



# **MODEL OF ORGANIZATION, MANAGEMENT AND CONTROL**

## **EX LEGISLATIVE DECREE 231/2001**

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# GENERAL PART

## DEFINITIONS

**Employer:** according to the Consolidated Workplace Safety Act, the employer is the owner of the employment relationship with the worker or the person who has responsibility for the organization or production unit as he or she exercises decision-making and spending powers.

**Decree or Decree 231:** Legislative Decree No. 231 of June 8, 2001, containing the "Regulations on the administrative liability of legal persons, companies and associations, including those without legal personality," pursuant to Article 11 of Delegated Law No. 300 of September 29, 2000.

**Recipients:** all persons required to comply with the requirements contained in the organization, management and control model pursuant to Legislative Decree No. 231/2001.

**Employees or Collaborators:** those who are linked to ESE S.R.L. by a subordinate, parasubordinate, temporary or interim employment relationship.

**Model or MOGC:** this Model of organization, management and control, in accordance with Legislative Decree No. 231/2001, adopted by ESE S.R.L.

**Corporate Bodies:** the Board of Directors (also just "BoD") and those who hold or de facto perform the functions of representation, administration or management and control of the Company.

**Supervisory Board or SB:** a body entrusted with the task of supervising the operation of and compliance with the Code of Ethics and the Model of Organization, Management and Control referred to in Legislative Decree No. 231/2001, as well as taking care of its updating.

**General Part:** part of the Model that contains the ethical principles and general behavioral rules of organization, performance and control of the Company's activities. The General Part mainly describes: the regulatory framework of reference (Legislative Decree No. 231/2001), the corporate organization, the control system and the disciplinary system.

**Special Part:** part of the Model articulated in Protocols.

**Code of Ethics:** a document that expresses general ethical principles and values, shared by the Company and for which compliance is required of all Recipients of the Model.

**Third Parties:** collaborators, consultants, suppliers, intermediaries and those who, due to the nature of the relationship, are expressly called upon to be familiar with the provisions of Legislative Decree No. 231/2001, as well as to undertake not to carry out conduct such as to configure one of the hypotheses of offenses provided for in the aforementioned Decree.

**Protocols:** documents subdivided by the areas of crime most at risk integrating the Special Part. They indicate the crimes abstractly realizable, the sensitive areas involved, the ways in which the crime is committed, the control procedures adopted in order to reduce risks, and the information flows to the SB.

**Public Administration:** the administrations of the state and other public territorial entities referred to in Art. 1, co. 2, Legislative Decree No. 165 of March 30, 2001, on "General rules on the organization of work in public administrations," public economic entities and private law entities subject to public control.

**Area Manager:** Recipient of the Model who has operational responsibility for a specific area of company activity.

**Company or ESE:** ESE ENGINEERING SERVICES FOR ENERGY S.R.L.

**Stakeholders :** shareholders, investors and lenders, public authorities, Italian and European institutions, regulators, judicial authorities, supervisory authorities, media, territory and community.

# **SCOPE OF APPLICATION AND ENTRY INTO FORCE**

Recipients of the organization, management and control model pursuant to Legislative Decree No. 231/2001, except as expressly established in the individual sections of this document, are the members of the Corporate Bodies, Employees, and the Supervisory Board.

Third Parties, by signing a declaration of commitment pursuant to Legislative Decree No. 231/2001, affirm, under their own responsibility, that they are committed to compliance with the regulations underlying the Organization, Management and Control Model of ESE S.R.L.

The Organization, Management and Control Model pursuant to Legislative Decree No. 231/2001 and its amendments are approved by resolution of the Board of Directors.

The effective date of the Organization, Management and Control Model is determined by the resolution to adopt it. The Company adopted the first version of the Model by a resolution of the Board of Directors on 24-11-2023.

In accordance with the provisions of Article 11 of the Civil Code on "Provisions on the law in general," the Organization, Management and Control Model applies to situations arising in the time after its introduction.

# **1 CHAPTER 1 : THE ADMINISTRATIVE LIABILITY OF ENTITIES UNDER LEGISLATIVE DECREE NO. 231 OF JUNE 8, 2001**

## **1.1 Legislative Decree No. 231 of June 8, 2001**

Legislative Decree No. 231 of June 8, 2001, on "Regulations on the administrative liability of legal persons, companies and associations, including those without legal personality," partially implemented Delegated Law No. 300 of September 29, 2000, introducing the system of administrative liability of entities into the Italian legal system.

With Legislative Decree No. 231/2001, Italy fulfilled specific international commitments by creating a special form of administrative liability for legal persons in the context of which criminal offenses are committed.

The establishment of administrative liability as a result of crime arises from the consideration that, frequently, illegal conduct committed within entities, rather than resulting from an individual's initiative, corresponds to the more general corporate policy, originating from the decisions of the top management of the entity itself.

Legislative Decree No. 231/2001 expressly qualified the liability of entities as "administrative." On closer inspection, in spite of the formal title of the Decree and the sanctions provided for the entity, the discipline signals strong links with criminal law:

- liability follows the commission of a crime committed by a natural person related to the entity in various capacities;
- the determination of liability is referred to the criminal court, and arises as a result of proceedings bound by the guarantees inherent in the criminal process;
- the system of sanctions can be highly afflictive towards the responsible entity, through the provision and application of an articulated apparatus of measures that contemplates the use of pecuniary penalties and interdictory sanctions, culminating in the disqualification from exercising the activity;
- Finally, as a further sign of the criminal-administrative nature of the liability provided for in Legislative Decree No. 231/2001, the law requires the establishment of both objective and subjective requirements, on the basis of which a genuine reprimand can be placed on the entity, for having misorganized the conduct of activities and, therefore, allowed or facilitated the commission of crimes in the corporate context.

## 1.2 The prerequisites of entity liability

The prerequisites for the application of administrative sanctions under Legislative Decree No. 231/2001 are:

- The commission of an offense among those expressly provided for in the Decree;
- That the crime was committed in the interest or to the advantage of the entity;
- That the crime was committed by qualified individuals with various connections to the entity;
- The establishment of "organizational fault" (see next paragraph) on the part of the entity.

The offenses from which the administrative liability of the entity may arise are expressly stated in Legislative Decree No. 231/2001: these are the so-called "predicate offenses."

Listed below are the main "families" of predicate offenses currently included in the scope of the Decree. Please refer to Annex 2 "Catalogue of Offenses 231" of this document for a detailed list of the individual cases included in each family:

- crimes against the Public Administration (Art. 25) and against its property (Art. 24);
- computer crimes (Art. 24-bis);
- organized crime offenses (Art. 24-ter);
- Crimes relating to forgery of money, public credit cards and revenue stamps (Art. 25-bis);
- crimes against industry and commerce (Art. 25-bis.1);
- corporate crimes (Art. 25-ter);
- crimes for the purpose of terrorism or subversion of democratic order (Art. 25-quater);
- the crime of female genital mutilation practices (Art. 25-quater.1) and crimes against the individual (Art. 25-quinquies);
- The crimes of insider trading and market manipulation (Art. 25-sexies);
- the crimes of manslaughter and serious or very serious negligent injury committed in violation of accident prevention and occupational health and safety regulations (Art. 25-septies);
- the crimes of receiving stolen goods, money laundering, self-laundering and use of money, goods or benefits of illicit origin (Art. 25-octies);
- Offenses involving non-cash payment instruments (Art. 25-octies.1);
- offenses in violation of copyright (Art. 25-novies);
- The crime of inducement not to make statements or to make false statements to judicial authorities (Art. 25-decies);
- Environmental crimes (Art. 25-undecies);
- the crime of employing third-country nationals whose stay is irregular (Art. 25-duodecies);
- The crimes of racism and xenophobia (Article 25-terdecies);

- the crimes of fraud in sports competitions, abusive gaming or betting and gambling exercised by means of prohibited devices (Art. 25-*quaterdecies*);
- tax crimes (Art. 25-*quinesdecies*);
- contraband crimes (Art. 25-*sexiesdecies*);
- crimes against cultural heritage (Art. 25-*septiesdecies*), including crimes of laundering cultural property and devastation and looting of cultural and scenic property (Art. 25-*duodevicies*);
- offenses committed by entities operating within the virgin olive oil supply chain provided for in Article 12, Law No. 9, January 14, 2013, "Regulations on the quality and transparency of the virgin olive oil supply chain."
- Transnational crimes under Law No. 146 of March 16, 2006.

