-determination of the criminal programme pursued by the members who must not have a determined and defined number of crimes as a target.

In virtue of the extension made by article 10.1. 146/2006, the association crime is a prerequisite of the body's responsibility also in the hypothesis in which it is committed transnationally.

The body's responsibility is foreseen above all in relation to the general figure of the criminal association, that is characterised by its members' aim of committing several crimes: On this matter, it must be pointed out that as part of the crimes the association aims to commit, there may also be any crime, such as, for example, fraud,

tax offences, environmental offences, laundering, corruption, corporate crimes etc. Punishability of the body is also expressly extended to the associations that pursue the specific aim of carrying out the illegal trafficking of drugs or narcotics, and the illegal production, introduction into the country, sale, transfer, holding and moving to a public place or a place open to the public of war weapons or parts thereof, explosives, illegal weapons and more common firearms, or in the transnational form, of contraband tobacco produced overseas and the trafficking of migrants.

Regarding the particular structure of the crimes in question, it must be pointed out that - in order to avoid undue extensions of the realm of application of the Decree and in observance of the principle of legality ratified by article 2 – the criteria of interest or advantage must refer to the association crime and not to the crime-aim of criminal association.

Also, as already stated, for the crime to exist, it is not necessary that the crimes are actually committed, it is sufficient for them to be included amongst the association's aims.

Punishability of the body is also foreseen for the crime of mafia-type association, that pursuant to article 416 bis, paragraph 3, exists when those belonging to it use the so-called mafia method, that is the force of intimidation of the binding membership and the condition of subjection and "omertà" (code of silence) that derives for committing crimes, for directly or indirectly acquiring the running or control of economic businesses, concessions, authorisations, contracts and public services or in order to make profits or unfair advantages for itself or others, or to prevent or obstruct the free exercising of voting rights, or to obtain votes for itself or others during elections.

On this matter, it should be pointed out that the body can be punished, in addition to due to participation of its managers or employees in the association, as organisers, promoters, members or executives of the association, also in relation to the hypothesis of so-called external participation, i.e. when the physical person, while not actually part of the association and not having adhered to the illegal, undetermined purpose that it pursues, provides support for the organisation, also compared to specific activities or interests of the Same.

## 2. SENSITIVE PROCESSES

It is just as important to underline, for the purpose of the correct identification of risk profiles connected with crimes in question, that only in extreme and particular cases, the body can be considered an actual association aimed at committing a multitude of crimes, a hypothesis that brings about, pursuant to article 14, paragraph 4, the permanent prohibition from activity. On this matter, the report on the decree and article 10, paragraph 4 of the law 146/2006 provide important elements of interpretation: This identification, in fact, is only possible in the hypothesis in which "the body or one of its organisational units is stably used for the sole or main purpose of allowing or aiding the committing of the indicated crimes".

For this reason, it is believed that, aside from this extreme hypothesis, greater risk profiles connected with the company's operations exist in the carrying out of activities that bring about contacts with external subjects that are part of already existing conspiracies to which company exponents could supply aware support, with a view to also pursuing presumed corporate interests.

Company exponents must be careful when the company operates in association with partners; or uses consultants or external representatives.

Attention, both in reference to crimes of terrorism and subversion of the democratic order and to money laundering and receiving of stolen goods committed in ways that satisfy the requisites of transnationality, must also be paid to the selection of commercial partners and management of typical activities that involve the latter.

The Sensitive Processes are thus identified as follows:

1. Management of commercial and contractual relations with clients and private third parties;
2. Management of purchasing cycle (selection and management of suppliers);
3. Selection, hiring and management of staff;
4. management and awarding of professional appointments;
5. Gratuitous loans, sponsorships, donation and other forms of gratuities.

In the realm of the above Sensitive Processes, situation needing special attention are the carrying out of activities in geographical areas in which suitable conditions of transparency or legality compared to the committing of said crimes is not guaranteed.

### 3. THE PROTOCOLS FOR ALLEVIATE THE RISK

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

#### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

#### ➤ Specific Protocols

In addition to the general protocols, the company has developed and implemented the following specific protocols for the reduction of the risk of committing and carrying out **crimes**:

- **Purchase of Goods and Services procedure:** The procedure aims to define the roles, responsibilities, operational modes and conduct principles that the recipients must abide by in acquiring goods and services from third parties.
- **Procedure for awarding professional appointments:** The procedure aims to define the roles, responsibilities, operational modes and conduct principles that the recipients must abide by in acquiring and managing consultancies and professional appointments with third parties. More specifically, the document governs the allocation and management of professional appointments to third parties process, intending as such consultancies, professional services with intellectual content of any kind (e.g. In this way, by observing the model, and by awarding said appointments (e.g. using consultancies and project contracts), the aim is to avoid crimes being committed and in particular, the ones contained in articles 317, 318, 319, 319 bis, 322, 322 bis of the Criminal Code. The document also governs the allocation and management of professional appointments to third parties process, intending as such the professional services of any kind, also supplied by external contracting companies.



- **Selection, hiring and management of human resources procedure:** The aim of the procedure is to define the rules of conduct that indicate the conduct that the recipients must abide by in determining the need for resources, selection, hiring and, generally, management of employed staff so that conduct suitable for committing the crimes as per the Decree is prevented.
- **Contractual Clauses 231:** The procedure aims to govern the activity of drawing up contracts with third parties, with the aim of avoiding any crimes being committed in the provision of contracted services.
- **Storing documentation procedure**

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing the activity at risk gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

In particular, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested:

More tangibly, the Supervisory Body, for the purpose of carrying out controls that it is responsible for:

- (iv) Examines the supplier and/or overseas collaborators contracts, the reports on the selection procedure for said collaborators and the reports on the company's relations with the latter, at random;
- (v) Examines the documents on the selection of company staff (also) in reference to checking the prevention of the crimes contained in the herein Special Part III, at random.

The departments involved in the process at risk also promptly communicate with the Supervisory Body about any violation or suspicion thereof of their own knowledge compared to the executive modes governed by company protocols and the Code of Ethics.



**Special Part V**

**Manslaughter – serious injury through negligence, committed in violation of the safety in the workplace laws (article 25 septies)**



## FOREWORD

The herein Special Part refers to crimes that are verified further to violation of the laws to prevent accidents in the workplace or relating to hygiene and safety in the workplace, referred to in article 25 septies of the Decree, as amended by article 300 of the Legislative Decree 81/2008.

Article 9 of Law 123/2007 has, in fact, introduced article 25 septies to the Decree that extends administrative responsibility of bodies to the crimes of manslaughter and serious personal injury through negligence, committed in violation of laws on accidents in the workplace and on the safeguarding of hygiene and health in the workplace. Article 300 of Legislative Decree 81/2008 has also replaced the afore-mentioned article 25 septies.

With the stated changes in legislation, the responsibility of bodies for crimes committed without intent is foreseen for the first time.

This circumstance requires coordination with article 5 of the Decree that defines the objective criteria of indictment of the body's responsibility, subordinating it to the existence of an interest or advantage for the body.

The criteria of "interest" seems, in fact, to be incompatible with the crimes committed without intent, because it cannot be configured for a subjective completion of the action.

In the hypothesis of committing the crimes contemplated in article 25 septies of the Decree, the responsibility foreseen by Legislative Decree no. 231/2001 can only be configured if an advantage for the body has derived from the illegal offence that, in the case in point, could be a saving of costs and time.

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### • **Manslaughter (article 589 penal code).**

The crime is committed when death to a person is caused.

For the purpose of integration of the crime, the psychological element of malice is not required, i.e. the knowledge, desire and representation of homicidal conduct (*animus occidendi*), but mere negligence, incompetence, imprudence of the acting subject, or non-observance by the latter of laws, regulations, orders and systems (article 43 criminal code).

### • **Injury through negligence, gross or extremely gross (article 590 penal code).**

The crimes occurs when serious injury is caused to a person; the law-making body has defined injuries as an illness of body or mind, differentiating them thoroughly from simple blows.

The injuries are considered as serious in the event that (article 583, paragraph 1, Criminal Code):

- An illness derives from the deed that places the injured person's life in danger, or an illness or incapacity to attend to ordinary matters for a time of more than 40 days;
- The deed produces a permanent weakening of a sense or organ.

The injuries are considered as extremely serious in the event that (article 583, paragraph 2, Criminal Code):

- An illness that is certainly or probably incurable derives from the deed;
- The loss of a sense;

- The loss of a limb or mutilation that makes it unusable;
- The loss of use of an organ or the capacity to procreate;
- A permanent and serious difficult in speech;
- Deformation, or permanent scarring to the face.

