ORGANISATION, MANAGEMENT AND CONTROL MODEL

GENERAL SECTION

REGULATORY REFERENCES: LEGISLATIVE DECREE No. 231/01 AND LEGISLATIVE DECREE No. 24/23

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Share capital Euro 8,010,000 fully paid up.

Rev. 04 of 21/12/2023

Sommario

1. ADMINISTRATIVE LIABILITY UNDER LEGISLATIVE DECREE 231/01

1.1. The Regulatory Framework

Legislative Decree no. 231 of 8 June 2001, setting forth "*Rules on the administrative liability of legal persons, companies and associations, including those without legal personality, pursuant to Article 11 of Law no. 300 of 29 September 2000*" has introduced for the first time in our legal system the criminal liability of entities, which is additional to that of the natural person who materially committed the offence[1].

The extension of liability aims to involve in the punishment of certain criminal offences the assets of the entities and, ultimately, the economic interests of the shareholders, who, until the entry into force of the law under review, did not suffer any consequences from the commission of offences committed, to the benefit of the company, by directors and/or employees.

The principle of the individual nature of criminal liability left them free from sanctions other than compensation for damage, if any. On the level of criminal consequences, in fact, only Articles 196 and 197 of the Criminal Code provided (and still provide) for a civil obligation for the payment of fines or penalties imposed, but only in the event of insolvency of the material author of the fact. The regulatory innovation, therefore, is not insignificant in that neither the entity nor the members of the companies or associations can be said to be outside the criminal proceedings for offences committed to the benefit or in the interest of the entity.

This, of course, gives rise to an interest on the part of those persons (partners, associates, etc.) who participate in the assets of the entity, in monitoring the regularity and legality of the company's operations.

The liability outlined in the regulation, despite being defined as "*administrative*", has several peculiarities typical of criminal liability; the procedural system adopted is in fact the one provided for criminally relevant conduct.

The report accompanying the decree states: "*This liability, since it results from an offence and is linked (by the express will of the delegated law) to the guarantees of the*

[1] The provision of administrative (but in practice criminal) liability of entities for certain offences was contained in Article 2 of the OECD Convention of 17 December 1997 on bribery of foreign public officials in international business transactions. This type of liability was subsequently introduced into Italian law by Article 11 of Law No 300 of 29 September 2000, ratifying and implementing the OECD and European Union conventions against corruption in international trade and against fraud to the detriment of the European Community. Article 11, in particular, delegated the Government to regulate the articulation of this type of liability. In implementation of this delegation, the Government adopted Legislative Decree no. 231/2001.

criminal trial, diverges in many points from the paradigm of the administrative offence now classically inferred from Law 689/1981, with the consequence of giving rise to a tertium genus that combines the essential features of the criminal and administrative systems in an attempt to reconcile the reasons of preventive effectiveness with those, even more inescapable, of the maximum guarantee". Administrative liability is autonomous, but is the consequence of the conduct of a natural person, in cases where such conduct constitutes an offence provided for in the Decree.

This *tertium genus* of liability has recently been qualified by case law as "*organisational*", characterised by the psychological element of guilt of the Entity which has not organised itself adequately to prevent the commission of the offences referred to in Legislative Decree 231/2001.

With Legislative Decree 10 March 2023, n. 24, published in the Official Journal of 15 March 2023, the EU Directive 2019/1937 concerning "the protection of persons who report violations of Union law" (so-called whistleblowing discipline) was transposed into Italian law. The objective of the European Directive is to establish common minimum standards to guarantee a high level of protection of people who report violations of Union law, creating secure communication channels, both within an organization and externally. The Decree provides that the new regulations will apply, on a general basis, starting from last July 15, 2023 (art. 24). Instead, for private sector entities which, in the last year, have employed an average of up to 249 subordinate workers, the obligation to establish an internal reporting channel takes effect from 17 December 2023; until that day, the previous regulations continue to apply (art. 6, co. 2-bis of Legislative Decree 8 June 2001, n. 231, hereinafter also "Decree 231"). As a result of the provisions of the Decree, the following are repealed: art. 54 bis of Legislative Decree 30 March 2001 n. 165 TUPI for public bodies; the art. 6, paragraphs 2 ter and 2 quater, of Decree 231; the art. 3 of the Dd. Llgs. 179/2017. The art. has also been modified. 6 paragraph 2 bis of Decree 231.

1.2. Objective profile: the relevant offences

The offences for which administrative liability is incurred are listed in Section III of Chapter I of Legislative Decree no. 231/01, which has been amended several times to include new offences not initially provided for.

In relation to the type of offences to which the legislation in question applies, the delegated legislator initially made a minimalist choice with respect to the indications contained in the delegated law (Law no. 300/2000). In fact, of the four categories of offences set out in Law no. 300/2000, the Government has only taken into consideration those relating to offences against the Public Administration, set out in **Articles 24 - Undue receipt of public funds, Fraud against the State or another public body or for the purpose of obtaining public funds and Computer fraud against the State**

or another public body and 25 - Extortion and Corruption, pointing out, in the report accompanying Legislative Decree no. 231/2001, the foreseeable extension of the rules in question to other categories of offences. This report was prophetic, since subsequent regulatory interventions extended the catalogue of offences to which the rules of Decree No 231/2001 apply.

The following is a list of all the families of offences provided for in Legislative Decree 231/01, updated to the date of drafting this document.

Art. 24 - IMPROPER RECEIPT OF GRANTS, FRAUD TO THE DETRIMENT OF THE STATE, A PUBLIC BODY OR THE EUROPEAN UNION OR FOR THE ACHIEVING OF PUBLIC GRANTS, COMPUTER FRAUD TO THE DAMAGE OF THE STATE OR A PUBLIC BODY AND FRAUD IN PUBLIC SUPPLIES

The crimes referred to are integrated by behaviors carried out maliciously to the detriment of the public administration or the European Union and by frauds that harm the financial interests of the European Union. Among the crimes, those of "Disruption of freedom of auctions" and "Disruption of freedom of the procedure for choosing the contractor" are also mentioned, both of which are harmful to the principle of good performance of the public administration. and his right to the best bargaining. It provides for fines of a maximum of 600 quotas as well as some disqualifying sanctions.

Art. 24-bis - COMPUTER CRIMES AND ILLEGAL DATA PROCESSING

The law of 18 March 2008, n. 48, containing "Ratification and execution of the Council of Europe Convention on computer crime, made in Budapest on 23 November 2001, and rules for adapting the internal system" has expanded the types of crime that can generate the entity's liability, introducing, in the body of Legislative Decree no. 231/2001, art. 24-bis “IT crimes and illicit data processing”. The new article 24 bis of Legislative Decree no. 231/2001 extended the administrative responsibility of legal persons and entities to almost all computer crimes. As specified in the report accompanying the original bill, in fact, the introduction of this article responds to the need to introduce forms of criminal liability for legal persons also with reference to the most serious computer crimes.

In light of the application conditions of the decree, entities will be considered responsible for computer crimes committed in their interest or to their advantage by people who hold representation, administration or management functions of the entity or one of its organizational units, but also by persons subjected to their direction or supervision.

The types of cybercrime, therefore, concern those illicit behaviors carried out by individuals in top or subordinate positions (employees and/or collaborators), who use company IT/telematic tools and technologies to carry out normal work activities.

The legislator with the Legislative Decree 21/09/2019 n. 105 converted by Law 18/11/2019 n. 13 has included among the crimes of the administrative liability of entities those integrated by acts of commission or omission supported by the specific intent to hinder or influence the proceedings and provisions to ensure a high level of security of the networks, information systems and IT services of collective interest through the establishment of the so-called "cyber national security perimeter".

The maximum sanctions foreseen amount to up to 500 quotas in addition to all disqualifying sanctions.

Art. 24-ter - ORGANIZED CRIME OFFENSES

Law 15 July 2009, n. 94 containing provisions on public safety introduces into Legislative Decree no. 231/01, article 24-ter "Organized crime crimes" definitively approved by the Senate. The crimes referred to in articles 416, sixth paragraph, 416-bis, 416-ter and 630 of the penal code are thus included among the relevant crimes, and the crimes referred to in article 416 of the penal code, with the exception of the sixth paragraph, or referred to in article 407, paragraph 2, letter a), number 5), of the criminal procedure code.

The commission of these crimes entails the maximum sanctions provided for both in the form of a financial penalty of up to 1,000 quotas and in the form of disqualification sanctions, including perpetual disqualification from carrying out the activity.

ART. 25 – EMBEZZLEMENT, BRIBERY, UNDUE INDUCEMENT TO GIVE OR PROMISE BENEFITS, CORRUPTION AND ABUSE OF OFFICE

Together with article 24 it constitutes, in its original formulation entitled "Bribery and corruption", the original nucleus of the crimes envisaged by Legislative Decree no. 231/01 and, like that, concerns the sphere of relations with the Public Administration.

Law 6 November 2012 n. 190[2], known as the "anti-corruption law" has modified the heading of this article following the introduction by the same law 190 of the crime of "Undue inducement to give or promise benefits" (art. 319 quater penal code) where the public official or the person in charge of a public service manifests a hypothesis of

[2] Law 6 November 2012, n.190 "Provisions for the prevention and repression of corruption and illegality in public administration" published in the Official Gazette. 13/11/2012, n. 265.

advantage for anyone in exchange for donation or promise of utility. The person who, by accepting the mere proposal made by the public official, actually gives or promises benefits, commits a crime relevant for the purposes of the administrative liability of entities, pursuant to Legislative Decree no. 231/01.

Further changes were made by Legislative Decree 07/14/2020, n. 75 in implementation of EU Directive 2017/1371 (so-called PIF Directive) which intervened both on the heading of the article (including the crimes of Embezzlement and Abuse of Office) and on its content by inserting "embezzlement" among the crimes. and “abuse of office”. In relation to these newly introduced crimes, the administrative liability of entities is limited to cases of damage to the financial interests of the European Union.

The pecuniary sanctions for the commission of such crimes can reach up to 800 quotas and entail the application of all disqualifying sanctions for a period of not less than one year.

Art. 25-bis - FALSE MONEY, PUBLIC CREDIT CARDS, STAMPS AND INSTRUMENTS OR SIGNS OF RECOGNITION

The law of 23 November 2001, n. 409[3], conversion of the Legislative Decree n. 350/2001 containing urgent provisions in view of the euro, a few months after the issue of the first version of Legislative Decree no. 231/01, introduced, in the art. 4, the new article of the Decree (art. 25 bis) relating to counterfeiting of coins, public credit cards and revenue stamps, which law 99/2009, containing provisions for the development and internationalization of businesses, as well as on energy matters and containing amendments to the legislative decree of 8 June 2001, n. 81, will then amend by introducing letter f bis) to paragraph 2 and with it the crimes related to the counterfeiting of trademarks, distinctive signs and patents as well as the introduction into the State and trade of products with false signs. This is the same law that will then also introduce crimes against industry and commerce and crimes of copyright infringement.

The sanctions for violations referred to in Article 25 bis are envisaged at a maximum of 800 quotas and all disqualification sanctions for a maximum period of one year.

Art. 25.bis1 - CRIMES AGAINST INDUSTRY AND COMMERCE

As reported in the comment to the previous article, crimes against industry become relevant for the purposes of the administrative liability of entities as a result of law 99/2009, containing provisions for the development and internationalization of companies, as well as in the field of energy and containing amendments to the legislative decree of 8 June 2001, n. 81. The related sanctions can reach up to 800 quotas and entail the application of all disqualifying sanctions.

[3] Law no. 409/2001 published in the Official Journal no. 274 of 24 November 2001.

Art. 25-ter - CORPORATE CRIMES

The introduction of this article, which occurred with Legislative Decree no. 61/2002[4], which added to Legislative Decree no. 231/01 the art. 25-ter, extending administrative liability to some types of corporate crimes. On 15 June 2015 the new provisions regarding corporate crimes came into force with the amendment to the art. 25 ter which implements the changes made to the crime of false corporate communications, introduced by art. 12 of Law 27 May 2015, n. 69 "Provisions regarding crimes against the public administration, mafia-type associations and false accounting".

The news on the crime concerns:

- different classification of the crime: the conduct qualifying the crime today is the conscious exposure, in order to gain profit, of untruthful facts (or omission of relevant facts) in the financial statements or in other corporate communications on the economic, equity or financial situation of the Company or the group to which it belongs, in a concrete way capable of misleading others. Therefore, falsehood with the intention of obtaining an unfair profit and no longer the intention of deceiving shareholders or the public;

- increase in the financial penalty paid by the company compared to the past: in the event of conviction of the legal person, the financial penalty now ranges from 200 to 400 quotas;

- introduction of the crime of false corporate communications with minor facts. The financial penalty to be paid by the company ranges from 100 to 200 quotas.

- introduction of the crime of false corporate communications of listed companies. The financial penalty to be paid by the company ranges from 400 to 600 quotas.

The art. 25-ter regulates, in particular, the crimes of: false financial statements in reportings and other corporate communications, false statements, false reportings or communications from the auditing firm, prevented control, undue return of contributions, illegal distribution of profits and reserves, illicit transactions on shares or quotas of the company or of the parent company, transactions to the detriment of creditors, failure to communicate conflict of interests, fictitious capital formation, undue distribution of company assets by the liquidator, corruption between private

[4] Legislative decree no. 61/2002 on the regulation of criminal and administrative offenses concerning commercial companies. The decree was published on 11 April 2002 in the Official Gazette - General Series n. 88 of 15 April 2002. With this provision the Government implemented the art. 11 of the enabling law on the reform of company law (law n. 366/2001), approved on 3 October 2001. The aforementioned rules were subsequently modified with law. n. 262/2005 cited below.

individuals, illicit influence on assembly, market manipulation, obstacle to the exercise of the functions of the public supervisory authorities.

In the past, interventions aimed at modifying the regulation of the administrative liability of entities were implemented with the Community Law for 2004[5] (art. 9) which, among other things, implemented Directive 2003/6/EC of the European Parliament and of the Council, of 28 January 2003, relating to the abuse of privileged information and market manipulation (so-called market abuse), and with the law "Provisions for the protection of savings and the regulation of financial markets", which made some changes to the regime of administrative liability of legal entities with regard to some corporate crimes.

