





# **ORGANISATION, MANAGEMENT AND CONTROL MODEL ACCORDING TO LAW DECREE N. 231 DATING BACK TO JUNE 8, 2001**

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	ORGANISATION AND MANAGEMENT MODEL IN COMPLIANCE WITH LEGISLATIVE DECREE 231/01 SUPPLEMENTED WITH ART. 30 OF LEGISLATIVE DECREE 81/08	


# **ORGANISATION, MANAGEMENT AND CONTROL MODEL ACCORDING TO LAW DECREE N. 231 DATING BACK TO JUNE 8, 2001**

## **General part**

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## 1. DEFINITIONS.

The following definitions apply to the present general part and well to the special part of the Model, unless further definitions there specified.

**RISK ANALYSIS:** The specific analysis activity of the single organisation aiming at detecting the activity where crimes can be committed, outlined in Legislative decree 231/01.

**CONTRACTORS:** All the work and service contractors according to the civil code as well as subcontractors, employment agencies, independent workers signing a working and operating contract with the Company or which the Company profits from in sensitive activities.

**RISK AREAS OR SENSITIVE ACTIVITIES:** Company activity department where underlying crime can be committed.

**ASPP:** Prevention and protection service personnel involved

**BoD:** Board of Directors

**CERTIFICATION:** Confirmation that a product, process or service is compliant with a specific regulation, issued by a third board which is impartial to the company to be certified.

**CODE OF CONDUCT:** The Code of Conduct enforced by the Company Board of Directors on October 8, 2015 with its enclosures and updates.

**CONSULTANTS/OPERATORS:** Whoever has a consulting or professional relationship with the company

**DELEGATION:** The internal assignment of functions and activities within the company organisation.

**RECEIVERS:** Whoever the Model is destined to (social bodies, Supervisory Board, employees, consultants and operators, agents, contractors, partners).

**EMPLOYEES:** People hired by the company, managers included.

**MANAGERS:** People hired by the company as managers.

**LEGISLATIVE DECREE 231/2001 OR THE DECREE:** The Legislative decree n. 231 dating back to June 8, 2001 (executing the delegation according to the law n. 300 dating back to September 29, 2000).


**DUVRI:** Single interference risk evaluation document.

**SUPPLIERS:** Operators working on the good and service supply market for the Company.

**I:** Operating instructions.

**INCIDENT** Event connected to the operating activity possibly leading to lesions, death or professional disease (independently from its severity).

**ACCIDENT:** Accident leading to injuries, diseases or death.

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**ENTREPRENEURS' ASSOCIATION GUIDELINES** Guideline to build organisation or management Models drafted by the Entrepreneurs' association and approved by the Ministry of Justice.

**WORKPLACE:** Any place where operating activities are being carried out under the organisation management.

**M:** Registration form.

**PROFESSIONAL DISEASE:** Physical or mental condition, depending or worsened by the operating activity and/or connected to the job.

**NEAR MISS:** An incident not leading to lesion, professional disease or death.

**MGA:** Environmental management system manual.

**MODEL:** The organization, management and control Model of the Company in compliance with Legislative decree 213/2001 (more precisely the present document and its enclosures, in the latest edition together with the instructions, circular letters and each document hereby referred to).

**MOG:** Organisation, management and control Model according to Law decree n. 231 dating back to June 8, 2001.

**MUD:** Environmental declaration unique Model.

**SOCIAL BODIES** The Board of Directors, and the Board of Auditors of the company and its members.

**SUPERVISORY BOARD:** The company Supervisory Board, checking the operation, compliance and update of the company Model.

**P:** Company procedures.

**CRIME PREVENTION POLICY:** Goals and general scopes of the company as for the crime prevention, formally defined by the company Board of Directors.

**PUBLIC ADMINISTRATION OR PA:** The Public administration including its managers and officers (public officers or liable for any public service).


**PARTNER:** The company contractual counterparties (including any regulated cooperation: temporary company association, joint venture, consortia, licence, agency, co-operation in general, etc.).

**PRA:** Environmental procedure.

**PRAS:** Environmental safety procedure.

**PTA:** Water protection plan.

**PROCEDURE:** formally define mode to carry out an activity or a process.

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**RACMET:** The company Raccorderie Metalliche spa.

**RDA:** Representative of the environmental Board.

**RDS:** Representative of the safety Board.

**CRIMES OR ALLEGED OFFENCE.** Crimes the discipline defined in Legislative decree 231 (see Enclosure 2).

**REGISTRATION:** Document proving the reached result or providing for an evidence of the activities carried out.

**RISK:** Combination of probabilities an event can arrived for or exposure to dangers or severity of the accident or disease such an event or exposure can lead to.

**ACCEPTABLE RISK:** Risk can be reduced to a tolerable level for the organisation according to the legal obligations and to what reported in the Model, that is a prevention system forecast which can't be circumvented if not willingly and maliciously.

**RSPP:** Manager of the prevention and protection service.

**RUO:** Operating unit manager.

**SGA:** Environmental management system.

**SGIAS:** Environment and safety integrated management system.


**DISCIPLINARY AND PENALTY SYSTEM:** The disciplinary system according to art. 6 paragraph 2 letter e) of Legislative decree 231/01.

**SISTRI:** Control system of the waste traceability.

**COMPANY:** The company Raccorderie Metalliche spa or (Racmet).

**SPP:** Prevention and protection system.

**RISK ASSESSMENT:** Risk assessment process generated by one or more dangers, duly taking the suitability of the existing control measure into account and which states whether the risk is acceptable or not.

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## 2. THE REGULATORY FRAMEWORK

### 2.1. INTRODUCTION

With the Decree (in the annexe sub 1) enforcing the delegation specified in the law n. 300 dating back to September 29, 2000, the Italian legislation was supplemented by the liability (administrative but proved by the Criminal judge) of companies for administrative crimes.

Such a liability applies:

a) The provisions set out therein apply to corporate entities and companies and associations including those which are not bodies corporate. They do not apply to the State, to territorial public bodies, to other non-economic public bodies or to bodies performing constitutionally significant functions<sup>1</sup>;

b) Bodies may not be held liable for actions which under a later law no longer constitute an offence or in respect of which bodies' administrative liability is no longer contemplated, and, in the event of conviction, enforcement and legal consequences are ineffective, according to Enclosure 2 called "alleged crimes" (the complete list of the alleged crimes updated at the Model approval date, is specified in enclosure 3) when the crime was committed to the benefit of the board (there is no board liability if the crime was committed to the exclusive interest of the natural person or their parties committing them)<sup>2</sup>;

c) To crimes committed by natural people:

c1) By people serving as representatives, or holding administrative or senior executive positions within the board or an organisational unit of same, and being financially and functionally independent, as well as by people actually exercising management and control of same)<sup>3</sup>;

that is

c2) By people under the direction or supervision of one of the people as per sub-paragraph a)<sup>4</sup>.

The administration liability of the board, forecast in the decree, is independent from the criminal liability of the natural person committing the crime therefore it does not replace but it supplements the latest.


<sup>1</sup> Articles 1 and 2 of the Decree:

<sup>2</sup> Art. 5 of the Decree

<sup>3</sup> Art. 5 letter a) of the Decree

<sup>4</sup> Art. 5 letter b) of the Decree



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## 2.2. THE MODEL EXEMPTING ANY LIABILITY

The law excludes and exempts any liability of the board when it is proved that there are some objective evidences.

More precisely, it is absolutely necessary, as to exclude the liability, that the entity adopted and efficiently enacted, prior to commission of the act, organisational and management Models which are capable of preventing offences of the type occurring<sup>5</sup>.

The Model should necessarily include regular verifications and, where appropriate, amendments to same when significant breaches of rules are discovered or otherwise when changes are made to the organisation or the activity.

The Model should necessarily include suitable measures to provide for that the company activity is carried out in compliance with the law and promptly discover and remove any risky situation<sup>6</sup>.

But, while on the one side, the simple and effective enforcement of the Model is not enough on the other the Models should comply with the requirements promptly forecast by the law.


Under the first profile, it is necessary to appoint a supervisory Board, that is to say an independent Board with independent control and initiative powers, which on the one side should check the operation and compliance of the Models and their update as well, and on the other it should effectively supervise their enforcement.

Under the second profile, the Models – which can be drafted and enforced according to the behaviour codes (guidelines) drafted by the company representative associations and reported to the Ministry of Justice – should promptly comply with the requirements forecast by paragraph 2 of the art. 6 of the Decree, that is:

- a) Identify delegations and extensions of powers granted;
- b) Identify the activities and specify the department, which the company activity is based on, where alleged crimes can be committed and check the risk level that such crimes can be committed;
- c) Provide for specific direct protocols and schedule training and implementation of decisions by the board regarding offences to be prevented;
- d) Identify procedures for managing financial resources which are fit to prevent the commission of offences;

<sup>5</sup> Art. 6 letter a) of the Decree

<sup>6</sup> Art. 7 paragraph 3 of the Decree

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- e) Provide for obligations to disclose information to the organisation tasked with overseeing the working ;
- f) Comply with the Models;
- g) Provide for obligations to disclose information to the organisation tasked with overseeing the working of and compliance with the Models

### 2.3. CRITERIA TO ATTRIBUTE ANY LIABILITY

The Decree forecasts, as to attribute the liability to the company in case of an offences specific criteria.

The first criterion is the offence committed to the benefit or in the interest of the company.

The interest or the advantage only is not enough: it is necessary that both are present.

The interest, the subjective element, refers to the person acting willingly and it is to be considered in the moment when the criminal offence is being committed.

It is not necessary that the goal is reached, the scope is enough even though not exclusively.

A partial or marginal interest is enough.

If the physical person committing the offence acted in its personal interest, the company is liable in case such an interest, at least partially complies with the company interest.

The advantage, the objective element, consists of a series of benefits, mainly equity benefits which the company gets from the offence, and can be assessed even after that the conduct leading to the offence was enforced.


It applies to intentional offences.

For culpable crimes or offences (as for safety, security, health on the workplace and environmental protection as well), an objected advantage is considered, to be assessed *ex post*, in terms of saving of safety cost, higher production speed, increase of productivity, etc.

The second attribution criteria refers to the subject committing the offence.

The company is liable for the alleged offence committed in its interest or in its advantage when the offence author belongs to one of the above-mentioned categories:

- a) By people serving as representatives, or holding administrative or senior executive positions within the board or an organisational unit of same, and being financially and functionally independent, as well as by people actually exercising management and control of same); The

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Chairman of the Board of Directors, the member of the Board of directors, the Managing directors, the General Manager);

that is

b) People controlled or supervised by the management (that is not only employees of the company but also people acting on behalf, in the name and in the interest of the company, such as operators, agents, consultants).

In case of different people taking part to the offence, the company is liable in case one of the subjects according to paragraph a) or b) provides for its conscious and effective contribution to the offence.

#### **2.4. MANAGING SUBJECTS AND DIRECTED AND CONTROLLED SUBJECTS**

Conditions to comply with, jointly and absolutely, to be exempted are different when the crime is committed by the management or the crime is committed by people supervised or controlled by the management.

a) In case of the management, the company is not liable<sup>7</sup> if it is proved that:

a1) The senior executive board adopted and efficiently enacted, prior to the commission of the act, organisational and management Models which are capable of preventing offences of the type occurring;

a2) The task of overseeing such operations, compliance with the Models and seeing to updating of same were delegated to an organisation within the board vested with powers to act on its own initiative and conduct monitoring;

a3) People committed the offence by fraudulently circumventing the organisational and management Models;


a4) There has been no omission or insufficient oversight on the part of supervisory board.

b) In case of a subject managed and supervised by the management<sup>8</sup>, the company is liable when the offence committed was supported by the non compliance with the management or supervisory obligations;

b1) Non compliance with the directive or oversight requirements is ruled out if the board, prior to commission of the offence, adopted and efficiently implemented an organisational, management and control Model which is capable of preventing offences of the type occurring.

<sup>7</sup> Art. 6, paragraphs 1 and 2 of the Decree

<sup>8</sup> Art. 7, paragraphs 1 and 2 of the Decree

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## 2.5. CONTENT OF THE MODEL FOR ANY SAFETY, SECURITY AND HEALTH CRIME

In case of offences as for safety and security on the workplace, art. 30 of the Legislative decree n. 81 dating back to April 9, 2008 forecasts a content defined for the organisation and management Model, as to recognised it as suitable and effectively to exempt and exclude the company administration liability.


More precisely the Model should provide for a company system to comply with all the relating juridical obligations:

- a) The compliance with the technical-structural standards imposed by the law as for equipment, installations, workplaces, chemical, physical and biological agents;
- b) The risk assessment activities and setting of consequent prevention and protection measures;
- c) The organisation activities in case of emergencies, first aid, tender management, periodical safety meetings, consulting with worker representative on safety;
- d) The health-care supervisory activities;
- e) The worker information and training activities;
- f) The supervisory activities as for the compliance with the legal obligations.

## 2.6 TYPES OF CRIMES AND OFFENCE IN GENERAL

According to the decree, the alleged crimes (initially limited to offences in the relationships with the Public administration and then further extended to new categories), are only those offences specified and grouped in the following categories:

- Offences in the relationships with the Public administration (articles 24 and 25 of the Decree);
- Offences against the public faith (art. 25-bis of the Decree);
- Company offences or corruption or bribery among private citizens (art. 25-ter of the Decree);
- Felonies committed for purposes of terrorism or felonies designed to subvert democracy (art. 25-quater of the Decree);
- Offences against life and individual safety (art. 25-quater 1 of the Decree);
- Felonies against individual's freedoms (art. 25-quinquies of the Decree);

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- Market abuses (art. 25-sexies of the Decree);
- Manslaughter or serious bodily harm committed with breach of laws governing the safeguarding of workplace health and safety (art. 25-septies of the Decree)
- Handling stolen goods, laundering and use of money, assets or benefits whose origin is illegal (art. 25-octies of the Decree);
- IT-related felonies and unlawful processing of data (art. 24-bis of the Decree);
- Felonies committed by criminal organisations (art. 24-ter of the Decree);
- Felonies against industry and commerce (art. 25-bis 1 of the Decree);
- Felonies regarding breach of copyright (art. 25-novies of the Decree);
- Inducements not to make statements or to make false statements to the court (art. 25-decies of the Decree);
- Environmental crimes (art. 25-undecies of the Decree);
- Crime of employing illegally staying third country national (art. 25-duodecies of the Decree).
- Racism and xenophobia crimes (art. 25-terdecies of the Decree).

## 2.7. ATTEMPT<sup>9</sup>


Fines and disqualification measures are reduced by one third to a half with respect to commission of the offences set out in this chapter of the decree, in the case of attempted felonies.

The board is not liable when of its own volition it prevents the action or completion of the event.

## 2.8. CRIME COMMITTED ABROAD<sup>10</sup>

<sup>9</sup> Art. 26 of the Decree

<sup>10</sup> Art. 4 of the Decree

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As Racmet registered office is in Italy, when the crimes and offences are committed abroad, the board is liable only the cases and under the conditions forecast in articles 7<sup>11</sup>, 8<sup>12</sup>, 9<sup>13</sup> e 10<sup>14</sup> of the Italian criminal code on condition that the State where the crime or offence was committed decided not to proceed.

## 2.9. PENALTY SYSTEM<sup>15</sup>

When an offence is committed by the management or by people managed and supervised by the management, the criminal judge will ascertain the administrative offence committed by the company, imposing the penalties forecast by the Decree.

Penalties are fines or disqualifications<sup>16</sup>. What is more always as a penalty, seizure of the proceeds or profits of the offence<sup>17</sup>, and in case of a disqualification, the possible publication of the conviction<sup>18</sup>.

Fines are compulsory in case the board is recognised liable<sup>19</sup>.

In order to determine the amount of the fine, the Decree forecasts a system based on quotas.

The amount of the quota is set on the basis of the board's economic condition and its assets in order to ensure that the penalty is effective from a minimum (never less than one hundred) and maximum (never more than a thousand) quotas<sup>20</sup>.

In order to determine the amount of the fine the judge decides on the number of quotas taking account of the severity of the act, the degree of liability on the part of the board and the activity performed to eliminate or mitigate the consequences of the act and in order to prevent the commission of further unlawful acts<sup>21</sup>, what is more the judge sets the amount of the quotas (from a minimum EUR 258.00 to a maximum of EUR 1,549.00) The amount of the quota is set on the

<sup>11</sup> Art. 7 of the Italian criminal code forecasts a criminal liability when the citizen or the foreigner committed a crime abroad: a crime against a State member, counterfeiting or alteration of the State seal or the use of the counterfeited seal; foreign money that is legally valid in the State or stamp or Italian public credit cards; an offence committed by public officer, abusing his powers or violating its duties according to the function he has; any other crime which any legal provision or international convention forecast that the Italian criminal law should apply.

<sup>12</sup> Art. 8 of the Italian criminal code punishes political offences committed abroad by an Italian citizen or a foreign citizen.

<sup>13</sup> Art. 9 of the Italian criminal code punishes any common crime of an Italian citizen abroad, when overcoming specific criminal liability thresholds.

<sup>14</sup> Art. 10 of the Italian criminal code punishes the common crime of a foreign citizen abroad, when once more overcoming specific criminal liability thresholds.

<sup>15</sup> Articles 9 and 16 of the Decree

<sup>16</sup> Art. 9 paragraph 1 of the Decree


<sup>17</sup> Art. 19 of the Decree

<sup>18</sup> Art. 18 of the Decree

<sup>19</sup> Art. 10 paragraph 1 of the Decree

<sup>20</sup> Art. 10 paragraph 2 of the Decree

<sup>21</sup> Art. 11 paragraph 1 of the Decree

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basis of the board's economic condition and its assets in order to ensure that the penalty is effective<sup>22</sup>.

A reduction of the fine is forecast.

The fine is reduced by half in case the perpetrator of the offence committed it primarily in his or her own interest or in the interest of third parties and the board obtained no advantage or obtained no minimum advantage.<sup>23</sup>

The penalty is reduced by between one third and one half if, prior to the commencement of court of first instance proceedings, the board provided full compensation for the loss or damage and eliminated all harmful or hazardous consequences of the offence or otherwise if it took effective action to that end and an organisational Model is adopted and is implemented which is able to prevent offences of the type occurring<sup>24</sup>

- Disqualification measures, from three months to two years<sup>25</sup>, are applied jointly in the event of offences<sup>26</sup>, for which disqualification is expressly provided, where at least one of the following conditions is met<sup>27</sup>: deprivation of exercising any activity;
- Suspension or removal of authorisations, licences or concessions serving to commit the unlawful act;
- Prohibition on entering into contracts with the public administration, unless done so in order to obtain a public service;
- Exclusion from benefits, loans, contributions or subsidies and possible Removal of those already granted;
- Prohibition on publicising goods or services.

Disqualifications apply in the following cases<sup>28</sup>:

- a) In the event of repeated unlawful acts;
- b) When the board obtains significant profit from the offence and the offence;
- c) The offence is committed by senior officers;

<sup>22</sup> Art. 11 paragraph 2 of the Decree

<sup>23</sup> Art. 12 paragraph 1 of the Decree


<sup>24</sup> Art. 12 paragraph 2 of the Decree

<sup>25</sup> Art. 13 paragraph 2 of the Decree

<sup>26</sup> Art. 14 paragraph 3 of the Decree

<sup>27</sup> Art 9 paragraph 2 of the Decree

<sup>28</sup> Art. 13 of the Decree

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- d) By people reporting to others when, in this case, commission of the offence is caused or facilitated by severe organisational shortcomings;

### 3. THE COMPANY ORGANISATION CHART

#### 3.1 GOVERNANCE

Racmet selected the traditional administration and control Model, based on the single manager or a Board of Directors, consisting from two to nine members, non partners as well<sup>29</sup>.

On the reference date, September 1, 2015, and at present as well, Racmet is managed by a Board of Directors consisting of three member, the Chairman included.

The Racmet Board of Directors is vested with wide and unlimited powers for the ordinary and extraordinary Company management, with no exception whatsoever<sup>30</sup>.

It is furthermore specified that with resolution of the Board of Directors dating back to May 29, 2014, Prot. Company register n. 15406/2014 the Chairman of the Board of Directors Pierluigi Ceccardi was granted the powers to carry out, separately from the other directors in office, any ordinary and extraordinary company management activity, unless any other power granted by the law or by the by-laws of the Board of Directors.

With the same resolution, the director Guido Ceccardi was assigned the powers to carry out, separately from the other directors in office, any ordinary management activity and the sales and purchases of registered movable goods.

With the same resolution, the director Antonella Ceccardi was appointed manager of the company image.


The Chairmanship and the General management controls five different departments, as reported in the Organisation chart (Enclosure D): HR, Finance/Management control, Industrial, Commercial, Purchases/Management assistant, each area managed by a director.

The Chairmanship and the General management furthermore are liable for imports and quality, each department is managed by a director.

<sup>29</sup> Art. 19 of the By-laws

<sup>30</sup> Art. 20 of the By-laws



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As for HR, Finance/Management control and Purchases, each director directly controls three people.

The Industrial department and Commercial department are more complexly managed as hereinafter reported.

The Industrial department director manages the Production, Tooling, Production Planning, Technical departments, the Ship sector and Planning and Method managers.

The Commercial director manages the Foreign country area managers, the Italian market manager, the Customer care manager, the Shipping and Naval sector managers, as well as the Marketing assistant and the Product Manager.

The Production director controls the Pressfitting and Cutting department managers, the Carbon department manager, the Pilastro secondary unit managers, the Packaging and welding stainless steel department managers and the Robotics manager as well.

The Technical department manager controls the Product and process department development managers.

\*

The Supervisory Board is liable for the audit.

## **4. THE ORGANISATION, MANAGEMENT AND CONTROL MODEL**


### **4.1 INTRODUCTION AND GOALS**

Racmet since October 2013 enforced a Code of Conduct, sensitive to the requirement to comply its company mission to the highest possible ethical and social principles.

Aiming at a correct, rational and transparent management of its activity, rigorously compliant with the law, Racmet decided to enforce a complete organisation, management and control Model in compliance with the Decree, to the benefit of its employees, customers, vendors, consultants and investors but of the community and the environment as well.

At the same time the Model will represent Racmet exemption from any administrative liability in case of an offence, and alleged offence as well.

The effective enforcement of a suitable Model to prevent crimes and offences will represent on the one side a drive to improve the internal control system and on the other it will improve the legality culture inside and the Racmet image outside the company.

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#### 4.2. MODEL FUNCTION

The Model aims through its capillary spreading and complete information and training of any entity working for Racmet at:

- a) Building an organic and consistent array of procedures governing its activities;
- b) Introducing an effective control system allowing to rapidly and effectively intervene and contrast any offence being committed;
- c) Setting up a penalty system in case of violation;

finally getting its effective compliance and respect.

Finally Racmet intends to introduce, as effectively as possible, at any level, a high ethical and rigorous culture of compliance with legality and correctness as to allow anybody within the company to be aware the no violation will be accepted, even in the possible interest or to the benefit of the company.

However anybody within Racmet should be informed that there is the concrete possibility to commit an offence punished with a penalty, severely condemned by Racmet anyhow, and that the compliance with the procedures forecast in the Model allows to avoid any crime or offence being committed.

The Model furthermore aims at spreading a control culture, which should govern any final decision or operation within the company activity, being fully aware of risks involved when committing a crime.


#### 4.3. MODEL STRUCTURE AND CONSTRUCTION

The Model is based on two sections:

- a) a **general part**, dedicated to the description of the reference regulations and to identify its construction criteria, structure and operation.
- b) a **special part**, divided on its turn in many sections as the company activities, where the risk areas are being examined, the procedures to be enforced and followed, the specific training and controls to be enforced.

When building the Model, the Entrepreneur's association guidelines were complied with, in the last version approved in March 2014, and the existing *best practices*.

The Model building activity was beforehand based on:

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- Mapping of the risk areas: all the activities carried out by the Company were assessed as well as the activities which could possibly lead to a crime or offence (risk areas), as an essential condition to a suitable preventive organisation;
- Analysis of the company documents considered relevant and interviews to the officers and employees carrying out activities which could possibly lead to a crime or offence;
- Analysis of the existing control system in Racmet as to prevent the risk of committing any offence;
- Identification of the specific procedures and integral measure to be enforced, required to improve existing procedures and control systems.


#### **4.4. RELEVANT CRIMES FOR THE COMPANY**

The adoption and the enforcement of a Model is a suitable step forward to encourage the received to drive and support a legality and correctness culture, discouraging then any offence or crime being committed.

A main and leading attention was paid to the offences, which duly taking Racmet structure and activity into account are more likely and risky to be committed.

Duly considering the structure and the company activity and the areas which are potentially more likely to be prone to an offence, what follows really matters:

- Offences in the relationships with the Public administration (articles 24 and 25 of the Decree);
- Offences against the public faith (art. 25-bis of the Decree);
- Company offences or corruption or bribery among private citizens (art. 25-ter of the Decree);
- Felonies committed for purposes of terrorism or felonies designed to subvert democracy (art. 25-quater of the Decree);
- Offences against life and individual safety (art. 25-quater 1 of the Decree);
- Felonies against individual's freedoms (art. 25-quinquies of the Decree);
- Manslaughter or serious bodily harm committed with breach of laws governing the safeguarding of workplace health and safety (art. 25-septies of the Decree)
- Handling stolen goods, laundering and use of money, assets or benefits whose origin is illegal (art. 25-octies of the Decree);
- IT-related felonies and unlawful processing of data (art. 24-bis of the Decree);

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- Felonies committed by criminal organisations (art. 24-ter of the Decree);
- Felonies against industry and commerce (art. 25-bis 1 of the Decree);
- Inducements not to make statements or to make false statements to the court (art. 25-decies of the Decree);
- Environmental crimes (art. 25-undecies of the Decree);
- Crime of employing illegally staying third country national (art. 25-duodecies of the Decree).
- Racism and xenophobia crimes (art. 25-terdecies of the Decree).

For the time being no offences relating to the market abuses were considered, as Racmet is not listed to the Stock Exchange or issued any financial instrument admitted in the negotiation in a negotiation multilateral system.


What is more no felonies regarding breach of copyright (art. 25-novies of the Decree) were considered as they are not among the crimes or offences which the Company can commit.

Following the introduction of art. 25-terdecies of the Decree (the article was supplemented by the law n. 167/2017) dealing with racial discrimination and xenophobia, the relevance of racism and xenophobia crime inside the company was assessed and the risk was considered low. The Special part was anyhow adjusted to the new regulation.

On December 29, 2017 the regulation 179 dating back to November 30, 2017 was enforce relating to the "*provisions for the protection of the authors reporting offences and irregularities which they were informed of during their public or private employment*", this is whistleblowing (Published on the Official Gazette, General series n. 291 dating back to December 14, 2017).

The law changes art. 6 of the Law decree 231/2001 supplementing the paragraph 2 of art. 6 of the Decree, the paragraphs 2-bis, 2-ter and 2-quater, forecasting that the Model should specify what follows:

- At least one ore more channels is to be provided allowing, to provide for the protection of the company, of specific reporting of illegal behaviours by managers or their employee;
- At least one alternative reporting channel is to be provided suitable to provide, with IT modes, the person reporting identity confidentiality;
- The ban of harrassment or discrimination applies, directly or indirectly against the person reporting the offence, for rasons directly or indirectly connected to the reporting;
- Sanctions are to be appiied against whoever violates the person reporting the offence protection as well as against whoever willfully reports false information;

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- Any discrimination against the person reporting the offence should be reported to the National employment Inspector authority as well as to the person Trade Union.
- Any harassment or discrimination against the person reporting the offence is nil: it is up to the employer to prove that such measures were based on different reasons from the reporting.