Also for the purpose of configuring the crime of non-intentional injury, it is not necessary for the acting subject to have acted with the knowledge and desire to cause the damaging event (*animus necandi*) but it is instead sufficient for there to be negligence, imprudence, incompetence, or non-observance of laws, regulations, instructions or systems.

Both the crimes above only occur, for the purpose of the Decree, in the event in which the so-called “specific blame” can be ascribed to the acting subject, under the profile of the subjective elements, comprising violation of the laws for the prevention of accidents in the workplace or those on safety and hygiene in the workplace.

The current legislation on accident prevention comes into force in this circumstance, for the purpose of the herein Special Part the Legislative Decree 81/2001 (so-called Consolidated Safety Act, hereinafter “Consolidated Act”) is fully referred to, as last amended by Legislative Decree 106 dated 3<sup>rd</sup> August 2009 (and as amended each time).

## 2. SENSITIVE PROCESSES

With regard to the identification and analysis of potential risks, which should consider the possible implementation modes of the crimes within the company, it is noted that with regard to the crimes foreseen by the Legislative Decree 81/2008, the analysis of the possible implementation modes coincides with the evaluation of working risks carried out by the company due to the current accident prevention legislation in force, and in particular by articles 28 and following of the Consolidated Safety Act as amended by Legislative Decree no. 106 dated 3<sup>rd</sup> August 2009.

With main reference to the crimes that are the subject of the herein Special Part, it is underlined that it is not possible to exclude any realm of activity a priori, as said crimes may concern all the company departments.

In other terms, the crimes in this Special Part could abstractly be committed in all cases in which there is a violation of health and safety in the workplace obligations and instructions within the company.

In particular, attention is paid to the following activities:

1. Management of emergency land situations;
2. Tender contracts;
3. Temporary or mobile worksites;
4. Loading and unloading cargo;
5. Ship maintenance;
6. Maritime safety on board the ships.

## 3. THE PROTOCOLS FOR ALLEVIATE THE RISK

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

### ➤ **Specific Protocols**

The company has adapted to safety provisions, also by drawing up a system for delegating roles and powers.

- Prevention and Protection System in the company, that comprises:
  - 1) Documents describing the state of the system, such as:
    - Risk Assessment Documents, drawn up and stored pursuant to and in accordance with article 29 of the Consolidated Safety Act (Leg. Decree 81/2008)
    - Reports from the annual meetings between Prevention and Protection System Manager RSPP, the Employer or his Proxy, the Competent Doctor and the Workers' Health and Safety Representative RLS ex art 35 Consolidated Safety Act (Leg. Decree 81/2008).
    - Environmental and Health Assessment (annual).
    - Company's emergency plan procedure, including the emergency aid procedure.
    - Reports on work environment inspections carried out by the RSPP and the Competent Doctor.
    - Reports on the workplace evacuation tests carried out, annually, in all company sites and offices.
  - 2) coordination, completion or updating meetings:
    - Informal periodic update meetings between the RSPP and individual appointed persons;
    - Annual meetings on the prevention and protection from risks, between the employer or his representative, the RSPP, the Competent Doctor, ex article 35 Consolidated Safety Act (Leg. Decree 81/2008).

#### 3) monitoring and control

Generally, the company has set up the following general protection measures:

1. Planning and allocation of suitable economic, human and organisational resources required for observing prevention and safety measures, for verification of their implementation and for supervising the observance of prescribed obligations;
2. Production processes are planned in order to reduce the workers' exposure to risk, in relation to the risks identified in the risk evaluation document (DVR), to a minimum;
3. Work environments, ships, equipment, machinery and plants are regularly the subject of maintenance and periodical check programmes are followed, partly by the company and partly by specialised firms;
4. Emergency exits, exits, emergency equipment and safety equipment are marked by specific signs, as required by law, in order to call immediate attention to situations that constitute danger or conduct to

adopt to prevent or fight it;

5.Tasks and duties are entrusted to workers, bearing in mind their capacity and conditions of health;

6.Observance of company provision on health and safety are constantly monitored by Executive and/or Appointed subjects who demand observance, reported any supposed violations to the employer or his representative for suitable provisions.

Recipients of the Safety system are:

- a) **The Chief Executive Officer (CEO)**, who is the “Employer”, pursuant to and in accordance with the Consolidated Safety Act (Leg Decree. 81/2008), in virtue of the competences attributed to him by the Board of Directors and that he is responsible for every aspect and obligation on hygiene and safety in the workplace and accident prevention;
- b) **The Employer’s Representative** who due to the proxy awarded to him by the CEO pursuant to Article 16 of the Leg. Decree 81/2008, takes responsibility for all aspects and obligations regarding hygiene and safety in the workplace and accident prevention, except for the ones foreseen by article 17 of said decree, that remain the full responsibility of the CEO.
- c) **The Executives** who due to the professional competences and hierarchical and departmental powers suited to the nature of his appointment, implement the Employer’s directives by organising working activity and supervising it (article 2, paragraph 1, letter D, Leg. Decree 81/2008);
- d) **The persons appointed** who due to the professional competences and within the limits of the hierarchical and departmental powers suited to the nature of his appointment supervise the work and guarantee implementation of the directives received, controlling correct execution by the works and exercising a functional power of initiative (art. 2, paragraph 1, letter e, Leg Decree 81/2008);
- e) **The Prevention and Protection Service Managers (“RSPP”)** in the company who have specific duties on this matter, pursuant to the Consolidated Safety Act (Leg Decree 81/2008);
- f) **Competent Doctors**, appointed pursuant to and in accordance with articles 38, 39, 40 and 41 of the Consolidated Safety Act (Leg Decree 81/2008);
- g) **Employees’ Safety Representatives**, as set out in articles 47 and 50 of the Consolidated Safety Act (Leg Decree 81/2008);
- h) **The Workers**, as defined in article 2 of the Consolidated Safety Act.

In line with the contents of the Consolidated Safety Act ((Leg. Decree 81/2008), the **Prevention and Protection from Risks Service**, meaning the group of people, systems and means, external or internal, aimed at preventing and protecting the workers against professional risks, has implemented a Prevention and Protection System, improving efficacy over time, in addition to fulfilling the current legislative provisions, the carrying out of a series of meetings, coordination meetings and checks aimed at guaranteeing a monitoring period of the workers’ state of safety in the working environment. In order to have suitable tools and methods that guarantee the precise, systematic application thereof, the company has obtained OHSAS 18001 certification on Health and Safety and ISO 14001 on the Environment. These management systems are regularly checked by the external verification body DNV.

On this matter, article 30 of the Consolidated Safety Act (Leg. Decree 81/2008) also foresees that the company organisation models defined in compliance with British OHSAS 18001:2007 **are assumed to be compliant with the requisites set out in Leg. Decree 231/2001 on the matter of administrative responsibility of legal persons**.

Details of appointments awarded and the CIN Safety System document are available with the company’s safety organisational chart inside the respective Risk Evaluation Documents.

With regard to safety on board, and more generally with activities in application of legal provisions foreseen

for ship staff on board pursuant to Leg. Decree 271/99, the company has the following tools:

- (i) Efficient organisation on board and on land to guarantee safety and protection of the environment
- (ii) A Safety Management Manual, in observance of the ISM CODE, regarding the minimum management standards and the relative procedure that is compliant with the IMO resolution 741 (18): "Guidelines on Management for the Safe Operation of Ship and for Pollution Prevention"; as amended. Annex 1 to the SMS Manual is the "Management Manual for Safety in the Working Environment".
- (iv) An internal control and verification system intended to continually check the effective and efficient functioning of the management system foreseen by the Safety Management Manual and to supply the elements for correcting and/or improving it.

For management of the Safety Management System, in order to maintain validity of the pertinent certifications, the company offices and ships are subjected to system checks carried out by the competent authorities. These visits certify the goodness of the company's safety management system. Document regarding company deeds.

- the **Safety Management Manual**; the formal activities pertain to:

- Control and care of the legislative aspects concerning work safety, applicable to maritime staff on board, informing the interested company bodies.
- Care of application of the SMS in all its aspects regarding periodical system verifications and paper storage of objective proof.
- It cares for management of the CIN SMS Manual – and its revisions in agreement with the Company's operational management.
- It cares for the keeping of annex 1 to the SMS Manual or the CIN MANAGEMENT MANUAL FOR SAFETY IN THE WORKPLACE – foreseen by Leg. Decree 271/99
- Draws up and revises the CIN Health and Safety manual for on board staff.
- Manages the competent doctor, for the part of its own competence – Leg. Decree 271/99.
- Manages the firm appointed by the company for carrying out control and maintenance programmes for asbestos dispersed in the atmosphere (AURELIA ship, mineral fibres (AMICORA and BONARIA ships), phonometric, CO2 and vibration monitoring on all the ships in the fleet.