For the sake of completeness, it should be mentioned that the Decree initially provided only for the offenses covered in the provisions of Articles 24 and 25: as a result of further regulatory measures, over the years the list of offenses-prescribed has been expanded, including in the subsequent articles the cases mentioned above.

In deference to the principle of legality set forth in Article 2 of Legislative Decree No. 231/2001, the types of offenses that may give rise to the Company's administrative liability are only those expressly indicated by the legislature.

The liability of the entity also extends to crimes committed abroad, provided that the state of the place where the act was committed does not proceed against them, provided that the special conditions provided by Legislative Decree No. 231/2001 are met. By Law No. 146 of March 16, 2006 ("Ratification and Execution of the United Nations Convention and Protocols against Transnational Organized Crime, adopted by the General Assembly on November 15, 2000 and May 31, 2001"), the crimes relevant to the administrative liability of legal persons and collective entities in general were extended to "transnational crimes."

Continuing on the subject of objective prerequisites, the crime is considered to have been committed in the interest of the entity whenever the unlawful conduct results in a benefit for the Company; likewise, the same liability is ascribable to the Company whenever it derives some advantage (economic or otherwise) of an indirect kind from the unlawful conduct, even though the perpetrator of the crime acted without the exclusive purpose of benefiting the Company<sup>1</sup>. On the contrary,

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<sup>1</sup> It is worth noting how case law has introduced, even within the framework of the regulations outlined by Legislative Decree No. 231/2001, the controversial concept of "group interest" referring to the case in which the interest motivating the conduct of the individual perpetrator of the offence does not correspond to that of the entity with which it has the relationship, but to that of another entity linked to the entity by corporate ties (e.g., the CEO of a holding company bribes a public official in order to cancel an administrative sanction that would have afflicted -also or exclusively- a subsidiary company.: the CEO of a holding company bribes a public official in order to cancel an administrative penalty that would have afflicted -also or exclusively- a subsidiary company). In essence, the interest ceases to be assessed exclusively with respect to the company in whose sphere the crime was committed, and opens to encompass the strategy of the group to which the company belongs, with the consequence that, once the recurrence of the interest has been ascertained in the terms mentioned above, the subsidiary's 231

the exclusive benefit of the agent (or of a third party with respect to the entity) excludes the liability of the entity, being in a situation of manifest extraneousness of the entity to the criminal act.

Finally, with regard to the individuals responsible for the commission of the crime-pattern, Article 5 of Legislative Decree No. 231/2001, distinguishes between two hypotheses and provides for the liability of the entity if the crime is committed:

- a) "by persons who hold positions of representation, administration or management of the entity or one of its organizational units with financial and functional autonomy as well as by persons who exercise, even de facto, the management and control of the same," the so-called apical subjects;
- b) "by persons subject to the direction or supervision of one of the persons referred to in (a)," the so-called subordinates.

Depending on whether the crime is committed by the so-called apical or subordinate persons, the criteria for attributing liability to the entity vary.

It should be noted that under Article 8, the liability of the entity is independent of the liability of the individual perpetrator of the crime, and exists even when the perpetrator has not been identified or cannot be charged.

### **1.3 The fault of organization**

In addition to the existence of the aforementioned requirements, which make it possible to objectively link the crime to the entity, the legislature requires the establishment of the culpability of the entity, based on subjective requirements that, in fact, express a kind of "organizational fault"<sup>2</sup>, understood as the failure or ineffective adoption and/or implementation of rules to prevent the commission of the crimes provided for in Legislative Decree No. 231/2001 in the conduct of business activities. Organizational fault expresses an internal control deficit, i.e., the inability of the entity to map the risks of the commission of the predicate offenses and to address them with appropriate measures.

On this point, Articles 6 and 7 of the Decree describe different evidentiary regimes for the ascertainment of administrative liability, but provide, in any case, exemption from liability if the Company has equipped itself with effective and efficient models of organization, management and control, suitable for preventing crimes of the kind that occurred. Adequate organization of activities, a proper

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liability may be invoked when one of the subjects with whom it has one of the qualified relationships referred to in the aforementioned Article 5 is involved in the commission of the crime.

<sup>2</sup> On the subject offers an interesting and in-depth examination of the recent ruling of the Supreme Court in the long-running Impregilo case, (Cass. Pen. no. 23401/2022), in which it is confirmed, among other things, that the peculiar mechanism outlined in Art. 6 Legislative Decree no. 231/2001, whereby: *"the entity is not liable if it proves that [...] the management body has adopted and effectively implemented [...] organizational and management models suitable to prevent crimes of the kind that have occurred"* in no way constitutes an inversion of the evidentiary burden, and is rather expressive of the principle that the basis of the entity's liability is constituted by *"fault in organization,"* this organizational deficit being the one that allows the entity's flat and easy imputation to the criminal offense.

system of information flows and operational protocols, effective training, as well as the effective presence of the Supervisory Board, represent the main tools that can exclude the "guilt" of the entity and, consequently, the application of sanctions against it.

Specifically, in cases where the crime was committed by so-called apical individuals, liability is excluded if the entity proves that:

- a) the management body has adopted and effectively implemented, prior to the commission of the act, organization, management and control models suitable to prevent crimes of the kind that occurred;
- b) the task of supervising the operation of and compliance with the models, and taking care of their updating, has been entrusted to a body of the entity with autonomous powers of initiative and control: the so-called Supervisory Board;
- c) the persons committed the act by fraudulently circumventing the organization and management models<sup>3</sup> ;
- d) there has been no failure or insufficient supervision by the body referred to in (b) above.

In cases where the crime was committed by so-called subordinates, the entity is liable if the commission of the crime was made possible by the failure to comply with management or supervisory obligations. In any case, such non-compliance is excluded if the entity, prior to the commission of the crime, adopted and effectively implemented an organizational, management and control model suitable to prevent crimes of the kind that occurred.

## **1.4 Administrative sanctions against the entity**

The penalties for administrative offenses dependent on crime, expressly provided for in Article 9 of the Decree, are:

- the financial penalty;
- disqualifying sanctions;
- confiscation;
- The publication of the judgment.