As to correctly enforce the regulation, the Company enforced a specific procedure integral to the Model (Annexe E).

#### **4.5. CHANGES AND SUPPLEMENTS TO THE MODEL**

Following changes to Racmet structure and legislation changes and supplements as well, or if required, the Board of Directors, on a request of the Supervisory Board, will enforce any change or supplement required to the Model.

### **5. THE CONTROL BOARD: THE SUPERVISORY BOARD**

Among the conditions forecast by art. 6 of the Decree, to exempt the board from any administrative liability when committing a crime, the Supervisory board is liable for overseeing such operations, compliance with the Models and for seeing to updating of same has been delegated to an organisation within the board vested with powers to act on its own initiative and conduct monitoring<sup>31</sup>.

Within share capital companies, the Supervisory Board can be the Board of Auditors<sup>32</sup>.


#### **5.1. COMPOSITION, APPOINTMENT, DURATION, FREQUENCY OF MEETING AND GENERAL AUDIT**

Racmet decided to appoint a Supervisory Board consisting for four members, three from the outside and one internal member.

Decisions on the number of members of the Supervisory Board, its appointment and remuneration as well as on the appointment of its Chairman are taken by the Board of Directors.

<sup>31</sup> Art. 6 paragraph 1, letter b) of the Decree

<sup>32</sup> Art. 6 paragraph 4-bis of the Decree

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The Supervisory Board will be in office as well as the Board of Directors, unless the Board of Directors comes to a different decision.

The members of the Supervisory Board are in office according to a *prorogatio* regime until a replacement member or a new member is appointed.

The members of the Supervisory Board should be independent, professional, honourable and with no conflicts of interests.

The member of the Board of Directors should comply with the following eligibility criteria and in case of losing them during their mandate, they are removed from office (and they should promptly inform the Board of Directors of a similar event):

- No cause of non eligibility and no more possibilities to be in office as a director of the limited liability company as forecast by art. 2383 of the Italian civil code;
- Independence;
- No indictment and conviction for an offence;
- No indictment and conviction for a non-criminal offence or leading to interdiction, temporary as well, from public office or directive offices of juridical people.


The Supervisory Board will meet at least once every two months, drafting minutes of its meetings.

## 5.2. REMOVAL

Unless one of the previous cases arrive, the members of the Supervisory Board can't be removed from office if not for a rightful cause, with a resolution approved by the Board of Directors, asking the opinion beforehand of the Board of Auditors.

A rightful cause for Removal and dismissal is:

- a) A conviction or plea bargain by Racmet, which has the force of a *res judicata*, for any administrative liability in a crime, after a "missing or insufficient supervision" of the Supervisory Board;
- b) A severe neglect or malpractice in complying with its mandate and office;
- c) A violation of the Model;
- d) No participation to three consecutive meetings of the Supervisory Board with no justification at all.

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### 5.3. FUNCTIONS AND POWERS

The Supervisory Board is independent (from any other company managing and control Board) when carrying out its functions and it is financially independent as well, being granted a yearly budget by the Board of Directors, which should be receiving by the end of the year a financial statement together with the yearly report.


No activity by the Supervisory Board can be questioned by the other Racmet Boards.

The Supervisory Board drafts its own regulation to be later forwarded to the Board of Directors and to the Board of Auditors.

The Supervisory Board, when carrying out its supervisory and control activities, as well as when effectively enforcing the Model, is free to access any part of the company and can ask for information, schedule interviews, check and request and get copies of documents, call any officer or manager or supervisor, with no limitation whatsoever, and a missing response is to be considered a disciplinary offence.

The Supervisory Board is also liable for:

- Supervising the correct enforcement and compliance with the Model by the receivers;
- Supervising the compliance and efficacy of the Model, checking if it is known by the Receivers, correctly enforced and with reference to the company structure, concretely suitable to prevent offences in the different company risk areas;
- Checking the receivers' knowledge of the Model is suitable or it should be improved;
- Checking the IT system suitability to know the Model;
- If the Model needs to be updated or improved following regulation changes, changes to the company organisation and simply due to gaps in its structure of formulation, at the application level only;
- Under such conditions, immediately and promptly inform the Board of Directors and the Board of Auditors on the required activities, actions and measures to be enforced;
- Checking if the company control systems required to apply the Model at any level whatsoever are operating and efficient;
- Enforcing any surprise or spot checks in the different risk areas to identify the compliance of their mapping and the Model knowledge, compliance and enforcement level on site;
- Checking the compliance of the procedures and standard provisions forecast in the Model special parts;

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- Promoting with the other Boards and company entities, the organisation of periodical training courses on the Model and forecast Model procedures while supervising that the documents (including diagrams, instructions, periodical clarifications) drafted to spread information and knowledge of the Model is clear and fully understandable and understood;
- Organising periodical meetings with the other company entities to further broaden in details the Model compliance modes;
- Checking that documents on the enforced procedures are correctly drafted and filed;M
- Checking the regular information flow to the Supervisory Board, from the Supervisory Board to the Board of Directors and to the Board of Auditors;
- Checking the company financial flow regularity;
- Internally investigating to check possible violations and breaches and the management reaction degree in case of penalties applied to the managers;
- Checking the compliance and the correct operating of the disciplinary and sanction system in case of violations or breaches to the Model, towards the managements undergoing supervision and control and in case of any defence mechanisms to the outside (such as the withdrawal from contracts signed with customers or vendors);
- Promptly suggesting any required internal corrective measures or updates to the Model, should they be required following the above-mentioned activity.

When carrying out the activities it is liable for, the Supervisory Board can profit from company resources which are from time to time required.


The Supervisory Board, regularly, drafts minutes of the its meetings.

Every year the Supervisory Board drafts a yearly report and statement relating to its activity (including the financial statement on the budget provided by the Board of Directors), and reports the most important events and facts, legislation improvements and/or jurisprudence updates and Racmet organisation changes enforced during the considered time period.

Should any specialised activity or consulting required, which are not available within Racmet, the Supervisory Board could rely external consultants, profiting from the budget provided by the Board of Directors.

The members of the Supervisory Board are sworn to the utmost confidentiality toward the outside on any information they are provided.



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## 6. INFORMATION FLOWS

In Art. 6 paragraph 2, letter d) of the Decree, it is specified that the Supervisory Board should comply with the obligations to disclose information to the organisation tasked with overseeing the working of and compliance with the Model.

### 6.1 INFORMATION FLOWS FROM THE SUPERVISORY BOARD

The Supervisory Board reports any event considered relevant as to provide for the most effective enforcement and operation of the Model to the Board of Directors.

More precisely the Supervisory Board:

- In its yearly report to the Board of Directors, it should introduce its activity program and planning for the following year;
- Every six months, it should introduce the Board of Directors and the Board of Auditors the results of the enforced controls, including any reasonable or legal consequence;
- It should promptly inform the Board of Directors and the Board of Auditors about any required update of the Model as for any change enforced at the company or legislation level and at the shortcomings and deficiencies detected.


The Chairman of the Supervisory Board is invited and is entitled to take part to the meetings of the Board of Directors and the Board of Auditors as to report about the Model enforcement and about any reported problem and issue.

### 6.2. INFORMATION FLOWS TO THE SUPERVISORY BOARD

The Supervisory Board should be promptly informed in writing by the other company managers about any relevant event, about the effects of a possible crime or offence committed or about any violation, breach or issue relating to the Model operation.

More precisely, the Supervisory Board should be immediately informed in writing:

- About any internal investigation reporting a possible crime or offence committed;
- About any information on the ongoing inquiries by the Judicial police or by any police, by the judiciary, against people unknown as well, as for a possible crime of offence committed;

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- About any legal support request by managers or employees controlled and manage in case of legal, judiciary or administrative proceedings taken for a possible crime of offence committed;
- About any reporting of possible violations or breaches to the Model;
- About any possible issue relating to the environmental protection or safety, security and health on the workplace, with a alleged offence suggested;
- About any operation enforced derogating any procedures connected to the Model;
- About any disciplinary procedure relating to the Model violation or breach;
- About any change to internal proxies and delegations;
- About any change to the company structure;
- About the minutes of the Board of Directors and Board of Auditors;
- About any relevant judicial dispute;

The Supervisory Board is granted a dedicated e-mail address, spread out to any Model receiver, as to allow the Model receivers (including employees, agents, consultants, operators, customers), to turn to the Supervisory Board to ask for any information, to report any relevant event or issue, any violation or breach of the Model as well.

Each Racmet employee can address the Supervisory Board to report:


- Possible violations to the Model;
- Possible failures of the Model;
- Events which can possibly affect the Model enforcement;

Any company employee could directly address the Supervisory Board to ask for any clarification on doubts relating to the Model enforcement.

#### *PROTOCOL 1: MANAGEMENT OF FLOWS TO AND FROM THE SUPERVISORY BOARD*

##### ***Control of the compliance to the Model***

- The Supervisory Board will meet at least once every two months drafting minutes of its meetings.
- On the occasion of the six month meetings, the Supervisory Board calls the Racmet general management and the managers of the single departments and asks for a statement of

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what happened during the two-month period considered.

- The Chairman of the Supervisory Board is entitled to take part to the Board of Directors and Board of Auditors meetings and he/she should take part to the meetings where he/she should report on the Model enforcement and on any possible reported issues;
- The minutes of the Supervisory Board's meetings are forwarded to the Company management, for the specific measures to be enforced according to the Supervisory board suggestions.

## 7. PENALTY AND DISCIPLINARY SYSTEM

### 7.1. GENERAL PRINCIPLES

In Art. 6, paragraph 2, letter e) of the Decree with regards to the extension of delegated powers and the risk of committing offences, it is specified that the Model must fulfil the following requirements that is introduce a new disciplinary system to punish non compliance with the measures set out in the Model.

Penalties forecast are to be approved and enforced notwithstanding the result of the criminal proceeding for the crime or offence.


No commitment but complete independence between the criminal/judicial level and the disciplinary/penalty level, independently approved by Racmet, at the private company level only.

That being stated, Racmet enforced:

- a) The penalty system forecast against the company employees by the National collective labour agreement as well as any other measure described in *infra* sub 7.2;
- b) The penalty system forecast against managers, company boards, members of the Supervisory Board, vendors and partners described in *infra* sub 7.3, 7.4, 7.5 and 7.6.

The type and the consistency of the penalty would depend on the intention or degree of negligence of the entity concern to be sanctioned, considering a possible relapse or any other relevant fact or circumstance.

Anyhow the penalty or the disciplinary measure should comply with the legislation and regulations in force and the national labour contracts.

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## 7.2. PENALTIES TO EMPLOYEES

Whenever an employee violates the provisions in the Code of Conduct or in the Model he/she violates his/her primary liability in his/her employment contract and commits an unlawful act.

Racmet invites its employees to report any violation to the Model to their supervisors or eventually the Supervisory Board .

Penalties are forecast in the National labour contract that is:


- a) Verbal warning;
- b) Written admonition;
- c) Fine accounting for no more than three paid hours, calculated on the minimum wage;
- d) Suspension from the operating activity and compensation up to a maximum of three days;
- e) Firing for failures.

The following conducts lead to penalties:

- a) Verbal warning:

In case of violation of the internal procedures forecast by the Model (for example no compliance with the procedures, missing communication to the Supervisory Board of prescribed information, missing controls, etc.) or in case of any conduct, in case of sensitive activities in the risk areas, which are not compliant with the Model: such conducts represent a missing compliance with the provisions imposed by the Company; Such conducts represent a missing compliance with the provisions imposed by the Company;

- b) Written admonition: In case of relapse of violation or breach and/or of one of the above-mentioned conducts, or in case of repeated violations even though consistently different: such conducts represent a missing compliance with the provisions imposed by the Company;
- c) Fine accounting for no more than three paid hours, calculated on the minimum wage:  
When the violation and/or the above-mentioned conducts objectively endanger the company assets: such conducts, as they represent a missing compliance with the provisions imposed by the Company, would lead to a danger of the company asset and they are against and contrary to the Company interests;
- d) Suspension from the operating activity and compensation up to a maximum of three days:  
In case of relapses for more than three times of the violations and/or the above-mentioned conducts, leading to damages to the company with acts contrary to its interests: such

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conducts, as they represent a missing compliance with the provisions imposed by the Company, would lead to a danger of the company asset and they are against and contrary to the Company interests;

e) Firing for failures;:

e1) firing with notice:

In case of violations and/or the above-mentioned conducts, when univocally aiming at committing an offence or a crime: such conducts, representing a severe non compliance with the provisions imposed by the Company, lead to a consistent damage and to an injurious situation for the Company itself;

e2) firing with no notice:

In case of a clear violation of the internal procedures forecast in the Model, no control and/or in case of enforcement when carrying out sensitive activities in the risk areas, of a conduct which is evidently non compliant with the Model, thus leading to the risk of a concrete enforcement against the Company of measures/penalties forecast in the Legislative decree: such conducts as a consequence of the severe non compliances with the provisions imposed by the Company, clearly and radically undermine the Company trust in the employee and constitute a severe prejudice for the Company.


\*

The type of the listed penalties will depend on what follows:

- Intention behind the employee conduct or the degree of negligence (e.g. negligence, imprudence, malpractice, inexperience) in terms of the event predictability;
- General employee conduct, with reference to the previous disciplinary measures enforced as well;
- Activities and tasks;
- Offices covered;
- Any other event the disciplinary which violation takes place to.

### **7.3. MEASURES TAKEN AGAINST MANAGERS**

The managers are obliged to comply with the Model provisions and they should have their employees comply with them.

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Their violations/breaches lead to penalties forecast by the National labour contract for Industrial managers, including the termination of the employment contract in case of violations to the provisions forecast in the Model or in case of any conduct, when carrying out sensitive activities in the risk areas, which is not compliant with the Model – including but non limited to:

- Non vigilance on the employee they hierarchically supervise in terms of compliance and obligations forecast in the Decree and in the Model;
- No reporting of any breach and/or violation and/or failures when enforcing the Model, who he/she was informed of;
- No reporting to the Supervisory Board of any critical issue when enforcing any sensitive activity in the risk areas;
- Direct violation of the Model;

#### **7.4. MEASURES TAKEN AGAINST OFFICERS AND AUDITORS**

In case of violation of the Decree and provisions in the Model by the officers and auditors, the Supervisory board should immediately inform the Board of Directors and the Board of Auditors, which should immediately enforce any demanded measure.

The person affected is to be guaranteed the right to a defence and therefore he/she should be granted a term to provide for his/her remarks, evidences and possible written defence and he/she should be heard before any penalty or other measure be enforced.


#### **7.5. MEASURES TAKEN AGAINST THE MEMBERS OF THE SUPERVISORY BOARD**

In case of missing supervision and vigilance by the Supervisory Board on the correct, concrete and effective enforcement of the Model or in case of negligence or malpractice when complying with its duties forecast in the Decree and in the Model, including the duty to update the Model in all the cases forecast in the Decree, the Board of Directors will enforce the due disciplinary measures.

The person affected is to be guaranteed the right to a defence and therefore he/she should be granted a term to provide for his/her remarks, evidences and possible written defence and he/she should be heard before any penalty or other measure be enforced.

#### **7.6. MEASURES TAKEN AGAINST VENDORS AND PARTNERS**

In the agreements with vendors and partners, commercial partners as well, or Company consultants a specific provision is to be supplemented where, when duly informed about the

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Model, the possible contract consequences are forecast, including the termination of any contracts in case of violation of the provisions held in the Model.

In case of violation, the Company should enforce the required measures by the contract, and in case of severe violation/breach, even the contract termination.

## **8. COMMUNICATION AND TRAINING PLAN**

### **8.1. MODEL RECEIVERS**

The rules specified in the Model apply first of all to whoever is liable for any representation, administrative or management activity on behalf and the name of the Company and to whoever in a way or another is liable for the Company management and control.

The Model furthermore applies to all the Company employees.

What is more the Model applies, within the existing relationship, to whoever, even though not directly employed by the company, carries out any activity on its mandate, on its name or its behalf or is anyhow connected to the Company by a juridical relationship, trying to prevent crimes and offences.


The receivers of the Model are:

- Whoever is representing, administering or controlling the Company;
- Whoever, practically, manages and controls the Company;
- Whoever is subjected to the management and supervision from the above-mentioned subjects;
- Whoever works to reach the company purpose and its goals, even though according and based on a private contract and not directly employed (subcontracting company employees, vendors, commercial partners as well, consultants).

The Model receivers should correctly and diligently comply with all the provisions and protocols specified in the Model as well as with all the enforcement procedures forecast.

### **8.2. COMMUNICATION PLAN**

Racmet, as to concretely and effectively enforce the Model, spreads it throughout inside the company and outside as well, as suitably requested, among partners, commercial vendors and consultants as well.

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Not only employees will be informed in details about the Model, the Code of Conduct and their reference principles, but third parties as well, which do not belong to the company, but having, occasional as well, business relationships with the Company.

Thus the Manager of the department liable for the legal and company affair management, consulting the Manager of the department the business contracts or relationships apply to, preliminarily defined the juridical relationships with the external subjects to the Company, who, duly taking the type of enforced activity into account, should be applied the Model forecasts.

The Manager of the department liable for the legal and company affair management, consulting the Manager of the department the business contracts or relationships apply to, defines the Model communication modes to the affected external subjects as well the demanded procedures to comply with the Model provisions, as to provide, drive and support the effective knowledge of the Model by the affected subjects.

The Manager of the department liable for the legal and company affair management, should file and store a list, updated whenever required, of any subject the Model and the Code of Conduct are reported to, including the specific communication modes.

The communication scopes and control parameters to check its efficacy are the following:

- Inform in details the Model Receivers, making them aware of the risk they run in case of violations/breaches and crimes/offences in general in case they violate/breach the provisions specified in the Model;
- Inform the Receivers that violations/breaches are against Racmet enforced ethical principles and they are not accepted or tolerated;
- Inform them that any violation will absolutely lead to a suitable penalty.

The communication will be diversified and comply with the different Receivers.


It will anyhow be inspired by the completeness, correctness and accessibility criteria

## **8.2. TRAINING PLAN**

Training is directly managed by the HR manager, in co-operation and under the control of the Supervisory Board. It is double, initial and continuous.

The initial training aims at spreading out in details the spirit and the provisions in the Model, both as for its general and for its special parts relating to the activities possibly leading to crimes/offences by the Receiver and to completely and comprehensively inform about the procedures and provisions the Receiver should compulsorily enforce during his/her activity.



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The continuous training aims at spreading out a consistent, detailed and deep awareness and knowledge of the Model and provisions each single Receiver is obliged to rigorously comply with in detail.

It is not simply enough to inform the Receivers of any changes to the Model required after any legislation or Racmet structure or operation change, but to guarantee that any Receiver in time is still aware of the Model philosophy, based on a strict and rigorous legality of the procedures and of the single procedures relating to his/her specific activity.

Thus Racmet defined in co-operation and with the supervision of the Supervisory Board a yearly training plan.

The yearly training plan specifies:

- The affected Receivers;
- The demanded knowledge level for training;
- The content of the training offers different according to the type of Receivers;
- The education and training tools (class training, e-learning, etc.);
- Minimum training classes;
- Training level control at the end of the classes;


Periodical meetings are called among the Managers of the different affected departments and the Supervisory Board, to check that the training plan is suitable to comply with the specific requirements, it leads to the demanded information results, it is adjusted and modified according to the real training and education teaching experience and anyhow it is updated according to any legislative or organisation or activity change, enforced in time.

The non-participation to the continuous training activity is a crime and offence leading to disciplinary actions and penalties as well.

The HR manager, in co-operation with the Supervisory Board, will regularly spot check the employee awareness and knowledge of the Code of Conduct and Model, both for the general and special information as well.

## **9. PERIODICAL CONTROLS**

The Supervisory Board is liable for constantly checking and monitoring the Model and to ensure its compliance to prevent crimes and offences.

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The Model, besides being updated in case of any legislation amendment or change, at the organisation level only as well, to Racmet activities, possibly affecting the Model, is constantly accurately checked and supervised every six months, according to the period enforcement and application experience.

During the periodical controls, it will be necessary to check what follows:

- The Model compliance to prevent crimes–offences within Racmet, as well as its compliance with the regulations and legislation in force and the activities carried out by the Company;
- The enforcement of the Model and its compliance at any company department and level;
- The compliance of the enforced controls;
- The reporting received on possible violations/breaches;
- The enforcement of any disciplinary penalty in case of violations/breaches to the Model;

## 10. MODEL AND CODE OF CONDUCT


The Code of Conduct is the prerequisite and reference for the Model and it is integral to it.

The Code of Conduct describes and represents the ethical and correctness principles Racmet based its activity and its roles in the social community.

Both the Code of Conduct and the Model include the conduct regulations which anybody should comply with working for Racmet, inside and outside the company, even though such regulations depend and come from different sources.


The Code of conduct was enforced by Racmet to qualify its activity in compliance with its inspiring ethical principles, shared by its employees aiming at the sustainable and harmonic development of the socio–economic and environmental framework where it works.

The Code of Conduct complies with the regulation framework of the Decree and with the new administrative liabilities of the companies in case of events representing an offence/crime.

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# **ORGANISATION, MANAGEMENT AND CONTROL MODEL ACCORDING TO LAW DECREE N. 231 DATING BACK TO JUNE 8, 2001**

**Special part**

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## **1. SPECIAL PART A: OFFENCES AND CRIMES COMMITTED AGAINST THE PUBLIC**

### **1.1 INTRODUCTION TO THE OFFENCE CASES COMMITTED IN THE RELATIONSHIPS WITH THE PUBLIC ADMINISTRATION, BASIC CONDITION OF THE INSTITUTION ADMINISTRATION LIABILITY**

The knowledge of the structure and the crime mode committing by subjects qualified according to art. 5 of the Law decree 231/01 is strictly connected to the company liability, it is functional to the prevention of relevant offences and crimes and therefore to the entire control system forecast by the decree.

Articles 24 and 24 of the Law decree 231/01 identify as or the crimes which are directly connected to the company liability, a series of assumed crimes strictly connected and depending on the possible relationship between the Company and the Public administration.

Great many cases in points listed in the articles are real crimes, as they can be committed and perpetrated only by “public officer” or “manager liable for public service”.

In compliance with art. 357, first paragraph, of the Italian criminal code, a “public officer” is a person who exercises “a legislative, judicial or administrative public function” (such as municipal department manager, ecological guards, authorised liquidators, etc.).


The definition of the categories of “subjects liable for public service” is not at present the same in all the legislations.

Art. 358 of the Italian criminal code defines “people liable for a public service are people performing the public service at any title whatsoever”.

“Public service” is any “activity governed in the same way as a public function, but not with the same typical powers, with the exception of simple material tasks and performances”.

The “service”, as to be defined public, should be governed – as in the case of the “public function” – by public law, with no certification, authorisation and deliberation powers typical of a public function.

The discriminating factor as to identify if a subject is or he/she is not a “person liable for a public service” is not represented by the juridical natural of the institution, but by functions all the subjects are to carry out, that is they are liable for caring for the public interests and for

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complying with general interest requirements (for example, the municipal department employees comply with such definition when they draft certificates but then they are not able to sign them, the health-care company employees, etc.).

In other words, the qualification “public officer” or “person liable for a public service” does not only apply to employees of public institutions in the strict sense of the word but to employees of any institution governed by private law which in reality carry out activities or perform services in the interest of the community.


Hereinafter annexed the list of the behaviours which in compliance with art. 24 and 25 of the Law decree 231/11 can lead to the institution liability.

- **Embezzlement to the prejudice of the State (art. 316-Bis of the Italian Civil Code)**

This crime entails when legitimately getting financing and contributions by the Italian authorities or by the European Union, there is a this entails misappropriation to the damage of the State, undue receipt of payments to the damage of the State, fraud with public institutions, aggravated fraud to receive public funds, computer fraud (the crime in fact includes the partial misappropriation as well of any amount received, it is not important anyhow that the planned and financed activity was carried out as well).

- **Undue receipt of payments, fraud against the State or a public institution or for obtaining public funds and computer fraud to the damage of the State or a public institution (art. 316-ter of the Italian civil code)**

The offence is committed in all the cases when – through the use of false returns o reports or due information omission – obtained without having rights, contributions, financing, subsidised loans and other similar loans granted or obtained from the State, by other public institutions or by the European Union. The purpose for which the funds are used is irrelevant, as the Offence is committed at the time when the funds are received.

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It should be noted that such Offence is of a reductive nature in regard to fraud to the detriment of the State, in that it applies only in those cases where the conduct does not provide sufficient grounds for a charge of fraud to the detriment of the State

- **Fraud to the detriment of the State or of other institutions or the European community (art. 640, paragraph 2, n. 1 of the Italian criminal code)**

This offence is committed when, with the intention of achieving a wrongful gain, artifices or expedients are employed in order to mislead or cause damage to the State (or to other Government Agency or the European Union).

This Offence would occur if, during the submission of documents or data for participation in a tender, untrue information is provided to the Government Agency (e.g. fabricated supporting documentation) in order to secure the award of the tender.


- **Aggravated fraud for the obtainment of public funds, established by art. 640 bis**

Italian criminal code and consisting in the same conduct referred to beforehand.

Such a crime is committed to obtain contributions, loans, subsidised loans or other funds of the same type, however they are called, granted or issued by the State, other public entities or the European Communities.

- **Computer fraud to the detriment of the State or another public body (art. 640-ter of the Italian criminal code )**

It constitutes of the conduct of a person who, by altering in any way whatsoever the functioning of an information technology or data transmission system, or by interfering without the right to do so in any way whatsoever on data, information or programmes contained in an information technology or data transmission system or pertinent to one, secures for himself or others an unjust advantage with damage to the State or another public body. By way of example, such an

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offence may occur in the event that, once a loan has been obtained, the IT system is tampered with for the purpose of changing the amount of the loan to an amount higher than that lawfully obtained, or where, the entries of a current account held by a Public Body are changed by unlawfully breaking into a home banking system.

▪ **Concussion (art. 317 of the Italian Criminal code)**

This crime occurs when a public official or a person in charge of a public service solicits money or other advantage, or the promise thereof, for performing, omitting or delaying acts which are part of his office or for performing acts in breach of his official duties.


This Offence is subject to a merely reductive application within the context of the offences contemplated by Legislative Decree 231/01; in particular, it may be possible to recognise the relative grounds for prosecution within the application of Legislative Decree 231/01 itself, when an employee or agent of the company concurs to the commission of the Offence by the government official who, taking advantage of such capacity, requests services from third parties to which he is not entitled (provided that, as a consequence of such conduct, the company in some manner derives a benefit)

▪ **Corruption in official acts or acts contrary to official duties (Articles 318 and 319 of the Italian Criminal Code)**

This Offence is committed when a government official or person responsible for a public service, abusing his role, compels another party to provide him or other persons with money or other benefits to which they are not entitled.

The activity of the government official may be influenced, be it to perform an official act (e.g. to give priority to matters which are part of his normal duties), be it to act in contrast with his duties (e.g. acceptance by a government official to ensure a tender award)

Bribery differs from extortion, in that there is an agreement between the corrupting and corrupted parties intended to attain a reciprocal benefit, whereas in the case of extortion the

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conduct of the government official or the person responsible for the public service is imposed upon the private party

- **Bribery in judicial proceedings (Art. 319-Ter of the Italian criminal code)**

This offence is committed when Raccorderie Metalliche is involved in legal proceedings and, in order to obtain an advantage in the legal proceeding itself, bribes a government official (not only a magistrate, but also clerk of the court or other officer).