The new legislation on market abuse has broadened the scope of application of decree 231, making the cases of abuse of privileged information (so-called insider trading) and manipulation part of the category of offenses "prerequisite" for the administrative liability of entities. of the market.

The 2004 Community Law, in particular, intervened both on the civil code and on the Consolidated Finance Act (TUF).

Law no. 262/2005[6] on the protection of savings has instead extended the liability of entities to the new type of crime of failure to communicate the conflict of interests of directors, exclusively concerning listed companies, and modified the rules on false corporate communications and false prospectuses.

As for the civil code, the art. has been modified. 2637, which sanctioned the crime of market manipulation committed on both listed and unlisted financial instruments. The rule now applies only to cases of market manipulation carried out with reference to unlisted financial instruments or for which no request for admission to trading on a regulated market has been submitted, and not to listed ones, to which the rules of the TUF regarding market manipulation. The new case of insider trading (or abuse of privileged information) refers only to privileged information relating to issuing companies regulated by the TUF.

Finally, in November 2012 the aforementioned "anti-corruption law"[7] introduced, among the types of crime relevant for the purposes of the liability of entities, the type

[5] Law 18 April 2005, n. 62, containing “Provisions for the fulfillment of obligations deriving from Italy's membership of the European Communities. Community Law 2004”. The provision was published in the Official Journal no. 96 of 27 April 2005 - Ordinary supplement n. 76.

[6] Law 28 December 2005, n. 262 containing “Provisions for the protection of savings and the regulation of financial markets”, published in the Official Journal no. 301 of 28 December 2005 - Ordinary Supplement n. 208.

[7] See note 2.

of crime of "Corruption between private individuals" through the amendments to article 2635 of the civil code and its referenced in letter s-bis of paragraph 2. Art. 25 ter letter s-bis was then replaced by art. 6 of Legislative Decree 15.03.2017 n. 38 with effect from 04.14.2017, following the introduction of the new case of "Incitement to Corruption between private individuals" (art. 2635 bis).

The sanctions for the crimes mentioned involve a maximum sanction of 600 quotas, which can be increased by a third in the case of achieving a "significant profit". For the crime of Corruption between Private Parties (art. 2635 of the Civil Code) and of Incitement to Corruption between Private Parties (art. 2635 bis of the Civil Code), the disqualifying sanctions provided for by the art. are also applied. 9, paragraph 2 of Legislative Decree 231/2001.

On 7 March 2023 it was published in the Official Journal no. 56 the Legislative Decree of 2 March 2023 n. 19, containing "Implementation of Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019, amending Directive (EU) 2017/1132 as regards cross-border transformations, mergers and divisions", which expands the list of crimes on the liability of entities.

The art. 55 of the new legislation intervenes on the art. 25-ter Legislative Decree 231/2001, entitled "Corporate crimes", extending the punishability of the legal person also in relation to offenses provided not only by the civil code, but also by "other special laws".

Furthermore, a new letter "s-ter" is added which provides for the application of financial sanctions to the entity: "for the crime of false or omitted declarations for the issuing of the preliminary certificate required by the implementing legislation of the (EU) 2019 directive/2121, of the European Parliament and of the Council, of 27 November 2019, the pecuniary sanction from one hundred and fifty to three hundred quotas" (the preliminary certificate is the accompanying document for extraordinary cross-border operations).

Art. 25-quater - CRIMES WITH THE PURPOSE OF TERRORISM OR SUBVERSION OF THE DEMOCRATIC ORDER

The law of “Ratification and execution of the International Convention for the Suppression of the Financing of Terrorism” passed in New York on 9 December 1999[8] inserted a new art. 25 quater of decree 231, which establishes the liability implemented in violation of the provisions of article 2 of the international administrative convention of the entity also in relation to the commission of crimes with the aim of terrorism or subversion of the democratic order. The law also applies (art. 25 quater, ult. co.) with

[8] Law no. 7/2003, in the Official Gazette. n. 21 of 27 January 2003.

reference to the commission of crimes, other than those expressly mentioned, "which in any case were for the repression of terrorist financing carried out in New York on 9 December 1999" .

The sanctions envisaged are up to 1,000 quotas and the application of all disqualifying sanctions, including the definitive ban on carrying out the activity.

Art. 25-quater 1 - FEMALE MUTILATIONS

Law no. 7/2006[9], which prohibits and punishes the so-called infibulation practices has extended the scope of application of Legislative Decree no. 231/2001 to the new crime of female genital mutilation practices (art. 583 bis of the criminal code).

The fines applied reach a maximum of 700 quotas and can lead to the definitive ban on the activity.

Art. 25-quinquies - CRIMES AGAINST THE INDIVIDUAL PERSONALITY

The law containing "Measures against trafficking in persons"[10] then introduced a new article to the decree, 25 quinquies, which extends the regime of administrative liability of the entity also in relation to the commission of crimes against the individual personality regulated by the section I of chapter III of title XII of book II of the penal code.

Law 6 February 2006, n. 38[11], containing "Provisions on the fight against the sexual exploitation of children and child pornography also via the Internet", modified the scope of application of the crimes of child pornography and possession of pornographic material (respectively, articles 600 ter and 600 quater of the Criminal Code), for which the responsibility of the entity was already foreseen pursuant to Legislative Decree no. 231/01, also including cases in which the pornographic material used represents virtual images of minors (so-called "virtual child pornography").

[9] Law 9 January 2006, n. 7, containing "Provisions concerning the prevention and prohibition of female genital mutilation practices", published in the Official Journal no. 14 of 18 January 2006.

[10] Law 11 August 2003, n. 228, containing "Measures against human trafficking". The provision was published in the Official Gazette of 23 August 2003, n. 195.

[11] Law 6 February 2006, n. 38, containing “Provisions on the fight against the sexual exploitation of children and child pornography also via the Internet”, published in the Official Journal no. 38 of 15 February 2006.

Article 3 of Legislative Decree no. 39 of 4 March 2014 inserted, in paragraph 1 letter c), the reference to article 609 undecies of the penal code, thus introducing the solicitation of minors among the relevant cases.

Lastly, Law 29 October 2016 n. 199, in modifying the art. 603 bis of the Penal Code regarding "Illicit intermediation and exploitation of labor", also modified the art. 25 quinquies of Legislative Decree 231/2001 by inserting in letter. a) of c. 1 the provision of a pecuniary sanction also for the crime referred to in art. 603 bis c.p.

The fines applied reach a maximum of 1,000 quotas and can lead to the definitive ban on the activity.

Art. 25 – sexies - MARKET ABUSE

The article and the related references to the crimes of abuse of privileged information and market manipulation were introduced by the aforementioned Law 62/2005[12].

For the commentary on the introductory rules, please refer to the commentary on the previous article 25 ter of the Decree.

The financial penalty can reach 1,000 quotas or be increased up to 10 times the profit deriving from the crime. There are no disqualifying sanctions.

Art. 25-septies - SAFETY IN THE WORKPLACE

The law of 3 August 2007, n. 123, with the introduction of art. 25 septies in the regulatory framework of Legislative Decree no. 231/2001, further extended the scope of the administrative liability of entities to the crimes of manslaughter and serious or very serious negligent injury which occur in connection with the violation of the rules for the prevention of accidents at work or relating to the protection of hygiene and health at work[13].

The sanctions envisaged are up to 1,000 quotas and the application of all disqualifying sanctions for a maximum period of one year.

[12] See previous note 6.

[13] Law 3 August 2007, n. 123, containing "Measures regarding the protection of health and safety at work and delegation to the Government for the reorganization and reform of the relevant legislation", published in the Official Gazette. 10 August 2007, n. 185.

Art. 25-octies - RECEIVING, LAUNDERING AND USE OF MONEY, GOODS OR UTILITIES OF ILLEGAL ORIGIN AS WELL AS SELF-LAUNDERING

With legislative decree 21 November 2007, n. 231, the legislator implemented Directive 2005/60/EC of the Parliament and the Council of 26 October 2005, concerning the prevention of the use of the financial system for the purpose of laundering the proceeds of criminal activities and terrorist financing (so-called III Anti-Money Laundering Directive)[14]. The art. 72 of Legislative Decree 231/2007, introducing this art. 25-octies, was modified by art. 5 Legislative Decree 05/25/2017 n. 90 with effect from 04/07/2017.

Law 15 December 2014 n. 186, which introduced article 648 ter of the Criminal Code, entitled "Self-laundering", simultaneously referred to the same within this article.

Recently, with Legislative Decree 8 November 2021, n. 195, Italian law has implemented the European Directive 2018/1673 on the fight against money laundering. Specifically, the Decree intervenes on the Criminal Code in a twofold direction: firstly, it extends the catalog of crimes of the various types of money laundering, also including negligent crimes and contraventions; secondly it reformulates the penalties of the various cases.

It follows that the entity is punishable for the crimes of receiving stolen goods, money laundering, use of illicit capital and self-laundering, even if carried out in a purely "national" context, provided that this results in an interest or advantage for the entity itself.

The sanctions provided are of a pecuniary nature up to 1,000 quotas and the application of all disqualifying sanctions for a maximum period of two years.

Art. 25-octies.1 – CRIMES RELATING TO PAYMENT INSTRUMENTS OTHER THAN CASH AND FRAUDULENT TRANSFER OF VALUE

The art. 25-octies.1 identifies the pecuniary sanctions that apply to the Entity in relation to the commission of the crimes envisaged by the Penal Code regarding payment instruments other than cash and fictitious attribution to others of the ownership or availability of money, goods or other utilities . The pecuniary sanction reaches a

[14] Legislative Decree no. 231/2007, containing "Implementation of Directive 2005/60/EC concerning the prevention of the use of the financial system for the purpose of laundering the proceeds of criminal activities and terrorist financing as well as of Directive 2006/70/EC which contains measures of execution", was published in the Official Gazette. n. 290 of 14 December 2007 - Suppl. Ordinary n. 268. The text has been in force since 29 December 2007.

maximum of 800 quotas and the application in some cases of the disqualifying sanctions provided for in article 9, paragraph 2.

Art. 25-novies - CRIMES RELATING TO COPYRIGHT INFRINGEMENT

Law 99/2009, containing provisions for the development and internationalization of companies, as well as on energy matters and containing amendments to the legislative decree of 8 June 2001, n. 81, in addition to intervening on articles 25 bis and 25 bis 1 of Legislative Decree 231/01, introduces a further art. 25 novies "Inducement not to make statements or to make false statements to the judicial authority" with reference to art. 377 bis of the penal code.

The sanctions envisaged are up to 500 quotas and the application of all disqualifying sanctions for a maximum period of one year.

Art. 25-decies - INDUCTION NOT TO MAKE STATEMENTS OR TO MAKE MENDACIOUS STATEMENTS TO THE JUDICIAL AUTHORITY

The law of 3 August 2009, n. 116 - Ratification and execution of the United Nations Convention against Corruption, adopted by the UN General Assembly on 31 October 2003 with resolution no. 58/4, signed by the Italian State on 9 December 2003, as well as internal adaptation rules and amendments to the criminal code and the criminal procedure code, inserts into Legislative Decree no. 231/01 the reference to the crime referred to in art. 377 bis of the penal code, so that even inducing people not to make statements through violence, threats or the offer or promise of money or other benefits constitutes a prerequisite crime for the administrative liability of entities.

The sanctions for the crime referred to involve a maximum fine of 500 fines. There are no disqualifying sanctions.

Art. 25-undecies - ENVIRONMENTAL CRIMES

The inclusion of environmental crimes among the "crimes" for which the liability of companies may arise occurred with the inclusion of a further new article[15] in the legislative provision containing the specific regulation on the administrative liability of entities. The list of crimes introduced is particularly broad; in fact, it concerns numerous cases, both criminal and contraventions, contained in the Criminal Code and recently expanded with the provision of new types of crime introduced by Law no. 68/2015 (Law on Ecocrimes) in the Environmental Code[16], in the provisions for the protection

[15] Art. 25-undecies of Legislative Decree 8 June 2001, n. 231.

[16] D.Lgs. 3 aprile 2006, n.152 - Norme in materia ambientale.

of animal and plant species in danger of extinction[17], in the rules for the protection of ozone[18] and in the provisions relating to pollution caused by ships[19].

The pecuniary sanctions reach a maximum of n. 1,000 quotas and disqualification sanctions, where applicable, may also lead to a definitive ban on carrying out the activity.

Art. 25-duodecies - EMPLOYMENT OF THIRD COUNTRY CITIZENS WHOSE STAY IS IRREGULAR

The art. 2 of Legislative Decree 109/2012 introduced the new article "25-duodecies" (Employment of third-country nationals whose residence is illegal) within Legislative Decree 231/01. The art. 30 L. 17/10/2017 n. 161 added to the original article 25 duodecies of Legislative Decree no. 231/2001, three further paragraphs with effect from 11.19.2017 and relating to the crime of promoting, directing, organising, financing or carrying out the transport of illegal immigrants, and to that of aiding and abetting the permanence of illegal aliens, pursuant to art. . 12 of Legislative Decree no. 286/1998 paragraphs 3, 3-bis, 3-ter and 5. The new article 25 duodecies provides that "1. In relation to the commission of the crime referred to in art. 22, paragraph 12-bis, of the legislative decree of 25 July 1998, n. 286, a financial penalty of 100 to 200 quotas is applied to the entity, within the limit of 150,000 euros. 1-bis. In relation to the commission of the crimes referred to in art. 12, paragraphs 3.3-bis and 3-ter, of the consolidated text referred to in Legislative Decree 07/25/1998 n. 286, and subsequent amendments, a financial penalty ranging from four hundred to one thousand quotas is applied to the entity. 1-ter. In relation to the commission of the crimes referred to in art. 12, paragraph 5, of the consolidated text referred to in Legislative Decree 07/25/1998 n. 286, and subsequent amendments, a pecuniary sanction of one hundred to two hundred quotas is applied to the entity. 1-quater. In cases of conviction for the crimes referred to in paragraphs 1-bis and 1-ter of this article, the interdictory sanctions provided for in article 9, paragraph 2, are applied for a duration of not less than one year".