The pecuniary sanction, if the liability of the entity is established, is mandatory. It is applied by the criminal court according to a system based on "quotas," the number of which varies in relation to the seriousness of the offense, the degree of the entity's responsibility, and the activity carried out to eliminate or mitigate the

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<sup>3</sup> In order to adequately understand the concept of "fraudulent avoidance," the aforementioned Impregilo ruling is again taken up (Cass. Pen. no. 23401/2022), to the tenor of which "avoidance necessarily implies conduct endowed with deceptive connotations, consisting in maliciously evading an obligation or circumventing a constraint, specifically represented by the prescriptions of the model; reinforced then by the predicate of "fraudulence," contained in the norm, which, far from being a mere redundancy, is intended to highlight the insufficiency, for this purpose, of the simple and frontal violation of the model's rules, claiming deceptive conduct. Rather, it is necessary that it be "deceptive, falsifying, oblique, devious conduct," such as to frustrate by deception the entity's diligent compliance with the rules."

consequences of the act and to prevent the commission of further offenses; the amount of the quota, on the other hand, is set on the basis of the entity's economic and property conditions, in order to ensure the effectiveness of the sanction (Art. 11).

Disqualification penalties are applied in relation to the crimes for which they are expressly provided for (Art. 13), when the entity has derived a significant profit from the crime and the crime was committed by so-called top management or so-called subordinates and the commission of the crime was determined or facilitated by serious organizational deficiencies; they are also applied in the event of reiteration of the offenses.

The disqualifying sanctions are:

- a) Disqualification from engaging in the business;
- b) The suspension or revocation of authorizations, licenses or concessions functional to the commission of the offense;
- c) the prohibition of contracting with the public administration, except to obtain the performance of a public service;
- d) exclusion from benefits, financing, contributions or subsidies and the possible revocation of those already granted;
- e) A ban on advertising goods or services.

Disqualifying sanctions are, as a rule, temporary, with a duration ranging from 3 months to 2 years. They can last up to 7 years in the case of committing one of the crimes against the Public Administration listed in paragraphs 2 and 3 of Article 25.

Pursuant to Art. 16, disqualification sanctions are applied definitively, but only in the most serious cases: (i) permanent disqualification from conducting business can only be ordered if the entity has derived a significant profit from the crime and has already been sentenced at least three times in the last 7 years to temporary disqualification from conducting business; (ii) permanent prohibition from contracting with the Public Administration and permanent prohibition from advertising goods or services can only be ordered if the entity has already been sentenced to the same sanction at least three times in the last 7 years; (iii) if the entity or one of its organizational units is permanently used for the sole or prevalent purpose of enabling or facilitating the commission of crimes in relation to which its liability is envisaged, a definitive prohibition from exercising the activity is always ordered.

Confiscation of the price/profit of the crime or of sums of money, goods or other utilities with a value equivalent to the price/profit of the crime is a mandatory sanction in the case of a finding of liability of the entity (Art. 19). Art. 6, para. 5, also provides for confiscation with a "restorative" function even in the case of the entity's extraneousness to the crime committed: this measure is aimed at the profit that the entity has nevertheless derived from the crime.

Publication of the judgment of conviction (Art. 18) is ordered by the criminal court only in the event that the entity is also imposed the disqualification sanction.

During investigations against the entity, as a precautionary measure, disqualifications and seizures may be applied as regulated in Art. 45 ff.

## **1.5 The Organization, Management and Control Model**

The adoption of an Organization, Management and Control Model, specifically calibrated to the risks to which the Company is exposed, is aimed at significantly reducing the risk of the commission of certain offenses, through the establishment of rules of conduct, the sharing of information and the activation of internal control mechanisms. The Model constitutes the main safeguard for risk prevention and, at the same time, provides the measure of diligence required by the legislature.

The mere adoption of the Model by the body that administers the entity (for ESE, the Board of Directors) is not sufficient to determine exoneration from liability, since the Decree also requires that the administrative body has effectively implemented the Model, requiring it to make it adequate and effective.

On the level of adequacy, Art. 6(2) and (2-bis) stipulates that the adopted Model must meet the following requirements:

- a) Identify the activities within the scope of which crimes may be committed (so-called "mapping" of risk activities);
- b) Provide specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the crimes to be prevented;
- c) Identify ways of managing financial resources suitable for preventing the commission of crimes;
- d) Provide for information obligations to the body responsible for supervising the operation of and compliance with the models;
- e) provide for one or more channels that allow Recipients of the Model to submit, for the protection of the entity's integrity, circumstantiated reports of unlawful conduct, relevant under Legislative Decree No. 231/2001 (see Ch. 4).

On the other hand, the effectiveness of the Model is linked to its effective implementation, which, according to Art. 7, para. 4, requires:

- f) periodic verification and possible amendment of the same when significant violations of the requirements are discovered or when changes occur in the organization or activity or when new offenses are included in the catalog of predicate offenses (updating of the Model);
- g) An appropriate disciplinary system to punish non-compliance with the measures specified in the Model.

## **2 CHAPTER 2 : ESE S.R.L. AND THE ADOPTION OF THE ORGANIZATION, MANAGEMENT AND CONTROL MODEL**

### **2.1 Company Description: the specifics of ESE S.R.L.**

ESE - Engineering Services for Energy - is a limited liability company incorporated by notarial deed dated May 19, 1992 and registered with the Chamber of Commerce of Milan, Monza, Brianza and Lodi.

The Company, which assumes the status of a Benefit Company pursuant to Art. 1, Paragraph 376 ff. Law 208/2015, is administered by a Board of Directors.

ESE is engaged in engineering consulting at the highest level, operating worldwide in the field of power generation and storage. More specifically, ESE's business is concerned with:

- The design, construction, supply, installation, maintenance and overhaul of industrial, power generation and energy storage facilities, with preparation of related technical, economic and financial plans;
- The preparation, acquisition, licensing of products or new production processes;
- Any other activity inherent or related to what is listed.

As a Benefit corporation, ESE is also committed to pursuing the following specific purposes of common benefit in carrying out the economic activity referred to in the preceding points through the performance of activities whose objective is to generate measurable social value in the public interest and to create the conditions for the maintenance of satisfactory economic results, such as:

- as a company working in the field of energy, the promotion of renewable energy and environmentally sustainable facilities, and a rapid transition to a green economy;
- attention to people who work within the Company, creating not only a collaborative and peaceful working environment, but also supporting employees and their families in everyday life by allowing flexible schedules, the use of telecommuting, promoting corporate welfare policies, etc;
- concern for those who work within the company and for those in need, both by encouraging the performance by ESE employees of services to others and by contributing financially through donations to societies working to help the weakest.

ESE has Quality Management System certification according to UNI EN ISO 9001:2015.

## 2.2 Organization, management and control model of ESE

### 2.2.1 Adoption

The Organization, Management and Control Model constitutes an internal regulation of ESE, binding on it. It is understood as the set of ethical principles, behavioral rules and Operational Protocols adopted by the Company in order to prevent the commission of crimes susceptible to give rise to administrative liability under Legislative Decree No. 231/2001.