The crime is more severely punished than simple corruption.

- **Judicial corruption (art. 319-Quater of the Italian criminal code)**

It consists in the conduct of the public officer or of a person in charge of a public service, who, abusing of his/her quality or of his/her powers, induces someone to give or to promise unjustly money or another utility for himself/herself or for a third party, by misusing his/her public office or his/her powers.

- **Instigation of bribery (art. 322 of the Italian Criminal code)**

It constitutes the conduct of a person who offers or promises money or another benefit not due, to a public official or a public service officer who has the capacity of public employee, to induce him to carry out an act of his office, when the offer or promise is not accepted, it constitutes the conduct of a person who offers or promises money or another benefit not due, to a public official or a public service officer who has the capacity of public employee, to induce him to carry out an act of his office, when the offer or promise is not accepted.


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▪ **Embezzlement, extortion, bribery and incitement to commit bribery of members of the bodies of the European Community and officials of the European Community and foreign States (art. 322-bis of the Italian Criminal Code).**

Art. 322-Bis of the Italian criminal code is similar in terms of crimes to the previous offences, as it applies to:

- The public officers and other people liable for public services within Italian, members of the European Community Commission, the European Parliament, the Court of Justice and the Court of Auditors of the European Communities; officials and agents employed on contracts pursuant to the by-laws applicable to EU officials or the regime applicable to agents of the EU; individuals seconded by EU member States or by any public or private body in the European Community, whose duties correspond to those of officials or agents of the European Community; members and employees of bodies constituted in accordance with the treaties establishing the European Community.
- individuals who, on behalf of member States of the European Union, carry out duties or activities that correspond to those of public officials and public service employees, judges, the public prosecutor, additional prosecutors, officials and servants of the International Criminal Court, the persons employed by the States adhering to the Treaty endorsed by the International Criminal Court who exercise functions corresponding to those of the officials and servants of the same Court, the members and officers of entities established in relation to the Treaty endorsed by the International Criminal Court.

The provisions foreseen by paragraph 2 is applicable even if the money or other benefit is given, offered or promised individuals who carry out duties or activities that correspond to those of public officials and public service employees of other foreign countries or international public organisations, if the offence is committed in order to obtain either for the individual in question or for a third party an unjustified advantage in international economic operations or in order to obtain or maintain an economic-financial operation.

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## 2. RISK ACTIVITY AREAS

Racmet as for its activity:

- does not have any commercial direct relationship with public institutions or administration;
- does not provide for any activity, subcontracting as well where the principal is a juridical person qualified as Public institution.

The point contact of the company with the Public administration refers to the sensitive processes:


- relationships with Public institutions to get financing and/or allowances;
- relationships with Public institutions to get authorisations, licences or grants required to carry out the company activities (building, environmental licences and others);
- management of the inspection (administrative, fiscal, social security, environmental, safety and hygiene on the workplace, etc.);
- management of the relationship with customs (for activities in foreign countries).

Hereinafter listed the activities which, according to their specific content, are more exposed to crimes according to articles 24 and 25 of Law decree 231/01:

*Get and use of financing and contributions by the State, ministers, local Public institution and by the European Community*

The theoretical risk associated with the use of financing/contributions for a different scope from the scope they were granted for (for example financing granted to enforce training programs or environmental improvement investments, healthcare and security on the workplaces and technological innovation as well, which the company changed to original scope of).

*Get financing, facilitated loans or other contributions by the State, public institutions or the European Community.*

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The theoretical risk is connected to the granting of public financing/contributions providing false information and/or documents or omitting due information.

*Management of the current relationships with public institutions to get authorisations and licences required to carry out any company activity.*

The theoretical risk is connected with the present relationship between the company employees that is between the consulting companies the company works with and people qualified as public officers or public service providers, which through a special connection could lead to specific behaviours from the Public administration as to get or ease out or remove obstacles to get authorisations or licences required to carry out the company activity.

*Granting and management, indirectly as well, of any external consulting or activity.*

The incident theoretical risk on the consulting and activity granting process consists of the possibility which it becomes a way to transfer money or other utilities to public people or subjects affecting the decisions of the public officers, aiming mainly at providing for benefits to the company. For example, the consulting activity granting to an expert is to be considered highly at risk, who at the same time is a manager of a public institution.


*Management of inspections (administrative, social security, safety on the workplace, etc.)*

The theoretical risk is connected to the possibility of profiting, in case of controls/inspections by public institutions or investigation authorities, of tools (such as amounts of money or granting utilities) aiming at unduly changing any result or to change the authorisation or licence granting procedure.

*Relationship with the public administration forecasting registrations or operations through IT technologies*

The theoretical risk is connected to any change to the Public administration IT recording later providing for documents proving facts or events which are not existing (for ex. Data relating to the hiring of staff belonging to protected categories, filing up of any tax returns, payment of social security contributions and taxes as well) or even change tax/social security data in the interest of



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the company which were forwarded to the Administration (for example pay lower taxes or social security contributions than what due).

#### *Management of initiatives in terms of gifts or donations*

The theoretical risk is connected to the possibility that such a process could be instrumental to corruption as gifts and donations can represent utilities destined for illegal use.

#### *Management of cost reimbursements*

The theoretical risk depends on the possibility that such a process could be instrumental to corruption, as an illegal management of the money to be reimbursed could be a way to profit from illegal funds destined to illegal activities.

#### *Treasury management*

The theoretical risk is strictly connected to the possibility that such a process could be instrumental to corruption as it consists of the movement of money/resources which through accounting and financing tricks could be destined to slush funds destined for illegal activities.


#### *Staff hiring*

The theoretical risk is connected to the possibility to hire staff which already worked in the Public administration (still have a unique relationship with the public administration) or profit from kinship ties with employees/consultants or people working for the Public administration.

## **1.2 RECEIVERS OF THE PRESENT SPECIAL PART**

The present special part addresses behaviours by the company managers (CEO, CFO, safety, technical and environmental manager, production manager) operating in the mentioned areas at risk as well as external consultants and commercial partners.

To make the present section effective, the identified receivers are to be aware of the importance of the complaint conducts and therefore they are to enforce conducts compliant with what imposed as to avoid any crime and offence forecast by the Law Decree 231/01.

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### **1.3 TRACEABILITY OF THE RELATIONSHIPS WITH THE PUBLIC ADMINISTRATION**

As for any operation relating to the company activities which are potentially at risk of illicit crimes, offences and behaviours as for the relationship with the Public administration, it is important to have a documentary evidence as to prove the traceability and control, as later reported in paragraph 1.7.

### **1.4 SUITABILITY OF THE SUBJECTS HANDLING THE RELATIONSHIPS AND DEALING WITH THE PUBLIC ADMINISTRATION**

The relationships with the Public administration, whatsoever, and activities, contracts, applications and formal communication forwarded to the Public administration are to be managed and signed only by authorised people granted the due powers on the subject.


The company should select people who were granted the demanded power to manage the company as well as liabilities, including a consistent role in the company chart, a decision and selection which is to be updated in case of any company change.

Whenever the relationship with the Public administration is occasionally managed by a person within the company who was not granted specific powers or proxies, such a person should:

- promptly inform in detail his/her supervisor as for any activity started and its progress;
- promptly inform his/her supervisor about possible behaviour of the public counterpart aiming at getting gifts, illegal money donations or other utilities, directed to third parties as well.

The company board of directors which is to be promptly informed about such behaviours from the public counterpart should immediately report to the Supervisory Board.

At least two people appointed by the company take part to possible inspections by the Company (judicial, tax, administrative inspections or safety and security on the workplace controls, etc.).

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## 1.5 BEHAVIOUR PRINCIPLES

The following general principles apply not only to Racmet employees and to the board of directors, but indirectly to commercial partners and consultants in compliance with binding contract provisions.


In general, it is absolutely forbidden to carry out, co-operate or support any behaviour which directly or indirectly leads to a crime or an offence case in point among what hereinbefore mentioned (articles 24 and 24 of the Law decree 231/2001)

More precisely:

1. It is absolutely forbidden to grant any advantage whatsoever (cash, promise to hire, personal performance, etc.) to the benefit of the Italian or Foreign Public administration or their relatives, as to get or be granted favours when carrying out any company activity or which could however affect the independence of the judgement or lead to grant any advantage whatsoever to the company;
2. It is absolutely forbidden to grant donations or gifts bigger or different from what forecast by the Code of Conduct (that is any gift or hospitality courtesy act to public institution representative, public officers or public employees, is simply accepted when the gift does not exceed a modest value, in line with what imposed by the regulatory provisions of the Public administrations and anyhow it could not affect the integrity or fame of one of the parties or be interpreted as means to get illegal or incorrect advantages).

Anyhow any cost, as hereinbefore reported, should be authorised by the CFO, duly documented and in case of doubts as for the expenditure, it is better to ask for the employer authorisation.

3. It is absolutely forbidden to provide for performances to consultants or partners having relationships with the Public administration or which are only entirely justified by the contract between the parties or to pay any compensation or amount of money to their benefit which are not justified by the activity to be carried out;

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4. It is absolutely forbidden to provide for false declaration to national or international public institutions as to get public financing, contributions or loans;
5. It is absolutely forbidden to get money from national and international public institutions as grants, contributions or financing different from what required.

In general, as for the above-mentioned behaviours:

- no payment can be made in cash above what admitted by the law;
- statements to national and international public institutions as to get grants, contributions or financings should only be true and should such financings be obtained, a statement should be forwarded to the project manager in co-operation with the CFO;
- whoever is liable for control or supervision as for the above-mentioned activities should pay due attention to the correct enforcement or compliance and immediately report to the relating supervisor or to the Supervisory board any possible failure;
- in case the communication with the Public administration is possible through IT means, it should always be possible to identify the operator entering data and statements (through login and passwords and digital signature as well).

## **1.6 SPECIFIC PROCEDURES AS FOR THE RELATIONSHIP DEALING WITH THE PUBLIC ADMINISTRATION**


The hereinafter annexed rules are to be complied with when Racmet is carrying out its activity in Italy and abroad as well.

### *Management of financing/contributions granted by a Public Institution*

The CFO keeps traces of any document relating to a public financing (references of the operator among which the scope, economic value and involved company entities), making it available to any control authority.

The board of auditors, during its quarterly controls checks the correct accounting of the operation and it certifies the operation whenever required.

### *Relationship with consultants and partners in contact with the Public administration*

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The contacts between the company and consultants/partners are to be governed in writing in terms of any condition and term to be complied with.

Before entrusting an activity, the Consultants and partners can be asked a professional a respectability statement as to avoid any possible conflict of interest.

What is more, a statement should be annexed where they do specify that they were informed about regulations and mainly about the Law Decree 231/2001 and relating consequences for the company, that they were never involved in any legal action for any mentioned offence (or if they were, they should specify it as to allow the company to pay more attention should a consulting a partnership relationship will be started), that they will behave not to commit any crime mentioned in Law Decree 231/2001.


In any contract with Consultant or Partner, it is necessary to supplement a provision governing the consequences of commission (or attempt or supposed commission) of a crime according to Law Decree. 231/2001 (i.e. express termination or criminal provisions).

The Consultants and partners working with the Public administration on behalf and in the name of the company should periodically inform the company (within the limits and in the modes forecast in the contract), about the activity carried out with the Public administration, possible critical issues, etc.

### *Controls and inspections*

The department manager of the department where the inspection activity is being carried out should inform about the beginning of an inspection the company board of directors, the employer and the Supervisory board.

In case of judicial, tax and administration inspections (tax controls, social security controls, environmental controls, labour inspections, safety on the workplace, and more) people appointed by the company for such activities, two of them, are to be present to interact with the inspection authorities. They should draft and record minutes relating to any activity connected with the inspection.

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In case the inspection authority reports failures or if from the final minutes drafted by the inspection authority or by the people appointed by the company, it is possible to identify critical issues, the affected company department manager, with the supported of the company appointed people, should promptly inform in writing the manager higher in grade and the Supervisory board.

Any statement provided by the people appointed by the company or by other employees in general to the inspection authorities must be true.

Finally people appointed to follow the inspection ask for a copy of the minutes drafted by the public authority, whenever available, and they forward it to the company board of directors and to the Supervisory board.

## **1.7 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to the chapter of the Organisation model – General part consecrated to the discipline of the Supervisory Board, the Supervisory board periodically spot checks the activities connected to the processes involved in the present Special part, through controls by the different company departments and through periodical meetings with the auditors.

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### 3. SPECIAL PART B: COMPANY OFFENCES


#### 2.1 INTRODUCTION TO THE COMPANY OFFENCES CASES

The legislative decree March 28, 2002 n. 61 supplemented Law decree 231/2001 with the article 25-ter, (later modified by the law dating back to December 28, 2005 n. 262) to apply the assimilation principle to punishability of offences in the same manner as in relation to the company offences.

In the present section of the Special part, shortly the cases in point described in art. 25-Ter of Law decree 231/2001 undergoing a risk evaluation, with the exception of the cases in points (for example false company communication to the detriment of the company, shareholders or creditors according to art. 2622 of the Italian civil code, in its new version changed by the Law n. 69 dating back to May 27, 2015, non-disclosure of conflicts of interests, abuse of privileged information, market manipulation), referred to listed companies on the financial markets (Racmet at present is not listed yet).

- **False corporate disclosures (art. 2621 of the Italian civil code)**

The Offence is committed when the Directors, Chief Executive Officer, the Managers responsible for general accounting records of the company, the Statutory Auditors or the Liquidators present in the Financial Statements, reports and in other corporate communications envisaged by the law, for submission to the shareholders or the public, material information of an untrue nature, or still subject to evaluation, such as to mislead the persons in address in regard to the economic, net asset or financial situation of the company or the group to which it belongs, with the intention to deceive the shareholders or the public; or when the communication of information, required by law in regard to the same matters, is opportunely omitted in order to mislead the persons in address in regard to the above mentioned economic, net asset or financial situation the conduct must be aimed at securing an undue gain for the perpetrator or third parties (specific intent). The liability also exists in the supposition that the information refers to assets controlled or managed by the company on behalf of third parties.

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- **Minor violations (art. 2621 bis c.c.)**

The same reduced penalty applies in the case of companies that do not exceed the limits set out in article 1, paragraph 2, of the R.D. 267/1942, which, however, cannot be made to fail. In the latter case, "prosecution is subject to the filing of a complaint by the company, its shareholders, its creditors or any other recipient of the corporate disclosures. The judge must base his or her assessment "predominantly on the scale of the damage caused to the company, and to its shareholders or creditors.

- **Obstruction of supervisory activities (art. 2625 of the Italian Civil Code)**

In this case, the conduct must consist in the withholding of documents and ad hoc "expedients", such as any fraudulent and deceiving behaviour capable of preventing the supervisory activities. This offence, which may be committed solely by the directors, shall entail the liability of the Entity itself only if it effectively causes damage.

This Offence is subject to prosecution on hand of legal proceedings initiated by the plaintiff, unless it concerns quoted companies, in which case official action is taken by the authorities

- **Unlawful restitution of shareholders' contributions (art. 2626 of the Italian Civil Code)**


This provision sanctions the "directors who, except in the case of legitimate reduction of the share capital, effectively or fictitiously return to the shareholders any contributions made by them, or who release the shareholders from their obligations, in connection therewith.

This offence occurs when any contributions made by the shareholders to the company are returned to them – either effectively or fictitiously – or when they are released from their related obligations.

- **Illegal distribution of profits and reserves (art. 2627 of the Italian Civil Code)**

Unless the fact constitutes a more serious offence, this provision sanctions the directors who distribute profits, or advances on profits, that either have not been made or must be allocated by law to the reserve, or who distribute the reserves, including any reserves not made up of profits, which, by law, cannot be distributed.



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The offence is extinguished if the profits or reserves unduly distributed are returned to the company before the approval of the financial statements.

- **Illegal operations involving the shares or quotas of the company or its parent company (art. 2628 of the Italian Civil Code)**

This provision sanctions the directors who, except as provided by the law, purchase or subscribe shares or quotas of the company, thus damaging the maintenance of the share capital or reserves that cannot be distributed by law.

This provision is grounded on the regulation of so-called cross-shareholdings and the protection of the capital and the non-distributable reserve. The offence is extinguished when – before the approval of the financial statements for the period in question – the relevant capital and/or reserves are reinstated.

- **Transactions to the detriment of creditors (art. 2629 of the Italian Civil Code)**


This provision sanctions the "directors who, in violation of the legal provisions safeguarding creditors, reduce the capital of the company or carry out mergers with other companies or demerges, to the detriment of the creditors.

This offence is aimed at safeguarding the creditors' rights to the assets and/or capital of the debtor company.

The offence is extinguished if the debtor company pays back the creditors before the legal proceedings.

- **Fictitious formation of share capital (art. 2632 of the Italian Civil Code)**

This provision sanctions the "directors and contributing shareholders who, entirely or partially form or increase the company's capital in a fictitious manner, through the distribution of shares or quotas in excess of the actual capital, by mutually subscribing shares or quotas, significantly overvaluing any contributions in kind or credits, or the equity of the company in the event of its transformation.

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This offence aims to safeguard the capital of a company against any fictitious transactions by the directors or contributing shareholders, such as to inflate the company's actual capital

- **Illegal allocation of company assets by liquidators (art. 2633 of the Italian Civil Code)**

This offence sanctions those liquidators who, by allocating a company's assets among the shareholders before either paying its creditors or setting aside the necessary sums to do so, cause damage to the creditors.

The offence occurs when the liquidators decide in favour of the shareholders and – therefore – to the detriment of the creditors, by depriving them of the security afforded by the company's asset. The first offence is prosecutable on the action of the injured party.

Any damage compensation to creditors before legal proceedings solves the issue.


- **Corruption in private sector (art. 2635 of the Italian Civil Code)**

The provision, supplemented to the law n. 190 dating back to November 6, 2012, unless the fact constitutes a more serious crime, the directors, general managers, financial reporting officers, statutory auditors and liquidators who, after receiving money, or the promise of money, or other benefit for themselves or for others, either perform or omit to perform actions, in violation of their official duties or their duty of loyalty, thus causing damage to the company, shall be sentenced.

Whoever gives or promises money or other benefits to the persons specified above shall also receive the same sentence.

- **Incitement to bribery between private entities (art. 2635 bis of the Italian Civil Code)**

The provision introduced by Law Decree n. 38 dating back to March 15, 2017, states: whoever offers or promises money or other due benefits to directors, general managers, managers liable for preparing corporate accounting documents, auditors and liquidators of companies or private bodies as well as to people whom has executive functions, in order to perform or omit an act in violation of the obligations inherent his office or duty of loyalty, is subject even if the promise or the offer is not accepted by the penalty prescribed in the first paragraph of art. 2635, reduced by

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one third. *The penalty provided in the first paragraph applies to directors, general managers, managers responsible for preparing the corporate accounting documents, auditors or liquidators of companies or private bodies, as well as to person who has executive functions in companies or private entities, whom incite a promises the payment of money or other not due benefits for themselves or for others, even through a third party, in order to act or omit an act in breach of the obligations inherent their office and duty of loyalty if the incitement is not accepted.*

*It is provided to proceed by compliant of the victim”.*

- **Unlawful influence on shareholders’ meeting (art. 2636 of the Italian Civil Code)**


This offence may be committed by any person and, therefore, also by people who do not belong to the company, for the purpose of directly securing – or enabling others to secure – an unjust profit, i.e. a profit that is not legally grounded, through a resolution passed at a shareholders’ meeting and which requires a quorum of attending shareholders.

- **Stock fraud (art. 2637 of the Italian Civil Code)**

This type of Offence occurs when untrue information is circulated or simulated transactions or other expedients are utilised, with the specific intention to cause a significant change in the price of financial instruments which are not quoted or for which no application for listing on a regulated stock exchange has been presented, or with the objective of significantly influencing the public opinion in regard to the financial stability of the banks or banking groups.

- **Hindering the activities of public supervisory authorities (art. 2638 of Italian the Civil Code)**

The criminal behaviour occurs when submitting information to the regulatory authorities constituted by law, through making material declarations not corresponding to the truth concerning the profit-and-loss, balance sheet or financial situation of the organisations subject to regulation, in order to obstruct the authorities in the exercise of their functions; or through

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concealment in whole or in part, by other fraudulent means, of facts which ought to have been notified regarding the same situation.

The active parties are the directors, chief executives, auditors and liquidators of companies or other bodies and persons subject by law to the public regulatory authorities, or having obligations towards them.

The liability also exists in the supposition that the information refers to assets controlled or managed by the company on behalf of third parties.

## 2.2. RISK ACTIVITY AREAS


As for any of the mentioned crimes, a specific theoretical risk area can be present.

The areas which are more at risk in the case of the corporate crimes are :

- financial statement drafting, management report drafting and other corporate report drafting as well;
- corporate activities affecting the integrity of the corporate registered stock;
- controlled activities carried out by the board of auditors, shareholders or auditing company;
- drafting of communications to be forwarded to the supervisory public authorities and management of any relationship with them;
- negotiation, drafting and execution of contracts with private entities.

In the present special part, besides the specific behaviour principles relating to the above mentioned sensitive areas, it is important to underline what follows:

- behaviour principles that the company intends to enforce according to the Model;
- supplemented prevention and control measures, in line with the information provided in the Guidelines approved by the Manufacturers' association as for any activity which could be theoretically at risk;
- the Supervisory board activities and the training activities on the juridical principles the above-mentioned crime commission is based on.

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### **2.3 RECEIVERS OF THE PRESENT SPECIAL PART**

The subjects who are risking to commit the crimes mentioned in the present section are mainly directors, general managers, auditors, company liquidators but also all those who according to art. 110 play a role in the committed crime.

What is more art. 2639 of the Italian Civil code compares subjects who has a formal role to people who are not formally vested but still play such a role: the company crimes in fact are committed by whoever in fact “is liable for the same role, with a different qualification or whoever consistently and significantly plays such a role with the allocated powers and qualifications”.

### **2.4 BEHAVIOUR PRINCIPLES AND PROCEDURES AS FOR SENSITIVE ACTIVITIES**

The present Special part forecasts the ban for the receivers to have, co-operate or enforce behaviours leading to the cases in point (art. 25-Ter of the Decree).


Therefore the receivers of the Models are obliged to:

- comply with the regulatory and legislative provisions applicable to the present crimes, as well as with the company Code of Conduct, decisions by the Board of directors and other corporate boards, decisions by supervisors and all the internal policies and procedures governing the company activity mainly as for:

Management of the accounting and financial statement drafting;

Drafting, management and spreading of the company information aiming at providing stakeholders, partners and third parties with a true, complete and correct information and data on the economic, equity and financial corporate conditions;

Definition, management and communication of extraordinary operations, operations on the corporate capital, operation on the profit and reserve distribution and repayment of contributions to shareholders, to guarantee the company equity and protect the creditor rights;

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- provision of the correct company and its board operation, while offering and supporting any internal control on the corporate management as forecast by the law, as well as the free and correct proposal of the meeting willingness;

- Promptly and correctly spreading of any communication in good faith as forecast by the regulations in force to the Supervisory Board (as for a non-listed company, refer to the Privacy protection authority, as well as to inspection entities, ASL and Labour Minister), avoiding to hinder their supervision.

*Detection, registration and representation of the company activities in the accounting, in the financial statements and in other company documents.*


The Model receivers are furthermore not entitled to:

- proceed to any accounting registration which does not really comply with the company facts and events;

- represent or supplement to the financial statements, to the yearly or six-month reports, to the extraordinary financial statements or in other company communication false, partial, deceiving information or anyhow information which does not represent the economic, equity and financial company situation;

- change data and information destined to be included in the company information;

- affect the understanding of financial statement, yearly and six-month reports, company information, possible investment proposals or documents delivered to the credit institutes to get financing;

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- publish or spread out false information or suggest simulated operations or other fraudulent or deceiving behaviours as for the non-listed financial instruments, as to consistently change their price or spread mistrust among the general public, banks and bank groups, thus changing the company stability and cash image;

- prevent any communication of data and information imposed by the law on the company economic, equity and financial situation.

The Model receivers, all for their competence, must:


- report to their supervisor or to the board of directors any different operation from the ordinary company management;

- should any non-justified request be received to change the accounting detection, registration and representation or to quantitatively change data in comparison with data accounted for at present, whoever is informed should immediately report it to the board of directors, the board of auditors and the supervisory board;

- the draft financial statements are always to be available to the directors before the meeting of the board of directors, called to approved the financial statements;

- any accounting document relating to the subjects in the agenda of the meeting of the board of directors are to be made available to the directors in advance before the date of the meeting;

- whoever supplies or gets information on the company or its activities should consider it confidential;

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- any document relating to the company activities is to be filed and stored in a safe mode not to allow any tampering, if not in a hurry or on condition that such a change can always be traced back;

- the access to the company information is to be allowed to the authorised subjects only in compliance with the regulations in force as for the privacy protection;

*Extraordinary operations or operations on the company registered stock*

As for contribution, profit and reserve distribution, subscription or purchase of shares, operations on the corporate capital, mergers or demergers, division of assets during winding-up, it is necessary to comply with the following rules:

The Model receivers are furthermore not entitled to:


- return any contribution to shareholders and free them from any liability to execute them, differently from any legitimate corporate capital reduction whatsoever not included in what forecast in the regulations in force;

- distribute profits or advances on profits which were not received, or destined to the legal reserve;

- purchase or subscribed company shares different from what forecast by the regulations in force;

- cut the registered capital, enforce any merger or demerger violating the regulations in force in terms of creditor protection;



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- build-up or artificially increase the corporate registered capital, distributing shares at a lower value than their nominal value when setting the company or in case of a corporate registered stock increase.

The Model receivers, all for their competence, must:


- ask for the approval of the Board of directors for any extraordinary operation;
- prepare suitable documents to any operation suggested by proposing company department or competent for the request;
- ask for the board of directors and auditing company to check the operation for what they are competent for;
- as to record the operation, ask the subjects liable for the accounting to early check the compliance, suitability and correctness of the operation supporting documents.

*Management of relationships with shareholders, auditors and auditing company.*

When managing their relationships with shareholders, auditors and auditing company, the following operating rules are to be complied with.

The Model receivers are furthermore not entitled to:

- behave as to materially hinder, hiding documents or through fraudulent means or anyhow hinder any control activity by the board of auditors or by the auditing company;
- approve or affect any resolution by the meeting, with any fraudulent activity which could change the regular approval of the meeting willingness.

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The Model receivers, all for their competence, must:

- document and carefully record by the affected company department manager any request or data or information spreading as well as any report, communication and assessment by the board of auditors;
- make any document relating to the operations in the agenda of the board of directors meeting or relating to the operations which the board of auditors should provide its opinion on available in due time before the date of the meeting;
- allow the auditing company to freely access the company accounting as to correctly carry out the assigned task;


#### *Relationships with the Public supervisory boards*

When drafting any communication to be forwarded to the public supervisory boards and in managing any relationship with them, the following operating rules are to be complied with.

The Model receivers are furthermore not entitled to:

- provide in the communication with the Public supervisory boards information which is not true or hide relevant facts as for the economic, equity, financial or company operating conditions;
- enforce any behaviour which could affect any supervision and vigilance activity, during inspections by the Public authorities as well or refusals, obstructionism, unjustified absence, delays in communications or in delivering documents, turning up late at meeting.