Therefore, if the employer employs foreign workers without a residence permit, with an expired residence permit for which renewal has not been requested within the legal deadlines, revoked or cancelled, in addition to criminal liability for the natural person

[17] Law 7 February 1992, n.150 - Discipline of crimes relating to the application in Italy of the convention on international trade in endangered animal and plant species, signed in Washington on 3 March 1973, referred to in law 19 December 1975, n. . 874 and Regulation (EEC) no. 3626/82 and subsequent amendments, as well as rules for the marketing and possession of live specimens of mammals and reptiles which may constitute a danger to public health and safety.

[18] Law 28 December 1993, n.549 - Measures to protect stratospheric ozone and the environment.

[19] D.Lgs. 6 novembre 2007, n.202 - Attuazione della direttiva 2005/35/CE relativa all'inquinamento provocato dalle navi e conseguenti sanzioni.

of 231 liability for the company will also be triggered by the employer if the aggravating circumstances referred to in paragraph 12 bis of the art. 22 Legislative Decree 286/98 explained below:

- more than three workers are employed;
- employed workers are minors of non-working age;
- employed workers are subjected to other particularly exploitative working conditions referred to in the third paragraph of the art. 603-bis of the penal code.

Likewise, if the entity derives interest or advantage from the commission by top management or subordinates of crimes of promoting, directing, organizing, financing, or carrying out the transportation of illegal immigrants or aiding and abetting the permanence of illegal aliens, in addition to criminal liability for the natural person who committed the crime, the 231 liability for the Company will also be triggered.

The financial penalty reaches a maximum of one thousand quotas. For the crimes referred to in paragraphs 1-bis and 1-ter, the interdictory sanction referred to in art. 9, paragraph 2, for a duration of no less than one year.

Art. 25-Terdecies – RACISM AND XENOPHOBIA

Article 5 of Law 20/11/2017 n. 167 introduced the new article 25 Terdecies of Legislative Decree 231/2001 with effect from 12.12.2017. The crime is the crime referred to in art. 3, paragraph 3-bis (Propaganda/instigation/incitement based on the apology of crimes of genocide, against humanity and war), introduced in Law 10/13/1975 n. 654, by art. 1 of Law 16/06/2016 n. 115 and then modified by art. 5 of Law 20/11/2017 n. 167. The pecuniary sanction expected to be paid by the Entity reaches a maximum of eight hundred quotas. In the case of a permanent establishment with the sole or prevalent purpose of allowing or facilitating the commission of crimes, a definitive disqualification sanction from carrying out the activity pursuant to art. 16, paragraph 3 of Legislative Decree no. 231/2001.

Art. 25-quaterdecies - FRAUD IN SPORTS COMPETITIONS, UNLAWFUL GAMBLING OR BETTING AND GAMBLING PLAYED USING PROHIBITED EQUIPMENT

The law of 3 May 2019 n. 39 containing the "Ratification and execution of the Council of Europe Convention on sports manipulation, done in Magglingen on 18 September 2014", extended the responsibility of the entities pursuant to Legislative Decree no. 231/2001 to the crimes of fraud in sports competitions and the illegal exercise of gaming or betting activities. It therefore introduced the art. into Legislative Decree 231/2001. 25 quaterdecies according to which:

"1. In relation to the commission of the crimes referred to in articles 1 and 4 of the law of 13 December 1989, n. 401, the following pecuniary sanctions are applied to the entity: for crimes, a pecuniary sanction of up to five hundred quotas; for contraventions, the pecuniary sanction of up to two hundred and sixty quotas.

2. In cases of conviction for one of the crimes indicated in paragraph 1, letter a) of this article, the disqualifying sanctions provided for by the art. 9, paragraph 2, for a duration of not less than one year".

Specifically, the crime of sports fraud (art. 1 L. 401/1989) incriminates "anyone who offers or promises money or other benefits or advantages to any of the participants in a sports competition organized by recognized federations, in order to achieve a different result from that resulting from the correct and fair conduct of the competition, or carries out other fraudulent acts aimed at the same purpose" as well as "the participant in the competition who accepts the money or other benefit or advantage, or accepts the promise".

The art. 4 of the same regulatory framework contemplates, however, various cases connected to the exercise, organisation, sale of gaming and betting activities in violation of administrative authorizations or concessions.

Art. 25-quinquiesdecies - TAX CRIMES

During the session of 17 December 2019, the Senate gave the definitive green light to the conversion law - with amendments - of the Legislative Decree. 26 October 2019, n. 124, containing "Urgent provisions on tax matters and for needs that cannot be deferred" (so-called Tax Decree). Among the new features, the introduction of some tax crimes among the crimes of the "administrative" liability of entities pursuant to Legislative Decree stands out. n. 231/2001. In particular, they will become part of the catalog of crimes, in art. 25-quinquiesdecies, the crimes of:

• fraudulent declaration through the use of invoices or other documents for non-existent operations referred to in article 2, paragraph 1, Legislative Decree. 74/2000, for which a financial penalty of up to 500 quotas is foreseen;

• fraudulent declaration through the use of invoices or other documents for non-existent operations referred to in article 2, paragraph 2-bis, Legislative Decree. 74/2000, for which a financial penalty of up to 400 quotas is foreseen;

• fraudulent declaration through other devices referred to in article 3, Legislative Decree. 74/2000, for which a financial penalty of up to 500 quotas is foreseen;

• issuing invoices or other documents for non-existent operations referred to in article 8, paragraph 1, Legislative Decree. 74/2000, for which a financial penalty of up to 500 quotas is foreseen;

• issuing invoices or other documents for non-existent operations referred to in article 8, paragraph 2-bis, Legislative Decree. 74/2000, for which a financial penalty of up to 400 quotas is foreseen;

• concealment or destruction of accounting documents referred to in article 10, for which a financial penalty of up to 400 quotas is foreseen;

• fraudulent subtraction from the payment of taxes required under article 11, for which a financial penalty of up to 400 quotas is foreseen.

Legislative Decree 14/07/2020, n. 75 in implementation of EU Directive 2017/1371 (so-called PIF Directive) intervened to integrate the art. 25 quinquiesdecies in question, introducing a new paragraph 1-bis which provides:

- a fine of up to 300 quotas for the crime of unfaithful declaration;
- a fine of up to 400 quotas for the crime of failure to declare;
- a fine of up to 400 quotas for the crime of undue compensation;
- and the application of disqualifying sanctions also for the new cases introduced.

It then provides, under the conditions for sanctioning, that the conduct is carried out:

- in the context of cross-border fraudulent systems;
- in order to evade value added tax for a total amount of no less than 10,000,000 euros.

Art. 25-sexiesdecies SMUGGLING

Legislative Decree 14/07/2020, n. 75 in implementation of EU Directive 2017/1371 (so-called PIF Directive), with the aim of providing the most complete protection possible to the financial interests of the European Union, introduced this new article, aimed at providing for the responsibility of the entity, for the carrying out, in his interest or advantage, the smuggling crimes provided for by the Decree of the President of the Republic of 23 January 1973 n. 43. Following the establishment of the customs union between the EU member states, customs duties represent an own resource of the European Union, helping to define its budget.

With reference to these cases, a pecuniary sanction of up to 200 quotas is envisaged, or up to 400 quotas if the border duties due exceed 100,000 euros. In any case, the application of the disqualification sanctions referred to in the art. 9, paragraph 2, letters c), d) and e).

Art. 25-septiesdecies CRIMES AGAINST CULTURAL HERITAGE

Law no. 9 March 2022 was published in the Official Journal. 22 containing the provisions regarding crimes against cultural heritage with the aim of strengthening the protection tools, with particular reference to movable assets, through the introduction of new types of crime, the expansion of the scope of application of confiscation and the inclusion of some crimes against cultural heritage among the crimes of the administrative liability of the entities referred to in Legislative Decree 231/2001.

In particular, the law identifies the following offenses:

- the theft of cultural property;

- the receiving of cultural goods;

- the use of cultural assets originating from crime;

- the recycling of cultural goods;

- self-laundering of cultural goods;

- falsification of private documents relating to cultural assets;

- violation regarding the alienation of cultural property;

- the illicit exit or export of cultural goods;

- destruction, dispersion, deterioration, disfigurement, soiling and illicit use of cultural or landscape assets;

- devastation and looting of cultural and landscape assets.

The law provides for the administrative responsibility of legal persons when crimes against cultural heritage are committed in their interest or to their advantage. The reform therefore integrated the catalog of crimes with the insertion of two new articles:

this article 25-septiesdecies which provides in relation to:

- in article 518-ter (misappropriation of cultural goods), in article 518-decies (illicit import of cultural goods) and in article 518-undecies (illicit exit or export of cultural goods) the application of the sanction administrative pecuniary from two hundred to five hundred quotas;

- article 518-sexies of the criminal code (laundering of cultural assets) the application of the administrative fine from five hundred to one thousand quotas;

- article 518-duodecies (destruction, dispersion, deterioration, disfigurement, soiling and illicit use of cultural and landscape assets) and article 518-qua terdecies of the criminal code. (counterfeiting of works of art) the application of the administrative fine of between three hundred and seven hundred quotas;

- in article 518-bis (theft of cultural property), in article 518-quater (receiving cultural property) and in article 518-octies (falsification of private documents relating to cultural property) the application of the pecuniary administrative sanction from four hundred to nine hundred shares.

In the case of conviction for the crimes listed above, the new provision provides for the application of disqualifying sanctions to the entity for a period not exceeding two years;

The law then introduced the article referred to in the following paragraph.

Art. 25-duodevicies - LAUNDERING OF CULTURAL GOODS AND DEVASTATION AND LOOTING OF CULTURAL AND LANDSCAPE GOODS

In relation to the crimes of laundering cultural assets (art. 518-sexies) and devastation and looting of cultural and landscape assets (art. 518-terdecies), this article provides for the application to the entity of a pecuniary sanction ranging from 500 to 1,000 odds. In the event that the entity, or one of its organizational units, is permanently used for the sole or prevalent purpose of allowing or facilitating the commission of such crimes, the sanction of definitive disqualification from carrying out the activity is applied.

TRANSNATIONAL CRIMES

Law No. 146/2006 ratifying and implementing the Palermo Convention against Transnational Organised Crime of 15 November 2006[20] established the application of Decree 231 to **TRANSNATIONAL ORGANISED CRIME**. The new provisions provide for the liability of entities for administrative offences arising from the crimes of criminal conspiracy, money laundering and use of money and goods of unlawful origin, smuggling of migrants and obstruction of justice[21].

1.3. The Subjective Profile of Administrative Responsibility and Possible Exemptions

In terms of addressees, the law indicates "*entities having legal personality, companies having legal personality and companies and associations also without legal personality*" (Art. 1 paragraph 2).

The descriptive framework is completed by the indication, in the negative, of the entities to which the law does not apply, namely "*the State, the territorial public bodies and the bodies performing functions of constitutional importance*" (Art. 1 paragraph 3).

It should be recalled that this new liability arises only when certain types of offences are committed by persons linked in various ways to the organisation and only in cases where the unlawful conduct was carried out in its interest or to its advantage.

Therefore, not only when the unlawful conduct has resulted in an advantage, whether patrimonial or not, for the entity, but also in the event that, even in the absence of such a concrete result, the offence is in the interest of the entity.

A second aspect of particular importance in order to correctly define the hypotheses in which the rules in question apply, concerns the identification of the persons who, by committing an offence, may give rise to liability on the part of the body to which they belong.

In this respect, Article 5 of the decree identifies two different categories of employees and collaborators of the company.

This distinction, however, is not merely formal, but is particularly important in order to understand how the company can prevent and avoid the application of the sanctions

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[20] Law no. 146 of 16 March 2006, on "Ratification and implementation of the United Nations Convention and Protocols against Transnational Organized Crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001", published in the Official Gazette of 11 April 2006, no. 85 - Ordinary Supplement No. 91.

[21] The provision relating to the transnational offences of money laundering and use of money and goods of unlawful origin was subsequently repealed by Legislative Decree no. 231 of 21 November 2007.

against it. The two categories of persons who may give rise to liability for the company as a result of offences committed by them are:

- persons who hold positions of representation, administration or management of the entity or of one of its organisational units with financial and functional autonomy, as well as persons who exercise, even de facto, the management and control of the entity (so-called "*top management*");
- persons subject to the direction or supervision of one of the persons mentioned in the preceding paragraph (in fact, employees and lower-level collaborators).

However, Article 6 of the provision in question provides for a form of "**exemption**" from liability for the entity if it can be shown, during criminal proceedings for one of the offences considered, that it has adopted and effectively implemented models of organisation, management and control suitable for preventing the commission of the criminal offences considered; that it has appointed a body with autonomous powers of initiative and control with the task of supervising the operation of and compliance with the Model and of keeping it updated; that the offence was committed by fraudulently evading the Model.

The system provides for the establishment of an internal control body within the entity with the task of supervising the actual effectiveness of the model. Lastly, the rule establishes that trade associations may draw up codes of conduct, on the basis of which individual organisational models are to be drawn up, to be communicated to the Ministry of Justice, which has thirty days in which to make its observations.

It should be emphasised, in this regard, that, as also reiterated below, the Entity's exemption from liability passes through the **judgement of the suitability of the internal system of organisation and controls**, a judgement which the criminal court is called upon to make. Therefore, the formulation of the Models must aim at the positive outcome of this suitability assessment.

1.4. Scope of application of the organisational model: the natural persons required to comply with it

It is particularly important to circumscribe the application of the rules in question, identifying the persons who, by committing an offence, may give rise to liability on the part of the body to which they belong. Article 5 of the decree identifies two different categories of employees and collaborators of the company: senior management and subordinates.

This distinction, however, is not merely formal, but takes on particular importance in order to understand how the Company can prevent and avoid the application of sanctions against it. Therefore, the two categories of persons who, pursuant to the

provisions of Legislative Decree no. 231/2001, may give rise to liability for the company as a result of offences committed by them are:

- persons who hold positions of representation, administration or management of the entity or of one of its organisational units with financial and functional autonomy, as well as persons who exercise, even de facto, the management and control of the entity (so-called "*top management*");
- persons subject to the direction or supervision of one of the persons mentioned in the preceding paragraph (in fact, employees and lower-level collaborators).