### 2.2.2 Purpose

Through the adoption of the Model, ESE intends to pursue the following goals:

- **to make known** to ESE Employees, members of the Corporate Bodies, Third Parties and all those who have relations with the Company, that the Company is **committed to preventing and stigmatizing** conduct contrary to laws, regulations, supervisory rules or otherwise in violation of internal regulations and ethical-behavioral principles by which the Company is inspired;
- **to inform** ESE Employees, members of the Corporate Bodies, Third Parties and all those who have relations with the Company about the consequences that may result from non-compliant conduct and, in particular, of the **onerous administrative sanctions** applicable to the Company in the case of the commission of any of the crimes indicated in Legislative Decree No. 231/2001, as a prerequisite for the attribution of administrative responsibility;
- **to pursue**, as far as possible, **the prevention of the commission of offenses, including criminal offenses**, within the Company through: i) the reminder of the Recipients of the Model to behave correctly and transparently, as well as to comply with the ethical principles, rules of conduct and Operational Protocols adopted by the Company; ii) the continuous monitoring of all areas of activity at risk; iii) the training of Recipients with a view to the proper performance of the tasks entrusted; iv) the establishment of a disciplinary system for cases of violation of the Model;
- in the event that a crime is committed from which administrative liability under Legislative Decree No. 231/2001 derives, **allow the Company to benefit from the exemption provided by the Decree** and, at the same time, improve the performance of its activities, limiting the risk of the commission of other crimes.

### 2.2.3 Structure

The Model consists of a General Part, a Special Part and annexes.

The General Part contains the ethical principles and general behavioral rules of organization, performance and control of the Company's activities. The General Part describes: the reference regulatory framework (Legislative Decree No. 231/2001), the corporate organization, the control system and the disciplinary system.

The **General Part** also includes ESE's **Code of Ethics**, as an integral part of the Model, and will be posted on the Company's website.

The **Special Part** is "crime-centric," that is, it groups the families of offenses into homogeneous categories and provides specific Protocols dedicated to each category identified as a result of the risk assessment. For each risk area, the Protocols define the ethical-behavioral principles and safeguards that must guide the actions of each Recipient and that each Recipient is required to observe for the prevention of offenses.

The Special Part **Protocols** contain a description relating to the different cases of offenses concretely and potentially relevant in the Company, identified because of the peculiar characteristics of the activity carried out; an indication of the processes or sensitive activities; internal procedures applicable to sensitive processes that decline in detail the rules of conduct and the principles of control and traceability; the main information flows to be fed to the SB.

## 2.2.4 Principles of control

The Model identifies the control principles and principles of behavior placed to guard the various processes or sensitive activities, aimed at preventing the risk of committing the crimes provided for in the Decree and articulated as follows:

- **principles of behavior**, i.e., specific rules governing how to behave when managing sensitive processes or activities;
- **principles of control:**
- **general**, applicable to all sensitive activities identified by the Model;
- **specific**, which include special provisions aimed at regulating the peculiar aspects of sensitive activities and which must be reflected in the relevant internal procedures.

### 2.2.4.1 PRINCIPLES OF BEHAVIOR

All activities included in the Special Part Protocols of the Model must be carried out in compliance with applicable laws, behavioral norms, values, Code of Ethics, policies and procedures of the Company. In particular, the Model identifies within each Special Part Protocol specific behavioral rules that define, in greater detail, the behaviors required/prohibited to prevent the commission of the crimes presupposed by the Decree.

### 2.2.4.2 GENERAL CONTROL PRINCIPLES

With reference to all sensitive activities and processes, the following general control principles must be pursued:

#### **Behavioral norms:**

- Definition of general rules of conduct to guard the activities performed within specific codes of conduct and/or policies.

### **Definitions of roles and responsibilities:**

- definition of the roles and responsibilities of organizational structures at all levels, identifying, in a uniform manner, the activities proper to each structure within the framework of internal regulations, made available by the organization.

### **Internal protocols and standards:**

- regulation of the various sensitive activities through the company's regulatory tools, so that at any time the operating methods of carrying out the activities, the related controls and the responsibilities of those who have operated can be identified;
- Redirecting sensitive activities to the organizational responsibilities of corporate areas.

### **Segregation of duties:**

- separation of duties and functions, within each sensitive business process, with a distinction of roles between those who execute, those who control and those who authorize;
- segregation of roles between those who make or implement decisions, those who prepare the accounting evidence of the operations decided upon, and those who are required to carry out the controls on the same as required by law and by the procedures covered by the internal control system.

### **Authorization and signature powers:**

- definition of a system of proxies within which there is a clear identification and specific assignment of powers and limits to individuals who operate by committing the Company and manifesting its will;
- consistency between organizational and signatory powers (delegations, powers of attorney and related spending limits) and assigned organizational responsibilities;
- Consistency between proxies and the internal proxy system;
- Provision of mechanisms for publicizing the powers of attorney assigned at the first levels to external stakeholders;
- Establishment of mechanisms for reporting on delegated powers and related powers of attorney;
- Identification of ways to revoke assigned powers of attorney and proxies;
- identification, as part of the delegation process:
  - of the organizational position that the delegate holds because of the specific scope of operation of the delegation;
  - Of express acceptance by the delegate or sub-delegate of the delegated functions and consequent assumption of the obligations conferred;
  - Of the spending limits allocated to the delegate;
- Delegation of authority according to the principles of:
  - Decision-making and financial autonomy of the delegate;
  - Technical and professional suitability of the delegate;

- Independent availability of resources appropriate to the task and continuity of performance;
- Internal publicity of assigned powers of attorney and proxies.

### **Control and tracking activities:**

- Formalization, within the framework of the Company's regulatory instruments, of the way controls are carried out (responsibility, evidence, periodicity);
- Adequate formalization of the documentation pertaining to sensitive activities, including through the inclusion of the date of compilation, acknowledgement of the document and the recognizable signature of the compiler/supervisor; storage of the same in a suitable place for preservation, in order to protect the confidentiality of the data contained therein and to avoid damage, deterioration and loss;
- reconstructability of the formation of acts and their authorization levels, the development of operations, material and registration, with evidence of their motivation and causation, guaranteeing the transparency of the choices made;
- provision of appropriate monitoring activities, by business areas, consistent with their organizational responsibilities, maintaining evidence of the controls carried out and any anomalies found;
- Adoption of computer systems, where possible, that ensure the correct and truthful attribution of each transaction (or segment thereof) to the person who is responsible for it and the individuals who participate in it. The system must provide for the impossibility of (untracked) modification of records;
- archiving, by the competent area, of documents concerning the Company's activities and, in particular, documents or computer documentation relating to sensitive activities, in such a way as not to allow subsequent modification, except with appropriate evidence;
- access to documents already filed motivated and allowed only to authorized persons according to internal rules or their delegate and the Supervisory Board.

#### **2.2.4.3 SPECIFIC CONTROL PRINCIPLES**

The Model has identified in each Special Part Protocol the specific control principles to guard the processes and sensitive activities identified with reference to each category of crime. These principles must be incorporated within the company's organizational-procedural safeguards so that they are implemented in the performance of related sensitive activities.

#### **2.2.5 Realization**

The Model is adopted by ESE on the basis of an assessment of the risks of committing the crimes referred to in Legislative Decree No. 231/2001, related to the different activities practiced in practice.

In constructing the Model, ESE sought the advice of professionals with specific expertise in the field.

The Model was created taking into consideration the Guidelines issued by Confindustria on March 7, 2002 (in the version most recently updated as of June 2021); the Guidelines issued by CNDCEC in February 2019; UNI/PdR 138:2023 Reference Practices; the main and most recent jurisprudential pronouncements on the subject; doctrinal insights; and industry best practices.

ESE's Model originates from the elaboration of a map of activities at risk, the activities within the scope of which crimes may be committed, in accordance with the express provisions of Art. 6, para. 2(a) of the Decree.