The Model receivers, all for their competence, must:

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- with correct quality of contents and promptly, periodically inform the supervisory boards according to what imposed by the law and the sector regulations. Similarly data and document forecast by the law are to be forwarded to the mentioned authorities;
- enforce any organisation, accounting and operating interventions aiming at providing that the information acquisition and processing process guarantees the correct and complete communication flow and their prompt forwarding to the supervision public authorises according to the modes and times forecast by the sector regulations;
- provide for the demanded evidence to procedures enforced to come to terms to what agreed in the previous paragraph, mainly referring to the identification of the managers liable for the information collection and processing;
- provide for the suitable co-operation, by other competent department managers as well in case of inspections forecast by the mentioned Authority.

*Negotiation, drafting and execution of contracts with private entities.*

As for the mentioned activity, a series of operating rules are to be complied with.

The Model receivers are furthermore not entitled to:

- get money or compensations which can't be justified for the activity they must carry put and according to the sector best practices to the benefit of suppliers, consultants and/or external experts, commercial partners, agents or contractors.
- behave or to carry out actions against any company representative (be it customer, supplier, consultant or others), which can be interpreted as corruption, illegitimate favours, collusive

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behaviours, direct drive or drive through third party for privileges which could be relevant in terms of corruption crime commission among private operators;

- distribute or get gifts, commercial donations or utilities (including meals, travels or leisure activities) which could be violating any law or regulation or which can be in contrast with the Code of conduct, or if public they can affect the company, not only at its image level. More precisely it is not permitted to offer money or any kind of advantage or to offer commercial favours to persons from the Public Administration, or their relatives, unless of a modest value and given in compliance with company procedures and in any case following the express authorisation of the Company bodies and competent company functions, and provided in any case that it cannot be interpreted in any way as a tool for influencing them in the execution of their duties (to act or omit to act in a given way), to receive illegal favours and/or obtain unfair advantage. To allow any prescribed verification, it is necessary that the offered gifts, with the exception of poor value gifts, are suitably documented;

- carry out or promise to the benefit of third parties any performance which is not justified, considering the underlying contract relationships or which are not formally agreed in a contract or an agreement.


The Model receivers, all for their competence, must:

- strictly comply with the limits forecast for the organisation delegations and proxies granted by the Company;

- promptly report the company any information on the possible offers or requests for non-due payments in cash or utilities, received with reference to the contract;

- comply with the Italian and international anti-corruption regulations,

- should ask the Commercial manager to early check the economic offers to customers, according to the internal authorisation limits imposed and set by the Company;


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- provide for the correct recording and filing of all the documents available as to not allow third party to access them if now expressly authorised;
- guarantee for the activity segregation principle through the involvement of different subjects when carrying out the main activities forecast by the examined sensitive process;
- formalise and subscribe any deed which contractually bind the company through the co-operation with the appointed subjects, being granted full and due powers.

## **2.5 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to what agreed and forecast in specific chapter of the Organisation model - General Part, the Supervisory board periodically carries out spot controls and inspections on the activities relating to the sensitive processes according to the present Special Part, as to check the compliance of the enforced behaviours to the rules defined in the Organisation model.

Thus the Supervisory board should be able to freely access the entire relevant company documents.

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## 4. SPECIAL PART C: CRIMES AND OFFENCES IN CASE OF SAFETY, SECURITY AND HEALTH ON THE WORKPLACE.

### 4.1 INTRODUCTION

Art. 9 of the law n. 123 dating back to August 13, 2007 introduced in law decree 231/01 art. 25-septies, forecasting the application of sanctions to entities whose employees are liable for Crimes of Manslaughter and Serious Personal Injury or Grievous Bodily Harm, committed in violation of the accident prevention and occupational hygiene and health protection laws. The cases in point according to art. 25-Septies apply to all the activities considered “sensitive” inside the Racmet organisation, independently from the fact that they are carried out by employees or by third parties connected to the company.

### 4.2 CRIMES ACCORDING TO ART. 25 OF LEGISLATIVE DECREE 231/01

- **Manslaughter (art. 589 of the Italian Criminal code)**

[1] anyone who causes by negligence the death of a person is punishable with imprisonment from six months to five years.

[2] In cases concerning driving on the public highway or prevention accidents on the workplace, sentence from two to seven years.


[3] *omissis*

[4] several people are killed, or if one or more persons are killed and one or more persons injured, the sentence for the [...] most serious of the crimes committed is applied, increased threefold but the sentence can never be higher than fifteen years.

- **Involuntary bodily injuries (Art. 590 of the Italian Criminal Code);**

[1] anyone who causes by negligence the injury of another person is punished with imprisonment for up to three months or a fine of up to 309 euro.

[2] If the injury is serious, the penalty is imprisonment from one to six months or a fine from 123 euro to 619 euro. If the injury is extremely serious, the penalty is imprisonment from three months to two years or a fine from 309 euro to 1,239 euro,

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[3] If the crimes referred to in paragraph two above are committed as a result of violations of road traffic laws or laws for the prevention of occupational accidents, the penalty for serious injury is imprisonment from three months to a year or a fine from 500 euro to 2,000 euro. If the injury is extremely serious, the penalty is imprisonment from one to three years. [...]

[4] If several people are killed, or if one or more persons are killed and one or more persons injured, the sentence for the most serious of the crimes committed is applied, increased threefold but the sentence can never be higher than five years.

[5] The crime is punishable upon a complaint by the injured party, except for the instances referred to in paragraphs one and two above, limited to acts resulting in a violation of occupational health and safety laws or which caused an occupational illness.

#### 4.3 SCOPE

The scope of the present special model – enforced referring to both factories – aim at allowing all the subjects at any title whatsoever involved in the Racmet organisation to have behaviours and conducts compliant with the Model principles, as to prevent any possible crime commission and therefore to make them aware of the importance of the condemned behaviours.


The present special Part provides for a list of the general principles and of the specific procedures which the employees (consultants, suppliers, contractors, agents) should comply with to correctly apply and enforce the Model, thus providing the Supervisor board and any other subject co-operating with it – any operating tool available to carry out any control, monitoring and verification.

The entire Organisation, at the management and operating level as well, should comply with such principles, when making decisions and when enforcing them.

The present Special part therefore forecast does not absolutely allow the receivers to enforce any behaviour which could lead to a crime mentioned in art. 25-Septies of law decree 231/01 or to enforce, co-operate or lead to behaviours which even though they do not represent an assumed case in point (as forecast by law decree 231/01) they can potentially become such.

In general the main tool to enforce the regulations in force on the subject are:

- a) Risk assessment document:

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- b) Environment and safety integrated management system
- c) Code of Conduct
- d) Disciplinary system
- e) Information flows

Anyhow in compliance with the regulations in force as for safety, security and health on the workplace, the Organisation complies with the principles and behaviour rules defined in art. 15 of law decree 81/01<sup>1</sup>.


The present Special part lays down the obligation for the receivers:

- To comply with the regulations to protect the safety and security on the workplace;
- To always act in compliance with the company procedures reported in the Code of conduct and in the Safety and Environmental integrated management system and to provide for the correct system operation, everybody according to his/her competence;
- To forward the Supervisory board all the relevant information in terms of safety and security as well to report to the board any behaviour or situation which is not compliance

<sup>1</sup>1. The general measures to protect the worker safety and security on the workplaces are:

- a) assessment of all the risks for health and safety and security;
- b) prevention scheduling, thus consistently supplement in prevention the company technical production processes and the influence of the environmental factors and the labour organisation as well;
- c) removal of any risk, and whenever it is not possible, their reduction to the bare minimum according to the present expertise acquired according to the available technical progress;
- d) compliance with the ergonomics principle of the labour organisation, in the design of the workplaces, in the selection of equipment and in the definition of the operation and production methods, more precisely aiming at controlling any effects on health of monotonous and repetitive activities;
- e) reduction of risks at the origin;
- f) replace what it is dangerous which what it is not or it is less dangerous;
- g) reduction to the bare minimum of the number of employees which could be exposed to the risk;
- h) limited use of chemical, physical and biological agents on the workplace;
- i) prioritize collective protection measures against individual protection;
- l) worker health check-ups;
- m) worker removal from the exposure to risks for health reasons or allocation to a different task ;
- n) suitable information and training to any worker;
- n) suitable information and training to any manager or executive;
- p) suitable information and training to the safety worker representatives ;
- q) suitable instructions to workers;
- r) worker participation and consulting;
- s) participation and consulting of the safety worker representatives;
- t) measure scheduling which turn out to be suitable to provide for the improvement in time of the safety levels, through the enforcement of codes of conduct and good practices;
- u) emergency measures to be enforced in case of first aid, fire-fighting, worker evacuation and severe and immediate danger;
- v) use of warning and safety signals;
- z) regular service of areas, equipment, installations as for the safety tolls to be used in compliance with the manufacturers' information.



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with the organisation and management model and the Code of Conduct they are informed of, being a case in point or not.

#### **4.4 THE ENVIRONMENT AND SAFETY INTEGRATED MANAGEMENT SYSTEM AND THE BRITISH OSHAS REGULATION 18001:2007.**


Racmet since 1970 has been providing carbon and stainless steel products to the plumbing sector. Since 1999 it enforced a quality management system in compliance with the international regulations, being certified by the third party Det Norske Veritas. Since 2010 it got the certification from Det Norske Veritas, thus complying with the requests and applications requested by the international standard ISO 14001.

As to provide for the constant improvement, Racmet decided in 2015 to be certified in terms of health and safety and security on the workplace according to the OHSAS 18001 standard.

According to what reported in the PTSA 15 document (Environment and security policy), it is possible to come to the conclusion:

*«The company in line with what defined in terms of environment protection, as for health and safety and security on the workplace, is committed to:*

- *Keep the best possible compliance with laws and regulations in force and other requirements the organisation decides from time to time to subscribe;*
- *Keep on constantly improving while reducing the environmental consequences at a level “corresponding to the economically convenient enforcement of the best available technology” thus preventing professional accidents and diseases;*
- *Provide human, technological and financial resources to protected the common environmental equity and the health, security and safety on the workplace;*
- *Communicate the present policy to all the resources operating within the organisation or in its name or behalf, making it documented, implemented, and complied with;*
- *Make available to the wider public the present compulsory document, spreading it out to all the people working for the organisation, as to make them aware of their individual obligations in terms of environment, health, safety and security on the workplace.”.*

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The certification obtained in terms of protection of the worker safety and security together with the environmental certification and the internal and third party *audits* are a leading tool at present to cut the risk of crime commission according to art. 25-Septies of law decree 231/2001.


The present part of the Model is to be considered duly supplemented for what not expressly recalled by Procedures, operating instructions, documents of the Environment and safety integrated system which represent the foundations for the risk prevention of the case in point It is necessary to always refer to the latest version of the documents.

The Environment and safety integrated management system consists of:

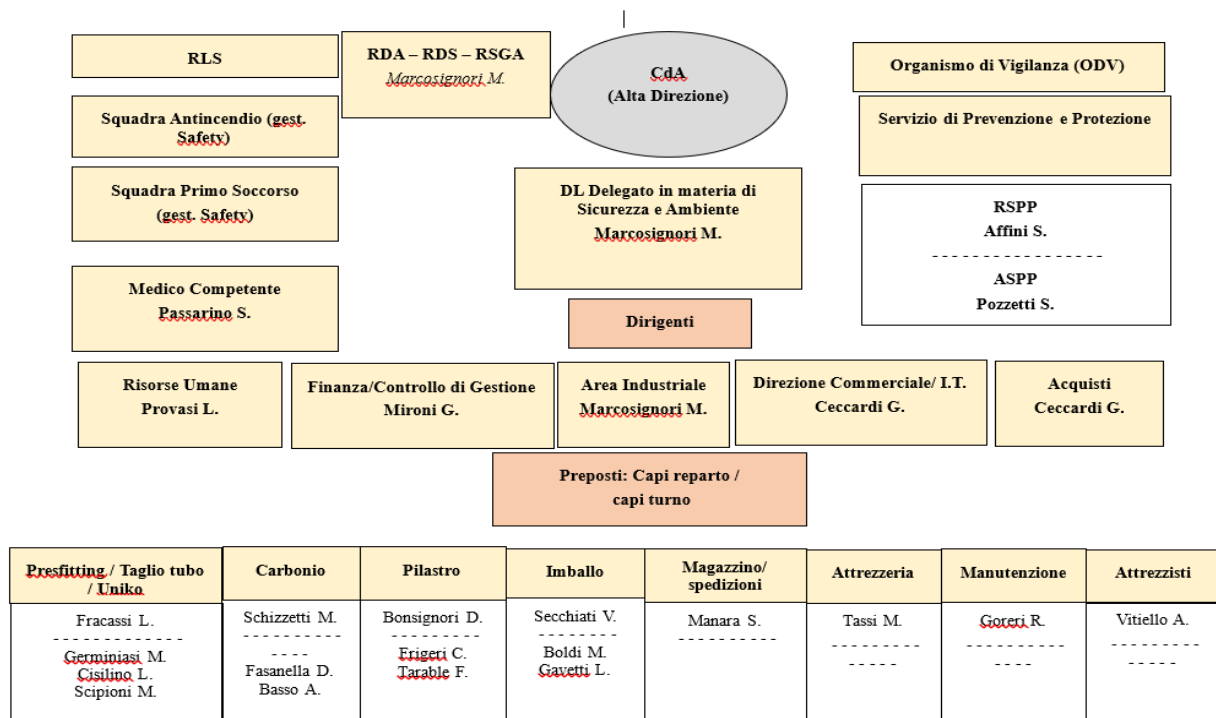
- Operating procedures;
- Operating instructions;
- Documents.

The same is available and can be consulted by each employee simply accessing the company intranet.

Racmet furthermore forecast a specific procedure to manage the System spreading modes to anybody within the organisation (**PRA 443\_01\_Comunicazione\_A**) as well as a procedure aiming at recording and filing all the relevant documents (**PRA 445\_01\_Gestione documentazione**). The documents are available and filed according to the modes specified in the reference procedures.

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#### 4.5 THE SAFETY ORGANISATION CHART



It goes without saying that reference is to be made to the safety organisation charge in its most recent version a document managed by the Prevention and protection department and issued by the employer.


#### 4.6 THE RISK MAPPING AND RISK PREVENTIVE ANALYSIS

Considering the nature of the crimes according to art. 25–Septies, it is clear how the analysis of the company organisation – aiming at identifying areas and activity sectors where such crimes can be committed – should be complete and involving the entire organisation.

The risk mapping procedure was enforced according to the following modes:

##### 4.6.1 FIRST STEP – INFORMATION ANALYSIS AND DOCUMENTARY AND INFORMATION ACQUISITION

Documents and information were acquired during such a step, useful to understand the organisation system in force as for safety and security on the workplace and mainly:

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- Identification of the employer according to what forecast by art. 3 letter b) of law decree 81/08.
- Control of the availability of the document defining the safety and security policy;
- Extract from the DVR including the analysis of risks for security, the risk assessment and the specific prevention measures enforced by the company;
- Control of the safety organisation chart;
- Control of the documents relating to the discipline of the contract and bid granting for services and works within the company;
- Control of the existence of job descriptions and procedures relating to the behaviours forecast for the different subjects liable for enforcing any activity leading to the health, safety and security on the workplace;
- Control of the existence of possible procedures, operating instructions or practices to carry out any typical company activity aiming at preventing the case in point;
- Control of the existence of documents relating to accidents, reports and information on “near misses”, inspection minutes (SPISAL - ASL), reports by the authorities, prescriptions and provisions by the Supervisory boards.

#### 4.6.2 SECOND STEP – INTERVIEWS AND MEETINGS WITH EXECUTIVES AND DEPARTMENT MANAGERS

Information interviews (meeting) were forecast with:


- The Employer;
- The Representative of the employer;
- The Manager of the Prevention and Protection department;
- The HR manager;

As to check their role inside the Racmet organisation and the Environment and Safety integrated management system and therefore to identify possible failures or non compliances with the formal organisation and the examined documents.

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The result of the preliminary analysis (refer to the **Annexe 1** special part, “Map of the operating areas where crimes can be committed”) identified processes and activities within such processes where it is more probable that a crime can be committed, and more precisely:

1. Company management;
  - Company direction;
  - Worker safety and security management;
  - Management of any relationship with external companies;
2. Source management;
  - Human Resources Management;
  - Installation and facility management;
3. Product/service offer;
  - Production and service procurement;
4. Monitoring;
  - Continuous process monitoring.

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#### 4.7 RISK ASSESSMENT

The annexed table summarises the result of the risk assessment calculation, carried out enforcing the intrinsic risk indicators (if no measure is present) as for the two cases in point forecast by art. 25 septies of law decree 231/01<sup>2</sup> (that is the interest or the advantage for the entity – which considering the crimes can only be considered minimum or even nonexistent – when applying the maximum possible sanction and considering the possible participation of more people to the crime).

	Intrinsic risk indicators				
	Estimated interest/advantage	Maximum interdiction sanction	Maximum money sanction	Possible people complicity in crime	Level of Intrinsic risk
<b>89 of the Italian criminal code Manslaughter</b>	<b>1</b>	<b>4</b>	<b>10</b>	<b>2</b>	<b>80</b>
<b>590, paragraph 3 of the Italian criminal code Serious personal injuries</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>12</b>

The result of the analysis proves how, in case of intrinsic risk indicators as well, on in the absence of different management protocols, the risk of a crime commission is to be considered **minimum**<sup>3</sup>.


#### 4.8 CRIME COMMISSION ACCORDING TO ART. 25–SEPTIES OF LEGISLATIVE DECREE 231/2001

The Company employer assessed the labour and operating risks, as forecast by articles 28 and 29 of Law Decree 81/08.

<sup>2</sup> Multipliers are specified in **annexe 2** to the present special part.

<sup>3</sup>

0-80	minimum
81-160	moderate
161-240	critical
241-320	relevant

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The possible modes each crime is committed in case of violation of the accident-prevention regulation are strictly connected to their risk assessment. In other words, it is clear that any time a standard or rule protecting safety and security on the workplace is breached there will be a possible involvement of Racmet, as a case in point is present.

#### **4.9 VERIFICATION OF COMPLIANCE WITH ENVIRONMENT, HEALTH, SECURITY AND SAFETY ON THE WORKPLACE ACCORDING TO ART.30 LAW DECREE 81/2008**

As well know, Law decree 231/01 forecasts a binding content as for the processing of the organisation and management model as for the protection of safety and security on the workplace.

Reference is made to art. 30 of Law Decree No. 81/08 defining

*1. The organization and management model to envisage suitable systems for recording the actual performance of the activities in the above list, and based on the nature and size of the organization and type of business carried out, according to law decree n. 231 dating back to June 8, 2001, which should be enforced and effectively implemented, providing for a company system to comply with any relating juridical obligations:*

*a) the compliance with the technical-structural standards imposed by the law as for equipment, installations, workplaces, chemical, physical and biological agents;*

*b) the risk assessment activities and setting of consequent prevention and protection measures;*

*c) organisation activities in case of emergencies, first aid, tender management, periodical safety meetings, consulting with worker representative on safety;*


*d) health-care supervisory activities;*

*e) worker information and training activities;*

*f) supervisory activity, in regard to the observance by the workers of the occupational safety procedures and instructions;*

*g) acquisition of documentation and compulsory certification according to the law*

*h) periodical checks for the implementation and effectiveness of the adopted procedures*


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The Integrated management system of Environmental and Safety and Security, the Risk assessment document as well as the results of the interviews to the mentioned subjects provided for a **substantial general framework** as for the compliance with the requirements demanded by art. 30 of Law decree 81/08.


The hereinafter annexed table therefore highlights the enforced measures, at the safety management system and for the risk assessment, aiming at providing for the best compliance with what imposed by art. 30 of Law decree 81/08.

Regulation references		Enforced and implemented system
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards as for installations and equipment.	<ul style="list-style-type: none"> <li>- The compliance with the technical structural standards is forecast in the DVR <i>"Risk assessment for the worker health and safety on the workplace, chapter 4 - Factory of Campitello"</i> and <i>"Risk assessment for worker health and safety - chapter 4 . Factory of Pilastro"</i>.</li> <li>- The machine service is controlled through the <b>PRAS 446_10_CO_Manutenzione</b>.</li> <li>- The units are all fitted with technical information.</li> <li>- The units are all fitted with a compliance declaration and relating technical documents.</li> <li>- The installations are all fitted with compliance declarations relating to the projects, drafted by qualified technicians.</li> <li>- The installations according to art. 71, paragraph 1 and annexe VII law decree 81/08 are periodically checked by Inail, ASL or</li> </ul>




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			<p>notified entity.</p> <ul style="list-style-type: none"> <li>- Buildings were designed by a qualified technician and build according to a building licence.</li> <li>- The company was granted the Fire prevention certificate.</li> </ul>
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards relating to the workplaces.		<ul style="list-style-type: none"> <li>- The compliance with the technical and structural standards forecast by the DVR: The compliance with the technical structural standards is forecast in the DVR <i>"Risk assessment for the worker health and safety on the workplace, chapter 3 - Factory of Campitello"</i> and <i>"Risk assessment for worker health and safety - chapter 3 . Factory of Pilastro"</i>.</li> </ul>
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards relating to the workplaces. [1] chemical agents.		<ul style="list-style-type: none"> <li>- The compliance with the technical and structural standards forecast by the DVR:           <ul style="list-style-type: none"> <li>• <i>"Assessment of the worker exposure to chemical agents"</i>.</li> <li>• <i>"Assessment of the risks for the worker health and safety depending on chemical agents - Factory Pilastro"</i>.</li> <li>• <i>"Assessment of the risks for the worker health and safety depending on chemical agents - Factory Campitello (pressfitting, new polishing unit CC8602"</i>.</li> <li>• <i>Assessment of the risks for the worker health and safety depending on chemical</i></li> </ul> </li> </ul>

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			<i>agents - Factory Campitello (factory "stainless steel elbows - new processing".</i>
Art. paragraph 1 letter a)	30	Compliance with the technical and structural law standards relating to the workplaces. (2) physical agents (noise, vibrations, electromagnetic fields, optical radiations)	- The compliance with the technical and structural standards forecast by the DVR: <ul style="list-style-type: none"> <li>• <i>"Risk assessment of the worker exposure to <b>noise</b> - Factory Campitello" and "Risk assessment of the worker exposure to noise - Factory Pilastro".</i></li> <li>• <i>"Assessment of the worker daily exposure to <b>vibrations</b>, complete arm-body system- factory Campitello" and "Assessment of the worker daily exposure to <b>vibrations</b>, complete arm-body system- factory i Pilastro");</i></li> <li>• <i>"Detection of <b>electromagnetic fields</b> in the workplace and assessment of the relating worker health risk - factories Campitello and Pilastro";</i></li> <li>• <i>"Survey on the exposure to man-made <b>optical radiation</b> sources in the workplace and assessment of the relating risk for the worker health".</i></li> </ul>
Art. paragraph 1 letter a)	30	Compliance with the technical and structural law standards relating to the workplaces. (3) biological agents.	- The compliance with the technical and structural standards forecast by the DVR: <i>"Assessment of the <b>biological</b> risk for the worker health and security - Factories Campitello e Pilastro".</i>
Art.	30	Risk assessment	- Risk assessment document drafted according

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paragraph 1 letter b)	activities and setting of consequent prevention and protection measures;	to art. 28 of Law decree 81/08. - The risk assessment activity complies with the following procedure: <b>PRS 431-01 Danger identification and risk assessment.</b>
Art. 30 paragraph 1 letter c)	Organisation activity, such as emergencies and first aid.	- A first emergence general plan was drafted for each factory. - The emergency, fire fighting and first aid teams were appointed and the team members were duly trained.
Art. 30 paragraph 1 letter c)	Organisation activity, contract management	- The outsourced company management (yard bids) is governed by the procedure <b>PRAS 446_09_CO_Ditte Esterne.</b>
Art. 30 paragraph 1 letter c)	Organisation activities in case of emergencies, first aid, tender management, periodical safety meetings, consulting with worker representative on safety;	- Yearly call of the periodical safety meeting forecast by art. 35 of Law decree 81/08 - RLS consulting
Art. 30 paragraph 1 letter d)	Health-care supervisory activities.	- The health-care supervisory activity is carried out by an appointed competent medical doctor in co-operation with the HR. - The reference document is the Health-care protocol.
Art. 30 paragraph 1 letter e)	Worker information and training activities;	- The activity is managed through the procedure <b>PRAS 442_01_Formazione.</b> - In the document <b>Doc_005 Programma formazione integrato</b> , the Racmet training

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		programme is included.
Art. 30 paragraph 1 letter f)	Supervisory activity, in regard to the observance by the workers of the occupational safety procedures and instructions.	<ul style="list-style-type: none"> <li>- The activity is managed through the procedure <b>PRAS 453_01_NC_AC_AP_A.</b></li> <li>- The National labour contract applies for any violation or breach and imposition of disciplinary measures.</li> </ul>
Art. 30 paragraph 1 letter g)	Acquisition of documentation and compulsory certification according to the law.	<ul style="list-style-type: none"> <li>- The activity is managed through the procedure <b>PPRAS 432_01_Gestione normativa.</b></li> </ul>
Art. 30 paragraph 1 letter h)	Periodical checks for the implementation and effectiveness of the adopted procedures.	<ul style="list-style-type: none"> <li>- The activity is managed through the procedure <b>PRAS 455_01_Audit.</b></li> </ul>

#### 4.10 CONTROL OF THE ACTIVITY REGISTRATION SYSTEM ACCORDING TO ART. 30 PARAGRAPH 2 LAW DECREE 231/01


The second paragraph of art. 30 after defining the binding content of the imposed mode furthermore forecasts what follows:

*“The organisation and management model according to paragraph 1 should forecast **suitable registration system of the enforced activities**, according to paragraph 1”.*


The execution of the procedures of the Integrated management system of Environmental and Safety and Security, the Risk assessment document confirms the existence and enforcement within Racmet of a suitable activity registration system as listed in the paragraph 1, of the art. 30 of Law decree 81/08 essentially annexed in the following table.