#### Identification of the corresponding company departments

Within the realm of the company safety organisation, notwithstanding the formalised appointments, by the Ship Owner and the Ship's Captain, the RSPP, the SPP Service, the competent doctors, members of the ship's emergency teams as per roll call, the other positions that are relevant to the applicable law, and regardless of civil identification of the role, are as follows:

1. SHIP OWNER Manager of the Navigation Firm i.e. the holder of the working contract with the crew – the company SMS Manager -
2. SHIP CAPTAIN – Manager on board of SMS Management.
3. DPA – APPOINTED PERSON ON LAND – in the SMS system, he is the connection between land office and the ship.
4. RLS – Work Safety Representative – He is elected from among the sea-going works and collaborates with the Prevention and Protection Service.

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing the activity at risk gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

In particular, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested:

More tangibly, the information flows, at least every six months, regarding the de quo crimes are:

- Sending of reports of the periodical Prevention and Protection from Risks Service, by the Service Manager;
- Ad hoc control meetings on request from the Supervisory Body, with the main figures involved in the workplace safety management elements (e.g. Employer, Competent Doctor, RSPP) to investigate elements that may be reflected in the Leg. Decree 231/2001.

In order to carry out these tasks, the Supervisory Body can:

Take part in the meetings organised by the company between the persons in charge of safety, evaluating which of them is important for the correct carrying out of their tasks;

b) access all documentation and all relevant sites for carrying out their tasks.

The Supervisory Body, in carrying out the activities above, can use all the competent resources in the company (e.g.: The Prevention and Protection Service Manager; the Prevention and Protection Service Workers; the Workers' Representative for Safety; the Competent Doctor; the appointees for implementation of emergency measures; the safety manager on board and on land). When the Supervisory Body finds non-application of procedures adopted via the Model, it informs the HR department for the commencement of any disciplinary proceedings and verification of causes that have caused the non-application and defines suitable corrective interventions. When the Supervisory Body finds situations of non-efficacy of adopted procedures, it checks the causes and organises the necessary corrective actions, submitting relative proposals to the Administrative Body for consequent adoption.

The company sets up – with RSPP involvement – information flows for the Supervisory Board, for acquiring information that is useful for monitoring accidents and data and the organisation of safety, also news of any presumed or verified professional illnesses.

## **SPECIAL PART V**

### **Crimes of receipt of stolen goods, laundering and use of money, goods or benefits of illegal origin**



In the legislative decree nr. 231 dated 21 November 2007, (hereinafter “Leg. Decree 231/2007”) the law-making body implemented the European Parliament and Council’s Directive 2005/60/EC, dated 26 October 2005, concerning the prevention of using the financial system for the purpose of laundering money from criminal activities and the financing of acts of terrorism (so-called II money-laundering directive) and the EU Commission’s Directive 2006/70/CE, which contains the execution measures. The legislative intervention has brought about reorganisation of the overall money laundering laws on the matter.

In particular, article 63, paragraph 3, introduces the new article 25 *octies* into the Decree nr. 231/2001, which extends the bodies’ administrative responsibility to the crimes of *receiving stolen goods, money-laundering and use of money, assets or other utilities of illegal origin* - articles 648, 648-*bis* and 648-*ter* criminal code. As is known, the body’s administrative responsibility for these offences is limited to the sole hypothesis in which the crime is committed in the body’s interest or advantage.

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### • Article 648 criminal code – Receipt of stolen goods

The crime in question occurs when anyone, outside the cases of participation in the crime, in order to procure a profit for himself or others, purchases, receives or hides money or things originating from any crime or intervenes to have them purchased, received, or hidden.

The aim of indicting the receiving of stolen goods is to prevent the committing of the damage to property interests which began with the committing of the main crime. Another objective of the indictment is to avoid the committing of the main crimes, as a consequence of the limits placed on the circulation of the assets originating from the same crimes.

Receipt of stolen goods is a crime of offence against assets, for which the legal objectivity lies in the interest of guaranteeing a private party’s rights to protection against the intervention of activities outside the crime, that can lead the harm already caused to the extreme and make recovery of the product more difficult.

In reference to the elements constituting the crime, it is stated that:

- The conduct relevant to the crime in question is that with the aim of obtaining the possession of objects of criminal origin, with the aim of gaining profit; it is totally irrelevant that receipt of the object originating from crime is permanent or temporary, free of charge or paid for, as it is sufficient to obtain any use, even if not pecuniary;
- With regard to the subjective element of the crime, for receipt of stolen goods to be established, the awareness of the illegal origin of the goods received is necessary, without it being indispensable that such awareness extends to the full, precise knowledge of the circumstances of time, mode and place of the predicate offence, as it can also be deduced from indirect evidence, while serious, unique and such as to generate in any person any intellectual intelligence, according to common experience, the certainty of the illegal origin of what has been received; and in fact, to establish responsibility, a judicial verification of the committing of the predicate crime is not necessary, of its perpetrators or the exact type of crime;
- Receipt of stolen goods of a tiny nature as set out in article 648, paragraph 2 Criminal Code does not constitute an incriminating hypothesis but is a special mitigating circumstance that must give rise to the fact that the received good is of a particularly small economic value to be relevant.

### • Article 648 bis - Laundering

The crime in question is committed by anyone “outside the case of complicity in the crime, who substitutes or transfers money, assets or other utilities coming from crime committed with intent, or who carries out other operations connected with them, in order to obstruct identification of their criminal origin.



The aim of indictment for the crime of money laundering is to prevent the perpetrators of the crime from exploiting the illegal acquired capital, returning it into circulation as “purified” capital and therefore investable in legal production and economic businesses. In this way, the law also pursues another final objective, i.e. to discourage the committing of the principal crimes by setting up barriers for the possibility of exploiting proceeds.

In reference to the elements constituting the crime, it is stated that:

- The crime in question, although a free form crime, requires the laundering to be characterised by a typical dissembling effect, a result aimed at obstructing the verification of the criminal origin of money, assets or other benefits. In particular, the carrying out of operations aimed not only at permanently preventing but also of making verification of the origin of money, assets and other benefits difficult, using any expedient that consists of bypassing the free, normal execution of the activity, is an integration to the crime of laundering;
- With regards to the subjective element, this is integrated by the general malice that includes the wish to carry out acts for preventing identification of the criminal origin of assets, and the awareness of said origin, without any reference to purposes of profit.

- **Article 648 ter - Use of money, goods or utilities of illegal origin**

The crime in question occurs when anyone, outside the cases of participation of crimes and the cases foreseen by articles 648 and 648 bis – criminal code, commits money, assets or other benefits originating from crime in economic or financial activities.

The crime in question, although a free form crime equal to the crime of money laundering, requires the laundering to be characterised by a typical dissembling effect, a result aimed at obstructing the verification of the criminal origin of money, assets or other benefits.

With regard to the fact that a prerequisite for all three offence foreseen in articles 648, 648 bis and 648 ter of the Criminal Code is that of the illegal origin of the money or other benefit that the agent now disposes of, the above offences are distinguished from a subjective profile, by the fact that the first requires, in addition to the awareness of said origin, also necessary for the others, only a general purpose of profit, while the second and the third require the specific purpose of losing the trace of their illegal origin, with a further particular fact, for the third, that said purpose must be pursued via the use of the resources in financial economic activities. Therefore, art. 648 – *ter* criminal code is therefore a speciality of article 648 – *bis* criminal code, which, in turn is the a speciality of article 648 criminal code.

## 2. SENSITIVE PROCESSES

In relation to the crimes described above, the area at risk that is identified within the realm of the company's activities to be taken into consideration for preventing such crimes, is CIN's activities with third parties, intending such to be those activities connected with relations set up between companies and third parties (purchase and/or sales contracts with counterparties, financial transactions with counterparties, investments with counterparties).