In an integrated vision of all the actors involved in the actions of the Entity, the approach of the Organisational Model, for an easier application, is to distinguish the individuals required to comply with the Organisational Model in:

A) PARTIES WITHIN THE ENTITY:

- those who perform, even de facto, management, administration, direction, control, as well as disciplinary, advisory and propositional functions in the company or in one of its autonomous organisational units;
- those who have powers of representation of the company;
- employees of the company, even if seconded abroad to carry out activities;
- all those persons who collaborate with the company by virtue of a para-subordinate employment relationship, such as project collaborators, temporary workers, interim workers.

B) PARTIES OUTSIDE THE ENTITY:

- Suppliers (differentiating between raw material suppliers and subcontractors);
- Consultants;
- Functions in outsourcer;
- VAT numbers;
- Counterparts of a service contract;
- Agents/representatives;

who are external to the company organisation, but linked to it by a contractual relationship and/or mandate.

For each of these, the Special Section of the Model will take into account the further distinction between:

B.1) INTERNAL RISKS: when it is the relationship with the supplier itself that is the instrument of conduct at risk of offence 231 (e.g. corruption, money laundering,

....) and the supplier is one of the actors in the offence. In this case, the addressee of the Model is the internal person who manages the relationship with the supplier.

B.2) EXTERNAL RISKS: when the conduct at risk of offence occurs within the activity carried out by the supplier on behalf of the BODY (e.g. environmental offences, OSH offences, offences against industry and trade, ...) in this case the offence is not committed by the Entity, but committed for the Entity.

It is the **prerogative of the Special Section of the Organisational Model, once this assessment has been carried out and the existence of a risk, including an external risk, has been ascertained, to prepare suitable containment protocols, to create the tools for verifying its compliance (flow to the SB / SB verification power), and to contractually bind the external party to the Code of Conduct, the specific containment protocols and safeguard rules** .

1.5. The Organisational Model as an essential part of the prevention system

In view of the purpose of the provision, which is to encourage economic entities to prevent the commission of offences, the legislator has provided, in Articles 6 and 7 of the decree, that companies may in advance adopt lines of conduct such as to reduce or exclude liability (and consequently the penalties) provided for in Decree 231/01.

In particular, the two articles mentioned, separately provide for the procedures to be observed in order to avoid consequences in the two different cases referring to offences committed by persons in top positions or by employees and collaborators.

As to the first hypothesis, Article 6 provides that the company shall not be held liable if it proves that:

a) the management body has adopted and effectively implemented, before the commission of the offence, organisational and management models capable of preventing offences of the kind committed;
b) the task of supervising the operation of the models and their compliance and ensuring that they are kept up to date has been entrusted to a body of the entity with independent powers of initiative and control;
c) the persons committed the offence by fraudulently circumventing the organisation and management models;
d) there has been no or insufficient supervision by the body referred to in point (b).

Article 7, on the other hand, focusing on the hypothesis of offences committed by persons subject to the supervision of others, establishes that the company is liable if the commission of the offence was made possible by non-compliance with management or

supervisory obligations, it being understood that non-compliance with such obligations is excluded a priori if the company, before the offence was committed, adopted and effectively implemented an organisational, management and control model capable of preventing offences of the kind committed.

As is evident, therefore, the two pivots around which the system of exclusion of liability revolves are the adoption of organisational models suitable for preventing the commission of offences and the supervision of such models by a special body of the company.

With regard to the implementation of the organisational model, Art. 6, paragraph 2, of Legislative Decree no. 231/2001, indicates the essential characteristics for the construction of an organisation, management and control model.

In particular, points a) and b) of this provision expressly refer, albeit using terminology and exposition alien to business practice, to a typical risk management system[22].

In fact, the rule expressly indicates the two main phases in which such a system must be articulated:

- **identification of risks**: i.e. the analysis of the company context to highlight where (in which area/sector of activity) and in what way events detrimental to the objectives set out in Legislative Decree no. 231/2001 may occur;
- design of the control system (so-called protocols for planning the formation and implementation of the entity's decisions), i.e. the assessment of the existing system within the entity and its possible adaptation, in terms of its ability to effectively counteract, i.e. reduce to an acceptable level, the identified risks. From a conceptual point of view, reducing a risk means having to act (jointly or severally) on two determining factors: i) the probability of the event occurring and ii) the impact of the event itself.

In order to operate effectively, however, the system outlined above cannot be reduced to a one-off activity, but must be translated into a continuous process (or at least carried out at an appropriate frequency), to be repeated with particular attention at times of corporate change (opening of new offices, expansion of activities, acquisitions, reorganisation, etc.).

[22] "In relation to the extent of the delegated powers and the risk of offences being committed, the models referred to in paragraph 1(a) must meet the following requirements:
a) identify the activities within the scope of which offences may be committed;
b) provide for specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the offences to be prevented".

With regard to the risk of unlawful conduct in the field of health and safety at work, this system must necessarily take into account existing preventive legislation.

This body of legislation, in fact, outlines itself a "system" of binding principles and mandatory obligations, the application of which in terms of management - where appropriately integrated/adapted according to the "organisational model" envisaged by Legislative Decree no. 231/2001 - may be suitable for reducing to an "acceptable" level, for the purposes of exoneration under the same Legislative Decree no. 231/2001, the possibility of conduct constituting an offence of homicide or serious or very serious bodily harm committed in breach of accident prevention rules. Legislative Decree no. 231/2001, the possibility of conduct constituting an offence of homicide or serious or very serious bodily harm committed in breach of accident prevention legislation.

1.6. Definition of "Acceptable Risk"

An absolutely crucial concept in the construction of a preventive control system is that of acceptable risk.

When designing control systems to protect against business risks, defining acceptable risk is a relatively simple operation, at least from a conceptual point of view. The risk is deemed acceptable when the additional controls "cost" more than the resource to be protected (e.g. common cars are equipped with anti-theft devices and not also with an armed vigilante).

In the case of Legislative Decree No. 231/2001, however, the economic logic of costs cannot be an exclusively usable reference. It is therefore important that for the purposes of applying the rules of the decree, an effective threshold is defined which allows a limit to be placed on the quantity/quality of the preventive measures to be introduced to avoid the commission of the offences considered.

In the absence of a prior determination of acceptable risk, the quantity/quality of preventive controls that can be put in place is virtually infinite, with obvious consequences in terms of business operations.

On the other hand, the general principle, which can also be invoked in criminal law, of the concrete enforceability of conduct, summarised by the Latin proverb “ad impossibilia nemo tenetur”, is an inevitable criterion of reference even though it often appears difficult to identify its limit in practice.

As regards the preventive control system to be set up in relation to the risk of commission of the offences covered by Legislative Decree no. 231/2001, the conceptual threshold of acceptability, in cases of intentional offences, in line with the Guidelines drawn up by Confindustria (and approved by the Ministry of Justice), is represented by a prevention system that cannot be circumvented except fraudulently.

This solution is in line with the logic of the "*fraudulent evasion*" of the organisational model as an exemption expressed by the aforementioned legislative decree for the purposes of the exclusion of the entity's administrative liability (Article 6, paragraph 1, letter c), "*the persons committed the offence by fraudulently circumventing the organisation and management models*").

On the other hand, in cases of manslaughter and unintentional personal injury committed in breach of the rules on health and safety at work, the conceptual threshold of acceptability, for the purposes of exemption under Legislative Decree no. 231/2001, is represented by conduct (not accompanied by the intention to cause the event-death/personal injury) which violates the organisational model of prevention (and the underlying mandatory requirements prescribed by the accident prevention rules) despite the timely compliance with the supervisory obligations laid down by Legislative Decree no. 231/2001 by the appropriate body.

This is because the fraudulent evasion of organisational models appears to be incompatible with the subjective element of the offences of manslaughter and unintentional bodily harm referred to in Articles 589 and 590 of the Criminal Code.

1.7. Confindustria and Fise Guidelines - Assoambiente

In order to offer concrete help to companies and associations in drawing up Models and identifying a control body, Confindustria was the first to draw up Guidelines, which contain a series of indications and measures, essentially drawn from company practice, considered in abstract to be suitable for meeting the requirements outlined in Legislative Decree no. 231/2001.

The Guidelines therefore aim to provide concrete indications on how to implement these Models, since it is not possible to build up de-contextualised case studies to be applied directly to individual operational realities.

The Guidelines therefore play an important inspirational role in the construction of the Model and the Control Body with the relevant tasks by the individual entity, which, however, in order to better pursue the aim of preventing offences, may also depart from them, if specific business needs so require, without for this reason the requirements necessary for the preparation of a valid model of organisation, management and control can be considered as not fulfilled.

The first version of the document was drafted in 2002 by the Working Group on Administrative Liability of Legal Entities set up within the Tax, Finance and Company Law Unit of Confindustria. Representatives of the Confindustria's territorial and trade associations, representatives of member companies, as well as academics and professional experts in the field participated in the Group's work.

The Guidelines were sent to the Ministry of Justice, which in a communication sent to Confindustria (December 2003) considered them "on the whole adequate to achieve the purpose set out in Article 6, paragraph 3, of Legislative Decree no. 231/2001", identifying only minor profiles, on which it requested further clarifications and additions.

The Guidelines have therefore been updated to incorporate the observations of the Ministry - which finally approved them in June 2004 - but also to introduce the adjustments suggested by the application experience gained by associations and companies in these first years, and to adapt them to the new internal structures of joint stock companies, outlined by the reform of company law.

Subsequently, the Working Group established at Confindustria provided periodic updates to the Guidelines, the last of which in June 2021, in consideration of the evolution of the reference regulatory framework, the new discussions on integrated compliance, the new systems control in the field of tax compliance, updates regarding Whistleblowing reportings and other updates that have occurred over the years. New operational guidelines on Whistleblowing were issued by Confindustria in October 2023 following the transposition by the Italian legislator, with Legislative Decree 24/2023, of the European directive on the protection of reporting subjects.

In February 2016, FISE-ASSOAMBIENTE also drew up guidelines for the construction of the Models pursuant to Legislative Decree 231/2001 for the specific section aimed at preventing environmental offences, also following the changes introduced in 2015 by the legislator on the subject of Eco-crimes.

The drafting of the updating of the Company's organisational Model (which, as better specified below, exclusively concerned the offences referred to in Articles 25 and. 25-ter, lett. s-bis) of Legislative Decree 231/01) was carried out on the basis of the indications provided by the Confindustria Guidelines, in the version available at the date of drafting[23], carrying out the necessary "customisation" aimed at setting general rules in a single operational and corporate context.

1.8. Aptuit (Verona) S.r.l.'s approach.

Aptuit (Verona) S.R.L (hereinafter referred to briefly as "Aptuit" or the "Company") is a company active in the field of pharmaceutical research for third parties ("research for third parties"). "Contract Research Operations " or "CRO"), generated by the acquisition in 2010 by the Aptuit Group of the research and development business of GlaxoSmithKline S.p.A.. Following this operation, the Aptuit Group proceeded with an overall reorganisation of its research services for third parties in order to adapt the service provided to market requirements and guarantee sustainability for the Verona

[23] The latest version of the Guidelines was updated in March 2014 and received final approval by the Ministry of Justice on 21 July 2014.

research and development centre, which today employs around 800 people, most of whom are highly specialised and qualified researchers. In January 2012, the Company adopted the first version of the Organisation, Management and Control Model pursuant to Legislative Decree 231/2001. The Company's organisational choices were thus part of the broader policy pursued by the Aptuit Group, aimed at promoting the values of correctness, transparency and legality in company management as expressed in the Group's Code of Conduct. In this first historical phase, the life of the Company was characterised by a profound commitment to the progressive reorganisation of the Company, by numerous changes in top management, and by the unavoidable need to focus most of the Company's energies on business. At the same time, the Company considered it appropriate to update the Model pursuant to Legislative Decree 231/2001. Therefore, in view of the complex changes underway, the constant commitment to the most scrupulous compliance with the rules, including those concerning the health and safety of workers, the frequent and penetrating controls by various public and private bodies, the mandatory submission of Pharmaceutical Research to fundamental ethical principles for the development, manufacture, safety and efficacy of drugs, with particular regard to Good Standard Practice (GXP), decided, by resolution of the Board of Directors of 20/01/2016, to update the Model 231 in the areas of activity and risk considered most sensitive, making a selective choice of the underlying offences and "limiting the updating activity as well as the operation of the Model and, consequently, the obligations and duties of the Surveillance Body to the following offences: a) Extortion, Undue induction to give or promise benefits and Corruption referred to in Art. 25 of Legislative Decree no. 231/2001 b) Bribery among private individuals referred to in Article 25-ter, lett. s-bis) of Legislative Decree 231/2001. (Board resolution 20/01/2016).

The new company structure and organisation following the acquisition of the Company by Evotec AG of Hamburg (now Evotec SE) and its consequent entry into the EVOTEC Group, has led the Company to resume the project of completing the organisational structure pursuant to Legislative Decree 231/2001. By resolution of the Board of Directors of 12 December 2018, the company therefore decided to
"...as a result of the changed regulatory framework, as well as of assessments shared by the directors, it is necessary to update and extend the Company's Model to the following offences: a) Corporate offences referred to in Article 25 ter of Legislative Decree no. 231/2001 in the new formulation amended by Legislative Decree no. 38 of 15/03/2017 art. 6, in force since 14/04/2017. These offences are not currently covered by the Model; b) the offence of Bribery among private individuals referred to in Article 25-ter, letter s-bis) of Legislative Decree No. 231/2001, already provided for in the current organisational model but to be updated in the new wording of the rule amended by Legislative Decree no. 38 of 15/03/2017 art. 6 in force since 14/04/2017;
c) Misappropriation of funds, fraud against the State or a public body or for obtaining public funds and computer fraud against the State or a public body pursuant to Legislative Decree no. 231/2001 art. 24. These offences are not currently covered by the Model. “

In 2021, in view of the introduction by the legislator in 2019 of the new liability offences (tax offences and smuggling offences) under Articles 25 quinquiesdecies and 25 sexiedecies of Legislative Decree 231/2001, by resolution of the Board of Directors of 20 March 2021, the Company decided to update the Organisational Model in relation to the scope of the new offences thus introduced. It also decided, with a view to completing the organisational process for the areas not yet covered, to extend the Organisational Model to cover offences relating to health and safety at work and the environment.