The aforementioned risk assessment was developed taking into account the following:

- Examination of corporate records;
- Analysis of organizational structure;
- Examination of the context in which the Society operates;
- Examination of any proceedings that may, even indirectly, involve the liability of the Company;
- Examination of any tax audits to which the Company has been subjected;
- Examination of any interpellation petitions submitted pursuant to Article 11 of Law No. 212/2000;
- Hearings, interviews, conversations and/or information exchanges with key business areas and external consultants, specifically dealing with decision-making processes.

In the preparation of the Model, account was also taken of company procedures, UNI EN ISO 9001:2015 certification and existing management and control systems already operating in the Company, even if not formalized, as they are suitable as measures for the prevention of offenses and control over the processes involved in areas at risk.

## 2.3 Target audience

The Recipients of the Model are all persons required to comply with the requirements contained therein.

In particular, the Model's Addressees are:

- a) the so-called. **Senior Persons**: those who hold positions of representation, administration or management of the Company or one of its organizational units with financial and functional autonomy as well as persons who exercise, including de facto, the management and control thereof (by way of example but not limited to: the Board of Directors and Area Managers, etc.);
- b) the so-called. **Subordinates**: those who are subject to the management or supervision of one of the persons referred to in letter a) and linked to the Company by a subordinate, para-subordinate, temporary or interim employment

relationship (by way of example but not limited to: Area Managers; agents; employees; interns; trainees; etc.);

c) The **members of the Supervisory Board**.

The Model also applies to **those who**, although not functionally or contractually linked to the Company, **act in accordance with the instructions of the administrative body and those who hold/exercise de facto** functions of representation, administration or management of the Company.

## 2.4 Dissemination of the Model

ESE **promotes the dissemination of the Model** in ways that ensure its effective awareness by the Recipients:

- the Company e-mails a copy of the Model to the Recipients and keeps a hard copy of the Model at its registered office;
- if the Model is updated, the Company sends an internal communication to Employees and members of the Corporate Bodies.

Contracts regulating relations with Third Parties include a declaration of commitment pursuant to Legislative Decree No. 231/2001 by which ESE's suppliers, consultants, collaborators and business partners affirm, under their own responsibility, that they are committed to compliance with the regulations underlying the Company's Model, a copy of which is delivered in electronic format.

## 2.5 Training of Recipients

In addition to widespread dissemination of the Model, the Company is committed to ensuring that all Recipients are constantly **trained and informed** about its proper application.

Training is an essential element of the Model and the fulfillment of the training obligation by the Recipients is to be considered mandatory: failure to participate in training programs is to be considered a serious violation of the Model and is a source of disciplinary liability.

The Company believes in a **progressive, daily training model** that passes through raising awareness of a corporate culture of legality in everyday operations as the high road to effective prevention.

Under the supervision of the Supervisory Board, the Company shall prepare to implement annually a training plan with the aim of acquainting all Recipients with the contents and updates related to the Decree, the Model and the Code of Ethics, and taking into consideration multiple variables, in particular:

- the target audience (the training recipients, their organizational level and role, the specific risk related to the role);

- The content (the topics relevant to the role of the Recipients);
- The delivery tools (in-person, or remote).

The plan includes:

- basic training for all personnel: through timely and widespread dissemination of the contents common to all Recipients - reference legislation (Legislative Decree No. 231/2001 and predicate offenses), Model and its operation, contents of the Code of Ethics;
- specific training interventions for Recipients operating in areas where the risk of unlawful conduct is greatest, in which the specific contents of the Special Section are also illustrated;
- in-depth modules in case of internal regulatory or procedural updates or significant violations of the Model;
- The administration of tests aimed at verifying the effectiveness of learning.

## 2.6 Update of the Model

Updating, amendments and additions to the Model are the responsibility of the Board of Directors, which may delegate this power to the Chairman of the Board of Directors, or to another person identified by the same, with the delegate being obliged to formally and promptly notify the Board of Directors of the changes made.

The Supervisory Board may report in writing to the Board of Directors on the advisability of updating the Model where it finds needs for its adjustment or effective implementation in relation to changed business and/or regulatory conditions, as well as in the other cases referred to in Ch. 4.

In detail, the Company grants the Board of Directors the power to adopt, based also on the indications of the Supervisory Board, amendments and/or additions to the Model and its annexes that may become necessary, by way of example, as a result of:

- Enactment of new legislation;
- Changes in corporate structure;
- renewed risk assessment as a result of regulatory changes or organizational changes;
- Operational criticalities found by the Supervisory Board;
- commission of unlawful acts, even if not exclusively criminal in nature;
- Repeated violations of the Model or a single part thereof.

Updates, amendments and additions to the Model adopted by the Board of Directors are promptly communicated in writing to the Supervisory Board.

# 3 CHAPTER 3 : POWERS, PROXIES AND POWERS OF ATTORNEY

## 3.1 Formalization and clarity of roles

The adoption and effective implementation of the Model require that all company activities be organized and carried out in accordance with the ethical-behavioral principles and Protocols for the Prevention of Offenses.

To this end, the ESE Model prescribes the **formalization and clear distinction of roles in the performance of activities**, with particular attention to the allocation of powers, responsibilities, forms of representation, duties and operational assignments.

## 3.2 The proxy and power of attorney system

The corporate organization makes use of proxies and powers of attorney for the exercise of powers and operational activities:

- **"Delegation"** is an internal act of assigning functions and tasks;
- **"Power of attorney"** is a unilateral legal transaction by which the Company grants powers of representation to third parties.

The system of proxies and powers of attorney is characterized by "safety" elements for the purpose of crime prevention. It pursues, in particular, the objectives of traceability and evidence of transactions while promoting the efficient management of the company.

For precise identification of sub-delegations ESE also uses internal organizational arrangements within individual teams.

## 3.3 Delegations

The essential requirements of the delegation system, for the purpose of crime prevention, require that:

- all those who have relations with the Public Administration on behalf of ESE are authorized to do so on the basis of the Company's organizational chart, organizational communications or any powers of attorney and proxies;
- all those who have relations with Third Parties on behalf of ESE are authorized to do so on the basis of the Company's organizational chart, organizational communications or any powers of attorney and proxies;
- delegations combine each management power with the corresponding responsibility and appropriate position in the corporate organizational chart;

- proxies are promptly updated and communicated to all concerned with respect to any organizational changes in the Company;
- each delegation specifically and unambiguously defines: the powers of the delegate; the person (body or individual) to whom the delegate reports hierarchically; the limits of spending powers; and the date on which it was conferred;
- the delegate has adequate spending power for the functions conferred and must be fit to carry out the delegation.

### **3.4 Proxies**

The essential requirements of the power of attorney system for the purpose of adequate crime prevention are as follows:

- proxies describe the management powers conferred and, where necessary, are accompanied by appropriate corporate notice setting out the extent of powers of representation and spending limits;
- Powers of attorney that allow to represent ESE vis-à-vis the Public Administration must make express mention of it.

### **3.5 Definition of spending powers**

For the allocation of spending powers to delegates and representatives of the Company, it is provided that:

- powers of representation and expenditure are granted in writing to individuals who have appropriate roles and responsibilities in the corporate organizational chart and who possess appropriate requirements of honorability and professionalism;
- proxies and powers of attorney granting spending powers provide for numerical spending limits in writing;
- spending powers are exercisable in joint signature in relation to specific types of expenditures or above certain amounts;
- expenditures above the numerical limits stipulated in proxies and powers of attorney are expressly approved by the Board of Directors.