## 3. THE PROTOCOLS FOR ALLEVIATE THE RISK

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following

General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

### ➤ **Specific Protocols**

In addition to the general protocols, the company has developed and implemented the following specific protocols for the reduction of the risk of committing and carrying out de quo **crimes**:

- **Procedure for management of financial flows:** The procedure aims to define the rules for managing and authorising the company's incoming and outgoing financial flows. In particular, within the realm of share sales, where made, the procedure requires that:
  - The consistency of the sale/purchase price is checked;
  - The contractual counterparty is identified, if residing in offshore countries or if it is a trust company or a shell company;
  - The economic beneficiary of the operation is identified or checks are made upon him
- **Procedure for drawing up the balance sheet and other corporate communications;**
- **Reimbursement of expenses Procedure:** Aim of the procedure is to define the rules of conduct that indicate the conduct that the recipients must and must not have in the management of expense reimbursement for employees and entertainment expenses, so that suitable conduct for committing the crimes is prevented.
- **Contractual Clauses Procedure:** The procedure aims to govern the activity of drawing up contracts with third parties, with the aim of avoiding any crimes being committed in the provision of contracted services.

## **4. CONTROLS AND INFORMATION FLOWS TOWARDS THE SUPERVISORY BODY**

The Supervisory Body's tasks regarding the observance and efficacy of the model on the topic of the crimes of receipt of stolen goods, laundering and use of money, assets or other benefits of illegal origin, are the following:

a) In reference to the activities and relations that are established between the company and third parties, the Supervisory Body's tasks to be carried out are as follows:

- Verification of commercial and professional feasibility of suppliers and commercial/financial partners on the basis of some important indexes (public prejudicial data – protests, insolvency procedures – or acquisition of commercial information about the company, shareholders and directors via specialised companies; extent of disproportionate price compared to average market values; involvement of “politically exposed persons”, as defined in article 1 of the Technical Annex to Leg. Decree 231/2007);
- Checks on payment regularity, also in reference to the full coincidence between payment recipients/senders and the counterparties actually involved;



- Formal and substantial controls on company financial flows, in reference to payments to third parties. These control must take into account the counterparty company's registered offices (e.g. tax havens, countries at the risk of terrorism, etc), the banks used (registered office of the banks involved in transactions and banks that do not have physical sites in any country) and any corporate shields and trust structures used for transactions or extraordinary operations;

Also, the information flows, at least every six months, regarding the de quo crimes are:

- The decisions taken in any realm within the organisational structure that haven't followed the normal authorisation procedure foreseen by the internal procedures;
- The incoming and outgoing financial flows with an indication of the reason and the counterparty.



## **SPECIAL PART VI**

### **Computer Crimes and the illegal handling of data and Copyright crimes**

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

### Computer crimes

It must be pointed out that the term "computer crime" generally indicates **any crime or violation of the civil or criminal code in which the use of computer technology was a determining factor for carrying out the criminal action**. Actually, it is suitable to make a distinction between "real" computer crimes, i.e. crimes that are impossible to carry out without the aid of information technology and the so-called "traditional" or "conventional" crimes, where the use of the information technology tool is only an ad hoc support for achieving said purpose.

The crimes introduced into the sphere of bodies' administrative responsibility by Law no. 48/08 are:

- **Forging a public information document or a document with efficacy as evidence (article 491 bis criminal code).**

If some of the forgeries foreseen in chapter VII<sup>6</sup> of the criminal code concern a public or private computer document <sup>7</sup> that has evidential effectiveness, the dispositions contained in the same chapter regarding public documents and private agreements are applied.

- **Illegal access to a computer system (article 615 ter criminal code).**

The law punishes anyone who illegally enters an information or computer system that is protected by security measures or who remains in the system against the express or tacit wishes of anyone who has the right to exclude him..

The crimes is punished in a more severe manner:

- If the deed is committed by a public official or by a public service appointee, with abuse of powers or violation of the duties regarding the service or role, or by those who also illegally practice as private investigators, or as system operators;
- If the guilty party uses violence to objects or persons, or is clearly armed, in order to commit the fact;
- If the deed causes the destruction or damaging of the system or total or part interruption of its working, or

<sup>6</sup> Chapter III . Forgeries in deeds, Articles 476 – 490:• Art. 476. Material forgery committed by a public official in public deeds. • Art. 477. Material forgeries committed by a public official in administrative authorisations or certificates. • Art. 478. Material forgery committed by a public official in authentic copies of public or private documents and certifications of the contents of deeds. • Art. 479. Falsity of ideals committed by the public official in public deeds. • Art. 480. Conceptual falsity by a public official in administrative certificates or authorisations. • Art. 481. Conceptual falsity in certificates by persons providing a necessary public services . • Art. 482. Material falsity committed by a private party. • Art. 483. Conceptual falsity committed by a private party in a public document. • Art. 484. Falsity in registers and notifications. • Art. 485. Falsity in private agreements. • Art. 486. Falsity in blank signed sheets. Private deed • Art. 487. Forgery in blank signed sheets. Public deed • Art. 488. Other forgery in blank signed sheets. Applicability of provisions on material falsities. – Article 489 Use of false deeds – Art 490 Suppression, destruction and hiding of real documents

<sup>7</sup> The IT document is, according to the definition given by article 1 ,lett. p) of the legislative decree no. 82 dated 7th March 2005 , the so-called Digital Administration Code, "the computer representation of legal relevant deeds, facts or data". On this matter, the report for the original law (no. 2807) notes: " [...] in consideration of the revealed inadequacy of the definitions of computer document, intended as a computer support material containing data or information with efficacy as evidence or programmes for processing them, it has been decided to accept, for criminal code purposes also, the broadest and correct notion of computer document, already contained in the regulations as per the Presidential Decree no 514 dated 10th November 1997, as "the computer representation of legal relevant deeds, facts or data".

the destruction or damage of data, information or programmes contained therein.

If the deeds concern military, police, public order, healthcare, civil protection, or any other public interest information or computer systems, the penalty is increased.

To commit the crime, violation of suitable security measures is necessary, therefore it is considered that “introducing detection” systems must be violated, such as to prevent domain invite access, or at least systems that can identify the user who has made the access. Access to a system that is protected by a device, even if only a password, integrates the crime of illegal access to an information system.

Illegal access occurs as soon as the system’s security measures are overcome, as, article 615 ter criminal code punishes the simple intrusion, before evaluating the hypothesis of damage or theft of data.

The crime can also be caused by subjects authorised to use the system, but only authorised to access a part of the data stored in the memory. In this case, the protected system becomes that part of the memory to which access is not authorised.

Unauthorised staying consists of the subject who has accessed the system is then found to be a protected area of the system without intent, but “stays there against the express or tacit wishes of those with the right to exclude him”.

Illegal access can also occur via the holding or diffusion invite domino of personal access codes. This offence is expressly foreseen and punished by the law making body in article 615 quarter criminal code.

For example purposes only, one of the recipients of the model could access a protected information system, using another user's credentials, handed over to him by the latter, or illegally obtained by deceit, in order to consult the data contained therein in any manner.

• **Illegal holding and disclosure of access codes to information or computer systems** (article 615 quarter Criminal Code).

The law punishes anyone who, in order to obtain profit for himself or others, or to cause damage to others, illegally obtains, copies, discloses, communicates or hands over codes, passwords or other means that are used to access a computer or information system, protected by security measures, or who provides indications or instructions that can be used to for the afore-mentioned purpose.

For example purposes only, it is pointed out that one of the recipients of the model may unduly diffuse, or obtain by fraudulent conduct, the access codes for the computer system of other authorised users, asking for a sum of money or other benefits for himself or other subjects in exchange for reserved information.

• **Diffusion of equipment, devices or computer programmes that are intended to damage or interrupt a computer or information system** (article 615 quinquies Penal Code)

The law punishes anyone who, in order to illegally damage an information or computer system, information, data or programmes contained in the former or relevant to it, or to cause total or part interruption or alteration of its operations, obtains, produces, copies, imports, discloses, communicates, hands over or provides any equipment, devices or computer programmes, will be committing this crime.

For example purposes, one of the recipients of the model may provide third parties, or even sell, instruments, equipment or software that he holds, capable of damaging data or programmes contained and protected in a computer system that cannot be accessed.

• **Interception, hindrance or illegal interruption of computer or remote communications (article 617 quater penal code);**

The law punishes anyone who fraudulently intercepts communications regarding an information or computer system or running between several systems, or prevents or interrupts them. The law also punishes anyone who reveals all or part of the content of communications as above, via any means of public information.

The crimes above can be punished by lawsuit.