In December 2023, the Company resolved to further update the General Part of the Model in light of the legislator's changes on the crimes and the mandatory indications following the new whistleblowing system referred to in Legislative Decree no. 24 of 2023.

The current framework is therefore given by the supervision of the offences referred to in Articles 24, 25, 25 ter, 25 septies, 25 undecies, 25 quinquiesdecies and 25 sexiesdecies of Legislative Decree 231/01.

In particular, the path undertaken for the implementation of the "231" project by the Company was aimed at:

- identifying risk profiles through the mapping of existing activities/processes within the scope of the activity carried out, the subsequent analysis and monitoring of functional and organisational peculiarities and the identification of the areas representing the main potential sources of criticality in relation to the offences listed in point 1.1 above;
- assessing the compatibility of existing organisational and control mechanisms with the requirements of the Decree;
- identifying any shortcomings and define an Improvement Plan to overcome them;
- implementing an Organisational Model that complies with the provisions of the legislation and the indications of Confindustria.

Leaving aside the strictly legal-sanctioning aspect, mentioned above, the adoption of a system of rules aimed at reaffirming the entity's compliance not only with legal rules but also with ethical values may represent an opportunity.

The adoption of an Organisational Model that makes internal procedures more transparent and increases accountability, as well as guaranteeing exemption from administrative liability, **in fact constitutes an opportunity for growth and development** for stakeholders, improving, on the one hand, their relationship with the

company and, therefore, their public image and, on the other, reducing transaction costs arising from any legal actions and negotiation processes.

Aware of these advantages, the Company has had: **a)** a Code of Conduct since 2012 (when it adopted the first version of the Model pursuant to Legislative Decree 231/2001); since January 2020 the Code of Conduct adopted by the entire EVOTEC group, and which replaced the local Code of Conduct. The Code of Conduct contains an appendix entitled "*Aptuit (Verona) s.r.l. Ethical Rules*". ", only for the Italian Company, in application of Legislative Decree no. 231/2001; **b)** an Organisational, Management and Control Model, in order to implement the organisational system through the adoption of behavioural models which are now of considerable importance in market competition and which are often decisive, like sophisticated rules of corporate governance, in influencing the performance of the company; **c)** a specific Whistleblowing Procedure of Aptuit (Verona) s.r.l. backed up in line with the Evotec Group procedure "*Whistleblowing and Case Handling Policy*".

All the above-mentioned documents are available on the Aptuit intranet site, Section "Regulatory Governance", "Organisational Model", "Compliance Documents", as well as on the website of the parent company Evotec SE.

Commitment to ethical values should therefore be perceived as a means of achieving better performance, improving the organisational structure and giving a positive self-image.

The*"moralisation*" of the entity and the pursuit of the "integrity" of the entity itself is therefore a sure way of enhancing business activities.

2. HOW THE ORGANISATIONAL MODEL IS DRAWN UP

2.1. Principles for defining the procedure for drafting the Model

The Company's Organisational Model and its updates are based on the indications provided by current legislation, also in view of the interpretation given by the most recent case law, as well as the procedural indications drawn up by Confindustria and set out in the Guidelines, which have already been assessed and deemed suitable by the Ministry of Justice.

The Ministry has in fact specified that*"in addition to containing a concise illustration of the contents of the legislative decree that introduced the administrative liability of companies, the guidelines in fact provide members with clear and precise indications on virtually all the aspects that the aforementioned Article 6 lists for the purposes of preparing company organisational models, proposing for each of these aspects various alternatives, warning of the possible dangers or disadvantages arising from the*

adoption of certain business strategies, and identifying precisely the risk areas for each type of offence".

The question that each person must consider when deciding to adopt an Organisational Model for the purposes of the exclusion of liability pursuant to Legislative Decree no. 231/2001, in fact, is that of **assessing the suitability of the Model to achieve the purpose for which it was adopted**, i.e. to prevent the commission of offences and therefore, as a mediate effect, to exclude the liability of the entity on the basis of the similar assessment that the judge must subsequently make of that Model.

Obviously, this assessment must be made ex ante, i.e. by basing the examination on experience data and by setting the organisational Model in the reality of each individual subject, with specific reference to the structure considered and the activity actually carried out.

The implementation phase of the organisational model, therefore, followed the pattern followed in the preparation of the Guidelines for the construction of models, based, as already mentioned, on the most common risk assessment and risk management processes normally implemented in companies.

It is clear, however, that the concrete preparation of the Organisational Model, in order to be able to achieve the result of ensuring sufficient preventive effectiveness, has been defined and concretely put in place on the basis of the characteristics of the subject to which it applies.

The risk of offence, in fact, is closely dependent on the economic sector in which it operates, the corporate structure, the operating procedures adopted in practice, and the size of the entity.

Consequently, the structure and structure of the Organisational Model, which will be outlined later in the special section, have taken account of all these specificities.

2.2. The essential phases in implementing the Organisational Model

This Organisational Model must be suitable for preventing the offences envisaged by the Legislative Decree no. 231/2001 included in the perimeter decided by the Board of Directors.

Consequently, the first objective for the construction of an Organisational Model is the proceduralisation of the activities that entail a risk of offence, or alternatively the identification of specific control points, in order to avoid their commission.

It should be noted, in this regard, that it is clear that the same offences may still be committed even once the Model has been implemented but, in that case, where the offences are intentional, they can only be committed if the agent really intended them

to be committed, both in terms of conduct and event, regardless of the internal directives which the entity has adopted.

In this case, the Model and the relevant measures must be such that the agent not only has to "*want*" the offence to be committed (e.g. bribe a public official), but can only carry out his criminal intent by fraudulently circumventing (e.g. through artifice and/or deception) the entity's instructions. The set of measures that the agent, if he wants to commit a crime, will be "*forced*" to, shall be carried out in relation to the specific activities of the entity considered to be at risk and to the individual offences hypothetically connected to them.

This logic is consistent with the consolidated international references in terms of internal control and corporate governance and is the basis of the best systems of risk self-assessment (Control Self Assessment).

The international reference commonly accepted as a reference model in terms of governance and internal control is the Internal Control Integrated Framework ("CoSO Report"), produced in the USA in 1992 by the Committee of Sponsoring Organisations of the TreadwayCommission and updated in May 2013 on the internal control system and the Enterprise Risk Management Framework (so-called ERM), also issued by the CoSo in 2014 on risk management, of which the latest version of Application Guidelines was released in November 2020[24].

In the case of culpable offences, however, they must be intended by the agent only as conduct and not also as an event.

Despite the necessary customisation of the implementation procedures and model characteristics, it is still possible to identify the basic characteristics of the correct methodology for implementing a risk management system.

In this regard, it is worth recalling that, with reference to the extension of Legislative Decree no. 231 to the offences of manslaughter and serious or very serious negligent personal injury committed in breach of the rules on health and safety at work, the current legislative framework on the prevention of occupational risks lays down the essential principles and criteria for the management of health and safety at work in the company, and therefore, in this context, the Organisational Model cannot disregard this precondition.

More generally, the update to the Model prepared by the Company is the result of the documented methodological application of the indications that will now be outlined, depending on the internal operating context (organisational structure, territorial articulation, size, etc.) and external context (economic sector, geographical area), as well as the individual offences hypothetically related to the specific activities of the

[24] https://www.coso.org/Documents/Compliance-Risk-Management-Applying-the-COSO-ERM-Framework.pdf

entity considered to be at risk, within the updating perimeter outlined by the Board of Directors, which, as specified above, only includes intentional offences. From now on, therefore, the discussion will refer exclusively to perimeter offences.

The concrete implementation methods will be subsequently identified in detail in the Special Section of this Model.

Here, on the other hand, the procedural rules followed in defining the Model will be described, regardless of their concrete application to the company's reality.

In particular, the operational steps carried out are as follows:

a) Inventory of business areas of activity

This phase entails, in particular, an exhaustive review of the company's situation, with the aim of identifying the areas affected by potential offences.

As part of this process of reviewing the processes/functions at risk, it is appropriate to identify the persons subject to the monitoring activity which, with reference to intentional offences, in certain particular and exceptional circumstances, could also include those who are linked to the company by mere para-subordinate relationships, such as agents, or other collaborative relationships.

Finally, it should be stressed that each company/sector has its own specific risk areas that can only be identified through a detailed internal analysis. However, processes in the financial area play an obviously important role in the application of Legislative Decree no. 231/2001. The rule, probably for this very reason, highlights them with a separate treatment (Art. 6 paragraph 2, letter c)), although an accurate assessment of the company's "risk" areas should in any case highlight the financial area as one of certain importance.

b) Analysis of potential risks

The analysis of potential risks must take into account the possible ways in which offences may be committed in the various corporate areas (identified according to the process referred to in the previous point).

The analysis, preparatory to the correct design of preventive measures, must result in an exhaustive representation of how the offences may be implemented in relation to the internal and external operating context in which the company operates.

c) Assessment/construction/adaptation of the preventive control system

The activities described in points a) and b) above are supplemented by an assessment of the existing system of preventive controls and its adaptation where necessary.

The system of preventive controls shall be such as to ensure that the risks of commission of offences, as identified and documented in the previous phase, are reduced to an "acceptable level", according to the definition set out above.

In essence, this involves designing what Legislative Decree no. 231/2001 defines as "specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the offences to be prevented".

The components of a (preventive) internal control system, for which there are consolidated methodological references, are multiple and must be integrated into an organic system, in which not all necessarily have to coexist and where the possible weakness of one component can be counterbalanced by the strengthening of one or more of the other components.

This is especially true in view of the size of the company,

However, it should be reiterated that, for all entities, whether large, medium or small, the system of preventive controls should be such that, in the case of intentional offences, it cannot be circumvented except with intent.

2.3. Control Principles underlying the Organisational Model of Aptuit (Verona) S.r.l.

The procedures described above for the implementation of the Organisational Model are aimed at setting up a system of suitable preventive controls.

These control mechanisms, however, must necessarily be integrated organically into a system architecture that respects a set of **control principles**.

The principles underlying the Organisational and Management Model adopted by the Company are as follows:

"Every operation, transaction and action must be verifiable, documented, consistent and appropriate.

For each operation there must be an adequate documentary support on which it is possible to proceed at any time to carry out controls attesting to the characteristics and reasons for the operation and identifying who has authorised, carried out, recorded and verified the operation itself.

"No one can manage an entire process on their own".

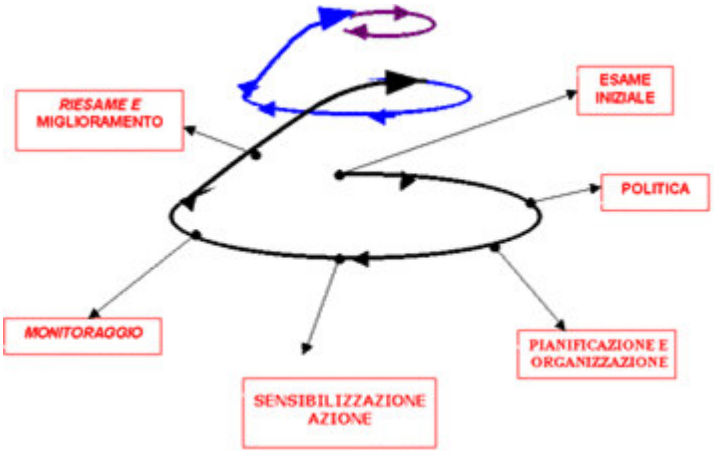
The system must ensure the application of the principle of segregation of duties, whereby authorisation to carry out a transaction must be the responsibility of a person other than the person who accounts for, operationally executes or controls the transaction.

In addition, it is necessary that:

- no one is given unlimited powers;
- powers and responsibilities are clearly defined and known within the organisation;
- the powers of authorisation and signature are consistent with the organisational responsibilities assigned.

"Documentation of controls".

The control system should document (possibly by means of minutes) the performance of controls, including supervisory controls.



2.4. The main phases of implementation of the Model

After its drafting/update, the Model is submitted for approval to the Company's Administrative Body which, at the same time, identifies and appoints the Surveillance Body, as better specified in the following paragraph **Error! Reference source not found.**, and assigns the remuneration and budget.

The Company, deeming it essential to fully disseminate and disclose the Model to all interested parties, whether internal or external, is responsible for ensuring that its contents and, in particular, the Code of Conduct, are the subject of specific information and training activities, using all available tools and methods. For operating procedures, please refer to the specific procedures included in the Special Section.

Finally, the monitoring of initiatives for the dissemination of knowledge and understanding of the Model is one of the tasks assigned to the Surveillance Body, as explained in greater detail below.

3. COMPANY PROFILE

In accordance with the provisions of the Confindustria Guidelines and on the basis of the indications provided by the best case law on the subject, the Organisational Model adopted by the Company has been conceived and designed in relation to the specific features of the company, from which the risk profiles and the most consistent structuring of internal controls and protocols aimed at preventing the relevant offences inevitably derive.

3.1. History and Activities of the Company

Aptuit (Verona) S.R.L. is a recently established company that originated from the sale by GlaxoSmithKline of the research and development branch of the Verona campus in 2010.

The Company's main activity is pharmaceutical research for third parties (so-called "Contract Research Operations" or "CRO"). The acquisition in 2010 of GlaxoSmithKline's Research and Development business unit has enabled the Company to maintain the research centre's scientific expertise in neuroscience, cardiovascular, infectious diseases and, in general, all the scientific disciplines necessary for the discovery and development of new drugs in order to offer customers a highly integrated and articulated service.

The Company's core business is basically to create and develop new drugs. The mission is to create value for shareholders and other stakeholders in a sustainable manner, integrating with the other legal entities of Evotec Group and exploiting the resulting synergies, in each case respecting the code of conduct adopted at Group level. For this purpose, the company offers a comprehensive set of integrated drug development solutions, aiming at (i) scientific excellence, (ii) excellent service and (iii) leveraging a team of some of the industry's leading scientific professionals.