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Regulation references		CLEANING SYSTEM:
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards as for installations and equipment.	Racmet stores the technical information relating to all the units operating by its two factories.  In the DOC_15_Piano di sorveglianza the services frequency rates are recorded.  In general services are recorded on the DOC_060 ad in the reports/registers in PRAS 446_10_CO_Manutenzione Periodica.
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards relating to the workplaces.	The control activity is forecast in the final DVR part, as for what matters.  Reference is made to the improvement plan as well recorded in Doc046.
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards relating to the workplaces. (1) chemical agents.	The control activity is forecast in the final DVR part, as for what matters.  Reference is made to the improvement plan as well recorded in Doc046.
Art. 30 paragraph 1 letter a)	Compliance with the technical and structural law standards relating to the workplaces. (2) physical agents (noise, vibrations, electromagnetic fields, optical radiations)	The control activity is forecast in the final DVR part, as for what matters.  Reference is made to the improvement plan as well recorded in Doc046a.
Art. 30 paragraph 1	Compliance with the technical and structural law standards relating to	The control activity is forecast in the final DVR part, as for what matters.  Reference is made to the improvement plan as

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letter a)		the workplaces. (3) biological agents.	well recorded in Doc046.
Art. 30 paragraph 1 letter b)		Risk assessment activities and setting of consequent prevention and protection measures;	The control activity is forecast in the final DVR part, as for what matters. Reference is made to the improvement plan as well recorded in Doc046.
Art. 30 paragraph 1 letter c)		Organisation activity, such as emergencies and first aid.	Emergency drills are periodically organised and recorded on the following documents: <ul style="list-style-type: none"> <li>- Doc_055_Elenco_simulazioni_Emergenze</li> <li>- Doc_020_Registro Prove emergenza</li> <li>- Doc_020_01_Evacuazione_GENERALE</li> <li>- Doc_020_02_Evacuazione_REPARTO</li> <li>- Doc_020_03_Evacuazione_CONCLUSIVO</li> </ul> Racmet confirms that at least a first aid, emergency and fire fighting qualified operator is present during any shift. The same information is recorded on the shift case records.
Art. 30 paragraph 1 letter c)		Organisation activity, contract management	The activities are registered through the following documents: <ul style="list-style-type: none"> <li>- Doc_049_Ditte Esterne;</li> <li>- Doc_049-00_Supplemento sicurezza;</li> <li>- Doc_049-01_Idoneità tecnico-professionale;</li> <li>- Doc_049-02_Subappalto;</li> <li>- Doc_049-03_Concessione uso attrezzature;</li> <li>- Doc_049-04_Presa visione informativa rischi;</li> <li>- Doc_049-05_Coordinamento e cooperazione;</li> </ul>

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			<ul style="list-style-type: none"> <li>- Doc_049-06_DUVRI;</li> <li>- Doc_061_Abitolazione_Ditte_Esterne;</li> </ul>
Art. 30, paragraph 1 letter c)	Organisation activities in case of emergencies, first aid, tender management, periodical safety meetings, consulting with worker representative on safety;	The periodical meeting is called at least once a year. The competent medical doctor and the RLS are invited to take part to the meeting. The activities are registered through the following documents:	<ul style="list-style-type: none"> <li>- Doc_041 Verbale riunione periodica;</li> <li>- Doc_041_2 Convocazione riunione periodica.</li> </ul>
Art. 30 paragraph 1 letter d)	Health-care supervisory activities.	- Yearly report by the competent medical doctor as for the periodical visits and the health-care protocol enforced during the periodical meeting.	
Art. 30 paragraph 1 letter e)	Worker information and training activities;	The documents of the Integrated management system for registration are:	<ul style="list-style-type: none"> <li>- Doc_005_1_Programma Formazione Integrato;</li> <li>- Doc_005_02_Registro Formazione;</li> <li>- Doc_005_03_Registro Addestramento;</li> <li>- Doc_005_05 Registro presenze.</li> </ul>
Art. 30, paragraph 1 letter f)	Supervisory activity, in regard to the observance by the workers of the occupational safety procedures and instructions.	The documents of the Integrated management system for registration are:	<ul style="list-style-type: none"> <li>- Doc_007 Programma Audit</li> <li>- Doc_008 Piano Audit</li> <li>- Doc_009 Rapporto di audit</li> <li>- Doc_046_Piano Miglioramento DVR</li> </ul>
Art. 30,	Acquisition of documentation and	The documents of the Integrated management	

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paragraph 1 letter g)	compulsory certification according to the law.	system for registration are: - Doc_009 Rapporto di audit – legislative yearly checklist - Doc_006 Registro normativa applicabile
Art. 30, paragraph 1 letter h)	Periodical checks for the implementation and effectiveness of the adopted procedures.	The documents of the Integrated management system for registration are: - Doc_007 Programma Audit; - Doc_008 Piano Audit; - Doc_009 Rapporto di audit.

#### 4.11 STRUCTURE OF THE DIFFERENT FUNCTIONS

Paragraph 3 of art. 30 of Law decree 231/01 furthermore forecast:


*“The organisational model must in any case guarantee an appropriate allocation of tasks that may ensure that the necessary [...] technical skills and powers are available to provide risk evaluation, management and supervision, based on the nature and size of the organisation and the type of activity it is engaged in, which shall also involve the introduction of an appropriate penalty system with the powers to sanction any failure to comply with the measures indicated in the model.”*

It is therefore necessary to provide for specific roles as to guarantee on the one side the required technical competences to comply with any obligation and on the other the possibility to grant the required powers to better manage any risk of worker health, security and safety. Liabilities on the subject are defined consistently with the Racmet organisation and functional chart.

As already known the protection of the safety and security on the workplace is based, on the effectiveness principles as in art. 299 of law decree 81/08<sup>4</sup>, a principle which the identification of the receivers of any obligation and liability as for security and safety on the workplace should be

<sup>4</sup> **Art. 299 De facto directive power exercise:** *“The guarantee positions relating to subjects in art. 2, paragraph 1, letter b), d) and e) apply to whoever, even though not regularly vested, in reality exercises the juridical power referred to each defined subject”*. The jurisprudence had a saying on the matter, see Criminal court Sec. IV, n. 10704 dating back 19.03.2012



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based not on the specific qualification but on the role really played. As a consequence, it is not necessary, for their recognition, that the single roles (and therefore liabilities) are formalised. What is more, Law decree 81/08 divides individuals liable for security and safety in two categories, that is receivers of liabilities and receivers of activities, whose difference is that the former are subject to independent criminal sanctions.

Liability receivers: the employers, the managers, the executives, the workers and the competent medical doctor.


Task receivers: the Prevention and protection manager and the relating operators, the team members qualified for any fire-fighting activity, first aid and emergency management.

As to prevent any crime forecast by the law 231, it is necessary to identify the former tasks and to document the latter activities.

As to provide for an articulated function system, it is possible to profit from the function proxy and delegation system forecast by art. 16 of law decree 81/08, a law which codified the constant doctrine and jurisprudence orientation on the subject, forecasting the possibility by the employer to transfer not only his/her tasks but also his/her liabilities – and therefore his/her obligations as for safety and security on the workplace on condition that they are not liabilities which can't be transferred according to the regulations in force (art. 17 law decree 81/08) and that the document complies with the objective and subjective demanded requirements. The proxy granting corresponds to the requirement to delegate according to the participation of different professionals and experiences, the power exercise in terms of the activity management and control.

The internal delegation systems is clearly formalised in writing. The delegation granting must be unequivocally accepted by the proxy through a signature for acceptance (as forecast by art. 16 of Law decree 81/08 and following changes).

The delegated activities are clearly specified in the documents, the professional qualifications controlled based on the acquired experience and the attendance of specific training course. The delegation should even allow to grant possible decision-making and organisation powers as well independent powers for any expenditure consistently with the compliance with the regulations in terms of safety and security on the workplace.

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Racmet in compliance with what forecast y art. 30 paragraph 3 of law decree 81/08, at present <sup>5</sup> is organised according to a chart with the employer as the vertex, the chairman of the board of directors with ordinary and extraordinary management powers, who granted a delegation of powers according to art. 16 of law decree. 81/08 to a third party, with decision-making and expenditure powers as for protection of health, safety and security of workers on the workplace. The structure consists then of the following subjects, whose tasks and liabilities are defined at the legislative level and documented as follows:

- Managers: art. 18 law decree 81/08.
- Workers: art. 19 law decree 81/08.
- Employees: art. 20 law decree 81/08 and employment contract;
- Prevention and protection department manager and relating service operators: art. 31 and following of law decree 81/08 and appointment letter y the employer as for what the manager and the employer representative are liable for towards the employees;
- Competent medical doctor. Art. 39 and following, law decree 81/08 and task granting contract;
- Worker representatives for safety (RLS): art. 47 and following, law decree 81/08 and appointment document after election;
- Fire-fighting teams: art. 46 law decree 81/08 and appointment letters after the suitable training;
- First aid and emergency management teams: art. 45 law decree 81/08 and appointment letters after the suitable training;

The RSPP, RLS, first aid and emergency, fire-fighting team tasks and activities together with the activities of the competent medical doctor are communicated at any level of the organisation through specific training and information on the subject and through the specific company documents available on the company intranet.

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<sup>5</sup> It goes without saying that should the general company organisation be changed the organisation model should be revised as well.

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#### 4.12 MONITORING AND CONTROL SYSTEM

As to allow the enforced organisation model to be effectively enforced, it is necessary that the organisation relies on a control system of the model enforcement and of the measure suitability keeping in time (art. 30, paragraph 5, law decree 81/08)

The general and constant monitoring of data is provided representing the control and the efficacy of the organisation in the management of the health and safety and security conditions on the workplace through the accident index assessment. What is more a control system is forecast in the organisation model special part relating to the prevention of crimes to protect safety, based on the same principles and rules specified in the control system of the Environment and Safety integrated management system (reference is made to procedures **PRAS 453-01, PRAS 455-01, PRAS 460-01**).

Otherwise the RSPP will:

- Yearly collect by December all the data and indicators and will start their analysis aiming at defining possible corrective or preventive actions;
- Analyse the enforcement progress of the adopted measure and control the compliance with the legal provisions;


Present the result of the analysis to the Company management and it will transfer it to the Supervisory board.

Such an activity is based on a specific management protocol (refer to protocol 1), and the results are annexed to the periodical meeting minutes and reviewed by the Management.

#### 4.13 PROTOCOLS FOR THE CRIME PREVENTION

The word protocol is defined in general including Procedures, Operating instructions and documents of the Environment and security integrated system enforced by Racmet.

Not excluding that the crimes of manslaughter or serious or very serious culpable personal injuries committed in breach of safety regulations could be committed even after the adoption and enforcement of the model, the Organisation enforced other protocols, supplementing the already-enforced procedures, as to allow the model to be enforced and to protect Racmet from any liability.

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Being possible manslaughter crimes it is clear that the criminal will only have a criminal conduct – cheating on the management procedures and the organisation model protocols – and not really the event. Once considered the suitability of the management system – undergoing the due analysis and control – as to enforce the organisation and management model 231, hereinafter all the management protocols are reported, enforced by Racmet.


PROTOCOL 2 : CONTROL OF THE COMPLIANCE WITH THE TECHNICAL AND STRUCTURAL STANDARDS RELATING TO MACHINES AND EQUIPMENT ON THE WORKPLACE

**Control of the compliance with the technical and structural standards relating to machines and equipment on the workplace.**

- The service activity of machine and installations is governed by the procedure PRAS 446\_10\_CO\_Manutenzione Periodica.
- SPP carries out a six-month control on the service of units and installations, while checking the correct filling of the Doc\_15\_Piano di sorveglianza.
- The introduction in the production cycle of a new unit or installation should be immediately reported to the SPP by the employer as to record and list it, as to be included in the correct service procedure. The SPP checks that the new unit comes with its technical information.
- Should an omission or an incomplete service activity be reported, the SPP reports it to the service manager as to promptly forecast as similar activity as to the employer and the Supervisory board as well.
- The compliance control of the workplaces is examined in a periodical meeting (art. 37).
- Any control activity is recorded and the relating documents filed by the SPP office.

PROTOCOL 3 : CONTROL OF THE COMPLIANCE WITH THE TECHNICAL AND STRUCTURAL STANDARDS RELATING TO CHEMICAL, PHYSICAL AND BIOLOGICAL AGENTS.

**Control of the compliance with the technical and structural standards relating to biological, chemical and physical risk.**

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- The activities and controls depending on the risk assessment for the compliance with the technical and structural standards relating to biological, chemical and physical risk are forecast in the risk assessment document.
- The SPP checks the correct activity enforcement, after the risk assessment and drafts a report which is forwarded to the Supervisory board with the six-month report.

#### PROTOCOL 4: CONTROL OF THE RISK ASSESSMENT AND CONSTANT UPDATE


##### **Control of the risk assessment and constant update.**

- The employer assesses the risk and its update with the RSPP and possible with the support of a technically qualified third party.
- The RSPP checks that the employer updates the risk assessment when required (production cycle change, severe accident, introduction of a new machine, detection of a non compliance) and in case of omission, he/she reports the information to the employer and informs the Supervisory board.
- The employer should justify in writing the reasons for any delay or missing assessment.
- The documents are filed by the RSPP.

#### PROTOCOL 5: CONTROL OF THE ORGANISATION ACTIVITY, SUCH AS EMERGENCIES AND FIRST AID.

##### **Control of the organisation activity, such as emergencies and first aid.**

- The SPP at least once a year checks that the team members were correctly trained and informs the Employer about such a control.
- The SPP checks that an evacuation drill was organised and should it have not been done, through the Manager he/she asks the employer to proceed.
- The RSPP checks the correct execution of the evacuation drill.
- The SPP checks that control and assessment activities.
- The SPP informs the employers as for the activities enforced.

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PROTOCOL 6 : CONTROL OF THE ORGANISATION ACTIVITY AS FOR PERIODICAL MEETING ON SAFETY AND WORKER CONSULTING

**Control of the organisation activity as for periodical meeting on safety and worker consulting.**

- At the end of the year the RSPP checks that a periodical meeting is called and that all the participants are informed and should it had not been called, he/she requests the employer to call it.
- At the end of the meeting, the RSPP checks every six months the progress of the activities defined and prescribed during the meeting informing in writing the employer.
- The RSPP requests in writing the finishing of all the activities which were not finished yet.
- The SPP records the concluded activities and files the documents.

PROTOCOL 7: CONTROL OF THE CORRECT HEALTHCARE CONTROL


**Control of the correct healthcare control.**

The healthcare control activity is not based on a specific SGISA procedure.

However the organisation forecasts a registration system and therefore the monitoring of the activity through a yearly report which is filled by the competent medical doctor.

The following management protocol for the correct healthcare activity control is forecast.

- The SPP together with the HR manager manages the activity in co-operation with the competent medical doctor.
- Both the competent medical doctor and the HR manager manage a schedule with the list of the visits to be carried out by medical doctors.
- The visits are scheduled by the competent medical doctor who then forwards a list to the HR manager.
- The HR manager informs the interested workers and organises the visit;
- The SPP twice a year (that is in June and December) asks the competent medical doctor a

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confirmation of the visits which were not scheduled in the just-finished six months according to the healthcare control band, but requested for contingent reasons (return of a worker after a long illness, change of the production cycle, change in the production cycle, request by the workers).

- The SPP checks the schedule and in case of omissions asks the competent medical doctor to organise the missing visits.
- Should the medical doctor not provide information during the following month, the HR manager asks him/her to provide it within 7 days and at the same time he/she informs the Supervisory board.
- Should the medical doctor not manage to absolutely provide the requested information, besides informing the Supervisory board, the employer will be inform as well who will come to the due decisions.
- Anyhow, it is mandatory to guarantee that each worker will undergo a medical check-up.
- The documents are filed by the HR department.

#### PROTOCOL 8: MANAGEMENT OF AN OPERATING UNFITNESS

##### **Management of an operating unfitness**

- The competent medical doctor at the end of the medical visit provides for one of the following judgements: *a)* fitness *b)* partial unfitness, temporary or permanent, with prescriptions or limitations *c)* temporary unfitness *d)* permanent unfitness.
- The HR manager is informed about the result.
- The HR manager informs about the fitness judgement the department managers, the employer and the RSPP according to letters *b)* *c)* and *d)*.
- The information is recorded in a file by the HR manager, shared on the intranet and only visible by the HR manager, the employer, the RSPP and the department managers.
- The Department managers duly take any prescription into account to assign the activities to be carried out to each worker.
- During the internal system controls or anyhow once a year, the RSPP checks the correct

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activity assignment according to the fitness prescriptions.


- In case the RSPP during one of the scheduled control or by chance, reports that one or more workers are assigned to an activity which he/she was not fit for, he/she immediately informs the department manager and the employer as to remove the worker from the activity to be then transferred and assign him/her to a more suitable task.
- The reported controls and decisions are enforced should a different worker (or the employer him/herself) report a breach.
- The Department manager should inform in writing the RSPP and the employer about the prompt situation solution.
- Should it not be possible to re-assign the worker to a different task or should the assigned task not be enforced in a different mode, it is up to the employer in co-operation with the RSPP and the HR manager to better manage the standard breach, however preventing the worker to carry out the activity.
- Anyhow the case is to be reported to the Supervisory board.

PROTOCOL 9: CONTROL OF INFORMATION, TRAINING AND EDUCATION ACTIVITIES AFTER THE EMPLOYMENT CONTRACT IS SIGNED

### **Control of information, training and education activities after the employment contract is signed**

- The scheduling and real training are to be based on the procedure **PRAS 442\_01\_Formazione**.
- The hiring day the training is to be scheduled and the reference report is delivered in copy to the HR manager, who files it.
- When accessing Racmet, before assigning any worker to any task, the HR manager duly checks that they all undergo the required training.
- Similarly the training activity is recorded and the minutes files by the HR manager.
- Should the HR manager not receive any report within 15 days from hiring, he/she informs the RSPP and the department manager, reporting the omitted activity to the Supervisory board.




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- Then after the worker hiring, the HR manager checks that the training was scheduled according to the law and the relating documents are filed.
- Should the HR manager remark that no training was scheduled, he/she informs the RSPP and the department manager, reporting the omitted activity to the Supervisory board.
- After 30 days from reporting, the HR manager checks that everything complies with what agreed.
- The HR manager files all the relating documents.

#### PROTOCOL 10: CONTROL OF THE SCHEDULED AND VOLUNTARY TRAINING ACTIVITIES

##### **Control of the scheduled and voluntary training activities**

- The scheduling and real training are to be based on the procedure **PRAS 442\_01\_Formazione**.
- The HR manager checks twice a year (January and June) that the agreed training plan is enforced.
- The HR manager checks that the workers who did not take part to a course, were later rescheduled for a different training.
- The HR manager checks that the training was forecast for workers returning after a long absence.
- The SPP spot checks, every quarter, that the workers assigned to new activities or workers operating in a production department which was modified or where a new production cycle was enforced were newly correctly trained.
- Anyhow the Supervisory board should be informed about any situation when the training program (scheduled or voluntary) was not enforced.
- The HR manager and the RSPP file the documents, according to their specific competence.

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## PROTOCOL 11: CONTROL OF THE ORGANISATION MODEL MONITORING AND EXECUTION

### Control of the organisation model monitoring and execution

- The monitoring activity of the integrated management system is described in the procedure PRA 453\_01\_NC\_AC\_AP\_A.
- The procedure can be applied to the model monitoring and enforcement control.

#### 4.14 MORE PRECISELY: PROTOCOL RELATING TO THE BUILDING SITE AND CONTRACT MANAGEMENT

The contract management is the activity which is more exposed to the crime commission risk according to art. 25-septies<sup>6</sup>.

Racmet, duly taking the events which took place in August 2014<sup>7</sup>, thoroughly reviewed the contract management procedure – including the relating registration activity – which, considering its importance, is fully annexed to the present Model.

Hereinafter a further management protocol is annexed which Racmet enforced according to what forecast by the regulations, among which law decree 231/01.

## PROTOCOL 12: MANAGEMENT OF CONTRACTS, SITES AND ACCESS BY EXTERNAL COMPANIES

### Management of contracts and access to external companies


The outsourced company management (yard bids) is governed by the procedure **PRAS 446\_09\_CO\_Ditte Esterne**.

The other SGIAS documents are:

- Doc\_049-00\_Supplemento sicurezza (**Annexe 4**);
- Doc\_049-01\_Idoneità tecnico-professionale (**Annexe 5**);
- Doc\_049-02\_Subappalto (**Annexe 6**);
- Doc\_049-03\_Concessione uso attrezzature (**Annexe 7**);
- Doc\_049-04\_Presa visione informativa rischi (**Annexe 8**);
- Doc\_049-05\_Coordinamento e cooperazione (**Annexe 9**);

<sup>6</sup> The assessment is based on the risk analysis and on the results of the enforced interviews.


<sup>7</sup> There was a dreadful accident involving a professional worker subcontracting the painting activity within one of the company factories.

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- Doc\_049-06\_DUVRI (**Annexe 10**);
- Doc\_061\_Abitazione\_Ditte\_Esterne (**Annexe 11**).

As for such an activity, another additional protocol is forecast.

- The SPP, spot, physically checks the correct activity enforcement from a substantial and documentary view point.
- Such a control is carried out on the activity which according to the signed contract lasts for five men-days.
- In case of omissions or irregularities, he/she informs the employer and the Supervisory board.
- The SPP records the enforced control activities.

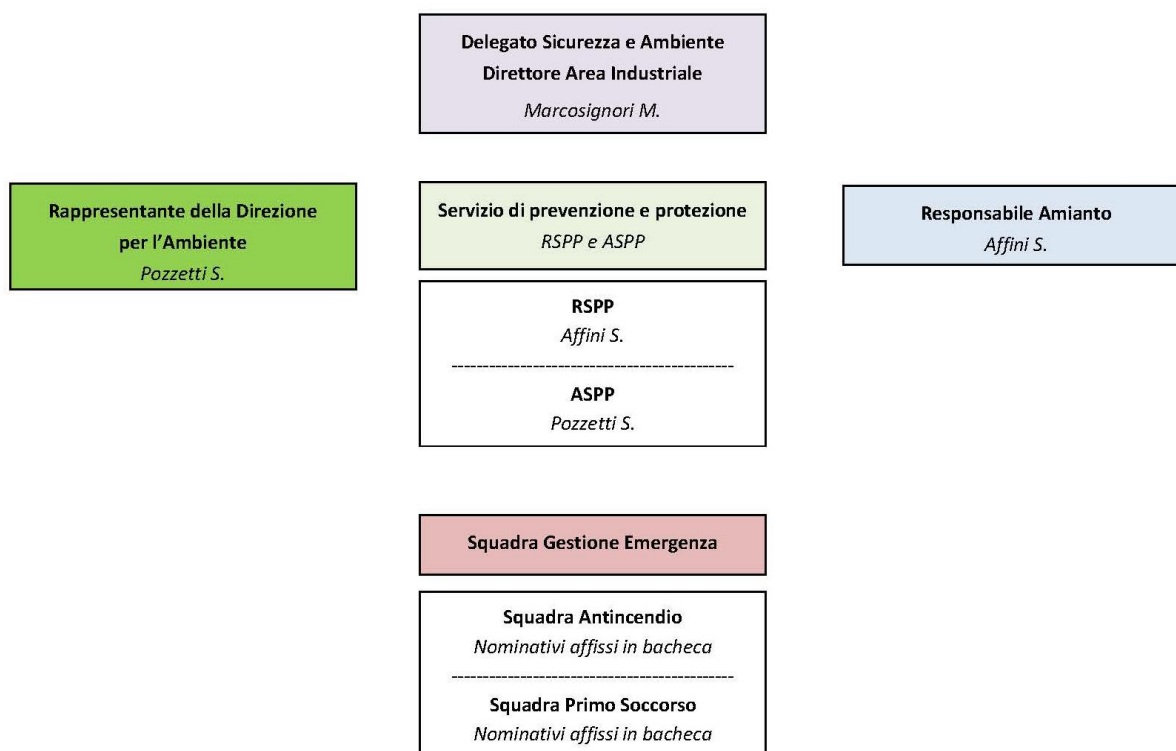
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## 5. SPECIAL PART D: ENVIRONMENTAL CRIMES

### 5.1 DECISION MAKING PROCESS RELATING TO THE ENVIRONMENTAL COMPLIANCE ENVIRONMENTAL ORGANISATION CHART

<b>Decision making process</b>	Any environmental decision is taken by the Safety and Environment manager on proxy.
<b>Decision enforcement</b>	Any environmental decision should be enforced by the Safety and Environment manager, by the RSPP as for the commercial side of the decision (i.e. Signature/renewal/negotiation of contracts with suppliers which are important for the environmental compliance) and the RDA, for any operating issue. As for the Racmet production process, the department managers are liable for any environmental decision.
<b>Control</b>	The control is enforced in compliance with what forecast by the SGA through a management review, internal and third party audits as well.

## 4.2 ENVIRONMENTAL ORGANISATION CHART



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### 4.3 The ISO 14001:2004 certification

Since 2010 Raccorderie Metalliche got the certification from Det Norske Veritas, thus complying with the requests and applications requested by the international standard ISO 14001:2004.

According to its company environmental policy (PTA\_Politica Ambientale 11) it is possible to conclude that:

“It decided to be officially committed to:

- Comply with all the environmental laws and regulations;
- Keep on constantly improving while reducing the environmental consequences at a level “corresponding to the economically convenient enforcement of the best available technology”;
- Provide human, technological and financial resources to protected the common environmental equity and the health, security and safety on the workplace;
- Inform about the present policy all the workers within the organisation;
- make present document available to the public”.


The certification obtained in terms of the environmental certification and the internal and third party *audits* are a leading tool at present to cut the risk of crime commission according to art. 25-undecies of law decree 231/2001.

The present part of the Model is to be considered duly supplemented for what not expressly recalled by Procedures, operating instructions, documents of the Environment and safety integrated system which represents the foundations for the risk prevention of the case in point. It is necessary to always refer to the latest version of the documents.

### 4.4 Verification of the environmental compliance according to with art. 25-Undecies Law Decree 231/2001

The company identified and updated any environmental performance applicable to the activities carried out according to what forecast in the PRA\_431\_01.

The environmental performances are listed in the Reference regulation register (DOC\_006 SGA) while the relating management and control also depends on activities by external companies. The following environmental activities are based on contracts with qualified suppliers:

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- Waste transportation and collection/disposal;
- Thermal power unit service and control;
- Conditioning and refrigeration unit control and service;
- Analysis prescribed by the law with reference to the wastewaters and emissions as well as waste classification as well.

External companies the above-mentioned services depend on are selected according to what forecast in PRAS\_446\_09 as to confirm their *competence*. The result of the *competence* control is documented in the DOC\_014 del SGA.

Racmet furthermore signed a contract with an external company in terms of consulting and support to its managers (factory manager, RSPP and RDA) dealing with environmental and health issues. The contract includes among others:

1. Execution of visits by the operating sites aiming at:
  - a. Controlling the compliance with any environmental protection activity or control of the presence and suitability of the authorisation documents;
  - b. Control of the compliance with workplaces, equipment, tooling and installations and environmental protection activities;
2. Drafting and delivery, whenever required, of a visit report;
3. A yearly internal audit to check the site compliance, as for the applicable regulation as for environmental protection, duly drafting the required report.
4. Formal communication of any regulation update;
5. Control of expires in terms of environmental regulation liabilities;
6. Control and update of the relating recording documents;

The consulting contract with any professional dealing with environmental and safety issues is yearly renewed (generally in November) as to provide for a continuous support and assistance.

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#### 4.5 RELEVANT ENVIRONMENTAL PERFORMANCE MANAGEMENT MODES

Hereinafter annexed only the environmental performances<sup>8</sup> connected to the crime cases in point according to art. 25-undecies law decree 231/2001. For any further environmental issue which was not reported in the present document, refer to the SGA.

##### **a. Waste management**

The company during its production activities produces the types of wastes detailed in the DOC\_013 del SGA.

The company is not liable for the waste transportation with its own vehicles and it does not manage any waste disposal/recovery site. Such activities are carried out by qualified companies, duly authorised according to the regulations in force.

The external companies managing the waste activities (transportation, recovery/disposal) were selected according to what forecast in PRAS\_446\_09.


As for the grouping of the wasted produced by the company in its factories, before any collection and/or disposal site in compliance with the regulations in force (including the form, loading and unloading register filling and similar activities for the wastes managed through SISTRI and MUD), refer to PRA\_446\_04 and PRA\_451\_01, which are integrally implemented by the company as well as to the recalled SGA documents.