However, the crime is automatically prosecuted if:

- 1) Against an information or computer system used by the State or by another public body or company carrying out public services or services of public necessity;
- 2) By a public official or a public service appointee, with abuse of power or by violating the duties regarding a role or service, or by abusing the role of system operator;
- 3) By anyone who practises as a private investigator, even if illegally.

For example, one of the model recipients could manage to learn of confidential communication or data, or interrupt the flow, using trickery and deceit, also exploiting the shared area.

• **installation of equipment aimed at intercepting, obstructing or interrupting information systems or computer communications (article 617 quinquies Penal Code)**

The law punishes anyone who installs equipment aimed at intercepting, obstructing or interrupting communications with an information or computer system, or connections between several systems, apart from the cases permitted by law, will be carrying out this crime.

For example, one of the model's recipients could place recorders or instruments for copying or storing in a computer workplace, communications, files or data in order to obtain inaccessible and confidential communications.

• **Damage to computer information, data and programmes (article 635 bis Penal Code)**

The law punishes anyone who destroys, damages, cancels, alters or suppresses other persons' computer information, data or programmes

The deed is more serious if committed by abusing the role of system operator and is automatically prosecuted.

• **Damage to information, data, and programmes used by the State or by another public body or for public use (article 635 ter Penal Code)**

The law punishes anyone who commits a deed aimed at destroying, damaging, cancelling, altering or suppressing information, data or programmes used by the State or another public body, or is relevant to them, or is of public use.

The crime is more serious if it causes the destruction, deterioration, cancellation, alteration or suppression of computer information, data or programmes, if the circumstance exists as in number 1) of paragraph two of article 635 criminal code, or if the deed is committed by abusing the role of system operator.

• **damage to information and computer systems (article 635 quarter Penal Code)**

The law punishes the crime, by means of the conduct specified in article 635 bis Penal Code, or by the introduction or sending of data, information or programmes, destroys, damages or makes information or



computer systems partly or wholly unusable or seriously obstructs their use.

The crime is more serious if the deed is committed with abuse of the system operator's position,

• **damage to information and computer systems used by the public (article 635 quinquies Penal Code)**

The crimes of damage to the information and computer systems is more serious if:

- The damage to the systems is aimed at destroying, damaging, or making computer or information systems intended for public use wholly or partly unusable, or at seriously obstructing their use.
- The public information or computer system is destroyed or damaged, or is made wholly or partly unusable.
- There is the circumstance as set out in number 1) of paragraph two of the article 635 criminal code, or if the fact is committed with abuse of the system operator's position.

• **Computer fraud by the subject who provides electronic signature certification services (article 640 quinquies Penal Code)**

The law punishes the subject who provides electronic signature certification services, and who, in order to obtain unjust profit for himself or others, or in order to cause damage to others, violates the obligations set out by the law regarding the issue of a qualified certificate, will be committing such a crime.

**Crime of violation of copyright**

• **Crime foreseen by article 171, paragraph one, letter a bis) of Law no. 633 22/04/1941**

*The law punishes anyone who, without the right, for any purpose and in any form, provides the public with a protected creation or part thereof, by introducing it into a computer network system, by connections of any kind. The crime is more serious if committed on another person's work that is not destined for publication, or with misappropriation of the authorship of the work or with the deformation, mutilation or other modification of the same work, if it is an offence to the author's reputation.*

• **Crime foreseen by article 171-septies of Law 22/04/1941 no. 633.**

*The law punishes anyone who illegally duplicates computer programmes for profit, or for the same purpose imports, distributes, sells holds for commercial or business purposes or loans programmes contained on support that are not marked by the Italian Company of authors and editors (SIAE) and anyone who for profit and on supports not marked SIAE, reproduces, transfers to another support, distributes, communicates, presents or shows the content of a databank to the public.*

*For example, one of the model recipients could duplicate the computer programme so that it can be altered and used within the company.*

• **Crime foreseen by article 171-ter of Law 22/04/1941 no. 633.**

*The law punishes anyone who illegally duplicates, reproduces, transmits or diffuses all or part of a creation using any procedure, for profit.*

- *Crime foreseen by article 171-septies of Law 22/04/1941 no. 633.*

*The law punishes the producers or importers of supports that are not subject to the mark as set out in article 181-bis, who do not inform the SIAE the necessary data for unique identification of said supports, within thirty days of the date on which they are placed on sale nationally or are imported.*

- *Crime foreseen by article 171-octies of Law 22/04/1941 no. 633.*

*The law punishes any who commits the fraudulent production, sale, importation, promotion, installation, modification, use for public or private use of equipment or parts of equipment that are intended to decode audiovisual transmissions with limited access, carried out on the airwaves, by satellite, by cable, either in analogical or digital form.*

## 2. SENSITIVE PROCESSES

**With regard for the CIN company business, the activities considered to be potentially at risk of the committing of the above crimes are identified as follows:**

- Management of the company information structure;
- Allocation of hardware and software to employees and later integrations or modifications to instrumentation;
- Allocation of personal, reserve access credentials to the information system, in the shared area, to the internet and for the use of email.
- Use of information systems and computer platforms managed by third parties.

## 3. THE PROTOCOLS FOR ALLEVIATING THE RISK

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

### ➤ General Protocols

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

### ➤ Specific Protocols

In addition to the general protocols, the company has developed and implemented the following specific protocols for the reduction of the risk of carrying out **IT crimes and the illegal handling of data**:

- Privacy and company IT security Procedures (minimum security measures) The procedure aims to define the roles, responsibilities and principles in which the CIN Staff must abide by in the activities that require the handling of personal data, pursuant to Leg. Decree 196/2003;
- **Document on Security Programme**
- Information document protocol, digital signatures and access credentials for third-party information system. The protocol aims to define the forming, recording, classifying and storing of information documents, in addition to managing digital signatures and information system access credentials belonging to third parties, even if belonging to the Public Administration.

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing the activity at risk gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

In particular, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested:

More tangibly, the information flows, at least every six months, regarding the de quo crimes are:

- The decisions taken in any realm within the organisational structure that haven't followed the normal authorisation procedure foreseen by the internal procedures;
- Regular meetings or communications from the CIN System Administrator that provide proof of the critical factors that emerged in managing the IT network that could be found pursuant to Leg Decree 231/2001.

**SPECIAL PART VII**  
**Environmental Crimes**

## 1. THE CRIMES STATED IN THE DECREE AND RELATIVE MODE OF COMMITTING THEM

The Legislative Decree 121/2011 acknowledged the European directives on the penal protection of the environment (2008/99/EC) and pollution caused by ships 2009/123/EC) into the Italian system, in addition to modifying the penalty system for waste.

In brief, this decree:

- is included in the scope of the Consolidated Environmental Act (Leg. Decree 152/06, TUA) also foreseeing companies' administrative responsibility for some environmental crimes contained therein;
- In particular, for our purpose, acknowledges the European Directive on Pollution caused by ships;
- Introduces two types of crime into our system:
  - ✓ Article 727 bis (Killing, destruction, capture, withdrawal, holding of protected wild animals or plants;
  - ✓ Article 733 bis (Destruction or deterioration of habitats within a protected site
- Makes amendments to the penalty system regarding waste management.

### • *Ban on abandonment (article 192, Leg Decree no. 152, 3rd April 2006)*

1. The abandonment and uncontrolled depositing of waste on land and in the land are forbidden.
2. The introduction of any waste, solid or liquid, into surface and underground waters, is also forbidden.
3. Without prejudice to the application of penalties as set out in articles 255 and 256, anyone violating the bans as set out in paragraphs 1 and 2 is obliged to proceed with removing, recovering and disposing of the waste and restoring the state of the location together with the owner and the holders of real or personal rights of enjoyment on the area, who are responsible for said violation due to malice or neglect, based on verifications carried out in cross examination with the interested subjects, by the subjects responsible for the control. The mayor issues an order for the operations required for this purpose and the deadline by which it must be carried out, after which he proceeds with recovery of damages from the obliged subjects and recovery of the paid out sums of money.
4. If responsibility for the illegal act is given to the legal entity's directors or representatives pursuant to and in accordance with paragraph 3, the legal person and the subjects who subentered the same person's rights are held jointly responsible, on the matter of administrative responsibility of legal persons and, companies and associations.

On reading this law, it emerges that the company's responsibility is linked to the committing of the crime of abandonment and uncontrolled depositing of waste on the land and in the land, as set out in article 192 of the Leg. Decree 152/2006.