As of February 2022, the Company employs approximately 776 people, most of them highly specialised researchers, enabling it to be considered a centre of excellence in pharmaceutical research in Italy. It is also characterised by the presence of the following business areas:

- **Integrated Drug Discovery and Drug Discovery Services (collectively referred to as "Discovery Sciences")**, committed in the validation of innovative biological targets for the treatment of diseases with unmet therapeutic needs, and in the identification, development and synthesis of innovative and patentable chemical molecules suitable for development as new drugs;

- **Preclinical Sciences**, committed in preclinical activities aimed at characterising molecules to enable them to be tested in accordance with the specifications required by national and international regulations. These activities include, inter alia, the assessment of the safety or possible toxicity of the drug, the development of bio-analytical techniques to measure the concentrations of drugs in biological matrices, the studies necessary to understand the phenomena of absorption, distribution, metabolism and elimination by complex living organisms and the identification of therapeutic doses to be evaluated in research;

- **Pharmaceutical Sciences**, engaged in activities aimed at the production of pharmaceutical ingredients and products according to the so-called Good Manufacturing Practice (GMP). These are necessary to ensure the safety requirements of pharmaceutical products for their testing in humans and to identify the chemical synthesis routes and pharmaceutical forms most suitable for transferring the production processes to industrial scale

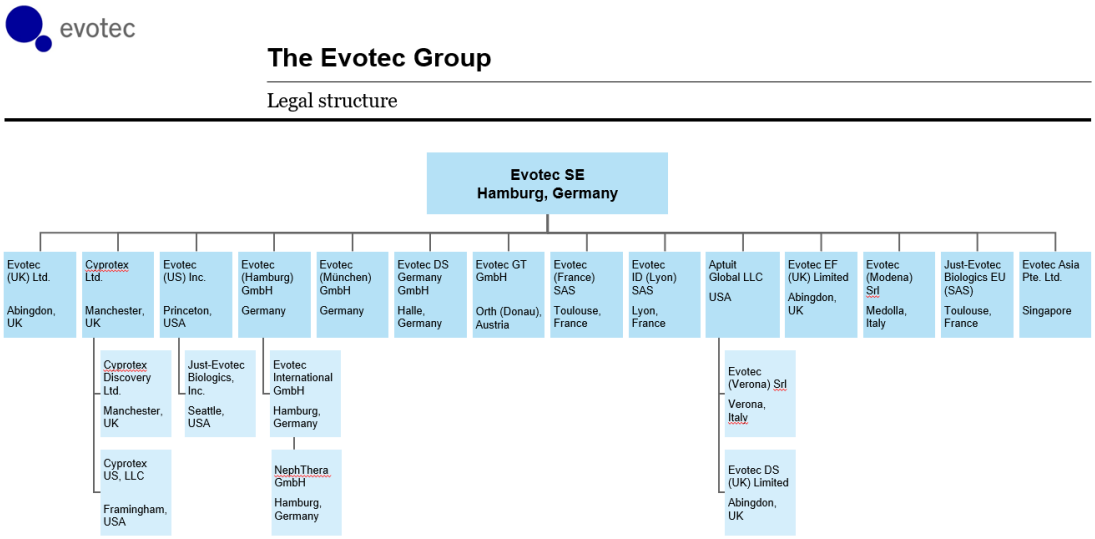
In carrying out the specific activity of pharmaceutical research and development, in order to proceed with the testing and fine-tuning of the final product, the Company is subject to stringent controls and authorisations by various Public Bodies with which it has constant relations, including the following: Ministry of Health, Istituto Superiore di Sanità (Superior Health Institute), AIFA (Agenzia Italiana del Farmaco) EMA (European Medicines Agency), Local Health Authorities (ULSS) and others.

3.2. The Organisation

A - Aptuit (Verona) Srl as part of the EVOTEC Group

Aptuit (VERONA) S.r.L. belongs, as mentioned above, to the German multinational group EVOTEC. In particular, the Company is subject to management and coordination by Evotec SE (indirect control) and Aptuit Global LLC (direct control). EVOTEC SE is a multinational company headquartered in Hamburg (Germany), 22419, Manfred Eigen Campus, Essener Bogen 7, which is particularly active in the field of "Drug Discovery" as well as a development partnership focused on fast-moving innovative product approaches with leading pharmaceutical and biotechnology companies.
Evotec SE, already listed on the Frankfurt Stock Exchange, has also been listed on the Nasdaq since November 2021 and therefore, by virtue of this last listing, the Company is required to operate from 1 January 2022 in accordance with the Sarbanes-Oxley Procedures.
Evotec Group's core business is pharmaceutical research for third parties.

The entire share capital of the Company, equal to Euro 8,010,000.00, is held by the Sole Shareholder Aptuit Global LLC, a US company with registered office at 303B COLLEGE ROAD EAST, PRINCETON, NJ 08540, USA. In turn, Aptuit Global LLC is wholly owned by EVOTEC SE._The following diagram shows the structure of the EVOTEC Group as at 21 December 2023:



The Company has intra-company service contracts with the other companies of the Evotec Group - Aptuit Division and Evotec Division, which are renewed annually and by virtue of which these companies exchange various types of services with each other.

B - The Internal Operating Structure

With regard to the Company's operational structure, reference is made to the Company's Organisation chart, which is periodically updated and available on the Company's intranet. It highlights reporting lines and functional dependencies which, as is typical of integrated groups, depart from the logic of the individual legal entity to embrace integrated group management.

C- Administration and Internal Control System The **administration system** adopted is that of the Board of Directors. There are currently four members of the Board of Directors with equal powers, one of whom is the Chairman of the Board. Pursuant to the Articles of Association, the directors are vested with the legal representation of the Company within the limits of the powers delegated to them. The Directors have powers to sign individually or jointly with other directors or first level managers identified by subject matter and/or value, which can be delegated in accordance with the Articles of Association. The Chairman of the Board of Directors is identified as the Employer pursuant to Article 2 letter B of Legislative Decree no. 81/2008; another Director is delegated for the purposes of personal data processing.

The **First Level Managers** are identified and appointed by a Board resolution shown in the list, which also gives evidence of certain **proxies for company areas considered particularly sensitive**.

The **external control system** is entrusted, as far as the legal control is concerned, to the Board of Statutory Auditors composed of three full members and two alternates and, as far as the accounting control is concerned, to a primary Auditing Company.

The graphic representation of the various company functions is expressed by the Organisation chart available on the company intranet, as regards the definition of the roles relevant to the application of internal procedures.

4. SURVEILLANCE BODY

4.1. Identification, Composition and Appointment

Given that the Surveillance Body is responsible for monitoring and proposing the updating of the Model and the Code of Conduct, it is clear that the Company pays attention to the fact that the competences it expresses are particularly qualified in matters relevant to the Decree and meet the requirements of respectability set out in Article 109 of Legislative Decree no. 85/93. The Company also establishes that it has autonomous powers of intervention in the areas of competence, involving internal staff and/or external collaborators for this purpose, in order to guarantee the continuous carrying out of the activity of verification of the adequacy and suitability of the Model. The specific competences are identified according to the offence risks that this Model aims to prevent.

For the checks and actions required of the Surveillance Body and concerning specific issues, the latter may use professionals identified at its discretion, informing the Administrative Body in advance. Financial coverage will be ensured by the expenditure budget made available at the time of appointment, with only the obligation to report expenditure.

4.2. Requirements

The requirements that characterise the Surveillance Body and make it effective are:

- **autonomy and independence**, as clarified in the Confindustria Guidelines, the position of the Surveillance Body within the Entity "must guarantee the autonomy of the control initiative from any form of interference and/or conditioning by any body of the Entity", including the management body. The Surveillance Body must be guaranteed hierarchical independence and its members must neither be directly

involved in management activities that are subject to control by the same Board, nor be linked to the managers of the Entity or to the Entity by any parental ties, significant economic interests (shareholdings) or any situation that may give rise to a conflict of interest;

- **professionalism**; for this purpose, the members of the said Body must have specific knowledge in relation to any technique useful for preventing the commission of offences, for detecting those already committed and identifying their causes, as well as for verifying compliance with the Organisational Model by members of the corporate organisation and, when necessary, proposing the necessary updates to the Organisational Model;
- **continuity of action**, by means of a structure dedicated to constant supervision of compliance with the Organisational Model, capable of constantly verifying the effectiveness and efficacy of the Model and providing for its continuous updating. This structure should be characterised by limited revocability and limited renewability. The duration of the office must also be long enough to allow stable and professional exercise of the function, but not so long as to create strong links with the top management that could lead to situations of conditioning;

In view of the above and of the specificities of its corporate reality, with particular regard to the current in-house legal expertise and the opportunity to outsource those of a corporate nature, the Company has deemed it appropriate, in view of the features of the Organisational Model adopted, to set up a Surveillance Body of a collegial nature composed of two members with proven experience, expertise and professionalism, as indicated below:

a) **an external member** with specific supervisory, audit and legal expertise;
b) **an internal member** with specific legal competences, a reference person of the Legal area, who is not in any way involved in the management activity of the Company and who ensures a high level of professionalism and autonomy.

The persons who will take on the role of members of the Surveillance Body of the Company shall perform their duties with the diligence required by the nature of the office, by the nature of the activity performed and by their specific skills.

The members of the Company's Surveillance Body shall meet the **requirements of honour laid down in Article 109 of Legislative Decree no. 385 of 1 September 1993**. The lack of such requirements constitutes a cause of ineligibility and/or disqualification of the Surveillance Body and its members.

In particular, the following constitute grounds for ineligibility and/or disqualification:

- the conditions laid down in Article 2382 of the Civil Code;

- the conviction with a sentence, even if not final, or a plea-bargaining sentence, for having committed one of the offences provided for in Legislative Decree 231/01;
- the imposition of a sanction by CONSOB, for committing one of the administrative offences relating to market abuse set out in the TUF.

It should be noted that spouses, relatives and relatives-in-law up to the fourth degree of kinship of the directors of the Company, directors, spouses, relatives and relatives-in-law up to the fourth degree of kinship of the directors of the companies controlled by the Company, of the companies controlling it and of those subject to common control cannot be appointed as members of the Surveillance Body and if appointed, lose their office.

Appointees shall self-certify that they are not in any of the above conditions, expressly undertaking to inform the Board of Directors of any changes to the content of this declaration as soon as they occur.

In cases of particular and proven severity, the Board of Directors, subject to a positive opinion of the Board of Statutory Auditors of the Company, may in any case order the suspension of the powers of the Surveillance Body and the appointment of an interim body.

The appointment and removal of the Surveillance Body is the exclusive responsibility of the Company's Board of Directors.

In order to ensure the effective and constant implementation of the Model, as well as continuity of action, the term of office of the Surveillance Body is set at three financial years expiring on the approval of the financial statements relating to the last of the three, renewable, for no more than once, by resolution of the Board of Directors of the Company. The termination of the Surveillance Body due to expiry of its term takes effect from the moment it is reconstituted by resolution of the Board of Directors, unless it is renewed.

The Board of Directors of the Company reserves the right to establish for the entire duration of the office the annual remuneration, adequately remunerating the skills and professionalism expressed, as well as the frequency and characteristics of the verification activities provided for by the Model for the participation of the individual members of the Surveillance Body.

The Board of Directors of the Company may dismiss the members of the Surveillance Body only for just cause. In the event of revocation or forfeiture, the Board of Directors of the Company shall promptly replace the revoked or forfeited member, after ascertaining that the new member meets the subjective requirements indicated above.

In order to provide the Surveillance Body with an adequate capacity to retrieve information and thus to act effectively vis-à-vis the Company's organisation, this Model also lays down the procedures for information flows to and from the Surveillance Body.

4.3. Functions and Powers

The Surveillance Body, with regard to the provisions of the Decree, is called upon to perform the following **functions**:

- ensure constant and independent monitoring of the **compliance with** and **adequacy** of the Company's procedures and processes in order to prevent, as established in the resolution of the Board of Directors of 20/01/2016, the commission of the offences limited to a) Extortion, Undue induction to give or promise benefits and Bribery referred to in Article 25 of Legislative Decree no. 231/2001 b) Bribery among private individuals referred to in Article 25-ter, lett. s-bis) of Legislative Decree 231/2001 and identified in the Company's risk map, in accordance with the provisions of the Decree;
- ascertain the **effectiveness of** the Model, i.e. ensure that the conduct provided for therein is consistent with the Company's actual operations;
- check the **functionality of** the Model, i.e. its ability to effectively prevent the commission of offences;
- analyse the applicability of the Model in order to assess, over time, the **maintenance of** its soundness and functionality;
- take care of the necessary **updating**, in a dynamic sense, of the Model, both by submitting proposals for adaptation to the Governing Body and by ascertaining, subsequently, the implementation and functionality of the proposals made and accepted;
- verify the actual **effectiveness** of the Model, in relation to the Company's structure, in preventing the commission of the offences identified;
- verify the adequacy of the **sanctions system** in relation to its applicability, effective application and effectiveness;
- monitor initiatives for the **dissemination of knowledge** and understanding of the Model and the preparation of internal documentation necessary for its operation, containing instructions, clarifications or updates;
- manage whistleblowing reportings in the event of appointment as manager
- **report periodically**, or promptly if necessary, to the Administrative Body on the implementation of the Model's policies, with reference to the activities carried out,

the reports received, the corrective actions implemented and possible corrections or implementations to the Model.

Therefore, in the context of the above-mentioned activities, the Surveillance Body shall ***perform*** the following ***tasks***:

- verify in the context of the Company the knowledge and understanding of the principles outlined in the Model and, in particular, of the Code of Conduct;
- set up specific "dedicated information channels", aimed at facilitating the flow of reports and information to the Body by employees of the Company or other recipients of the directives given by the Company through the adoption of the Model itself also because of the new Article 6 of Legislative Decree 231/2001, paragraphs 2-bis, 2-ter and 2-quater ("*Whistleblower*") inserted by Article 2 of Law 30/11/2017, no. 179 with effect from 29/12/2017;
- promote, when necessary, the periodic review of the Code of Conduct and its implementation mechanisms.