A SISTRI registration (**Annexe 12**- n° document WEB\_MN\_32763) was made for the following local units:

- Strada Sabbionetana, 59 46010 Marcaria, (Mantua);
- Strada Montanara Sud, 126 46010 Marcaria, (Mantua).

As for the wastes produced by the external service operators and contractors operating by the company, the IO\_014\_00 clearly forecasts that it is absolutely forbidden to *dispose wastes in the environment* and they are liable for *managing the wastes produced by their activities*.

<sup>8</sup> Any information come from the existing documents, the SGA, the received information and through the filling of the specific checklist, by the Safety and Environment manger, by the RSPP, the RDA and the professional consultant liable for the SGA update.

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What forecast in the IO\_014\_00 applies also to the health wastes relating to the biological sampling by the company infirmary by the external laboratory.

### **b. Wastewater management**

The wastewater discharges produced by the company activities depend on:


- **Wastewaters similar to household wastewater:**
  - n. 2 regularly authorised discharges (**Annexe 13 and annexe 14**) in the underground superficial layers, through sub-irrigation of household wastewaters from the company production site in Campitello di Marcaria;
  - n. 1 authorised discharge to the sewage (**Annexe 15**), of the wastewaters coming from the sanitation installation by the production site in Pilastro di Marcaria.
- **Meteoric storm waters:**
  - More precisely, the rainwater conveyed on the surface as for the company production site in Campitello di Marcaria, they are not subject to any authorisation as the regional discipline can't be applied as clarified by the province opinion on 16/10/2007 n. 65233/Bcr (**Annexe 16**);
  - More precisely the rainwater coming from the washout of the tiled areas by the production site in Pilastro di Marcaria, are discharged to the sewage network according to the relating authorisation (refer to Annexe 15);

The company does not produce real industrial wastewaters<sup>9</sup>.

As for the compliance with the legislative and regulatory provisions as for water discharges and control times and modes relating to the liquid wastes as to prevent any environmental pollution, refer to PRA\_446\_03, PRA\_446\_10 e PRA\_451\_01 which are regularly implemented by the company as well as to the instructions and documents recalled in the SGA.

<sup>9</sup> The industrial wastewaters comply with their definition in Art. 74, paragraph 1, lett. a), law decree. 152/2006, thus excluding the meteoric storm waters which according to the regional regulation can be compared to industrial wastewaters under some specific conditions (refer Art. 113 law decree 152/2006)



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### ***c. Underground tanks***

By the production site located in Campitello di Marcara a duly authorised fuel distribution system is present (**Annexe 17**) consisting of:

- n. 1 double lead-free and oil pump connected to : (i) metal double wall tank, 4 cubic meter for lead-free fuel; (ii) a 10 cubic meter tank for vehicle oil;
- 5.00 cubic meters lubricant oils in drums with the dedicated area;
- 5.00 cubic meters of waste oils in metal cans outside.

With reference to the underground tank management, including any control activity aiming at preventing any environmental control as well as the compliance with regulatory and legislative provisions in force, refer to the PRA\_446\_08 which is integrally implemented by the company as well as to the recalled SGA instructions and documents.


### ***d. Emissions in the air***

Authorisation to any air emission for the metal joint and metal material casting activities relating to the production sites of:

- Campitello di Marcara (**Annexe 18**);
- Pilastro di Marcara (**Annexe 19**).

The single emission points are detailed in the document DOC\_011 del SGA.

With reference to: (i) commissioning; (ii) analytical control; (iii) service; (iv) census of the installations producing polluting agent discharges to the air, refer to what forecast in PRA\_446\_02, PRA\_446\_10 e PRA\_451\_01 which is integrally implemented by the company as well as to the recalled SGA instructions and documents

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### **e. Harmful substances to the ozone layer**

The company operates refrigeration and conditioning installations reported in DOC\_021.

The register filling and the regular service of any unit as well as the control of leakages in the refrigeration circuit according to what forecast in the DPR 147 dating back to 15/02/2006 as updated by the EC regulation 1005/2009 comply with the operating instruction IOA\_002\_00.

Part of the installations where refrigerant gas is present at the end of their life (ban to use any R22 refrigeration recycled and regenerated gas since January 1, 2015) were already discontinued.

## **4.6 RISK ANALYSIS AND ASSESSMENT**

Regulation 68/2015 introduced the VI-bis title in the Italian Criminal Code, entirely consecrated to the crimes against the environment. Any change in the new regulation stress the importance in case of similar crimes of the criminal company liability according to law decree 231/2001.

The crime risk analysis and assessment was carried out for the new cases of point, with no prejudice to the fact that in case no legislation measure approved on the subject, during the initial enforcement phase, the regulation interpretation is not immediate<sup>10</sup>.

<sup>10</sup> Reference mainly is made to the unfairness for the crimes according to art. 452-bis and 452-quater. As reported in the doctrine (ZALIN) in fact: *"The adverb abusively [introduced instead of the concept "in violation of the legislative, regulatory or administrative provisions protecting the environment and whose non compliance represents an administrative and criminal offence" forecast in the previous text approved by the Chamber of deputies] is still being discussed. Part of the critics unfavourable assessed the change, supporting, in reality, that the polluters being granted the due authorisations will not be punished since their actions are not to be considered unfair. Therefore only abusive pollution could be punished, that is any behaviour depending on the lack of authorisations forecast by the law and therefore with no authorisation granted by the Public administration. According to such an interpretation, the presence of an invalid authorisation would never allow an abusive action to be prosecuted but it would lead to the acquittal of polluters being granted the due authorisation [refer to the Cass. Pen., Sec. III, n. 44449 of 04.11.2013; Cass. Pen., Sec. III, n. 46189 of 14.07.2011; Cass. Pen., Sec. III, n. 1446 of 16.12.2005]. On the other side, others consider that the mentioned adverb is excessively criticised. In fact it would simply refer to a "general violation of the regulations in force", thus the fact that the polluter was granted the due authorisations is meaningless as its behaviour could never be considered legal [refer to Cass. Pen., Sec. III, n. 47870 of 19.10.2011; Cass. Pen., Sec. III, n. 8299 of 25.11.2009]"*. According to what hereinbefore specified, it is clear how, according to the first or the second interpretation recalled, the environmental pollution crime and the environmental disaster crime could lead to a different crime risk assessment. The second interpretation applies as to provide for more prudent assessments.




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Behaviours	Subjects	Law	Assumed crime/offence	Risk	Notes	Protocols <sup>11</sup>
<p>Management of the environmental performance according to:</p> <ul style="list-style-type: none"> <li>Operating and administrative management of the produced wastes</li> <li>Discharge management and their monitoring</li> <li>Air emission management and their monitoring</li> <li>Underground tank management and their monitoring</li> <li>Performance as for substances harmful to the ozone layer</li> <li>Management of the relationships with suppliers (external service operators and contractors) who play a leading role in terms of environmental</li> </ul>	<p>On their own or through appointed operators, in co-operation with them:</p> <ul style="list-style-type: none"> <li>Board of directors</li> <li>Safety, security and the environment</li> <li>RDA:</li> <li>RSPP:</li> <li>Department managers</li> </ul>	<p>Law Decree 152/2006</p>	<p>Art. 137, co. 2 <b>New discharges, when no authorisation is available for the industrial wastewaters</b></p>	<p>Minimum</p>	<p>Improbable case in points considering the company production cycle. Discharges are all authorised and they do not involve any dangerous substances, including families and groups mentioned in tables 5 and 3/A of the Annexe 5, third part of the law decree 152/06.</p>	<p>PRA_446_03 PRAS_446_09 PRAS_446_10 PRA_451_01</p>
		<p>Law Decree 152/2006</p>	<p>Art. 137, co. 11 <b>Violation of the discharge bans</b></p>	<p>Minimum</p>	<p>The present soil discharges are all authorised</p>	
		<p>Law Decree 152/2006</p>	<p>Art. 256, co. 6 first paragraph <b>Illegal temporary deposit of healthcare wastes</b></p>	<p>Minimum</p>	<p>Case of records which is not entirely possible considering that any healthcare wastes depending on biological material for blood tests are directly managed by the external appointed laboratory. There are not many wastes anyhow</p>	<p>IO_014_00 PRAS_446_09</p>

<sup>11</sup> The word protocol is defined in general including Procedures, Operating instructions and SGA models. In the majority of cases in the table only the SGA Procedures are mentioned, for simple reasons, but the operating instructions and the Models such procedures refer to are to be considered mentioned anyhow. Anyhow see paragraph 4.3.

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protection	Law Decree 152/2006	Art. 256, co. 1 <b>Non authorised management of dangerous and non-dangerous wastes</b>	Minimum	No collection, transportation, recovery, disposal, trade and brokerage of dangerous or non dangerous activity is carried out. All the produced wastes are managed in compliance with the SGA.	IO_014_00 PRA_446_04 PRAS_446_09 PRA_451_01
	Law Decree 152/2006	Art. 256, co. 3 <b>Non authorised management of a landfill (dangerous and non-dangerous wastes)</b>	Minimum	The company regularly dispose the dangerous and non dangerous waste management , the areas and spaces allocated for the temporary storage of dangerous and non-dangerous wastes are correctly managed (in compliance with the SGA). Wastes are collected and disposed of by an external company.	
	Law Decree 152/2006	Art. 256, co. 5 <b>Dangerous waste mixing</b>	Minimum	All the wastes which are classified as dangerous and non dangerous with no mixing in compliance with the SGA	
	Law Decree 152/2006	Art. 257, co. 1 first period <b>Pollution by non dangerous</b>	Moderate	It is impossible to exclude any local phenomena	



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			<b>substances</b>		affecting the soil in case of accident (accidental loss) and the underground soil (loss from underground tanks, collecting tanks and the oil separator). All the production areas are tiled and fitted with containment basins.	PRA_446_08 PRAS_446_10 PRA_447_01 PRA_451_01
		Law Decree 152/2006	Art. 257, co. 1 second period <b>No contamination disclosure</b>	Moderate		
		Law Decree 152/2006	Art. 257, co. 2 <b>Pollution depending on dangerous substances</b>	Moderate		
		Law Decree 152/2006	Art. 258 co. 4 second period <b>False certificate</b>	Minimum	Case of record which is not probable as the company outsources any waste analysis activity to qualified laboratories. It is however not possible to exclude <sup>12</sup> any complicity in crime.	PRAS_446_09
		Law Decree 152/2006	Art. 452- quaterdecies of the Italian Criminal Code <b>Organised activity of the illegal waste traffic</b>	Minimum	The company regularly transfers the dangerous and non dangerous wastes in compliance with the SGA. Wastes are collected and disposed of by an external company.	PRA_446_04 PRAS_446_09 PRA_451_01
		Law Decree 152/2006	Art. 279, co. 5 <b>Exceeding the emission limit values</b>	Minimum	The company when operating its installations complies	PRA_446_02 PRAS_446_09 PRAS_446_10

<sup>12</sup> The complicity however must be wilful, considering the admission of fault or negligent participation to actions.




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					with the emission limits and prescriptions authorised. It carries out any periodical control forecasts by the regulations in force and by the authorisation in compliance with the SGA.	PRA_451_01
		Law n. 549/93	Art. 3 co. 6 <b>Breach of the ban to use harmful substances</b>	Minimum	Leaks and emissions are controlled by an external company in compliance with the regulations in force. RDA updates the specific register. Parts of the installations were already dismissed.	IOA_002 DOC_021 PRAS_446_09
		Italian Criminal Code	452-bis <b>Environmental pollution</b>	Moderate	The company when enforcing the SGA and its update and through the outsourced consulting activity carries out its activities in compliance with the environmental regulations, according to the granted authorisations and the relating prescriptions.	Refer to the Environmental SGA in general.
		Italian Criminal Code	452-quater <b>Environmental disaster</b>	Moderate		
		Italian Criminal Code	452-quinquies <b>Crimes against the environment</b>	Moderate		
		Italian Criminal Code	452-octies <b>Aggravated associated crimes</b>	Moderate		

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They are not possible and therefore the commission risk is not present and for the reasons mentioned in the notes, the following crimes are absent:

Law	Assumed crime/offence	Note:
Italian Criminal Code	art. 727-bis of the Italian Criminal Code 1 <b>Killing, destroying, capturing, removing, holding protected wild animal or plant species</b>	No risk considering the type of activities the company carries out
Italian Criminal Code	art. 733-bis of the Italian Criminal Code 1 <b>Destruction or deterioration of habitats within a protected site</b>	The production unit of Campitello di Marcara is not in the SIC-ZPS list set up by Lombardy region as for the Rete Natura 2000. Such a factory does not undergo any assessment incidence procedures forecast by the Habitat Directive (Art. 6 Directive 92/42/EEC and art. 5 DPR 357/97), as it also applies to the Ente Parco Regionale Oglio Sud, which, with a note dating back to 23/04/12 (in the case of the instruction of the authorisation granting of any air emissions), declares that significant negative effects can't be excluded on the IT20B0401 "PARCO REGIONALE OGLIO SUD", site, only 2,150 m from the Site ( <b>Annexe 20</b> )
Law Decree 152/2006	art. 137 of the Italian criminal code 3 <b>Releases of industrial wastewater containing the hazardous substances</b>	The company does not produce any industrial wastewater and the meteoric storm waters are not similar to the industrial wastewaters.
Law Decree 152/2006	art. 137 of the Italian criminal code 5 first period <b>Discharge of industrial waste water/ discharge onto the ground in quantities exceeding specified limits</b>	The company does not produce any industrial wastewater and the meteoric storm waters are not similar to the industrial wastewaters.
Law Decree 152/2006	art. 137 of the Italian criminal code 13 <b>Water discharge in the sea</b>	No sea discharge from ships or vessels.
Law Decree 152/2006	art. 137 of the Italian criminal code 5 second period <b>Exceeding the thresholds set for the discharge of industrial waste water</b>	The company does not produce any industrial wastewater and the meteoric storm waters are not similar to the industrial wastewaters.
Law Decree 152/2006	art. 452-quaterdecies of the Italian Criminal Code <b>Organised activity of the illegal waste traffic</b>	The company production cycle does not generate any high radioactive wastes.
Law Decree 152/2006	Art. 260 bis <b>SISTRI violation</b>	Operating sanctions since January 2, 2016, unless and extension will apply.
Law n. 150/1992	art. 1 of the Italian criminal code 1 <b>Specimen traffic according to Annexe A</b>	No risk considering the type of activities the company carries out
N. 150 dating back	art. 1 of the Italian criminal code 2 <b>Repeated</b>	No risk considering the type of activities the

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to February 7, 1990	<b>infringement as for the specimen traffic according to Annexe A</b>	company carries out
N. 150 dating back to February 7, 1990	art. 2 of the Italian criminal code 1 <b>Specimen traffic according to Annexes B and C</b>	No risk considering the type of activities the company carries out
N. 150 dating back to February 7, 1990	art. 2 of the Italian criminal code 2 <b>Repeated infringement as for the specimen traffic according to Annexe C</b>	No risk considering the type of activities the company carries out
N. 150 dating back to February 7, 1990	art. 6 of the Italian criminal code 4 <b>Holding of live specimens of mammals and reptiles originating from reproductions in captivity</b>	No risk considering the type of activities the company carries out
European community regulation 09/12/1996 n. 338/97	art. 16, <b>Specimen introduction with false certificates</b>	No risk considering the type of activities the company carries out
European community regulation 09/12/1996 n. 338/97	art. 16, <b>False declaration/certification to get a licence/certificate</b>	No risk considering the type of activities the company carries out
European community regulation 09/12/1996 n. 338/97	art. 16, <b>Use of false certification or licence to get another community certificate/licence</b>	No risk considering the type of activities the company carries out
European community regulation 09/12/1996 n. 338/97	art. 16, <b>No notice or false notice to import</b>	No risk considering the type of activities the company carries out
European community regulation 09/12/1996 n. 338/97	art. 16, <b>Counterfeiting or tampering of licences and certificates</b>	No risk considering the type of activities the company carries out
Law Decree N. 202 dating back to April 9, 2008	art. 9 of the Italian criminal code 1 <b>Negligent pollution (from ships)</b>	Case of record impossible as the company has not title or ownership on any ship.
Law Decree N. 202 dating back to April 9, 2008	art. 8 of the Italian criminal code 1 <b>Negligent pollution (from ships)</b>	Case of record impossible as the company has not title or ownership on any ship.
Law Decree N. 202 dating back	art. 9, co. 2 <b>Negligent pollution</b>	Case of record impossible as the company has not title or ownership on any ship.



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to April 9, 2008		
Law Decree N. 202 dating back to April 9, 2008	art. 8 of the Italian criminal code 2 <b>Negligent pollution</b>	Case of record impossible as the company has not title or ownership on any ship.
Italian Criminal Code	452-sexies <b>Traffic or abandonment of radioactive material or refuse</b>	Case of record impossible as the company production cycle does not involve the use of any radioactive material.


## 5. SPECIAL PART: IT CRIMES AND OFFENCES

### 5.1 INTRODUCTION TO THE IT OFFENCES CASES

Art. 24 of law decree 231 (as for crimes in the relationship with the Public administration) sets the administrative crime liability in case of IT fraud to the detriment of the state or of other public entity (art. 640-Ter of the Italian Criminal Code).

Art. 7 of the law 48 dating back to March 18, 2008 duly enforcing the Budapest convention dating back to 23.11.2001 on IT crimes, introduced art. 24-bis of the decree (IT crimes and illicit data processing) extending the administrative liability of the company for the following crimes:

- Forgery of a public or private computer document with an evidence efficacy (art. 491-bis of the Italian Criminal Code)
- Unauthorized access to a computer or computer system (Art. 615 ter of the Italian Criminal Code)
- Abusive detention and dissemination of access codes to computer or telematic systems (art. 615-Quarter of the Italian Criminal code)
- Distribution of equipment, devices or IT programs intended to damage or interrupt an IT or telematic system (Article 615-quinquies on the criminal code)
- Unlawful tapping, obstruction or interruption of computer or network communications (art. 617-quater of the Italian Criminal code)

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- Installation of equipment designed to intercept, prevent or interrupt computer or telematic communications (art. 617-Quinquies of the Italian Criminal Code)
- Damage to information, data and computer software (art. 635 of the Italian Criminal Code):
- Damage to information, data and computer software used by the State or other public entity, or however of public interest (art.635-ter of the Italian Criminal Code)
- Damage to computer or telematic systems (art.635-quarter of the Italian Criminal Code)
- Damage to computer or telematic systems of public utility (art. 635-quinquies of the Italian Criminal Code).
- Computer crime by the certifier of a digital signature (art. 640-quinquies of the Criminal Code)

Money sanctions are forecast for such crimes (from a minimum one hundred to a maximum six hundred shares) and interdiction sanctions (different according to the different crimes).

What is more it is important to underline that the law made the public IT document for criminal reasons (according to the original regulation, an IT document is “the IT representation of facts, events and data which is legally relevant) similar to the written public deed and the private IT document similar to any paper private deed.

With the introduction of the above-mentioned crimes, the legislator set up a triple protection aiming at providing for the IT system integrity (that is the possibility not to change data, information and systems), the availability and confidentiality (that is the possibility of the authorised subjects to access and know information and communication content) and finally the authenticity (that is the certainty by the communication receiver of the sender identity).

It is however important to underline that not all the behaviours connected, in a way or another, to the computer used, even though relevant from a criminal view pint, can be considered IT crimes, as such a definition should only be destined to the cases when the IT system and the other IT goods or tools (such as data or software) are the material object of the crime.

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In the present section of the Special part, shortly the cases in point included in the risk assessment are described.

- **Unauthorized access to a computer or computer system (Art. 615-ter of the Italian Criminal Code)**


The case in point according to art. 615-Ter is committed by a subject who abusively accesses an IT or telematic system, protected by safety measures or he/she is connected against the willingness of the person rightfully asking for his/her exclusion. The crime can be profit-less or not leading to the system damage and it is prosecuted also in case the criminal intends to prove his/her ability and the third party system vulnerability as well.

The offence is prosecutable on the action of the injured party unless there are aggravating circumstances forecast by the law, among which the destruction or damage of data, programs or system, the total or partial interruption of its operation or whenever it is a public system or activities enforced abusing its role as “system manager”.

The objective crime consists in the introduction or abusive presence in the IT or telematic system. Abusively means an illegitimate behaviour of the criminal which is not authorised to any activity. The subjective crime consists in the general damage, consisting in the awareness and willingness of the event forecast by the regulation.

It is however a crime, as it can be committed by anybody through the simple illegal free action.

It is important to stress that the IT system is used for the data processing and their use, while the telematic system is a means allowing to manage any IT system remotely, through the communication network.

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- **Abusive detention and dissemination of access codes to computer or telematic systems (art. 615-Quarter of the Italian Criminal code)**

Art. 615-*quarter* prosecutes anybody who as to get a profit for himself/herself or others, abusively gets, reproduces, spreads, communicates or delivers personal “passwords”, codes or other suitable means to access any protected system by safety measures or at least provides for information for such a goal.

The objective crime is the abusive procurement (illegal), the reproduction (a true copy of the original), the spreading (that is the availability to others), the communication (the transfer of the information or data to anybody), the delivery (that is the material transfer) and the supply of information or instructions.

The subjective crime is the specific damage, consisting in the forecast and action willingness as to lead to personal profits or to profits for other or the damage to others.


The object of the crime is not any word or information but codes,

Words and any suitable tools allowing the subject to access the IT and telematic systems protected by safety measures.

It is a common crime, as it can be committed by anybody and the behaviour is binding that is it can only be considered a crime if the action is enforced according to the modes forecast by the legislator. Any attempt is considered a crime and therefore prosecuted according to the law.

- **Distribution of equipment, devices or IT programs intended to damage or interrupt an IT or telematic system (Article 615-quinquies on the criminal code)**

Art. 615-*quinquies* punishes any person who procures, produces, reproduces, imports, spreads, communicates, delivers or makes available to others computer equipment, devices [...] or software in order to illegally damage a system or the data and software contained therein or to assist the interruption or the altering of such system's operation.

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Such cases in point liable for crime investigations intend to prevent the abusive detention or spreading of access credentials or programs (IT *viruses*, *spyware*, etc.) or potentially dangerous devices independently from the real IT crime. Such behaviours can only be preliminary furthermore widening the criminal behaviours.

The extension of the regulation from the objective profile was followed by the subjective crime reformulation which is at present considered in terms of real damage (while previously the general damage only was considered) as the crime is to be punished when it was committed as to “illegally damage the IT or telematic system, the information, data or programs present in the system or supporting the total or partial system operation.


- **Unlawful tapping, obstruction or interruption of computer or network communications (art. 617-quater of the Italian Criminal code)**

Art. 617-*quater* punishes any person, who fraudulently intercepts communications within a computer or telematic system or between several systems, or hinders or interrupts such communication. The spreading, through any means of information to the public of any communication content represents the case in point, unless it consists of a more severe crime.

Tapping is possible through technical means or the use of software, the obstruction or interruption of any communication can mean their slowing-down and it is only possible through IT virus but also through the net overload with the introduction of a wide quantity of information or fake e-mails (*spam*).

The offence is prosecutable on the action of the injured party unless there are aggravating circumstances among which the behaviours enforced to damage a system used by the state or by other public entity or companies providing for public services or public utilities, by a public officer or person liable for providing a public service or with a violation of the duties for such an activity and service or with an abuse of the system operator qualification as well as the illegal activity of private investigator.

The protected interest is secrecy and inviolability of communications.

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The crime is a common behaviour crime.

A general damage is considered, as the awareness and willingness of commission is enough.

- **Installation of equipment designed to intercept, prevent or interrupt computer or telematic communications (art. 617-Quinquies of the Italian Criminal Code)**

Art. 617-*quinquies* punishes any person who, other than in the cases allowed by law, installs equipment designed to intercept, hinder or interrupt communications related to a computer or telematic system or between several systems.

The crime, differently from what forecast in art. 671-*quater*, is considered an indictable offence.


The objective crime consists in the installation or better the use of technical tool to tap (enter into a communication and receive it without the sender and receiver knowing), avoid or interrupt IT or telematic communications.

It is a common crime, danger or mere behaviour as the behaviour is defined and protected by the law.

The subjective crime is specific, as besides the awareness and the willingness to commit the crime, it is necessary to furthermore tap, avoid or interrupt any communication.

- **Damage to information, data and computer software (art. 635-Bis of the Italian Criminal Code)**

Art. 635-*bis* punishes any person who, other than in the cases allowed by law, installs equipment designed to intercept, hinder or interrupt communications related to a computer or telematic system or between several systems. According to a more rigorous interpretation, the IT programs could include the programs used by the criminal thanks to the use licence granted by the legitimate “*software*” licence owner.

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The provision was amended by the law n. 48 dating back to March 18, 2008, ratifying the execution of the Convention of the Council of Europe on IT crimes, forecast in Budapest on November 23, 2001 and by the other regulations present in the internal state legislation.


With the changes enforced by the law n. 48 dating back to March 18, 2008, the legislator on the one side introduced the prosecution condition (the offence is prosecutable on the action of the injured party) in case of a simple crime, and on the other it clearly specified the damaging behaviour including removal, change and cancellation of information, data and programs (the activities could have be included in the criminally prosecutable behaviours).

It is however a crime, as it can be committed by anybody through the simple illegal free action.

It is a subsidiary case of point as it is still a crime even though a mere severe offence cannot be reported. In the modified text as well, the crime forecasts a general damage that is the willingness to commit the crime according to the regulation.

- **Damage to information, data and computer software used by the State or other public entity, or however of public interest (art.635-ter of the Italian Criminal Code)**

Art. 635-ter, unless the deed constitutes a more serious offence, any person who destroys, damages, cancels, alters or suppresses information, data or computer programmes used by the State or another public entity or by an organisation providing a public service. The relevant behaviours aims at destroying, deteriorating, cancelling, changing or removing information, data and IT programs used by the state or by other public entity or belonging to them or anyhow used for any other public utility. Therefore the present case in point includes behaviours relating to information, data and IT programs which are used by private subjects, on condition they are used for any public requirement. For both criminal cases in point the committed crimes violently against people or under threat or with an abuse of the qualification of "system manager", are aggravating events.

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It is a common crime, a mere free behaviour where the real event represents the aggravating element.

While the crime according to art. 635-*bis* is prosecutable on the action of the injured party, if there is one of the aggravating events included in the regulation, crime according to art. 635-*ter* is always prosecutable on the action of the injured party. Should the described behaviours lead to an abusive access to the system, they are punished according to what forecast by art. 615-*ter* of the Italian criminal code.

- **Damage to computer or telematic systems (art.635-*quater* of the Italian Criminal Code)**

Art. 635-*quater* punishes, unless the fact constitutes a more serious offence, any person who, by the conducts referred to in Article 635-*bis*, i.e. by introducing or transmitting data, information or programmes, destroys, damages or makes it impossible, either in whole or in part, to use another personal computer or telematic system or seriously obstructs its functioning As for the present crime, it is necessary that the system attacked is damaged or no longer usable or its correct operation is no longer possible. The damage to the IT and telematic system of no public use is still considered an event crime.


It is a mere common behaviour crime. Therefore it can be easily considered an addition case of point as it is still a crime even though not a severe crime.

A general damage is considered, as the awareness and willingness of commission is enough.

- **Damage to computer or telematic systems of public utility (art. 635-*quinquies* of the Italian Criminal Code)**

Art. 635-*quinquies* punishes any person responsible for certifying electronic signatures and who, in order to gain an unjust profit for himself or for others or to cause damage to others, infringes the legal obligations concerning issuance of a qualified certificate. The event represents an aggravating factor for the sanction, and with the exception of the hindrance to the system



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operation, it is to be considered among the aggravating events. A further feature of the case in point is that the behaviours should aim at destroying, damaging or making useless any IT and telematic public utility systems.