This offence is not expressly referred to in article 25 undecies, but is equally to be considered a predicate crime of the body's responsibility ex Leg. Decree 231/2001, as expressly foreseen by the regulating law. As it is an non-applied offence, with an excessively general formulation, and as such strongly criticized as it is potentially in violation of the principle of the obligatory nature, but is mentioned herein.

In reference to this crime, in fact, the law orders that anyone who violates the relative ban must proceed with the removal or disposal of the waste and, in the event that responsibility for the offence is given to the representatives or directors of the legal person, they must proceed with the removal or disposal of the waste together with the legal person and subjects who have subentered the rights of the same person, according to the provisions contained in Leg. Decree 231/2001.

● *Non-authorized waste management (Article 256 Leg. Decree 3 April 2006 no. 152)*

1. Anyone who collects, transports, recovers, disposes of, sells or brokers waste without the necessary authorisation, enrolment or communication as set out in articles 208, 209, 210, 211, 212, 214, 215 and 216 is punished:

- a) by being arrested from three months to one year or with the fine of two thousand six hundred Euro to twenty-six thousand Euro if non-hazardous waste;
- b) by being arrested from six months to two years and with the fine of two thousand six hundred Euro to twenty-six thousand Euro if hazardous waste;

(omissis) 3. Anyone who manages or creates a non-authorized waste dump is punished by being arrested from six months to two years and with a fine of two thousand six hundred to twenty-six thousand Euro. Punishment is arrest for one to three years and a fine of five thousand two hundred Euro to fifty-two thousand Euro if the dump is destined, even in part, to the disposal of hazardous waste. If convicted or after a sentence issued pursuant to article 444 of the code of criminal procedure, the area on which the illegal dump was created will be confiscated if owned by the author or accomplice in the crime, notwithstanding the obligations of clearance or recovery of the state of the land.

(omissis) 5. Anyone violating the ban as set out in article 187 by carrying out banned waste mixing activities is punished with the penalty set out in paragraph 1, letter b).

6. Anyone temporarily depositing hazardous healthcare waste at the production site, in violation of the provisions as set out in article 227, paragraph 1, letter b), is punished with the penalty of being arrested for a period from three months to one year or with the fine of two thousand six hundred to twenty-six thousand Euro. A pecuniary administrative fine is applied, of from two thousand six hundred to fifteen thousand five hundred Euro for amounts not exceeding two hundred litres or equivalent quantities.

(omissis) This offence, that can be committed by anyone, occurs each time someone manages waste (transport, recovery, disposal, deposit) without the necessary authorisations.

● *Site clearance (article 257, Leg Decree no. 152, 3rd April 2006)*

1. Anyone who causes pollution of the land, the subsurface, surface waters or underground waters exceeding the threshold concentrations of risk is punished with the penalty of being arrested for six months to one year, or with a fine of two thousand six hundred to twenty-six thousand Euro, if the site is not cleared in compliance with the project approved by the competent authority in the realm of the proceedings as set out in articles 242 and following. If the communication as set out in article 242 is not made, the violator is punished with an arrest for a period from three months to one year or with a fine of one thousand to twenty-six thousand Euro.

2. The penalty of arrest from one to two years and a fine from five thousand two hundred to fifty-two thousand Euro is applied if the pollution is caused by dangerous substances.

- *Violation of the obligations of communication, keeping mandatory registers and books (article 258 no. 152, Leg. Decree 3<sup>rd</sup> April 2006);*

1. (omissis) The penalty as set out in article 483 of the criminal code is applied in the case of the transportation of hazardous waste. This final penalty is also applied to those who, in preparing a waste analysis certificate, provide false indications about the kind, composition and chemical-physical characteristics of the waste and to those who use a false certificate during transportation.

(omissis) This offence occurs each time it is hazardous waste and each time false indications are given of the characteristics of the waste. This crime also punishes anyone who uses a false certificate during transportation.

- *Illegal trafficking of waste (article 259, Leg. Decree no. 152, 3<sup>rd</sup> April 2006)*

1. Anyone who ships waste constituting illegal trafficking pursuant to article 26 of the EEC regulation no. 259, dated 1<sup>st</sup> February 1993, or carries out a shipment of waste listed in Annex II of the stated regulations in violation of article 1, paragraph 3, letters a), b), c) and d) of the regulations is punished with a fine of one thousand one hundred and fifty Euro to twenty-six thousand Euro and with arrest for up to two years. The penalty is increased if the waste shipped is hazardous.

(omissis) Pursuant to article 26 of the EEC regulation 259/93, illegal trafficking is constituted by any shipment of waste:

- Made without notification being sent to all the competent authorities involved in compliance with the regulations, or
- Made without consent from the competent authorities involved pursuant to the herein regulations, or
- Made with consent from the competent authorities involved, obtained via falsification, false declarations or fraud, or
- Not tangibly specified in the accompanying document or that requires disposal or recovery that is in violation of the EU or international laws, or
- Contrary to provisions in articles 14, 16, 19 and 21.

- *Organised activity of illegal trafficking of waste (article 260 no. 152, Leg. Decree 3<sup>rd</sup> April 2006)*

1. Anyone who, in order to achieve an unfair profit, with several operations and by preparing the means and continuous organised activities, transfers, receives, transports, exports, illegally imports or manages considerable quantities of waste, is punished by imprisonment from one to six years.

2. If it is radioactive waste, imprisonment will be from three to eight years.

(omissis) The offence is a habitual crime as it must be integrated by the realisation of several conducts of the same kind.



- *Computer system for controlling waste traceability (article 260 bis, no. 152, Leg. Decree 3<sup>rd</sup> April 2006)*

6. The penalty set out in article 483 criminal code is applied to those who, when preparing a waste analysis certificate, used in the waste traceability control system, provides false indications about the kind, composition and chemical-physical characteristics of the waste and to those who enter a false certificate in the data to be provided for waste traceability.

7. (omissis) The penalty as set out in article 483 of the criminal code is applied in the case of the transportation of hazardous waste. This latter penalty is also applied to those who use a waste analysis certificate during transportation that contains false indications of the kind, composition and chemical-physical characteristics of the transported waste.

8. The transporter who accompanies the waste with a paper copy of the SISTRI—AREA sheet that has been fraudulently altered is punished with the penalty foreseen by the combined provision of articles 477 and 482 of the criminal code. The penalty is increased by up to one third in the case of hazardous waste.

- *Penalties (article 279, Leg Decree no. 152, 3rd April 2006)*

2. Anyone who when running a factory, violates the limits of emissions or the orders established by the authorisation, by Annexes I, II, III, or V in part five of the herein decree, by the plans, programmes or legislation as set out in article 271 or the orders otherwise imposed by the competent authority pursuant to the herein decree is punished with arrest for up to one year or with a fine of up to 1,032 Euro. If the limits or orders violated are contained in the integrated environmental authorisation, the penalties foreseen by the legislation governing this authorisation are applied.

5. In the cases foreseen by paragraph 2, the penalty of arrest for up to one year is applied if the excess of emission limits also causes the exceeding of the limits of quality foreseen by the current legislation.

- *Penal Penalties (article 137, Leg Decree no. 152, 3rd April 2006)*

2. When the conduct described in paragraph 1 concerns the discharging of industrial wastewater containing hazardous substances included in the families and groups of substances indicated in tables 5 and 3A of Annex 5, in part three of this decree, the penalty is arrest for three months to three years.

3. Anyone, outside the hypotheses as set out in paragraph 5, who discharges industrial wastewater containing hazardous substances included in the families and groups of substances indicated in tables 5 and 3A of Annex 5 to part three of the herein decree without observing the authorisation order, or the other orders by the competent authority in line with articles 107, paragraph 1, and 108, paragraph 4, is punished with arrest of up to two years.

5. Anyone who, in relation to the substances indicated in table 5 of Annex 5 to part three of the herein decree, in discharging industrial wastewater, exceeds the limits set in table 3 or in the event of discharging into the ground, in table 4 of Annex 5 to part three of the herein decree, or the most restricted limits set by the regions or the autonomous provinces or by the competent authority in line

with article 107, paragraph 1, is punished by arrest up to two years and a fine from three thousand to thirty thousand Euro. If the limits set for the substances contained in table 3A of the same Annex 5 are exceeded, the arrest will be from six months to three years and the fine from six thousand to one hundred and twenty thousand Euro.

11. Anyone who does not observe discharging bans foreseen in article 103 and 104 is punished by arrest up to three years.