### **3.6 Ways of managing financial resources**

Processes involving management and movement of financial resources are formalized.

The Board of Directors and individuals expressly delegated to carry out the above transactions shall ensure:

- The constant availability of complete, reliable and timely information;
- verifiability, documentability, consistency and congruence of each operation;

- evidence of the origin of decision-making power and traceability of transactions and supervisory controls.

The Company also ensures:

- That all the above transactions have adequate causation and are documented and recorded, by manual and computerized means, in accordance with the principles of professional and accounting propriety;
- separation of duties and functions: where possible, due to the Company's small size, the concentration of critical activities on a single person is avoided through a proper distribution of responsibilities among the areas involved in the processes and a clear and formalized regulation of authorization powers;
- to use, for the purpose of implementing decisions on the use of financial resources, financial and banking intermediaries subject to transparency and stability regulation in accordance with that adopted in EU Member States.

# **4 CHAPTER 4 : THE SYSTEM OF INTERNAL CONTROLS, SUPERVISORY BODY AND REPORTS OF MISCONDUCT OR VIOLATION OF THE MODEL**

## **4.1 The system of internal controls**

The system of internal controls is a tool that every company should equip itself with in order to keep a high focus on the risks associated with doing business, seeking to ensure a balance between the economic objectives of the business and those of compliance with laws, regulations and any other type of provision applicable to the business reality.

In Italian legislation, the expression "internal control system" has entered, with general scope for listed companies, following the entry into force of Legislative Decree No. 58/1998 ("TUF"), Art. 149, and for companies adopting the one-tier system (Art. 2409-octiesdecies c.c.).

The activity of designing, reviewing, and/or adjusting the internal control system should focus on achieving a sufficient degree of transparency and completeness in the representation of so-called inherent or intrinsic risk, that is, the set of risks to which the enterprise is inherently exposed by the fact that it operates with its own business model and the safeguards to be structured to neutralize or at least cope with these risks as best as possible.

As is well known, ESE takes the form of a limited liability company, therefore not subject to the above disciplines. However, as part of the broader corporate policy, sensitive to the issues of social responsibility and sustainability and the need to ensure conditions of fairness and transparency in the conduct of business and corporate activities, for the protection of the entity itself and all stakeholders, the Company considered it of fundamental importance to proceed with the adoption and effective implementation of an Organization, Management and Control Model pursuant to d.lgs. 231/2001 protecting itself from the risk of crime, but also, consistent with its size and internal organization, to strengthen the control of all other risks underlying business activities, paying greater attention, for example, to the adequacy of organizational structures.

In ESE, general internal control is assigned to the Board of Directors as the body of strategic supervision, while the Supervisory Board under Legislative Decree No. 231/2001, is entrusted with the task of supervising the adequacy and effectiveness of the Model in order to prevent the risks of crime.

## 4.2 The Supervisory Board

According to the provisions of Legislative Decree No. 231/2001, the task of "supervising the functioning and observance of the models and taking care of their updating" must be entrusted to a body of the Company with autonomous powers of initiative and control (art. 6, co. 1, lett. b): the so-called **Supervisory Board**.

Best practices suggest that it is a body characterized by the following requirements:

- **autonomy and independence**, which are essential so that the SB is not directly involved in the management activities that are the subject of its control activities;
- **Honorability**, which presupposes that the individual member is not in one of the following conditions:
  - Temporary disqualification or suspension from executive offices of legal persons and enterprises;
  - Ineligibility or disqualification under Article 2382 of the Civil Code;
  - having been subjected to preventive measures pursuant to Legislative Decree No. 159 of September 6, 2011 (so-called Anti-Mafia Code), subject to the effects of rehabilitation;
  - having been convicted, even if at first instance, subject to the effects of rehabilitation: for one of the crimes provided for in Royal Decree No. 267 of March 16, 1942, as amended. (bankruptcy law); for one of the crimes provided for in Title XI of Book V of the Civil Code (companies and consortiums); for a nonnegligent crime, for a term of not less than one year; for a crime against the Public Administration, against public faith, against property, against the public economy; for one of the crimes provided for in the rules governing banking, financial, securities, insurance activities and in the rules on markets and securities, payment instruments;
- conflict of interest;
- relationship of kinship, marriage or affinity with the top management of the company.
- **professionalism**, to be understood as knowledge of relevant regulations, internal rules and business processes, and general principles regarding control and management of the organization;
- **continuity of action, whereby** the SB must: (i) work constantly on the supervision of compliance with the Model with the necessary powers of investigation; (ii) take care of the implementation of the Model and monitor its compliance, in order to stimulate its constant updating; (iii) be a constant point of reference for all the Company's personnel regarding the correct application of the Model.

## **4.3 Composition and appointment of the Supervisory Board**

The Company has chosen to have a single-member Supervisory Board with an external member.

The appointment of the Supervisory Board, as well as the determination of its compensation, term of office, and budget for the performance of supervisory activities, are the responsibility of the Board of Directors.

## **4.4 Functions and powers of the Supervisory Board**

The SB is entrusted with the function of supervision:

- On compliance with the Model by the Recipients;
- On the adequacy and effectiveness of the Model in relation to the corporate structure and the effective ability to prevent the commission of crimes;
- on the appropriateness of updating the Model, where it finds needs to adapt it in relation to changed business and/or regulatory conditions, soliciting the relevant bodies for this purpose.

More specifically, the SB is entrusted with the following tasks:

- Verify the adequacy of the Model;
- Assess the needs for updating the Model;
- Solicit the implementation of the Model, including by issuing or proposing internal (regulatory and/or informational) provisions;
- Conducting reconnaissance of corporate activity for the purpose of updating the mapping of problem areas and risk areas;
- Collect, process and keep relevant information regarding compliance with the Model, as well as update the list of information that must be transmitted or kept available to it;
- Coordinate with other corporate areas (including through hearings and meetings) for the best monitoring of sensitive activities. To this end, the Supervisory Board has access to company documentation it deems relevant;
- Activate, carry out or delegate internal investigations;
- Coordinate with the Company in defining training programs and the content of communications aimed at providing them with the necessary awareness and basic knowledge of the regulations set forth in Legislative Decree No. 231/2001;
- Monitor initiatives to disseminate knowledge and understanding of the Model among Recipients;
- Monitor a dedicated e-mail box set up by the Company in order to receive:
  - from company structures any requests for clarification regarding doubtful cases or problematic hypotheses, as well as solicitations for action aimed at implementing the Model;

- reports on the violation of the Model (art. 6, co. 2 bis, lett. b), Legislative Decree no. 231/2001;
- coordinate with the Company, in order to consider the adoption of possible sanctions or disciplinary measures, without prejudice to the Company's competence to impose the adoptable measure and the related decision-making process.

For these purposes, the Supervisory Board has autonomous spending powers on the basis of an annual budget, approved by the Board of Directors in the context of the formation of the corporate budget, at the proposal of the Board itself, of the allocation of an adequate endowment of financial resources, which it may use for any need necessary for the proper performance of its duties (e.g. specialized consultancy, travel, audits, etc.). In addition, the Body may autonomously commit resources that exceed its spending powers, if the use of such resources is necessary to deal with exceptional and urgent situations. In such cases, the Body must promptly inform the Board of Directors

## **4.5 Checks on the update and adequacy of the Model**

As for the task of the SB to take care of updating the Model, such a function results in the following activities:

- Monitor the development of relevant legislation;
- Prepare suitable measures for the purpose of keeping the mapping of risk areas up-to-date;
- To propose amendments to the Model to the Board of Directors;
- Verify the adequacy and functionality of the amendments to the Model adopted by the Board of Directors.