In order to adequately and concretely perform the functions, tasks and duties listed above, the Surveillance Body is granted the ***powers*** to:

1. access directly, or by delegation on its behalf, to any and all documents relevant to the performance of the functions assigned to the Surveillance Body pursuant to the Decree, granting it for this purpose appropriate discretionary powers within the scope and limits of the purposes of its activity;
2. carry out periodic checks, also not pre-agreed, on the application of and compliance with the Model by all the addressees with regard to the prescriptions laid down in relation to the different types of offences covered by the Decree;
3. conducting reviews of the Company's activities for the purpose of updating corporate procedures;
4. proposing training programmes for staff on the Model and its contents in cooperation with the departmental directors/managers;
5. collecting, processing and storing relevant information on compliance with the Model, as well as updating the list of information which must be transmitted to it or kept at its disposal, constituting the "formal" database of the internal control activity;
6. coordinating with the other corporate functions in carrying out the monitoring activities falling within their competence and provided for in the procedures;
7. verify the adequacy of the internal control system in relation to these regulatory requirements, also by taking legal advice;
8. monitor the actual presence, regular maintenance and effectiveness of databases and archives supporting the activities arising from compliance with the Decree.

9. if appointed manager of reportings, access any data or system necessary for the management of Whistleblowing reportings.

Moreover, in order to enable the Body to properly exercise the tasks and powers assigned to it, within the limits and under the conditions required by law, it is established that:

- the Surveillance Body must always be kept informed of the organisational, management and operational structure of the Company, in particular with regard to the facts listed in the following paragraph on the flow of information to the Board itself;
- the Surveillance Body is allocated an autonomous expenditure budget which can and must be used exclusively for disbursements which become necessary for the performance of the verification and control activities;
- all the Bodies of the Company, employees, consultants, "project" collaborators and third parties acting on behalf of the Company in any capacity whatsoever, are required to provide the utmost cooperation in facilitating the performance of the functions assigned to the Surveillance Body;
- taking into account, on the one hand, the purposes of investigation and verification connected with the tasks assigned to the Surveillance Body and, on the other hand, the structure of the Company, the control activity to be performed by the Surveillance Body also concerns the work of the Administrative Body;
- the Surveillance Body is obliged to maintain absolute confidentiality regarding any and all information of which it becomes aware in the exercise of its functions, including all information regarding whistleblowing pursuant to Legislative Decree 24/2023 by the which can be derived from the identity of the reporting person, the person involved and the person mentioned in the reporting, as well as the content of the reporting and the related documentation;
- the Surveillance Body itself has its own regulations for the performance of the tasks and functions required.

4.4. Information Flow to the Surveillance Body

The Recipients of the Model are required to promptly report to the Surveillance Body those acts, behaviours or events that may constitute unlawful conduct relevant to Legislative Decree 231/2001 and/or lead to a violation of the Model or, more generally, are relevant to the prevention/sanction of the offences provided for in the Legislative Decree 231/2001.

The Surveillance Body is bound to secrecy with regard to the news and information acquired in the exercise of its functions.

As regards the **flow of information to the Surveillance Body**, the latter must be promptly informed or receive adequate documentation concerning:

- conduct and/or news related to violation of the Model;
- any initiative concerning the prevention of the commission of offences and in any case the effective functioning of this Model;
- measures and/or news coming from the judicial police, or from any other authority, from which it can be inferred that investigations are being carried out, even against unknown persons, for crimes (and administrative offences) relevant to the administrative liability of entities and which may involve the Company;
- requests for legal assistance made by employees in the event of legal proceedings being instituted against them and in relation to offences relevant to the administrative liability of entities, unless expressly prohibited by the judicial authority;
- reports prepared by the heads of other corporate functions as part of their control activities and from which facts, acts, events or omissions with critical profiles with respect to compliance with the rules of the Decree may emerge;
- information on the effective implementation, at all levels of the company, of the Model, with evidence of the disciplinary proceedings carried out and of any sanctions imposed for violation of the Model or of the measures for dismissal of such proceedings with the relevant reasons;
- any other information that may be relevant for the purposes of correct and complete supervision and updating of the Model;
- news about organisational changes;
- updates to the system of delegations and powers;
- internal reports/communications from which responsibility for the offences referred to in the Decree emerges;
- changes in risk or potentially risk situations;
- any communications from the auditors concerning aspects that may indicate shortcomings in the system of internal controls, reprehensible facts, observations on the Company's financial statements;
- minutes of the meetings of the Board of Directors, as well as any meetings with the auditing firm.
- regular reporting on occupational health and safety and any accidents that may have occurred.
- reports prepared by the auditors on the checks carried out, including on IT processes.

- any disciplinary measures adopted following whistleblowing reportings

The Surveillance Body may propose changes to the above list to the Board of Directors.

4.5. Periodic audits of the Surveillance Body

The Model provides for four types of periodic audits:

- checks **on acts**, i.e. all proceedings involving the commitment of the Company;
- checks on **procedures, regulations and internal instructions**, i.e. on the documentation outlining the prevention activities for the purposes of the Decree in accordance with the procedures laid down by the Surveillance Body;
- checks **on whistleblowing reportings**, or on what is reported by any interested party concerning any event considered at risk or harmful;
- checks **on the degree to which the Model has been implemented**, or on the level of awareness and knowledge of the staff of the offences covered by the Decree, including through personal interviews.

As already set out in the preceding paragraphs, the Surveillance Body prepares a report for each audit, and keeps the supporting documentation, if any.

4.6. Reporting methods and frequency

As already mentioned with regard to the functions assigned to it, the Surveillance Body reports **at least annually**, or promptly if necessary, to the Administrative Body and the Board of Statutory Auditors on the implementation of the Model's policies, with reference to:

- activities carried out;
- reports received;
- corrective actions implemented;
- possible corrections or implementations to the Model;
- possible application of the disciplinary system, in case of violation of the Model or of the duties of management and supervision by apical subjects.

The Administrative Body may request the convening of the Surveillance Body at any time. Similarly, the Surveillance Body may, if necessary, request the convening of the Administrative Body in order to report on any unlawful acts or serious misconduct. Minutes of each meeting between them shall be drawn up by the Surveillance Body.

4.7. Management review

The procedural apparatus and the organisation set up to monitor the identified risks are periodically, at least once a year, subjected to a review of their effectiveness and adequacy during the Review Meeting. This Meeting, unless otherwise provided for, is called by the Site Head and the Surveillance Body attends as an invited guest. It will also take into account in its Annual Report the information acquired in these sites. In the individual Special Sections the following is indicated:

- the party required to convene the meeting;
- parties to be convened;
- points to be addressed.

4.8. Criminal profiles of the liability of the Surveillance Body

The general duty of surveillance incumbent on the Surveillance Body plays an absolutely central role in the effectiveness of the Model, to the extent that failure to comply with it would result in the inapplicability, for the Company, of the exemption from liability. However, it should be noted that the obligation to be vigilant does not imply an obligation to prevent the offence. The Surveillance Body is not entrusted with the obligation to supervise the commission of offences, but with the operation of and compliance with the Model, taking care of its updating and possible adaptation, since it is, in substance, the advisory body of the Administrative Body of the Company, which alone is responsible for amending the Model, according to the indications and proposals of the Surveillance Body itself.

That said, the legislator had placed specific monitoring and reporting obligations on the Surveillance Body with regard to anti-money laundering, as provided for in the case of failure to report relevant facts pursuant to Article 52 of Legislative Decree 231/07, failure to comply with which constituted an offence. As a result of Legislative Decree 90/2017 and its amendments to Legislative Decree 231/2007 and with particular reference to the amended Article 46 of Legislative Decree 231/2007 (Reporting Obligations), the obligation of the SB to supervise compliance with the specific anti-money laundering legislation has been eliminated, with consequent exemption from any criminal liability.

5. VIOLATIONS AND "WHISTLEBLOWING" REPORTING SYSTEM PURSUANT TO LEGISLATIVE DECREE 10 MARCH 2023 N. 24 AND INTERNAL REPORTING CHANNEL

In implementation of Directive (EU) 2019/1937, the Legislative Decree n. 24 of 10 March 202 was issued and in force from 15 July 2023, concerning "the protection of

persons who report violations of Union law and containing provisions concerning the protection of persons who report violations of national regulatory provisions".

The Decree applies, among others, to private sector entities that adopt Organization and Management Models pursuant to the Legislative Decree. 231/2001 which must provide internal reporting channels in the Organizational Model.

The main innovations contained in the new regulation are:

- the specification of the subjective scope with reference to public law bodies and private law bodies and the extension of the list of the latter;

- the expansion of the number of natural persons who can be protected for reortings, complaints or public disclosures;

- the expansion of the objective scope, i.e. of what is considered a significant violation for the purposes of protection and which, in the specific case of the company Aptuit (Verona) S.r.l. (company with more than 50 employees and equipped with Model 231) consist of:

a. crimes pursuant to Legislative Decree 231/2001 and violation of the Organizational Model 231;

b. violations of EU law;

c. violations, breaches and retaliation regarding whistleblowing.

- the distinction between what is protected and what is not;

- the regulation of three reporting channels and the conditions for accessing them: internal (in entities with a dedicated person or office or through an external person with specific skills), external (managed by ANAC) as well as the public disclosure channel;

- the indication of different methods of presenting reportings, in written or oral form;

- the detailed regulation of confidentiality obligations and the processing of personal data received, managed and communicated by third parties or to third parties;

- clarifications on what is meant by retaliation and expansion of the relevant case series;

- the regulations on the protection of persons reporting or communicating retaliatory measures offered by both ANAC and the judicial authorities and greater indications on the responsibility of the reporter and on the justifications;

- the introduction of specific support measures for reporting persons and the involvement, for this purpose, of third sector bodies that have adequate skills and that provide their activity free of charge;

- the revision of the regulation of sanctions applicable by ANAC and the introduction of sanctions by private entities into the disciplinary system adopted pursuant to Legislative Decree no. 231/2001.

The companies, after having formally notified the trade unions, have done so by implementing an internal channel for written and oral reportings via an encrypted IT platform and through a face-to-face meeting, identifying the manager of the reportings in the Ethics Committee established by the Legal Counsel and internal member of the Company's Surveillance Body, as well as by the EVP Global Head of Legal & Compliance and by the VP Head of Global Compliance & Legal Director of the Global Legal & Compliance Department of the Parent Company Evotec SE, adopting the Whistleblowing Policy consisting of: "Procedure for sending/receiving Whistleblowing reportings" and the "Procedure for managing whistleblowing reportings" which, attached, form an integral part of this document, together with the Evotec Group Procedure "Global Whistleblowing and Case Handling Policy". Furthermore, through the dedicated link https://evotecgroup.integrityline.org, it is possible to access the encrypted IT platform for "EQS Integrity Line" (formerly known to the Evotec Group as "EVOWhistle"). The link, together with a specific section containing the Procedures and Notice on the processing of personal data, will soon also be available on the Company's dedicated internet page.

5.1. Prohibition of retaliatory behavior

In compliance with the provisions of Legislative Decree 24/2023, any behaviour, act or omission, even if only attempted or threatened, carried out as a result of the reporting, the complaint to the judicial or accounting authority or the public disclosure and which causes or may cause the reporting person or the person who filed the complaint, directly or indirectly, unfair damage.

In the context of any proceeding aimed at ascertaining prohibited behaviour, acts or omissions towards the reporting parties, it is presumed that they were carried out as a result of the reporting. The burden of proving that such conduct or acts are motivated by reasons unrelated to the reporting, public disclosure or denunciation is borne by the person who carried them out.

In the event of a request for compensation presented to the judicial authority by the whistleblowers, if such persons demonstrate that they have made, pursuant to this decree, a reporting, a public disclosure or a complaint to the judicial or accounting authority and that they have suffered damage, presumes, unless proven otherwise, that the damage is a consequence of such reporting, public disclosure or complaint to the judicial or accounting authority.

Below are some cases that constitute retaliation:

a) dismissal, suspension or equivalent measures;

b) demotion or failure to promote;

c) change of functions, change of place of work, reduction of salary, modification of working hours;

d) the suspension of training or any restriction of access to it;

e) negative merit notes or negative references;

f) the adoption of disciplinary measures or other sanctions, including pecuniary ones;

g) coercion, intimidation, harassment or ostracism;

h) discrimination or otherwise unfavorable treatment;

i) failure to convert a fixed-term employment contract into a permanent employment contract, where the worker had a legitimate expectation of such conversion;

l) failure to renew or early termination of a fixed-term employment contract;

m) damage, including to the person's reputation, in particular on social media, or economic or financial prejudice, including loss of economic opportunities and loss of income; (n) improper listing on the basis of a formal or informal sectoral or industry agreement, which may result in the person being unable to find employment in the sector or industry in the future;

o) the early termination or cancellation of the contract for the supply of goods or services;

p) the cancellation of a license or permit;

q) the request to undergo psychiatric or medical tests.

5.2. Whistleblowing and protection of personal data

The implementation of the regulations on whistleblowing and the related procedure is coordinated with the new rules introduced by the European Regulation on the protection of personal data of natural persons n. 679/2016 (so-called GDPR) and by Legislative Decree 196/2003 (so-called Italian Privacy Code), as amended by Legislative Decree 101/2018. To this end, the specific processing of personal data is classified and managed by the technical and organizational measures implemented to conform the processing of personal data by the Company to the provisions of the GDPR and the Italian Privacy Code, with particular attention to:

• evaluate the risk of data breach and related consequences;

• define the roles attributed to the various actors involved from the point of view of the privacy organizational chart;

• enter the treatment in the Treatment Register;

• guarantee adequate security measures for the personal data processed;

• identify the conditions for the lawfulness of the processing;

• provide ad hoc information to those interested in the processing;

• identify the scope of application of the processing by limiting it only to the offenses indicated by the legislation and not to any type of complaint;

• regulate the right of access of the reported subject and possibly limit it to reconcile his right with the obligation to protect the confidentiality of the identity of the whistleblower, as established by the new art. 2-undecies, lett. f) of the Italian Privacy Code;

• carry out the impact assessment regarding the process of receiving and managing whistleblowing reportings;

• draw up a joint ownership agreement pursuant to art. 26 GDPR among the group companies that share the internal whistleblowing reporting channel.

To this end, the Company also complies with the specific indications contained in Legislative Decree no. 24/2023 .