Differently from what defined in art. 635-*bis*, there is no reference to the use by public entities, therefore when committing such crime; it is enough to consider that the attacked systems are “public utility” systems.

As for its interpretation, the system damage cases in point include the damage to information, data and IT programs in case the systems can no longer be used or their normal operation is consistently affected.

Crimes according to art. 635-*quater* and 635-*quinquies* are prosecutable on the action of the injured party and they forecast more severe sanctions in case of violence against people or threat or abuse of the qualification of “system manager”.


Should the described behaviours lead to an abusive access to the system, they are punished according to what forecast by art. 615-*ter* of the Italian criminal code.

▪ **IT document forgery (art. 491-Bis of the Italian Criminal Code)**

The “IT document” – according to the digital administration code (art. 1, lett. p), law decree n. 82/2005) – is the “IT representation of acts, facts or data which are legally relevant”.

The examined regulation states that public or private IT documents used as evidence are applied the same criminal discipline of falsities committed on traditional paper documents according to articles 476 and 494 of the Italian criminal code.

In the present legislation, the IT document concept is not connected to the relating support material, as the criminally relevant element to identify and qualify the document as IT document is its evidence efficacy according to the regulations. Therefore the IT document signed with a digital signature or other electronic signature is similar to a private deed, with the same efficacy

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specified in art. 2702 of the Italian civil code: a prosecution for false information is possible if the person against which is produces recognised that he/she signed it.

▪ **Computer crime by the certifier of a digital signature (art. 640-quinquies of the Criminal Code)**

Such a crime is committed by any person responsible for certifying electronic signatures and who, in order to gain an unjust profit for himself or for others or to cause damage to others, infringes the legal obligations concerning issuance of a qualified certificate. It applies to the electronic certificate connecting the owner identity to the data relating to the control and confirmation of the signatures on the IT documents and deeds.

For the present crime a specific damage is demanded, that is the illegal profit or willingness to damage by the criminal crime author.


There is a link to the case in point according to the “Decree” for the crime according to art. 640-ter, punishing the IT forgery against the state or any other public entity.

**5.2. RISK ACTIVITY AREAS**

As for any of the mentioned crimes, a specific theoretical risk area can be present.

The areas which are more at risk in the case of the corporate crimes are :

- Access to IT and telematic systems belonging to the public administration to enter social security, insurance, tax or contract data belonging to the company;
- Access to private IT and telematic systems (credit institutes);
- Use and control of ID and/or access passwords to internet portal, which the required login data is demanded for;
- Management of electronic signature;
- IT and telematic system service activities and application access;

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- Hardware and software management and service;
- Management of the physical access to rooms where IT systems and facilities are located;
- Creation, protection, issue, filing, conservation, removal, spreading, introduction to IT/telematic networks of IT documents and service in general of IT document records.

In the present special part, besides the specific behaviour principles relating to the above mentioned sensitive areas, it is important to underline what follows:

- behaviour principles that the company intends to enforce according to the Model;
- supplemented prevention and control measures, in line with the information provided in the Guidelines approved by the Manufacturers' association as for any activity which could be theoretically at risk;
- the Supervisory board activities and the training activities on the juridical principles the above-mentioned crime commission is based on.


### **5.3 RECEIVERS OF THE PRESENT SPECIAL PART**

The subjects committing the present section crime are mainly company managers and executives (the senior management) as well as the company employees (the workers controlled by the management).

### **5.4 BEHAVIOUR PRINCIPLES AND PROCEDURES AS FOR SENSITIVE ACTIVITIES**

The present Special part forecasts the band to the receivers to have, co-operate or enforce behaviours leading to the cases in point (art. 25-Ter of the Decree).

Therefore the Model receivers are liable for complying with all the legislative and regulatory provisions applicable to the cases in point, as well as with the company Code of conduct, the Board of directors' decisions and by other company boards as well, including the provisions imposed by any supervisor and the internal procedures governing the company activities. What is


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more they are liable for information and organise training on the use of the IT systems and the management of the relating information.

More precisely the company defined, approved and spread out at any organisation level any company policy relating to the use of the e-mail, internet, the company intranet and in general all the IT communication tools that the company provides to its employees to carry out their activities, forecasting controls and sanctions in case they do not comply with the company provisions.

The company furthermore enforced:


- A unique back-up and IT data recording system (modes, frequency rate, etc.);
- A remote access control system by third parties;
- A password control system with different possible access to the company database according to the employee role within the company;
- Authentication and registration login requirements for any IT and telematics system, application or net (rules applicable to the creation, change and modification of the password);
- A control system of significant data and information changes and other abnormal input, changes or removals;
- An hardware management and service system;
- A software installation, management and service system (including the validity, operation, expire, licence limit and software certification control);
- An accurate regulation on the physical access to rooms where the IT facilities are located (access credentials and safety measures);
- A regulation on the use of the company e-mail and internet;

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- A regulation on the use of the digital signature with a formal assignment and relating liabilities;
- The appointment of a system manager, the definition of his/her activities and relating liabilities.

The Model receivers are furthermore not entitled to:

- Draft or co-operate with a public officer or a person liable for providing public services to draft false IT document or change real documents;
- Counterfeit or change or co-operate with a public officer or a person liable for providing public services to counterfeit or change certificates, documents or administrative authorisations inside an IT document or counterfeit or change conditions for their validity;
- Co-operate with a public officer or a person liable for providing public services to draft or issue a copy on legal paper of a non-existing public or private document or a copy different from the original;
- Counterfeit or co-operate with a public officer or a person liable for providing public services to counterfeit a certificate;
- Co-operate with a public officer or a person liable for providing public services to provide for a false confirmation on an IT document that an activity was enforced or the confirmation in an IT document that he received any statement or omission or change to any received statement;
- Co-operate with a public officer or a person liable for providing public services to provide for a false certification in deeds, documents or administrative authorisations through an IT document, events which the document should truly confirm;

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- Co-operate with a medical doctor or a legal consultant or a person liable for providing public services to provide for a false certification in deeds, documents or administrative authorisations through an IT document, events which the document should truly confirm;
- Confirm orally or in writing to a public officer in a public document, with false information, through an IT document, information which the document should truly confirm;
- Write or provide for false evidence of recording through an IT document subject to police inspections or notices through an IT document forward to the police relating to industrial, commercial or professional activities;
- Partially or entirely draft private false deeds, through an IT document or change real deeds, using them or allowing others to use them;
- Write or have a private deed written, on a IT document which was blank signed or not signed at all, which should have been correctly signed, leading to different judicial effects than what forecast, using it or allowing others to use it;
- Write or have it written or co-operate with a public officer in writing or in having a document written on a IT document which was blank signed or not signed at all, which should have been correctly signed, leading to different judicial effects than what forecast, using it or allowing others to use it;
- Destroy, cancel, hide, entirely or partially, a private deed or a public deed which were true, as an IT document;
- Abusively use the company digital signature or anyhow violating any regulation governing its use;
- Abusively or permanently enter against the express willingness of the person liable in an IT or telematic system protected through safety measures;

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- Procure, reproduce, spread, communicate, abusively deliver codes, key words and other means suitable to access the IT or telematic system protected through safety measures or provide for useful information on the subject;
- Procure, produce, reproduce, import, spread, communicate, deliver, provide for tools, devices, IT programs as to illegally damage an IT or telematic system or information, data or programs inside the system or relating to the system or total or partial interruption or change of its operation;
- Illegally or abusively tap, avoid, illegitimately or abusively interrupt any IT and telematic communication;
- Illegitimately or abusively install tools aiming at tapping avoiding and interrupting any IT and telematic communication;
- Destroy, damage, cancel, change, remove information, data and IT programs belonging to third parties or used by the state or by other public entity or anyhow of public utility;
- Destroy, damage, make it entirely or partially useless IT or telematic systems belonging to third parties, or severely hinder their operation by way of destruction, deterioration, cancellation, change, removal of information, IT data and programs belonging to third parties or through the input or transmission of data, information or programs;
- Destroy, damage, cancel, change, remove information, data or It programs belonging to third parties or input or transfer data, information or program as to destroy, damage or make the IT or telematic partially or entirely unusable or consistently hinder their operation.

## 5.5 CONTROLS BY THE SUPERVISORY BOARD

Without prejudice to what agreed and forecast in specific chapter of the Organisation model – General Part, the Supervisory board periodically carries out spot controls and inspections on the

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activities relating to the sensitive processes according to the present Special Part, as to check the compliance of the enforced behaviours to the rules defined in the Organisation model.

Thus the Supervisory board should be able to freely access the entire relevant company documents.

## **6. SPECIAL PART F: ORGANISED CRIME OFFENCES**

### **6.1 INTRODUCTION TO THE POSSIBLY OFFENCES CASES IN THE FIELD**

With the law n. 94 dating back to 15/07/2009, and more precisely art. 2 paragraph 29, the legislator forecasts the liability of the companies for organised crime offences as well. Thus in the law decree 231/01 art. 24-ter

The company reported a purely theoretical risk for such crime commission. However, even though the sanction system well known, in the present section reference is made to cases in point mentioned in the law n. 94/2009.

- **Criminal association of a mafia type (art. 416-bis of the Italian Criminal Code)**


If three or more persons become part of an organisation with the aim of committing various crimes, those who promotes, constitutes, manages, organises, or finances the association is sentenced for such offences by imprisonment from three to seven years.

For solely participating in the organisation, the sentence shall be one to five years' imprisonment. The organisation heads are subject to the same sentence established for the promoters.

Should the partners use weapons in public, the sentence shall be five to fifteen years imprisonment. The sentence is increases if the number of partners is ten or higher.

A criminal association aimed at committing one of the crimes under Articles 600 of the Italian Criminal Code (imposition or maintenance of a condition of slavery or servitude), 601 of the Italian Criminal Code (trafficking in human beings), 602 of the Italian Criminal Code, (purchase and sale of slaves) as well as art. 12, paragraph 3-bis of the Unique Decree on the discipline of



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immigration and foreign conditions, according to law decree dating back to July 25, 1998, n. 286, a sentence from five to fifteen years of imprisonment applies in the cases forecast in the first paragraph and from four to nine years of imprisonment applies in the cases forecast in the second paragraph.

In other words, the present offence stands out for the following factors:


- a) Existence of an association tie between at least three subjects, which is generally stable;
- b) Existence of a criminal undetermined programme as for number, modes, times of the possible crimes to be committed;
- c) An organisation and structure, even though not refined, suitable to carry out association crimes;
- d) Awareness by the criminals to take up a collective permanent commitment.

- **Mafia-type association/conspiracy (art. 416-bis of the Italian Criminal code)**

It punishes anyone who is part of a Mafia association made up of three or more persons, as well as those who promote, lead or organize it from ten to fifteen years imprisonment.

Those who promote, manage or organize the association, the new regulations establish an increase of the decreed penalty from twelve to eighteen years.

An association is classified as being of a mafia style when it requires the individuals who are part of it to employ pressure force connected with membership of the association, subjugation and the code of silence, which are used when committing offences for acquiring either directly or indirectly the management or control of economic activities, concessions, authorisations, contracts and public services or for making profits or gaining unjust advantages for themselves or for others, or in order to impede or obstruct the free choice of voting or to buy votes for themselves or for others on the occasion of electoral polls.

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If the organization is armed, the punishment is imprisonment of from twelve to twenty years for the cases provided for under the first subsection, and from fifteen to twenty-six years for the cases covered by the second subsection.

The association is considered armed when the participants have availability of arms or explosive materials for the carrying out of the association aims, even if concealed or kept in a storehouse.

If the economic activities carried out or controlled are partially or entirely financed with the price, product or profit of crimes, the sentences specified in the previous paragraphs are increased by one third.


The objects that the guilty party used to commit the crime, or intended to use for that purpose, shall in all cases be confiscated, as shall those items that were the price, product or profit of the crime or which made up use thereof.

The provisions of the present article are also applicable to the camorra and to other associations, regardless of the local term used to describe them, who, with recourse to the intimidating power of their organization, pursue aims similar to those of mafia type organizations

Moreover alleged offence mentioned above entails the company liability according to law decree 231/01 with no exception whatsoever, when the crimes are committed according to the conditions forecast by Art. 416-Bis of the Italian Criminal Code, or to ease the association activities forecast by the same article.

- **Election exchange between politics and mafia (art. 630 of the Italian Criminal Code)**

The sentence set according to the first paragraph of art. 416-Bis, affects individuals who obtain the promise of votes in exchange for disbursement of money in the context of mafia related transactions according to paragraph 3 of the same article 416-bis.

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- **Kidnapping for robbery or for extortion (art. 630 of the Italian Criminal Code)**

Anyone who kidnaps a person for purposes of terrorism or supervision of the democratic order shall be punished by imprisonment of from twenty-five to thirty years. If from the kidnapping the death of the person kidnapped ensues, as an unintentional consequence of the criminal's actions, the guilty person is to be punished with thirty-year imprisonment anyone who causes by negligence the death of the kidnapped person is punishable with life sentence. The partner, if against all the others, does his best to allow the passive subject to be freed, without any price paid, will be applied the sentences forecast by art. 605. Should the passive subject die, after his/her kidnapping, after being freed, the criminal will be sentenced from six to fifteen years. Against the co-author that tries, outside what forecast in the previous paragraph, to avoid the crime, its worse consequences or support the police or the judicial authority to collect final evidences to identify or get the author trapped, the life sentence is replaced by an imprisonment sentence from twelve to twenty years and the other sanctions are cut from one to two thirds. In case of an attenuating event, the sanction forecast in the second paragraph is replaced by an imprisonment sentence from twenty-four to thirty years. If there are attenuating events, the sanction to be applied due to the reduction can't be lower than twelve years, in the assumption reported in the second paragraph and to ten years in the case of the assumption reported in the third paragraph. The sanction limits reported in the previous paragraph can be overcome when there are attenuating events according to the fifth paragraph of the previous article.

- **Association aimed at the illegal traffic of drugs or psychotropic substances (Presidential Decree 309/90, art. 74)**

When two or more people work together to commit more than one crime among the crimes forecast in art. 73 of the Presidential decree 309/90, whoever promotes, sets up, manages, organises or finances the association is punished with an imprisonment sentence which is not lower than twenty years.

Whoever is taking part in the crime is sentenced up to ten years.

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The sanction is increased if the number of associates is higher than ten and if among the participants there are drug or psychotropic substance addicts.

If the association is armed, in the cases forecast in paragraph 1 and 3, they are sentence up to at least twenty-four years and in the case forecast in paragraph 2, up to twelve years. The association is considered armed when the participants have availability of arms or explosive materials for the carrying out of the association aims, even if concealed or kept in a storehouse.

The sanction is increased in case of the event in the letter e) paragraph 1 of article 80.

If the association aims at committing crimes described in paragraph 5 of the article 73, the first and second paragraphs of article 416 of the Italian Criminal Code apply.

Sanctions forecast in paragraph 1 and 6 are cut from half to two third for whoever did his/her best to provide for the crime evidence or to remove any resource allowing to support the crime commission.

When the laws and regulations recall the crime forecast in art. 75 of the law dating back to 22/12/1975, n° 685, repealed by art. 38, paragraph 1, of the law dating back to 26/06/1990, n° 162, the reference is made to the present article.


If three or more persons become part of an organisation with the aim of committing various crimes, those who promotes, constitutes, manages, organises, or finances the association is sentenced for such offences by imprisonment from three to seven years.

For solely participating in the organisation, the sentence shall be one to five years' imprisonment

The organisation heads are subject to the same sentence established for the promoters.

Should the partners use weapons in public, the sentence shall be five to fifteen years imprisonment.

The sentence is increases if the number of partners is ten or higher.

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- Crimes of illegal manufacture, introduction into the State, sale, transfer, possession or carrying in a public place or place open to the public of weapons of war or of war type or parts of them, of explosives, of illegal weapons as well as of common fire-arms (art. 407, paragraph 3, letter a), number 5 of the Italian Criminal Code

Relevant crimes according to Law decree 231/01 are the illegal manufacture, introduction into the State, sale, transfer, possession or carrying in a public place or place open to the public of weapons of war or of war type or parts of them, of explosives, of illegal weapons as well as of common fire-arms (art. 2, paragraph 3, of the Law n. 110 dating back to 18/04/1975).

## 6.2. RISK ACTIVITY AREAS

As already put forward, the risk of the case in point commission for the above-mentioned crimes to the benefit of the company is theoretical and simply limited to the “crime association” case only, for activities which are not among the company purpose.


Thus it is clear that it is very difficult to identify any risk by the company but it simply depends on a wrong behaviour by a company employee simply deciding to profit from the organisation and available means to commit a crime.

As for the company any crime association could be only considered a crime in terms of income taxes or VAT taxes, fraud to the detriment of the state, illicit waste traffic or more in general company crimes as well.


## 6.3. GENERAL BEHAVIOUR PRINCIPLES

The Model receivers are not allowed to entertain trade relations with (physical or legal) subjects which one is aware or suspects of being involved in illegal activities with reference to the types of crimes detailed in the Immigration unique decree 24-ter D.lgs. 231/2001.

The Model receivers, all for their competence, must:

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- Have a correct, transparent and co-operating behaviour in compliance with the regulations in force and with the internal procedures, as for any activity aiming at managing its relationships with suppliers/customers;
- Possibly check the present requirements to confirm the supplier, contractor, consultant, agent, partner and employee reliability when starting or during their mutual relationship;
- Immediately do their best to inform the company in case they fear or have negative information on the reliability of people they work with;
- Check that third parties are selected according to clear, certain and non-discriminating procedures and whenever possible confronting the potential offers and selecting suppliers providing for the best ethical, organisation, technical and financial guarantees;
- Check that employees are selected according to specific principles allowing to assess the candidates according to the Code of conduct and that the process is traced back through the use of the specific documents throughout the entire process;
- Have a clear, transparent, diligent and co-operating behaviour in the relationship with public authorities, mainly in case of the judging and investigating authorities, always transferring information, data and events required.

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## 7. SPECIAL PART G: CRIMES AGAINST INDUSTRY AND TRADE

### 7.1. INTRODUCTION TO THE CRIME CASES ASSIGNED TO THE CASE IN POINT, ASSUMPTION FOR THE COMPANY ADMINISTRATION LIABILITY

With the law n. 99 dating back to 23/07/2009, the legislator introduced the liabilities of entities in case of offences against trade and industry. Thus in the law decree 231/01 art. 25 bis-1 was supplemented.

Hereinafter annexed a list of the offences leading to the entity liability in compliance with law decree 231/01.

- **Troubled freedom of industry and trade: a crime (art. 513 of the Italian Criminal Code)**


Anyone who uses violence against things or fraudulent means to obstruct the running of a factory or sales outlet is punished, on complaint by the injured party, and once the fact does not constitute an even greater crime, with imprisonment of up to two years and a fine of between 103 and 1,032 euro.

The assets safeguarded by the two examples of offences are commonly identified in public trust and, more precisely, in the interests of consumers in distinguishing the source of products available on the market.

The crime in case of any illegal behaviour lasting in time, is to be considered a permanent offence.

- **Unlawful competition with the use of threats or violence (art. 513 bis Italian Criminal Code)**

Whosoever in exercising a commercial, industrial or in any event a productive activity, carries out acts with violence or threat is to be punished by imprisonment from two to six years The punishment is increased if the acts of unfair competition concern a business financed in whole or in part or in any manner by the State or other public entity.

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The crime can be committed by anyone carrying out a commercial, industrial or anyhow productive activity. "Commercial" is the activity leading to the good circulation and "Industrial" is the activity aiming at manufacturing goods and services while finally "Productive" is the activity creating services with no use of any material.

The illicit behaviour aims at getting rid or discouraging any competition.

The rationale of the aggravating circumstances is the requirement to reinforce the activities financed with public money, which are possibly the highest socially-useful activities.

- **Fraud against national industries (art. 514 of the Italian Criminal Code)**

The crime is committed if anyone, puts up for sale or otherwise distributes industrial products onto national or foreign markets with counterfeit or altered, names, marks or distinctive signs and thus causes damage to the national industry and he/she is sentenced to one to five years imprisonment and at least 516 euro fine.


For the index and for the distinctive marks and signs, compliance was made to the internal regulations and international conventions to protect industry property. The sentence is increased and provisions in articles 473 and 474 do not apply.

Typical conduct consists in selling or putting into circulation industrial products with forged or altered names, brands or distinguishing signs.

- **Fraud in trade, established (art. 515 Italian criminal code)**

Anyone who when carrying out a commercial activity or running a sales outlet open to the public consigns to the purchaser a movable object for another individual, or a movable object which in origin, provenance, quality or quantity differs from that declared or agreed on is liable to imprisonment for a period of up to two years and a fine up to €2,065, if the offence in question does not constitute a more serious offence.



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If the items are precious, punishment is imprisonment or up to three years or a fine of no less than 103 euro.

The interest protected by the provision is the interest to loyal and correct exercise of a commercial activity.

The real crime is the conduct of those who deliver a mobile object in the place of another one or a mobile object different from the one declared or agreed by the purchase in origin, source, quality or quantity in the exercise of a commercial activity.

- **Sale of not genuine food substances as genuine (art. 516 of the Italian Criminal Code)**

Anyone who sells or trades in any other way non-genuine food items and passes them off as genuine is liable to a period of imprisonment of up to 6 months or to a fine of up to €1,032


Such a crime aims at terminating any activity leading to the direct exchange or the sales of non genuine goods and beverages.

- **Sale of industrial products with misleading signs (art. 517 of the Italian Criminal Code)**

Anyone who offers original work or industrial products for sale or otherwise puts them into circulation bearing Italian or international names, trademarks or distinguishing signs which are liable to mislead the buyer as to the origin, source or quality of the work or product is considered guilty of this offence and it is sentenced up to two years imprisonment or with a fine up to twenty thousand euro.

The crime takes place any time an irregular good is provided to the public or to third acquiring parties, even though it did not undergo any sales and purchase agreement whatsoever.

The awareness and willingness to sale or put products with misleading signs on the market is required.

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- **Manufacturing and selling goods made with unlawful use of industrial property rights (article 517-ter of the Italian Criminal code)**

The provision punishes, with a term of imprisonment for up to two years and with a fine of up to euro 20,000, anyone that while aware of the existence of the industrial property rights, manufactures or uses industrially items or other goods produced by misappropriating an industrial property right or infringing such industrial property right, subject to a complaint filed by the injured party, without prejudice to the application of Article 473 of the criminal code and Article 474 of the criminal code.


The same punishment is applicable for anyone who, for purposes of gain, brings into the State, holds for the purposes of sale or directly offers for sale to consumers, or in any event places in circulation, the same products with the indications or designations counterfeited.

Provisions in articles 474-bis, 474-ter, 2 paragraph and 571-bis, second paragraph, apply. The crimes envisaged under paragraphs 1 and 2 are punishable as long as the provisions of domestic laws, the community regulations and the international conventions to protect intellectual or industrial property have been complied with.

The juridical item protected by the provision is identified in the illegal exploitation of any industrial property.

- **Counterfeiting of geographical indications or appellations of origin of food products (art. 517 quater of the Italian Criminal Code)**

Anyone who infringes or otherwise alters the geographic identification or identification of origin of food and agriculture products or introduces into the national territory, holds for sale, sells directly to consumers or otherwise puts into circulation products of this type bearing a false indication or certification of origin for the purpose of gaining a profit is considered guilty of this offence, imprisonment sentence up to two years or a fine up to 20,000 euro. The same punishment is applicable for anyone who, for purposes of gain, brings into the State,

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holds for the purposes of sale or directly offers for sale to consumers, or in any event places in circulation, the same products with the indications or designations counterfeited. Provisions in articles 474-bis, 474-ter, 2 paragraph and 571-bis, second paragraph, apply.

The crimes envisaged under paragraphs 1 and 2 are punishable as long as the provisions of domestic laws, the community regulations and the international conventions to protect intellectual or industrial property have been complied with.


- **Counterfeiting, alteration, use of trademarks or distinguishing signs, or of patents, models and designs (art. 473 of the Italian Criminal Code)**

This type of offence occurs if a party procures, reproduces, disseminates, discloses, consigns or anyway makes available to others equipment, devices, or computer programs, with the aim of illicitly damaging a computer or telecommunications system or the information, data and/or programs resident therein or pertinent to said system in order to obtain the total or partial interruption of the service or to modify the operation of the same. The sentence varies from six months to three years imprisonment and a fine up from 2,500 to 25,000 euro.

Imprisonment sentence from one to four years and a fine from 3,500 to 35,000 euro, for whoever makes use of such counterfeited or altered trademarks, or counterfeits or alters industrial, domestic or foreign patents, designs or models, or without concurring in the counterfeiting or alteration, makes use of such counterfeited or altered patents, designs or model.

The crimes envisaged under paragraphs 1 and 2 are punishable as long as the provisions of domestic laws, the community regulations and the international conventions to protect intellectual or industrial property have been complied with.

- **Introducing and trading in the State of products with false signs (article 474 of the Italian Criminal Code).**

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These are offences provided for in article 473 of the Italian Criminal code, introduced in the State in order to make profit therefrom, industrial products with trademarks or other logos, domestic or foreign, forged or altered, or anyone, except cases of participation in the offences of forgery, alteration, introduction in the State, holds for sale, offers for sale or otherwise puts forth, in order to make profit therefrom, the same goods. The sentence varies from one to three years imprisonment and a fine up from 3,500 to 35,000 euro.

Aside from the cases of accomplices in the counterfeiting, alteration, introduction into National territory, whose is withholding for sale, selling, or otherwise puts the products pursuant to the first paragraph into circulation is punished. Such a crime is punished with up to two year sentence and a fine up to 20,000 euro.


As to better understand the provisions specified, do not forget that distinctive signs (name of the product, brand, name of the company, label, symbol, slogan or others – such as the specific staff overall) aim at making products and services standing out n the market.

In the context of fair competition and consumer protection, the Company and its collaborators undertake not to infringe upon the rights of third parties regarding intellectual property and to comply with rules protecting the distinguishing marks of original works or industrial products (trademarks, patents).

The required conditions to constitute the mentioned offences are that the behaviours are enforced knowing, with ordinary diligence, the existence of other people intellectual properties, titles in compliance with the national, community and international regulations aiming at protecting the industrial and intellectual property rights.

The protection forecast for the cases of records in articles 473 and 474 of the Italian criminal codes is limited, according to the legislation to the registered trademarks The registration represents therefore the basis for the crime.

The juridical interest protected by the regulations 473 of the Italian criminal code) (in line with article 474 of the Italian Criminal code) distinguishes between the concepts of, on the one hand,

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trademarks and distinctive signs and, on the other hand, products or objects. There would be no crime when one merely reproduces images of industrial products without also reproducing any trademarks or distinctive signs. In such case, there could be confusion among products, but not also trademarks or distinctive signs.


On the other hand, it is a crime – if the counterfeiting is real – if the buyer was informed by the seller that the brand was not real. In the assumption according to art. 474 of the Italian Criminal Code, it is not necessary to confirm that the crime was committed that the counterfeited mark reaches the single consumer, as the punished offence is the counterfeiting or the change, that it is the use of a distinctive mark or signed which was counterfeited or changed by others and such a use does not necessarily lead to the sale of the product to the consumer as the crime itself in reality is committed beforehand, when the product with the counterfeited mark is introduced on the market

Counterfeiting is any behaviour leading to have the counterfeited brand getting qualities which lead to a real confusion on the product origin, thus deceiving the consumers.