## **4.6 Audits on the effectiveness of the Model**

In addition to the supervisory activity it carries out on an ongoing basis on the updating and adequacy of the Model, the SB periodically performs specific checks on the effective implementation of the Model, i.e., its actual ability to prevent crimes.

This activity takes the form of a sample check of sensitive activities, the main corporate acts and the most important contracts concluded by the Company in relation to activities at risk and their compliance with the requirements of the Model. To this end, the SB, if it deems it appropriate, proposes to the Board of Directors to assign to third parties - possessing the specific knowledge for the best performance of the task - any verifications of a technical nature.

## 4.7 Collection and storage of information

Any information, reports, reports stipulated in the Model are kept by the Supervisory Board for a period of at least 5 years.

## 4.8 Information flows to and from the Supervisory Board

The Supervisory Board reports to the Board of Directors on the adequacy, effective implementation of the Model and the emergence of any critical issues. The Company is committed to ensuring the conveyance of all flows to and from the SB.

### 4.8.1 Periodic information flows

The Supervisory Board has a reporting line to the Board of Directors on an annual basis.

To this end, the Supervisory Board prepares a descriptive report concerning:

- The summary of the activities carried out during the period under review;
- The checks carried out and the outcome of those checks;
- The specific checks and the outcome of those checks;
- Any critical issues in the Model;
- Any new sensitive activities;
- Proposals for improvement of the Model;
- a concise account of any reports received and the outcome of the checks on them, while respecting the confidentiality of bona fide reporters;
- Training activities carried out in coordination with the Company;
- reporting of expenses incurred, accompanied by an assessment of the appropriateness of the budget made available to the SB;
- The Plan of planned activities for the following year.

In any case, the Board of Directors has the power to convene/audit/interview the Supervisory Board at any time, which, in turn, has the power to convene/audit/interview the aforementioned body or individual members. All meetings between the BoD and the Supervisory Board must be minuted; copies of the minutes must be kept by the Supervisory Board.

### 4.8.2 Information flows to be activated when particular events occur

#### **FLOWS FROM THE SUPERVISORY BODY**

The Supervisory Board is required to promptly inform the Board of Directors when events and/or situations occur that may expose the Company to the risk of committing one of the Decree's crimes or that affect the effectiveness of the Model.

By way of example but not limited to:

- Introduction of new predicate offenses in Legislative Decree No. 231/2001;
- reports of violations of the Model, while respecting the confidentiality of the reporter's identity;
- Establishment of violations of the Model;
- news of investigations against the Recipients of the Model regarding the commission of one of the crimes referred to in Legislative Decree No. 231/2001.

#### **FLOWS TO THE SUPERVISORY BODY**

**The Board of Directors** is required to promptly inform the Supervisory Board when events and/or situations occur that may expose the Company to the risk of one of the crimes being committed or that affect the effectiveness of the Model.

By way of example but not limited to:

- Establishment of violations of the Model;
- news of investigations against the Recipients of the Model regarding the commission of one of the crimes referred to in Legislative Decree No. 231/2001;
- events or incidents concerning the health, safety and hygiene of employees in the workplace attributable to Legislative Decree No. 81/2008;
- Approval of updates to the Model by the Board of Directors or its delegates;
- Training activities activated for the Recipients of the Model;
- outcome of audits carried out by the Company or entrusted to third parties regarding compliance with the Protocols to be followed for the prevention of offenses;
- outcome of audits carried out by the Company or entrusted to third parties regarding any new sensitive activities (risk assessment);
- Disciplinary proceedings initiated and any sanctions applied for violations of the Model;
- any access and inspections by the Judicial Authority, Tax Authorities and/or any Supervisory Authority;
- changes in the Board of Directors, with special emphasis on changes in the corporate structure.

A detail of the information flows required of Area Managers and Employees is contained in the individual Special Part Protocols.

## **4.9 Protocol to be observed for reporting misconduct or violations of the Model**

Pursuant to Art. 6, co. 2-bis, Legislative Decree No. 231/2001, as well as Legislative Decree No. 24/2023, the Model provides for multiple channels that allow Model Recipients and stakeholders of ESE to submit reports in case of violations related to the integrity of ESE and consisting of:

- Administrative, accounting, civil or criminal offenses;

- Illegal conduct relevant under Legislative Decree No. 231/2001;
- violations of the ESE Model;
- everything further provided for in Article 2, c. 1 (a), nos. 3-6, of Legislative Decree No. 24/2023<sup>4</sup>.

Said reports must be substantiated and based on precise and concordant facts.

The internal reporting channels identified by ESE ensure the confidentiality of the identity of the reporter of the person involved and the person otherwise mentioned in the report, as well as the content of the report and any attached documentation.

More specifically, the above reports can be submitted through:

- sending an **e-mail to the e-mail address**: odv.esesrl@gmail.com;
- Sending a notice to the **hard copy mail address** of the registered office at Corso Magenta 85, zip code 20123, Milan, with the caption: "**Confidential Whistleblowing.**"

The Supervisory Board is not required to consider anonymous reports that appear at first glance to be irrelevant, groundless or unsubstantiated.

Communications addressed to the Supervisory Board and received by the Company even by different means, e.g., sent to a different e-mail address, must be promptly delivered to the Supervisory Board.

Whistleblowers can also make reports through external channels when:

- the above internal reporting channels are not active or, even if active, do not comply with the provisions of Article 4 of Legislative Decree No. 24/2023;
- the reporting person has already made an internal report and it has not been followed up;
- the reporting person has reasonable grounds to believe that, if he or she made an internal report, the report would not be effectively followed up or that the report itself might result in the risk of retaliation;

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<sup>4</sup> Number 3): offenses that fall within the scope of the European Union or national acts specified in the Annex to this Decree or national acts that constitute implementation of the European Union acts specified in the Annex to Directive (EU) 2019/1937, although not specified in the Annex to this Decree, relating to the following areas: Public procurement; financial services, products and markets and prevention of money laundering and financing of terrorism; product safety and compliance; transport safety; environmental protection; radiation protection and nuclear safety; food and feed safety and animal health and welfare; public health; consumer protection; privacy and protection of personal data and security of networks and information systems;  
 Number 4): acts or omissions affecting the financial interests of the Union referred to in Article 325 of the Treaty on the Functioning of the European Union specified in relevant secondary legislation of the European Union;  
 Number 5): acts or omissions affecting the internal market, as referred to in Article 26(2) of the Treaty on the Functioning of the European Union, including violations of the Union's competition and state aid rules, as well as violations affecting the internal market related to acts that violate corporate tax rules or mechanisms whose purpose is to obtain a tax advantage that frustrates the object or purpose of the applicable corporate tax law;  
 Number 6): acts or conduct that frustrates the object or purpose of the provisions of Union acts in the areas indicated in numbers 3), 4) and 5).

- the reporting person has reasonable grounds to believe that the violation may pose an imminent or obvious danger to the public interest.