5.3. Whistleblowing and protection of confidentiality

The first protection placed by the legislator in favor of the whistleblower is the obligation to guarantee the confidentiality of his identity and of any other information, including any attached documentation, from which he can directly or indirectly trace the identity of the whistleblower. The same guarantee is provided in favor of the people involved and/or mentioned in the reporting, as well as the facilitators, in consideration of the risk of retaliation.

The following are required to fulfill this obligation:

• the subjects competent to receive and manage reportings;

• the ANAC;

• the administrative authorities (Department for the Public Function and National Labor Inspectorate) to which the ANAC transmits, for its competence, the external reportings received.

Confidentiality must be guaranteed for every reporting method, therefore, even when it occurs in oral form.

6. DISCIPLINARY SANCTIONS AND SANCTIONING SYSTEM

An aspect of particular importance in the construction of the Model is the provision of an adequate sanctioning system for violations of the rules of the Code of Conduct, as well as the procedures established by the Model.

More precisely, for the purposes of applying the sanctioning system, "violation" means:

• violations of the provisions of the Model and Code of Conduct, of the rules of conduct, of the protocols or procedures referred to therein;

• unlawful conduct relevant pursuant to Legislative Decree 231/01 (crimes, administrative offenses or acts suitable for the commission of the same) and based on precise and consistent factual elements;

• violations of EU law and internal transposition rules;

• violations, breaches and retaliation regarding whistleblowing;

In fact, similar violations damage the relationship of trust established with the entity, also based on the provisions of the articles. 2104 and 2105 cod. civil which establish obligations in terms of diligence and loyalty of the worker towards his employer and can, consequently, lead to disciplinary actions, regardless of the possible establishment of criminal proceedings in cases where the behavior constitutes a crime.

The disciplinary assessment of behavior carried out by employers, except, of course, for any subsequent control by the labor judge, must not, in fact, necessarily coincide with the judge's assessment in criminal proceedings, given the autonomy of the violation of the Code of Conduct and of internal procedures with respect to the violation of the law which leads to the commission of a crime. The employer is therefore not required to wait for the end of any ongoing criminal proceedings before taking action.

The principles of timeliness and immediacy of the sanction make it not only unnecessary, but also inadvisable to delay the disciplinary complaint while awaiting the outcome of any proceedings brought before the criminal judge.

As for the type of sanctions that can be imposed, it should be preliminarily specified that, in the case of an employment relationship, any sanctioning measure must comply with the procedures established by the art. 7 of law no. 300/70 (so-called Workers' Statute) and/or by special regulations, where applicable, characterized not only by the principle of typicality of violations, but also by the principle of typicality of sanctions.

Failure to comply with the provisions of the Code of Conduct and, more generally, of the protocols adopted with the organisation, management and control model pursuant to Legislative Decree no. 231/2001, constitutes a disciplinary offense both in the case in which it is implemented by an employee of the Company, or in the event that the fault is committed by a collaborator, compatibly with the activities that can be carried out by them.

Due to their disciplinary value, the Code of Conduct and the procedures adopted in the context of the organisation, management and control model pursuant to Legislative Decree no. 231/2001, failure to comply with which constitutes a disciplinary offence, are formally declared binding for all employees upon communication of the adoption of the Model.

The disciplinary system is therefore described below, an integral part of the organisation, management and control model pursuant to Legislative Decree no. 231/2001, containing the disciplinary sanctions as well as the related procedural aspects applicable as a consequence of behavior that violates the provisions of the Code of Conduct or the protocols of the Company Model.

6.1. Disciplinary sanctions and protection of confidentiality

As part of the disciplinary proceedings activated by the body against the alleged author of the reported conduct, the identity of the person reporting cannot be revealed, where the dispute of the disciplinary charge is based on investigations that are distinct and additional to the reporting, even if consequent to the itself. However, if the dispute is based, in whole or in part, on the reporting and the identity of the person making the reporting is indispensable for the defense of the person to whom the disciplinary charge has been contested or of the person involved in the reporting, the latter will be usable for the purposes of the disciplinary proceedings only with the express consent of the reporting person to the disclosure of his or her identity. In such cases, prior notice is given to the reporting person by written communication of the reasons that make it necessary to reveal the confidential data. If the reporting party denies his/her consent, the reporting cannot be used in the disciplinary proceedings which, therefore, cannot be started or continued in the absence of further elements on which to base the dispute. In any case, if the conditions exist, the entity has the right to proceed with the complaint to the judicial authorities.

6.2. Disciplinary sanctions for employees

In relation to employees, the Company must respect the limits set out in the art. 7 of Law 300/1970 (so-called Workers' Statute) and the provisions contained in the applied National Collective Labor Agreement (CCNL), both with regard to the sanctions that can be imposed and the methods of exercising disciplinary power.

The following sanctions may be imposed on employees:

i) verbal warning;

ii) written warning;

iii) fine;

iv) suspension from work;

v) dismissal.

The verification of any violations may result in the worker being suspended from work as a precautionary measure.

These sanctions will be imposed on the basis of the importance of the individual cases considered and will be proportionate depending on their severity.

In order to clarify in advance the correlation criteria between worker violations and the disciplinary measures adopted, it is specified that:

- an employee who:

to. violates internal procedures or behaves in a way that does not comply with the provisions of the Code of Conduct and the behavioral rules contained in this Model (e.g. does not comply with the prescribed procedures, fails to communicate the prescribed information to the Supervisory Body, fails to carry out checks, etc.), as such behavior must be seen as a non-execution of the orders given by the Company;

b. carries out violations of the Model pursuant to Legislative Decree 231/2001, excluding those aimed unequivocally at the commission of a crime sanctioned by Legislative Decree 231/2001;

- The employee incurs the following disciplinary measures:

to. who adopts, in carrying out activities in the areas considered at risk by the Company, behavior that does not comply with the provisions contained in the Model and in the Code of Conduct, aimed unequivocally at the commission of a crime sanctioned by Legislative Decree 231/2001, having to consider such behavior to be an infringement

of discipline and diligence at work, so serious as to damage the company's trust in the employee;

b. who adopts, in carrying out activities attributable to areas at risk, a behavior that is clearly in conflict with the provisions contained in the Model and in the Code of Conduct, such as to determine the concrete application by the Company of the measures provided for by the Legislative Decree. 231/2001, as such behavior must be recognized as an act that causes serious moral and material damage to the Company which does not allow the continuation of the relationship, even temporarily;

The Company will not be able to take any disciplinary measures against the employee without having previously contested the charge and without having heard him in his defence. Except for verbal warning, the complaint must be made in writing and disciplinary measures cannot be imposed before five days have passed, during which the worker can present his justifications.

If the measure is not imposed within ten days following these justifications, they will be considered accepted. The worker will also be able to present his justifications verbally.

The imposition of the disciplinary measure must be motivated and communicated in writing.

Disciplinary measures may be challenged by the worker before the union, according to the applicable contractual rules. The dismissal may be challenged according to the procedures established by the art. 7 of Law no. 604 of 15 July 1966, confirmed by article 18 of Law no. 300 of 20 May 1970.

Disciplinary measures will not be taken into account for any purpose after two years have elapsed from their imposition.

The principles of correlation and proportionality between the violation committed and the sanction imposed are guaranteed by compliance with the following criteria:

• severity of the violations committed;

• job, role, responsibility and autonomy of the employee;

• predictability of the event;

• intentionality of the behavior or degree of negligence, imprudence or incompetence;

• overall behavior of the perpetrator of the violation, with regard to the existence or otherwise of disciplinary precedents;

• other particular circumstances characterizing the violation.

The disciplinary sanctions (as provided for by art. 7 L. 300/70) and the Code of Conduct of Conduct are brought to the attention of the worker via the link https://www.evotec.com/en/investor-relations/governance.

6.3 Disciplinary sanctions for management personnel

In general, the following sanctions may be imposed on management personnel:

i) fine;

ii) suspension from work;

iii) early termination of the employment relationship.

The manager incurs conservative disciplinary measures in the following cases:

to. violates internal procedures or behaves in a way that does not comply with the provisions of the Code of Conduct and the behavioral rules contained in this Model (e.g. does not comply with the prescribed procedures, fails to communicate the prescribed information to the Supervisory Body, fails to carry out checks, etc.), as such behavior must be seen as a non-execution of the orders given by the Company;

b. carries out violations of the Model pursuant to Legislative Decree 231/2001, excluding those aimed unequivocally at the commission of a crime sanctioned by Legislative Decree 231/2001;

In these cases, workers with managerial qualifications may be subjected to precautionary suspension from work performance, in consideration of the seriousness of the conduct, without prejudice to the manager's right to remuneration, as well as, again on a provisional and precautionary basis for a period not exceeding after three months, assignment to different roles in compliance with the art. 2103 cod. civil

The manager incurs disciplinary action in cases where:

to. adopts, in carrying out activities in the areas considered at risk by the Company, behavior that does not comply with the provisions contained in the Model and in the Code of Conduct, aimed unequivocally at the commission of a crime sanctioned by Legislative Decree 231/2001, having to recognize in such behavior an infringement of discipline and diligence in work, so serious as to damage the company's trust in the employee;

b. adopt, in carrying out activities attributable to areas at risk, a behavior that is clearly in conflict with the provisions contained in the Model and in the Code of Conduct, such as to determine the concrete application by the Company of the measures provided for by Legislative Decree 231 /2001, as such behavior must be recognized as an act that

causes serious moral and material damage to the Company which does not allow the continuation of the relationship, even temporarily;

In these cases, the Company, considering the seriousness of the conduct, may proceed with the early termination of the employment contract in accordance with the applicable legal provisions and the CCNL.

6.3. Measures against directors

the Supervisory Body promptly informs the Administrative Body in its collegiality so that it takes steps to take or promote the most appropriate and adequate initiatives, in relation to the seriousness of the violation detected and in accordance with the powers provided for by current legislation and the Statute.

The administrator incurs conservative measures in the following cases:

a. violates internal procedures or behaves in a way that does not comply with the provisions of the Code of Conduct and the behavioral rules contained in this Model (e.g. does not comply with the prescribed procedures, fails to communicate the prescribed information to the Supervisory Body, fails to carry out checks, etc.), as such behavior must be seen as a non-execution of the orders given by the Company;

b. carries out violations of the Model pursuant to Legislative Decree 231/2001, excluding those aimed unequivocally at the commission of a crime sanctioned by Legislative Decree 231/2001;

In these cases, the administrative body may proceed directly with the imposition of the sanctioning measure of formal written warning or revocation of the powers granted, depending on the seriousness of the fact.

The administrator incurs resolution measures in the following cases:

to. adopts, in carrying out activities in the areas considered at risk by the Company, behavior that does not comply with the provisions contained in the Model and in the Code of Conduct, aimed unequivocally at the commission of a crime sanctioned by Legislative Decree 231/2001, having to recognize in such behavior an infringement of discipline and diligence in work, so serious as to damage the company's trust in the employee;

b. adopt, in carrying out activities attributable to areas at risk, a behavior that is clearly in conflict with the provisions contained in the Model and in the Code of Conduct, such as to determine the concrete application by the Company of the measures provided for by Legislative Decree 231 /2001, as such behavior must be recognized as an act that

causes serious moral and material damage to the Company which does not allow the continuation of the relationship, even temporarily;

In this case, the sanctioning measures (such as, for example, temporary suspension from office and, in the most serious cases, revocation from office) will be adopted by the Shareholders' Meeting.

6.4. Subjects having contractual/commercial relationships and "parasubordinate" subjects

The violation of the provisions and principles established in the Code of Coduct by subjects having contractual, commercial relationships or partnership agreements with the Company, including the professional in charge of the role of Supervisory Body, may result, in accordance with what is regulated in the specific relationship contractual, the termination of the relevant contract, or the right of withdrawal from the same without prejudice to the right to request compensation for damages incurred as a result of said conduct, including damages caused by the application by the judge of the measures provided for by Legislative Decree Legislative Decree 231/2001.

In particular, the contracts stipulated by the Company with self-employed workers, collaborators and consultants may include a specific declaration of knowledge of the existence of the Code of Conduct and the related principles, of the obligation to comply with these, or, in the case of a subject foreign or operating abroad, to comply with international and local regulations for the prevention of risks that may determine liability resulting from the commission of crimes on the part of the Company.

6.5. Sanctions for whistleblowing violations

CONSERVATIVE disciplinary sanctions towards subordinate workers, managers, administrators or members who are ascertained:

to. have violated the confidentiality obligations regarding the identity of the reporter;

b. have violated the prohibition on retaliatory or discriminatory acts against the whistleblower;

c. have obstructed or attempted to obstruct a reporting;

d. have not established, having been entrusted with doing so, the reporting channels or procedures for making and managing reportings or have adopted procedures that do not comply with those referred to in articles 4 and 5 of Legislative Decree 24/2023;

And. have not reported to the ODV the information flows regarding whistleblowing and the disciplinary measures adopted.

RESOLUTIVE disciplinary sanctions against subordinate workers, managers or administrators or partners when it is ascertained:

f. , even with a first degree sentence, the criminal liability of the reporter for the crimes of defamation or slander or in the event that such crimes are committed with the reporting to the judicial or accounting authority;

g. civil liability for the same title due to fraud or gross negligence.

In the event of violations by members, the Board of Directors reserves the right to take the most appropriate measures.

With respect to subjects having contractual/commercial relationships and "parasubordinate" subjects, the violations referred to in the previous letters may determine, in accordance with what is established in the Special Part of this Model and possibly regulated in the specific contractual relationship, the termination of the relevant contract, or the right of withdrawal from the same without prejudice to the right to request compensation for damages incurred as a result of said conduct.

6.6. Application of sanctions

The Board of Directors is responsible for the necessary investigations, the establishment of disciplinary proceedings and the imposition of sanctions, following a possible violation of the Model. The Company also keeps adequate documentation to support any sanctions imposed.

The Surveillance Body, given its function of monitoring the effective implementation and observance of the Model and all its components, will have the task of making appropriate reportings of possible violations found or of which it has become aware in carrying out its activities. , and to verify, in the event of a positive ascertainment of the violation, the effective imposition by the Company of the proportionate sanction.