13. Arrest from two months to two years is applied if the discharging into the sea by ships or airplanes contains substances or materials for which there is a total ban on discharging pursuant to the provisions contained in the current international conventions on the matter and ratified by Italy, unless they are amounts that can rapidly become harmless by physical, chemical and biological processes that take place naturally in the sea and as long as preventive authorisation has been given by the competent authority.

(omissis) Discharging of industrial wastewater	This is any type of wastewater discharged by buildings in which commercial or industrial activities are carried out
Residues produced by the ship	The waste, including wastewater and residues other than loading residues, including bilge, produced on board a ship and that come under application of annexes I, IV, V of the MARPOL 73/78 and waste associated with loading as per the guidelines defined by the EU for implementation of annex V of the MARPOL 73/78

- *Killing, destruction, capture, withdrawal, holding of protected wild animals or plants (article 727 bis penal code);*

Unless the deed is a more serious crime, anyone, outside permitted cases, who kills, captures or keeps wild animals belonging to a protected category is punished by arrest from one to six months and with a fine of up to 4,000 Euro, except in cases in which the action concerns a negligible number of animals and has a negligible impact on the state of preservation of the species.

Anyone who, outside permitted cases, destroys, collects or keeps protected wild plants is punished with a fine of up to 4,000 Euro, except in cases where the action concerns a negligible amount of plants and has a negligible impact on the state of conservation of the species.

Protected wild Animals or plants	Are the ones indicated in annex IV of the Directive 92/43/EC based on which animals and plants of EU interest that require strict protection are included
State of preservation of a species	Is the effect of the total of factors that, influencing the species in question, may in the long term alter the division and importance of its populations in European member states to which the treaty applies.

• *Destruction or deterioration of habitats within a protected site (article 733 bis criminal code)*

Anyone, outside permitted cases, who destroys a habitat within a protect site or harms it by compromising the state of preservation, is punished by arrest up to eighteen months and with a fine of at least 3,000 Euro.

For the purpose of applying article 733 bis criminal code "habitat within a protected site "is meant to define any species habitat for which an area is classified as the specially protected habitat, pursuant to article 4, paragraph 1 or 2, of the directive 2009/147/EC, or any natural habitat or species habitat for which a site is appointed as a special preservation area pursuant to article 4, paragraph 4 of the directive 92/43/EC.

Its nature of a violation does not require conduct to be accompanied by malice for it to be integrated, but may just be simple "non-intentional".

• *Government of the crimes regarding the application in Italy of the convention on the international trading of animals and plants on the way to becoming extinct, signed in Washington on 3rd March 1973, as set out in Law no. 874, dated 19 December 1975, and the EEC regulations no. 3626/82, and later amendments, and the laws on the sale and holding of live mammals and reptiles that may constitute a danger for public health and safety (Law no. 150, dated 7th February 1992)*

ART 1.1. Unless the fact constitutes a more serious crime, it is punished by arrest from three months to one year and with a fine of fifteen million Italian Lira up to one hundred and fifty million Italian Lira, for anyone who, in violation of what is foreseen by the EC Regulation no. 338/97 by the Council on 9<sup>th</sup> December 1996, and later implementations and amendments, for the animals in the lists in annex A to the same Regulations and later amendments:

- a) Imports, exports or re-exports animals, under any customs system, without the required certificate or licence, of with a certificate or licence that is not valid pursuant to article 11, paragraph 2a of the EC regulations no. 338/97 by the Council on 9<sup>th</sup> December 1996, and later implementations and amendments;
- b) Omits observation of the instructions for animals specified in a licence or certificate issued in compliance with the EC regulation 338/97 by the Council, on 9<sup>th</sup> December 1996, and later amendments and implementations and the EC regulations no. 939/97 by the Commission, dated 26th May 1997, and later modifications.
- c) Uses afore-mentioned animals in a different way to the instructions contained in authorisations or certificates issued together with the importation licence or later certificates;
- d) Transports or has transport, also on behalf of third parties, animals without the necessary licence, issued in compliance with the EC Regulation no. 338/97 by the Council, dated 9 December 1996, and later implementations and amendments and the EC regulations no. 939/97 of the Commission, dated 26 May 1997, and later amendments and in the event of exporting or re-exporting from a third party country which is a signatory of the Convention of Washington, issued in compliance with the same, but without sufficient proof of their existence;
- e) Sells plants reproduced artificially contrary to the instructions set out in article 7, paragraph 1, letter 17), of the EC Regulations 338/97 by the Council, dated 9th December 1996, and later

implementations and amendments and the EC regulations no. 939/97 by the Commission, dated 26th May 1997 and later amendments;

- f) Holds, uses for profit, purchases, sells, exhibits or holds for sale or commercial purposes, offers for sale or transfers animals without the necessary documentation.

2. In the event of recidivism, the penalty is arrest for three months to two years and a fine of twenty million to two hundred million Italian Lira. If the above crime is committed while carrying out company business, the conviction is followed by suspension of the licence for a minimum of six months to a maximum of eighteen months.

(omissis) This law punishes anyone who "in violation of what is foreseen by Council Regulation no. 338/97 dated 9<sup>th</sup> December 1996, and later implementations and amendments, for animals belonging to the delicate species in Annex A of the same Regulations and later amendments: Holds, uses for profit, purchases, sells, exhibits or holds for sale or commercial purposes, offers for sale or transfers animals without the necessary documentation. It is an incriminating law for several offences that are interrelated in such a way it integrates a single or several of them into a single violation, when the uniqueness of the material object, the circumstances of time and place and the agent's intent can be traced to units. The conduct of keeping, exhibiting and transferring protected species animals – in relation to which specific malice is not foreseen in the text of the law – must be denoted by this subjective elements to be punishable by law, alternatively for profit, sale or commercial purposes.

Species	Any live or dead animal and any part thereof..
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ART. 2. 1. Unless the fact constitutes a more serious crime, it is punished by a fine of twenty million Italian Lira up to two hundred million Italian Lira or by arrest from three months to one year, for anyone who, in violation of what is foreseen by the EC Regulation no. 338/97 by the Council on 9<sup>th</sup> December 1996, and later implementations and amendments, for the species in the lists in annex B and C to the same Regulations and later amendments:

- a) Imports, exports or re-exports animals, under any customs system, without the required certificate or licence, of with a certificate or licence that is not valid pursuant to article 11, paragraph 2a of the EC regulations no. 338/97 by the Council on 9<sup>th</sup> December 1996, and later implementations and amendments;
- b) Omits observation of the instructions for animals specified in a licence or certificate issued in compliance with the EC regulation 338/97 by the Council, on 9<sup>th</sup> December 1996, and later amendments and implementations and the EC regulations no. 939/97 by the Commission, dated 26th May 1997, and later modifications.
- c) Uses afore-mentioned animals in a different way to the instructions contained in authorisations or certificates issued together with the importation licence or later certificates;
- d) Transports or has transport, also on behalf of third parties, animals without the necessary licence, issued in compliance with the EC Regulation no. 338/97 by the Council, dated 9 December 1996, and later implementations and amendments and the EC regulations no. 939/97 of the Commission, dated 26 May 1997, and later amendments and in the event of exporting or re-exporting from a third party country which is a signatory of the Convention of Washington, issued in compliance with the same, but without sufficient proof of their existence;
- e) Sells plants reproduced artificially contrary to the instructions set out in article 7, paragraph 1, letter h), of the EC Regulations 338/97 by the Council, dated 9th December 1996, and later implementations and amendments and the EC regulations no. 939/97 by the Commission, dated 26th May 1997 and later amendments;

- f) Holds, uses for profit, purchases, sells, exhibits or holds for sale or commercial purposes, offers for sale or transfers animals without the necessary documentation, limited to the species set out in annex B of the Regulations.

2. In the case of recidivism, the punishment applied will be arrest, from three months to one year and a fine of twenty million to two hundred million Italian lira. If the above crime is committed while carrying out business activity, the business licence will be suspended after conviction for a minimum of four months to a maximum of twelve months.

(omissis) The offer for sale of by-products, or parts of them, belonging to protected species, integrates the crime foreseen by article 2, paragraph one, letter f) of Law no. 150, 7th February 1992, as the specimen, which is protected by criminal law, is not only any animal or plant, live or dead, of the species listed in appendices I, II and III of the Convention of Washington, - in Annex B and in Annex C, parts 1 and 2, of EEC Regulation no. 3626/82 (and subsequent amendments and additions) but also any part or product, easily identifiable, obtained starting from animals or plants of these same species, and any other goods that, if justified by documents, packaging, trademark or label, or by any other circumstance is found to a part of animal or plant products belonging to the same species as specified in ART. 3 BIS. 1. The penalties as set out in volume II, chapter VII, part III of the criminal code are applied to the offences foreseen by article 16, paragraph 1, letters a), c), d), e), and 1) of EC Council Regulation no. 338/97 dated 9th December 1996, and later amendments, on the falsification or alteration of certificates, licences, notices of importation, declarations, communications of information in order to acquire a licence or certificate, use of false or altered certificates or licences.