The external reporting channel is provided by the A.N.AC. (National Anti-Corruption Authority) through the methods detailed on the institutional website: <https://www.anticorruzione.it/>.

## 4.10 Protection of whistleblowers

The **regulations on so-called whistleblowing** (l. no. 179 of Nov. 30, 2017, "Provisions for the protection of the authors of reports of crimes or irregularities of which they have become aware in the context of a public or private employment relationship" and Legislative Decree no. 24 of March 10, 2023 of "Implementation of Directive (EU) 2019/1937 of the European Parliament and of the Council of October 23, 2019, on the protection of persons who report breaches of Union law") introduced in the Italian legal system an orderly discipline regarding reports of unlawful conduct within public and private realities and a series of **protections from possible retaliation of the authors of reports** of crimes or other offenses and irregularities of which they have become aware within the framework of a public or private employment relationship.

The measures also affected the regulations of Legislative Decree No. 231/2001 and, more specifically, the contents of the organization, management and control model.

Specifically, for the purposes of the aforementioned regulations on so-called whistleblowing, the internal reporting system adopted by ESE is guided by the following principles:

- **bona fide** reporters are **guaranteed against any form of retaliation**, discrimination or penalization;
- the information channels provided in the Model ensure **the confidentiality of the identity** of the reporter in the activity of handling the report, without prejudice to legal obligations and the protection of the rights of the Company or persons wrongly accused and/or in bad faith;
- an appropriate reporting channel is provided to ensure, by means of information technology, the confidentiality of the reporter's identity;
- direct or indirect **acts of retaliation or discrimination against** the reporter for reasons related directly or indirectly to the report are **prohibited**;
- Towards whom:
  - commits retaliation or obstructs or attempts to obstruct a report or violates a duty of confidentiality;
  - does not establish reporting channels, procedures for the fulfillment and management of reports, or does not adopt reporting channels in accordance with the provisions of Articles 4 and 5 of Legislative Decree No. 24/2023;

- deputed to do so, does not carry out the required verification and analysis of the reports received;
- the most appropriate **disciplinary sanctions** listed in the Model will be applied, also pursuant to Article 21 of Legislative Decree No. 24/2023.

Appropriate disciplinary sanctions will be applied against those who maliciously or grossly negligently make reports that turn out to be **unfounded**.

# 5 CHAPTER 5 : THE DISCIPLINARY SYSTEM

## 5.1 Purpose

Legislative Decree No. 231 of 2001, in linking the entity's exemption from liability to the adoption and effective implementation of an organizational, management and control model suitable for preventing the commission of crimes, provides for the introduction of "a disciplinary system suitable for sanctioning non-compliance with the measures indicated in the model" (Art. 6, co. 2, lett. e). Pursuant to co. 2-bis, lett. b of the same article, the disciplinary system must also provide for "sanctions against those who violate the measures for the protection of the whistleblower, as well as those who make with malice or gross negligence reports that turn out to be unfounded" (see Ch. 4, para. 9, "Protection of whistleblowers").

## 5.2 Target audience

They are subject to the disciplinary system:

- Employees;
- Executives;
- The Board of Directors;
- The Supervisory Board.

## 5.3 Conditions

The disciplinary system is applicable to the **Recipients of the Model** if violations of the law, the Model or the Code of Ethics are established, regardless of the establishment or outcome of any criminal investigation or prosecution.

For Employees, compliance with the rules of the Code of Ethics and the Model must be considered an essential part of the contractual obligations undertaken by them pursuant to and in accordance with Article 2104 of the Civil Code. Therefore, conduct in violation is considered a **breach of the primary obligations of the employment relationship and has disciplinary significance**. The disciplinary procedure, the imposition of the sanction, its execution, dispute and appeal are governed in accordance with the provisions of the Workers' Statute and the National Collective Labor Agreement.

With regard to Employees, disciplinary sanctions are applied in compliance with the limits set forth in Article 2106 of the Civil Code, Articles 7 and 18 of Law No. 300 of May 20, 1970, and the CCNL for commerce, tertiary distribution and services to which ESE adheres. The purpose of disciplinary sanctions is, as far as possible, "conservative," that is, aimed at recovering correct behavior; for this reason, sanctions are applied progressively.

Specifically, for the purpose of imposing disciplinary sanctions other than verbal reprimand for milder offenses, prior **formal notice of the charge** is required.

The grievance must be made in writing to the Employee via P.E.C., registered letter with acknowledgement of receipt or by other suitable means to certify the date of receipt (i.e., delivery by hand with signature of the recipient). The Employee shall have the right to submit his/her counter-arguments or justifications within five working days of receipt of the grievance.

This is without prejudice to the Company's right to recourse for any damage and/or liability that may accrue to it as a result of the Recipients' violations.

The exercise of disciplinary power must always conform to the principles of:

- a) **proportionality**: commensurate with the extent of the act complained of;
- b) **adversarial**: ensuring the involvement of the person concerned to whom the specific allegation of the charge is made in a timely manner and is given the opportunity to put forward justifications in defense of his or her behavior.

## 5.4 Body responsible for the assessment and imposition of disciplinary sanctions

The task of ascertaining violations of the Model and imposing any disciplinary sanctions is attributed to the relevant area and/or corporate bodies, upon report of the Supervisory Board or on its own initiative.

## 5.5 Disciplinary sanctions

### 5.5.1 Violations committed by Employees

Violations of the provisions of the law, the Model or the Code of Ethics as well as, in general, engaging in conduct likely to expose the Company to the application of measures provided for in Legislative Decree No. 231/2001, when committed by employees, may result in the application of the following sanctions, in accordance with the provisions of Article 48 - Disciplinary Measures and Dismissal Procedures of the CCNL trade, tertiary distribution and services to which ESE adheres:

1. The verbal reprimand for more minor infractions;
2. the written reprimand;
3. A monetary curtailment, in an amount not exceeding the amount of four (4) hours of hourly wages;
4. suspension from pay and service for a period not exceeding 10 (ten) days;
5. Disciplinary dismissal for "subjective justification."
6. Disciplinary dismissal for "just cause."

### **5.5.2 Violations committed by executives**

Violations of the provisions of the law, the Model or the Code of Ethics as well as, in general, the assumption of conduct likely to expose the Company to the application of measures provided for in Legislative Decree No. 231/2001, if committed by Executives, will result in the application of appropriate measures, in accordance with the provisions of the law and the National Collective Labor Agreement for Trade Executives, in compliance with the criterion of proportionality referred to in Article 2106 of the Civil Code. Where the violation is such as to break the relationship of trust, the sanction is identified as dismissal for just cause.

### **5.5.3 Violations committed by the board of directors**

Without prejudice to the provisions of Article 2476 of the Civil Code, in the event of an ascertained violation of the law, the Model or the Code of Ethics by the Board of Directors or an individual member thereof, committed with malice or gross negligence, it entails the revocation of the body or its member, after consultation with the Supervisory Board. Article 2392 of the Civil Code also applies.

### **5.5.4 Violations committed by the SB**

In the event of an established violation of the law, this Model or the Code of Ethics by the Supervisory Board, the Board of Directors shall take appropriate action.

### **5.5.5 Violations committed by Third Parties**

The ascertained violation of the provisions of the law, the Model or the Code of Ethics as well as, in general, the assumption of conduct likely to expose the Company to the application of measures provided for in Legislative Decree No. 231/2001, if attributable to the Third Parties, may result in the termination of the relevant contracts.

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