Any change, on the other end, could lead to the partial change of an original mark.

Article 25 bis as well forecasts not only money sanctions but imprisonment sentences as well, and more precisely following the violation and breach of articles 473 and 474, all the imprisonment sentence forecast in articles 9 and 2 of the Decree apply (interdiction to any activity, suspension or cancellation of authorisation, licences or concessions according to the severity of the crime, ban to deal with the Public administration unless for any public service performance; the exclusion of any possibility to be granted allowances, contributions, subsidies and financing and the possible cancellation of any benefit already granted, the ban to advertise any good or service) for no more than one year.

The receivers of the present Special part of the Organisation, Management and Control Model according to law decree 231/2001 of the company and they are committed to comply with its content:

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- Company directors and executives (*senior management*);
- Company employees (subjects who are *managed and supervised by others*);


As for the sensitive activities they take part to, the following subjects can be the receivers of specific liabilities, instrumental to the correct execution of the internal control activity, as forecast in the present Special part:

- consultants, agents and representatives, experts and in general professionals on condition that they carry out sensitive activities in the name or in behalf of the company;
- suppliers and partners (temporary joint venture and association based on a contractual agreement of limited duration) on condition that they continuously and consistently carry out sensitive activities in the name or in behalf of the company;

## 7.2. RISK ACTIVITY AREAS

As for the risk of crime and offence commission (according to articles 25 bis and 25 bis 1 of the law decree 231/2001) and considered relevant in terms of the internal *risk assessment*, the Company considers the following micro-activities “sensitive”, enforced through the receivers of the present Special part and possibly in co-operation with external subjects:

- technical design and production of products/services;
- development of prototypes and/or patents;
- selection of products;
- management of contracts;
- procurement of goods destined to allow to make products for the customers;
- quality controls on the offered products;
- participation to projects, research as well, sector initiatives with competitors included;

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### 7.3. GENERAL BEHAVIOUR PRINCIPLES

All the sensitive activities are to be carried out in compliance with the regulations in force, with the rules put forward in the Code of conduct, with the general behaviour principles put forward in the General and Special part of the present Model as well as with protocols (and possible existing organisation procedures) enforced to avoid the above-mentioned offences and crimes.


The company, considering among its stakeholders not only customers by competitors as well, strongly believes that it is important that the company activity is constantly carried out not only rigorously complying with the regulations in force but also with correctness, loyalty, good faith and transparency (however aiming at protecting as confidential the company strategies and information).

The research, design and development activities of new products aiming at identifying new business opportunities connected to the market and technology evolution is carried out in compliance with the national and international regulations in force, included any regulation aiming at protecting the industrial property rights, while enforcing, whenever possible a preventive and early control of the existence of any other industrial property right (trade mark or other distinctive sign registration).

The receivers are obliged to comply, when executing any contract with customers, conditions and terms agreed and governing such contracts, including the delivery of products according to the specific terms, brands and distinctive signed agreed.

More precisely the Receivers should:

- have a correct, transparent and co-operating behaviour in compliance with the regulations in force and with the internal procedures, as for any activity aiming at managing its relationships with suppliers/customers;


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- not build or develop any commercial relationship with people (natural or legal as well) who are possibly or suspected to be possibly involved in illegal activities or crimes, mainly as for the cases in points in art. 25 *bis* as for brands, patents and distinctive signs;
- comply with any *policy* enforced by the company including all the principles leading at respecting any third party industrial property rights at protecting the company rights as well, in case of activities with external subjects or entities;
- check the reliability of formal notices received by subjects complaining about a potential company conduct damaging the rights protected by the brand and patent regulations;
- check with the sector professionals the possibility that a company conduct could lead to a crime or an offence as for brand and patent protection;
- enforce an internal process looking for and checking any possible other brand or patent registration;
- ask the direct supervisor or the Supervisory board to check any possible uncertainty in case of behaviours to be enforced, of a better interpretation of the regulation in force and internal procedures as well;
- forecast the general introduction of a provision in terms of entity liability according to the Decree 231 in any contract with consultant, supplier or third parties, according to which the third party declares that he/she duly understood the principles in the Model and in the Code of conduct and that he/she is duly committed to comply with the provisions imposed, otherwise risking the contract termination.

Receivers as absolutely forbidden to enforce any behaviour which could even partially lead to the offence or the cases in points recalled in article 25 *bis* of Law decree 231/2001.

More precisely the Receivers are not at all allowed to:




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- Counterfeit, change or use brands or distinctive signs, models, drawings or patents, national or international, relating to products and services which through an ordinary diligence it is possible to check and ascertain that they belong to other people industrial or intellectual property rights;
- Introduce in the country, keep for sale, sale or introduce on the market products or services with protected, national or international brands or signs, even though counterfeited or changed;
- Supply customers with a product which does not comply with the contract terms;
- Design, manufacture, use and keep to be sold, sale or introduce on the market any product manufactured counterfeiting any industrial property right or violating such rights, being perfectly aware of the crime after an ordinary and qualified diligence.

The company defines and spreads out specific company policies and procedures to be considered guidelines to carry out any sensitive activities and instrumental activities as well.

#### **7.4 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to the chapter of the Organisation model – General part consecrated to the discipline of the Supervisory Board, the Supervisory board periodically spot checks the activities connected to the processes involved in the present Special part, through controls by the different company departments and through periodical meetings with the auditors.

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## **8. SPECIAL PART H: FENCING, RECEIVING OF STOLEN GOODS, MONEY LAUNDERING AND USE OF MONEY, GOODS OR BENEFITS OF UNLAWFUL ORIGIN, SELF-LAUNDERING**

### **INTRODUCTION TO THE MENTIONED CRIMES, ASSUMPTION FOR THE COMPANY ADMINISTRATION LIABILITY**

With law decree 231 dating back to 23/11/2007, the legislator enforced directive 2005/60/EC relating to the prevention of the financial system to money laundering profits from criminal activities and financing of terrorism and directive 2006/70/EC recalling the executions measures.

Art. 63, paragraph 3, introduces in the Law decree 231/01 art. 25-octies extending the administration liability of entities to crimes and offences of receiving stolen goods, money laundering and use of slush funds, illegal goods or utilities.


Hereinafter art. 3, paragraph 3, of the law dating back to December 15, 2014, n. 186, supplements the previous cases in points the self-laundering offence (art. 648 ter 1 of the Italian Criminal Code).

In the present framework, it is specified that the art. Art. 52 of legislative decree 231/2007 drives the different management control entities, among which the Supervisory board, set up within the entities the regulation is destined to, to control and check the constant compliance with the money laundering regulations and to report any breach to the law which they are informed of when carrying out their activities or which they are reported to. (even when reported by employees or other control entities).

- **Concussion (art. 648 of the Italian Criminal code)**

The regulation punishes anyone who, for the purpose of procuring a benefit for himself or others, acquires, receives or conceals money or property derived from any crime whatsoever, or in any way participates in causing it to be acquired, received or concealed.

The rationale is to avoid any serious damage to the company financial interests started with the commissioning of the main offence.

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The subjective part of the offence is represented by the specific intent as the behaviour is punished when is committed by the qualified certicator in order to procure to himself or to others an unfair profit or to cause a damage to others.

- **Money laundering (art. 648 bis of the Italian Criminal code)**

This Crime is committed when a person exchanges or transfers money, property or other benefits deriving from intentional criminal acts, or carries out other transactions in their regard, in order to prevent the identification of their criminal provenance


The sentence aims at avoiding that the crime offender, through third parties, manage to hide the illegally received utilities and therefore can easily allowed money–laundered assets and capital to move around, and therefore to use them for legal economic activities.

The subjective element is the general offence, which is construed as general misconduct and in the illegal origin of the good. Whoever can be liable for such a crime, with the exception of people taking part to the assumed crime.

- **Utilisation of Money, Goods or Benefits of Unlawful Origin (art. 648 ter of the Italian Criminal Code)**

The mentioned crime has a double goal: while on the one side initially it is necessary to avoid that “Slush funds” depending on illegal activities is money–laundered, later, in a second step, it is necessary to allow such money, even though initially illegal, to be legally used.

The reserve provision in paragraph 1 of the article forecasts that a sentence for the criminal who did not take part to the original crime or he/she is not liable for fencing or money laundering: the sanctioned crime consists therefore in the use of illegal money, goods or utilities for legal economic and financial activities.

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▪ **Self-laundering (art. 648 ter 1 of the Italian Criminal code)**

The sanction shall apply to whosoever, having committed or being an accessory in the commission, of a non-criminal offence, utilises, replaces, transfers, in economic,

financial, entrepreneurial or speculative activities, the money, goods or other benefits originating from the commission of the

offence, in such a manner as to effectively hinder or conceal the determination of criminal origin thereof.


The active subject is the author of the crime.

**8.2. RISK ACTIVITY AREAS**

The mentioned cases in points can be committed by anybody (common offences and crimes), with the exception of self-laundering which can only be committed by somebody who previously took part to the crime.

The objective factor of the entity interest or advantage could be excluded any time there is no connection between the sanctioned crime and the entity activity. Such a connection could be confirmed, for example, in case of the purchase of production goods coming from a robbery, or in case of use of illegal capitals for an investment. Vice versa there is no interest or advantage for the entity in case the senior management or the employee buys goods which are not at all connected with the company activity they work for. The same applies in the case of the use of capitals in economic and financial activities outside the company purpose.

The identified processes possibly leading to a crime or an offence mainly refer to the good and service procurement, the contract signing with private entities, the granting and management of external consulting activities, the financial flow management and the management of the sale agents.

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As for the receiving crime, the company activity sector at a higher risk are the purchase and commercial departments as for the three different crime case in points the commercial and Administration–financial departments are higher at risk.

Theoretically, financial and commercial activities are higher at risk with legal and natural people living in countries at risks, as identified in the “Black lists” and/or with legal and natural people connected to transnational organised crime networks, duly mentioned in the “ Name list” (all available by the Italian exchange rate office or published by other national and/or international entities) or with companies which are directly or indirectly controlled by such criminals.


### **8.3 GENERAL PRINCIPLES**

The present Special part forecasts that the receivers of the present Model are not entitled at all to enforce behaviours:

- Which could lead to the above–mentioned cases in point;
- Which, even though they are not a case in point in themselves, they could possibly become such;
- Which are not in line or compliant with the principles and provisions included in the present Model and in the Code of conduct or anyhow in the company procedures.

The Model receivers are furthermore not entitled to:


- Develop and support any relationship with subjects (natural and legal people) who possibly or are known to belong to criminal organisations or anyhow they are suspected criminals;
- Grant supply and procurement activities in the absence of cost authorisation and of any supplier professional requirements as well as in the absence of quality and convenience of the mentioned good and service;

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- Confirm their regularity when receiving goods/services in the absence of a careful specific assessment as for the received good/services and authorise payment of goods/services in the absence of a control on the supply/procurement/performance consistency according to the contract terms and conditions;
- Pay internal or external subjects when the payment is not justified based on a contract, when the payment is not due for the purchase of goods, services or performances, etc. which were received by the company in compliance with the agreed contract terms and conditions or which are not due to the company in compliance with the law;
- Use current accounts or saving accounts anonymously or through a false and illegal confirmation in Italy or abroad.

The Model receivers, all for their competence, must:

- Have a correct, transparent and co-operating behaviour in compliance with the regulations in force and with the internal procedures, as for any activity aiming at managing its relationships with suppliers/customers, consultants and agents, foreigners as well;
- Confront a series of different proposals when checking suppliers, looking for suppliers offering the higher guarantees from an ethical, organisation, technical and financial view point;
- Be inspired by transparency criteria when developing the company activity and in the selection of the main commercial/financial partner, paying attention to information on third parties which the company works with from a corporate or financial view point, and which could even possibly lead to the possibility of a crime commission according to what specified in the present special part;
- Check that any supply of professional services and performances is correctly paid according to the present market prices;


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- check the traceability of the decision-making process as for the financial and corporate relationships with third parties;
- Check the payment compliance, as for the correspondence of receivers/senders and any other counterpart which is really involved in the transaction;
- Pay only according to an evidence document, which was duly controlled and authorised;
- Pay and get bank transfers only: any cash payment should be duly documented and authorised;
- Check the Treasury (as for cash payment limits, use of barer passbooks for the cash management);
- Consistently cooperate with the Supervisory and Judicial authorities;
- Report to any supervisor and/or to the Supervisory board any violation to the regulations and possible operations which could lead to receiving, money laundering, use of goods, money and utilities whose origin is not certain, self-laundering;
- Enforce formal and consistent controls on the company financial flows, mainly as for any third party payment. Such controls should duly take the counterpart company registered office into account (fiscal heavens, countries under terrorism risks, etc.), the banks they work with (registered offices of any bank involved and banks which are not located in any country) and possible trust companies used for extraordinary transactions or operations.


Such principles and behaviours are governed by specific administration and financial procedures.

#### **8.4 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to the chapter of the Organisation model – General part consecrated to the discipline of the Supervisory Board, the Supervisory board periodically spot checks the activities connected to the processes involved in the present Special part, through controls by the different company departments and through periodical meetings with the auditors.

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## **9. SPECIAL PART I: CRIMES RELATING TO THE LABOUR EMPLOYMENT WITH NO RESIDENCE PERMIT OR WITH AN IRREGULAR RESIDENCE PERMIT**

### **9.1. Introduction to the possible offences cases in the field**

Law decree n. 109 dating back to 16/07/2012 supplemented with the cases in point of Law decree 231/01 art. 25-duodecies, forecasting the administrative liability of any entities in case of offence governed by art. 22, paragraph 12-bis of law decree n. 286/1998 (Immigration unique decree).

Art. 22 paragraph 12 of the mentioned decree in an attempt to stem the sad phenomenon of the “illegal recruitment and employment – at below minimum legal payment” of the clandestine person in the work field, the new Law establishes that in the case where an employer employs foreign workers without residence permits, or where the permit has expired, or where a request of renewal, according to the Law, has not been requested, or that it has been revoked or annulled, no longer constitutes a simple contravention, but has been raised to the rank of crime, punishable by six months to 3 years imprisonment and a fine of 5,000 euro for each worker employed in this manner


Art. 22 paragraph 12 bis forecast an aggravating circumstance for the crimes.

In fact penalties and sanctions are increases by one third :

- if the employed workers are more than three;
- if one or more recruited persons are minors (of non-working age);
- if the employed workers are employed to be exploited under terms and conditions not agreed or forecast by the law, according to third paragraph of art. 603-bis of the Italian Criminal Code.

The supplement of the case in point in the aggravating offences leads to the enforcement of sanctions and penalties imposed by Law decree 231/01.

### **9.2. RISK ACTIVITY AREAS**

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The risk activity mainly includes selection, hiring and more in general the management of staff.

The case in point could be committed by outsourced companies as well working on behalf and in the name of the company.


### **GENERAL BEHAVIOUR PRINCIPLES**

The Model receivers are furthermore not entitled to:

- entertain trade relations with (physical or legal) subjects which one is aware or suspects of being involved in illegal activities with reference to the types of crimes detailed in the Immigration unique decree

The Model receivers, all for their competence, must:


- Undertake and maintain behaviours which are in line and compliant with the Immigration unique decree (law decree 286/1998) as well as with principles and provisions imposed by the Code of conduct and possible corporate regulations on the subject;
- Register and document any relevant activity on the subject in terms of traceability;
- File documents, possible controls by the Supervisory board, documents collected in analysis and remarks reported which lead to reporting possible breaches and violations;
- Have a correct, transparent and co-operating behaviour in compliance with the regulations in force and with the internal procedures, as for any activity aiming at managing its relationships with suppliers/customers;
- Ask the direct supervisor or the Supervisory board to check any possible uncertainty in case of behaviours to be enforced, of a better interpretation of the regulation in force and internal procedures as well;
- Check in case any third party citizen be hired that he/she has a residence permit, and that it is still applies and it did not expire;

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- Check, in case of an employment contract, the presentation by the foreign worker of the request of renewal of the residence permit when it is due to expire;
- Forecast the commitment by the hired worker by the company to forward any communication, letter or request coming from competent authorities (police, prosecutor’s office, labour centre) as for the validity and expire of the residence permit;
- Supplement any contract and agreement with temporary labour agencies as well as with external agencies co-operating with the company at any level whatsoever, a liability provision as to provide from the one side that the “supplied” staff or any person working within the company was granted his/her regular residence permit, to set the liabilities of the involved companies in case of hiring workers without a regular residence permit or with an irregular or expired residence permit.

#### **9.4 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to the chapter of the Organisation model – General part consecrated to the discipline of the Supervisory Board, the Supervisory board periodically spot checks the activities connected to the processes involved in the present Special part, through controls by the different company departments and through periodical meetings with the auditors.


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## 10. SPECIAL PART L: ILLEGAL BROKERING AND EXPLOITATION OF PERSON'S LABOUR AND SERVICES

### 10.1 INTRODUCTION TO THE POSSIBLE OFFENCES CASES IN THE FIELD

Law n. 199 dating back to October 29, 2016 relating to “illegal hiring of farm labourers for very low wages through an agent and the intermediation of labour” introduced a series of new measures against illegal recruitment and employment – at below minimum legal payment, of the clandestine person in the work field or anyhow exploitation or unequal treatment of non regular labour profiting from the wage and salary need of the worker. The main intervention sector of the law including twelve different articles is:

- redefinition of the exploitation of [...] irregular work, through organised intermediation activity, carried out through the use of violence, threats or intimidation (the so-called caporalato) with liability of the employer;
- mitigating circumstance leading to a lower coefficient for seriousness than in the case of complete failure to notify measures;
- arrest those engaged in the commission of this offence;
- the reinforcement of confiscation or seizure;
- decision on the merits of the case or to obtain provisional or precautionary measures against the farm company;
- extension of the criminal liability of legal persons to situations where the person or legal entity has taken part in the caporalato crime;
- extension of the anti-trafficking fund to the victims of the illegal hiring;
- Straightening of a quality farming activity network as a tool to check and prevent illegal activities in the farming sector;
- the consistent re-alignment of salaries in the farming sector.

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From a criminal view point – as for what matters herein – article 1 of the present provision restates the case in point reported in article 603-bis of the Italian Criminal Code, as “Unlawful brokerage and exploitation of work” The new text of the article 603-bis, paragraph 1 of the Italian Criminal Code forecasts a criminal act punishable for a minimum period of 1 to 6 years of imprisonment and a fine of €500 to 1.000 for each recruited or employed worker in case of behaviours of people:


- recruiting workers on behalf of third parties under exploitative conditions, usually taking advantage of their state of need (the so-called “caporale” or “broker”);
- carry out organised intermediation activities, to recruit workers or labour force, or organising any work involving exploitation of workers by means that involve violence, threats, or intimidation, and consequently taking advantage or control of the state of need(s) or vulnerability of workers are punishable conducts under both provisions.

The crime does not apply only to the farming sector but to any sector in general.

The crime does not ask for the brokering conditions to be considered such.

It means that behaviours which involve violence, threats, or intimidation, and consequently taking advantage or control which in compliance with the new paragraph 2 supplement an aggravating case in points – 8 years imprisonment and a fine of €1,000 to 2,000 fine for each recruited worker if the crime, that is, such forms of employment or recruitment are committed by means of violence, intimidation or threats.

With reference to the hypotheses of the administrative responsibility of legal entities (article 25-quinquies), a new juridical people liability was envisaged by Legislative Decree 231/2001: therefore as for any caporalato activity crime committed to the benefit of the company by the senior management or by the employees, the company will be liable as well and it will be

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sentenced with a money sanction from four hundred to one thousand shares as well as a ban for at least one year (that is the company is not allowed to carry out any activity whatsoever).

## 10.2. RISK ACTIVITY AREAS

The risk activity mainly includes selection, hiring and more in general the management of staff and the supplier management process as well.


## 10.3 GENERAL BEHAVIOUR PRINCIPLES

The list of the mentioned indexes includes among the main exploitation factors, even individually, what follows:

- (repeated) payment of salaries which are clearly not in line with what forecast by national labour contracts agreed with the most important national trade unions;
- (repeated) payment of salaries whose amount is not proportional to the quantity and the quality of the operating activity;
- (repeated) violations in terms of working hours, rests and holidays;
- violations of any standard relating to the safety, security and hygiene on the workplace;
- degrading working conditions for the workers in terms of controls and accommodations provided as well.

The Model receivers, all for their competence, must:

- Supplement any contract and agreement with temporary labour agencies as well as with external agencies co-operating with the company at any level whatsoever, a liability provision as to provide from the one side that the “supplied” staff or any person working within the company was granted his/her regular residence permit, to set the liabilities of


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the involved companies in case of hiring workers without a regular residence permit or with an irregular or expired residence permit.

- Acquire a copy of the Durc at any expire to check the contribution payment compliance;
- Monitor through an analysis and recording of people presence (mainly in case of internal contracts that is activities to be carried out within the company), overtimes and compliance with the granted yearly holiday regime;
- Implement "indicators" and indirect controls through for example the request when drafting bid and tender contracts of the DM10 form (the DM10 form is filled by the employer to report to the Social Security monthly salaries paid to workers and possible adjustments of any anticipated performances on behalf of the Social security, tax reliefs and benefits) which the contracting company forwarded to the Social security.
- Register and document any relevant activity on the subject in terms of traceability;
- File documents, possible controls by the Supervisory board, documents collected in analysis and remarks reported which lead to reporting possible breaches and violations;
- Have a correct, transparent and co-operating behaviour in compliance with the regulations in force and with the internal procedures, as for any activity aiming at managing its relationships with suppliers/customers;
- Ask the direct supervisor or the Supervisory board to check any possible uncertainty in case of behaviours to be enforced, of a better interpretation of the regulation in force and internal procedures as well;

#### **10.4 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to the chapter of the Organisation model – General part consecrated to the discipline of the Supervisory Board, the Supervisory board periodically spot checks the activities

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connected to the processes involved in the present Special part, through controls by the different company departments and through periodical meetings with the auditors.

## **11. SPECIAL PART M: INCITEMENT TO DISCRIMINATION OR VIOLENCE FOR SEX, RACIAL, ETHNIC ORIGIN, NATIONAL OR RELIGION REASONS**

### **11.1 INTRODUCTION TO THE POSSIBLE OFFENCES CASES IN THE FIELD**

The European law 2017 forecasts the introduction of art. 25 terdecies of Law Decree 231/2001 Identified as Racism and Xenophobia, turning into a case in point including the entity administration liability the offence forecast by art. 3, paragraph 3-bis of the law n. 654 dating back to October 13, 1975, thus leading to punishing and condemning all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and avoid any genocide or Shoah apology, crimes against humanity and war offences as well.


The provision was adopted on December 12, 2017.

However on April 6, 2018, the Law decree 21/2018 was enforced (Enforcement provisions of the principles of the criminal code in compliance with art. 1, paragraph 85, letter q) of the law n. 103 dating back to June 23, 2017) which in art. 7 paragraph 1 letter c) entirely cancelled art. 3 of the law 654/85 with no direct intervention however on law decree 231/2001, and moved its contents in art. 604-bis of the Italian Criminal Code (Incitement to discrimination of violence for sex, racial, ethnic origins or religion reasons”):

*Should the act not constitute a graver offence,*

*a) the sentence shall be one to six month imprisonment and a fine up to 6,000 euro for all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as actions of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities;*



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*b) the sentence shall be six month to four years imprisonment for whoever, anyhow, instigates the committing or commits discriminatory acts for racial, ethnic, nationalistic or religious reasons. Forbidden any organisation, association, movement or group supporting among its principles incitement to discrimination and violence for racial, ethnic, national or religious reasons. Whoever is member of such organisations, associations, movements or groups, supports their activities, is sentenced, only for their membership or support from six month to four years imprisonment. Those who promote, manage or organize the association, the new regulations establish an increase of the decreed penalty from twelve to eighteen years.*

***Sentence from two to six year imprisonment, if any propaganda, or incitement or support or inducement activity committed with the severe danger of spreading is entirely or partially based on the denial, severe reduction or on the Shoah apology or genocide crimes, crimes against humanity and war crimes as defined in the articles 6, 7 and 8 of the by-laws of the International Criminal Court.***


The last paragraph is the crime-case in point 231.

Sanctions forecast by art. 25-terdecies D of the decree are the following:

*“ 1. As for the crime commission according to art. 3, paragraph 3 bis, of the law, n. 654 dating back to October 13, 1975, [reference to art. 604-Bis of the Italian criminal code in compliance with art. 7 of law decree n. 21 dating back to March 1, 2018] the entity is applied a sanction varying from two to eight hundred shares.*

*2. In case of sentence imposed for crimes according to paragraph 1, the interdiction sanctions are imposed to the entity according to art. 9 paragraph 2, with a sentence imprisonment lower than one year.*

*3. If the entity or one of its business unit is consistently used to commit crimes according to paragraph 1, the final interdiction sentence is applied to carry out any activity in compliance with art. 16, paragraph 3”.*

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## 11.2. RISK ACTIVITY AREAS

Considered the activities carried out by Raccorderie Metalliche, the possibility of similar crime commission is poor as the political propaganda and any religious or racial discrimination are absolutely forbidden and condemned by the rules in the Code of Conduct and in the principles and guidelines included in the present Model. What is more, at present it is improbable that the Raccorderie Metalliche staff carries out any propaganda activity or inducement or incitement to genocide crimes or crimes against humanity as to get a benefit for the company.

Being prudent however, and at the same time not being able to entirely exclude similar illegal behaviours which could lead to similar cases in point, a risk assessment activity was enforced with the company staff.


Based on the analysis carried out, as for the above-mentioned crimes, the area which could have even a remote exposure risk are:

- Donations, gifts, advertising and sponsoring when Raccorderie Metalliche could have relationships with organisations tending to support the scopes sanctioned by art. 3 of law 654/1975;
- Advertising and promotion material drafting activities;
- Location of spaces and company areas to organisations, associations, movements or groups supporting any political propaganda;

## 11.3 GENERAL BEHAVIOUR PRINCIPLES

The Model receivers, all for their competence, must:

- Undertake and maintain behaviours which are in line and compliant with principles and provisions imposed by the Code of conduct and possible corporate regulations on the subject;

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- File documents, possible controls by the Supervisory board, documents collected in analysis and remarks reported which lead to reporting possible breaches and violations;
- Ask the direct supervisor or the Supervisory board to check any possible uncertainty in case of behaviours to be enforced, of a better interpretation of the regulation in force and internal procedures as well;

The Model receivers, all for their competence, are entirely forbidden:

- During the company activity to promote, set up, organise and manage associations aiming at supporting racism or xenophobia;
- Directly or indirectly provide, through sponsoring or donations money to people aiming at supporting racism or xenophobia;
- Work in contrast with ethical rules and company procedures governing advertising and sponsoring activities;
- Get or assign contracts or carry out any commercial or financial operation, directly or through other people aiming at supporting racism or xenophobia;
- Locate or grant loan to use rooms and company areas to organisations and movements supporting any political propaganda or possibly committing crimes governed by the present special part.

#### **11.4 CONTROLS BY THE SUPERVISORY BOARD**

Without prejudice to the chapter of the Organisation model – General part consecrated to the discipline of the Supervisory Board, the Supervisory board periodically spot checks the activities connected to the processes involved in the present Special part, through controls by the different company departments and through periodical meetings with the auditors.