ART. 6. 1. Notwithstanding the contents of law no. 157 dated 11th February 1992, it is forbidden for anyone to keep live specimens of wild mammals and reptiles and live specimens of mammals and reptiles originating from reproduction in captivity that constitute a danger for health and public safety.

(omissis)4. Anyone who violates the provisions as set out in paragraph 1 is punished by arrest up to three months or by a fine from fifteen million to two hundred million Italian Lira.

● *Malicious pollution (article 8 Leg. Decree 202/2007)*

1. Unless the deed constitutes a more serious crime, and if the violation has occurred with their participation, the captain of a ship, flying any flag, and the members of the crew, the owner and the ship owner who maliciously violate the provisions in article 4 are punished by arrest from six months to two years and with a fine of 10,000 to 50,000 Euro.

2. If the violation as set out in paragraph 1 causes permanent damage or, in all cases, is of a particular seriousness, to the quality of the water, animals or plants or parts of them, the punishment will be arrest from one to three years and the fine from 10,000 to 80,000 Euro.

(omissis) Polluting substances	Hydrocarbons and hazardous liquid substances transported haphazardly
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● *Non-intentional pollution (article 9 Leg. Decree 202/2007)*

1. Unless the deed constitutes a more serious crime, the captain of a ship, flying any flag, and members of the crew, the owner and the ship owner, if the violation has happened with their cooperation, who violate the provisions of article 4 by default ("Notwithstanding the provisions



of article 5, in the areas set out in article 3, paragraph 1, it is forbidden for ships, without any discrimination of nationality, to pour polluting substances as set out in article 2, paragraph 1, letter 1) into the sea)), or cause the outpouring of said substances”) are punished by a fine of 10,000 to 30,000 Euro.

2. If the violation as set out in paragraph 1 causes permanent damage or, in all cases, is of a particular seriousness, to the quality of the water, animals or plants or parts of them, the punishment will be arrest from six months to two years and the fine from 10,000 to 30,000 Euro.

• *Ceasing and reduction of the use of damaging substances (article 3, Law 549/1993)*

The production, consumption, importation, exportation, keeping and commercialisation of harmful substances as set out in table A attached to the herein law are regulated by the provisions as set out in the EC regulation no. 3093/94.

Starting from the date on which the herein law enters into force, the authorisation of plants that foresee the use of the substances set out in table A attached to the herein law is forbidden, notwithstanding the contents of EC regulation no. 3093/94.

A joint Ministry of the Environment and Ministry of Industry, Commerce and Craftsmanship decree establishes, in compliance with the provisions and timescales of the progressive elimination plan as set out in EC Regulation no. 3093/94, the date until when it is permitted to use the substances as set out in table A, attached to the herein law, for the maintenance and recharging of equipment and plants already sold and installed on the date when the herein law enters into force, and the times and modes for ceasing use of the substances as set out in table B, attached to the herein law, and also identifies the essential used of the substances set out in table B, for which exemptions to what is foreseen herein can be granted. The production, use, commercialisation, importation and exportation of the substances set out in tables A and B attached to the herein law cease on 31<sup>st</sup> December 2008, notwithstanding the substances, processing and productions not included in the field of application of the EC Regulation no. 3093/94, according to the definitions foreseen herein.

The adoption of deadlines other than the ones set out in paragraph 3, derived from the current revision of the EC regulation no. 3093/94, brings about the substitution of the terms indicated in the herein law and the simultaneous adaptation of new deadlines.

The companies that intend to cease production and use of the substances listed in table B, attached to the herein law, before the deadlines can stipulate specific programme agreements with the Ministries of Industry, Commerce and Craftsmanship and the Environment, in order to benefit from incentives as set out in article 10, with priority linked to the phasing out period, according to the modes that will be set by a Ministry of Industry, Commerce and Craftsmanship Decree, in agreement with the Ministry of the Environment.

Anyone who violates the provisions as set out in the herein article will be punished by arrest up to two years and with a fine of up to three times the value of the substances used for production purposes, whether imported or placed on sale. In the more severe cases, conviction will be followed by revocation of any authorisation or licence based on which the illegally activity was carried out.

## 2. SENSITIVE PROCESSES

The laws referred to in article 25 undecies of the Decree aim at preventing “environmental damage” intended

ex art. 300 of the Consolidated Environmental Act<sup>8</sup> as any significant and measurable deterioration, direct or indirect, of a natural resource or benefit guaranteed by the latter.

**With regard for the CIN company business, the activities considered to be potentially at risk of the committing of the above crimes are identified as follows:**

- **Commanding a ship;**
- **Ship maintenance;**
- **Managing waste on board the ships.**
- **Management of waste and polluting materials on land sites;**
- **Management of hydrocarbons on board ships and during loading and unloading;**
- **Management of harmful materials for the ozone on board ships;**
- **Management of oily bilge water and sludge on board ships;**
- **Management of emissions into the air and fumes on board ships.**

With regard to administrative activities, given the particular nature of the material object of the crimes in question, the existence of direct risk profiles is considered to be remote, except for the disposal of hazardous waste or for which the adoption of specific caution is necessary (for example and not limited to: Toner, printer cartridges or dead batteries, neon tubes, etc).

### **3. THE PROTOCOLS FOR ALLEVIATING THE RISK**

All the activities at risk are carried out in compliance with the current laws in force and following the general and specific corporate principles, procedures and protocols, as set out in the herein Model

#### ➤ **General Protocols**

In line with what is stated above, the company has adopted and duly formalised and divulged the following General Protocols, subject to regular updating:

- Principles of conduct described in the Code of Ethics;
- Penalty-disciplinary system;
- Staff training;
- Proxy and power of attorney system with relative expenditure limits;
- Automatic authorisation system of SAP management software;
- Controls carried out by the Auditing Company;
- Control carried out by management control;
- Control carried out by Auditing Panel.

#### ➤ **Specific Protocols**

- **Procedure for managing and disposing of waste (office):** The procedure aims at guaranteeing observance of the legislation to protect the environment, in order to reduce the risk of committing the crimes foreseen by the following articles to a minimum:
  - 137 Leg Decree 152/06 – Discharge of industrial wastewater containing hazardous substances
  - 256, paragraph 1 Leg. Decree 152/06 Non-authorized management of waste;
  - 256, paragraph 2 Leg. Decree 152/06 – Uncontrolled deposit of waste;
  - 256, paragraph 3 Leg. Decree 152/06 – Non-authorized dump;
  - 256, paragraph 4 Leg. Decree 152/06 – Non-observance of prescriptions.

<sup>8</sup> According to article 300 of the Consolidated Environmental Act, any direct or indirect significant and measurable deterioration of a natural resource or benefit guaranteed by the latter will be punished.



- **Organisation on board and on land to guarantee safety and protection of the environment**
- Environmental Management system: Comprising a series of documents, including mainly:
  - The Safety Management Manual (SMM) regarding minimum management standards and the relative procedures that is compliant with the IMO Resolution 741(18): "Guidelines on Management for the Safe Operation of Ship and for Pollution Prevention";
  - the Ship Oil Pollution and Emergency Plan (SOPE) compliant with the MARPOL 1973 requirements, rule 26 annex I, as later amended for each ship in the fleet;
- **Control and Certification System:** Intended to certify that the organisational structure, responsibilities, procedure and resources put in place for managing the ships for safety and environmental protection purposes, as foreseen by the Safety Management Manual and by national and international laws, are adequate, functional and operational.
- Aside from renewing the various certifications when they expire, the main point of the external control system is the annual inspection by the Port Authorities and by RINA.
- **Internal Control System:** intended to continually check the effective and efficient functioning of the management system foreseen by the Safety Management Manual and to supply the elements for correcting and/or improving it.

#### 4. CONTROLS AND INFORMATION FLOWS FOR THE SUPERVISORY BODY

The company manager in charge of managing the activity at risk gives specific documentary proof of each activity at risk, according to what is foreseen by the specific operational procedure applicable.

In particular, depending on the activity, the company manager must carry out the control set out in the procedure and, in the event of any anomaly, send the Supervisory body the correct reports and information flows requested: