



***RAI - Radiotelevisione italiana Spa***

***Organisation, Management and Control Model under Legislative Decree No.  
231/2001  
Applicable Legislation***

## **Annex A – Applicable Legislation**

### **Main provisions of Legislative Decree No. 231/2001**

#### **Article 4 - Crimes committed abroad**

1. In the cases and under the conditions provided for by Articles 7, 8, 9 and 10 of the Italian Criminal Code, entities having their head office in the territory of the State shall also be liable in connection with crimes committed abroad, provided that the State of the place where the act was committed does not prosecute them.
2. In cases where the law provides that the offender shall be punished at the request of the Minister of Justice, entities shall be prosecuted only if the request is also made for them.

#### **Article 5 - Liability of an entity**

1. An entity shall be liable for crimes committed in its interest or to its advantage:
  - a) by persons who hold positions of representation, administration or management of the entity or of one of its organisational units with financial and functional independence as well as by persons who are in charge - also de facto - of the management and control of the entity;
  - b) by persons under the direction or supervision of one of the persons referred to in a).
2. An entity shall not be held liable if the persons specified in paragraph 1 acted only in their own interest or that of third parties.

#### **Article 6 – Top management and organisational models of an entity**

1. If a crime is committed by the persons specified in Article 5, paragraph 1 a), an entity shall not be liable if it proves that:
  - a) before the act was committed, the management had adopted and effectively implemented suitable organisation and management models to prevent the kind of crimes that occurred;
  - b) the task of supervising the operation of and the compliance with the models, as well as that of taking care of their updating, was entrusted to a body of the entity with independent powers of initiative and control;
  - c) persons committed the crime by fraudulently circumventing the organisation and management models;
  - d) there was no failure or insufficient supervision by the body referred to in b).

2. In relation to the extension of the scope of delegated powers and the risk of committing crimes, the models referred to in paragraph 1 a) shall meet the following requirements:

- a) identify the activities within the scope of which crimes may be committed;
- b) provide for specific protocols aimed at planning the drafting and implementation of entities 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 obligations to inform the body responsible for supervising the operation of and compliance with the models;
- e) introduce an appropriate disciplinary system to impose sanctions in case of non-compliance with the measures specified in the model.

2-bis. The models referred to in paragraph 1 a) shall provide:

- a) one or more channels that make it possible for the persons indicated in Article 5, paragraph 1 a) and b), to submit – in order to protect an entity's integrity – detailed reports of unlawful conduct, which may be relevant under this decree and based on precise and consistent facts, or violations of the organisation and management model of an entity they have become aware of by reason of the their functions; when dealing with reports, these channels shall guarantee the confidentiality of the identities of reporters;
- b) at least one alternative reporting channel that is suitable for ensuring the confidentiality of reporters' identity through IT;
- c) the prohibition of direct or indirect retaliatory action or discriminatory acts against whistleblowers for reasons directly or indirectly related to reports;
- d) in the disciplinary system adopted in accordance with paragraph 2 e), sanctions against those who violate the measures for the protection of reporters, as well as those who make reports, with wilful misconduct or gross negligence, that turn out to be unfounded (1).

2-ter. The adoption of discriminatory measures against those who make the reports referred to in paragraph 2-bis may be reported to the Italian National Labour Inspectorate, for measures within its competence, not only by reporters themselves, but also by the labour organisations indicated by reporters (2).

2-quater. Layoff of reporting persons as a means to retaliate and discriminate them shall be null and void. Change of duties pursuant to Article 2103 of the Italian Civil Code, as well as any other retaliatory or discriminatory measures taken against reporting persons shall also be null and void. In the event of disputes related to the imposition of disciplinary sanctions, as well as demotions, layoffs, transfers, or in case reporters are subject to other organisational measures having direct or indirect negative effects on their working conditions, following the submission of reports, it shall be the responsibility of the employer to prove that such measures are based on reasons unrelated to reports themselves (3).

3. Organisational and management models may be adopted, ensuring the needs laid out in

paragraph 2 are met, on the basis of codes of conduct drawn up by the representative associations of entities, communicated to the Italian Ministry of Justice, which - in consultation with the relevant ministries - may make comments on the suitability of the models to prevent crimes within thirty days (4).

4. In small entities, the tasks specified in paragraph 1 b) may be carried out directly by the management.

4-bis. In corporations, the board of statutory auditors, supervisory board and management control committee may carry out the activities of the supervisory body referred to in paragraph 1 b) (5).

5. However, confiscation of any profits for an entity resulting from crimes, including equivalent compensation, shall be ordered.

(1) Paragraph inserted by Article 2, of Law No. 179 of 30/11/2017.

(2) Paragraph inserted by Article 2, of Law No. 179 of 30/11/2017.

(3) Paragraph inserted by Article 2, of Law No. 179 of 30/11/2017.

(4) See Article 8 1) of Ministerial Decree No. 201 of 26/06/2003.

(5) Paragraph inserted by Article 14, paragraph 12, of Law No. 183 of 12/11/2011, as of 01/01/2012, pursuant to Article 36, paragraph 1, of the same Law No. 183/2011.

#### **Article 7 - Persons managed by others and organisational models of an entity**

1. In the case provided for by Article 5, paragraph 1 b), an entity shall be liable if the commission of the crime was made possible by failure to comply with management or supervisory obligations.

2. However, failure to comply with management or supervisory obligations shall be excluded if an entity, prior to the commission of the crime, adopted and effectively implemented an organisation, management and control model suitable for preventing crimes of the kind that occurred.

3. In relation to the nature and size of the organisation as well as the type of activity carried out, the model provides appropriate measures to ensure that activities are carried out in compliance with the law and to discover and eliminate risk situations in a timely manner.

4. An effective implementation of the model shall require:

- a) a periodic review and possible amendment of the same when significant violations of the requirements are found or when changes occur in the organisation or activity;
- b) an appropriate disciplinary system impose sanctions in case of non-compliance with the measures specified in the model.

#### **Article 9 – Administrative Penalties**

1. The penalties for administrative offences resulting from crimes are:

- a) pecuniary penalty;
- b) disqualifying sanctions;

- c) confiscation;
- d) publication of the judgment.

2. The disqualifying sanctions are:

- a) disqualification from conducting the business;
- b) suspension or revocation of authorisations, licences or concessions which were functional to the commission of the offence;
- c) prohibition of negotiating with the public administration, except for obtaining the performance of a public service;
- d) exclusion from benefits, financing, contributions or subsidies and possible revocation of those already granted;
- e) ban on advertising goods or services.

### **Article 23 - Failure to comply with disqualifying sanctions**

1. In the event that, while carrying out the activities of the entity to which a sanction or precautionary disqualification has been applied, persons do not comply with the obligations or prohibitions resulting from such sanctions or measures, they shall be punished by imprisonment of six months to three years.

2. In the case referred to in paragraph 1, the entity in whose interest or to whose advantage the crime was committed shall incur an administrative pecuniary penalty of two hundred and six hundred quotas and the profit shall be confiscated pursuant to Article 19.

3. In the event that an entity earns a significant profit from the crime referred to in paragraph 1, disqualifying sanctions – even different ones from those previously imposed – shall be applied.

### **2. List of predicate offences under Legislative Decree No. 231/2001.<sup>1</sup>**

- 1. **Undue collection of disbursements, fraud to the detriment of the state, a public entity or the European Union, or for the purpose of obtaining public disbursements and computer fraud to the detriment of the state or a public entity, and fraud in public procurement (Article 24, Legislative Decree No. 231/2001):**

*"1. As far as the commission of the crimes referred to in Articles 316-bis, 316-ter, 356, 640, paragraph 2, No. 1, as well as in Article 640-bis and 640-ter of the Italian Criminal Code is concerned, if such crimes are committed to the detriment of the State, another public entity or the European Union, a fine of up to five hundred quotas shall be imposed on entities.*

*2. If, as a result of the commission of the crimes referred to in paragraph 1, an entity*

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<sup>1</sup> Updated on 22/01/2020 (last measure inserted: Law 19/12/2019, No. 157)

*earns a significant profit or incurs a damage of a particularly serious nature, the pecuniary penalty of two hundred to six hundred quotas shall be imposed.*

*2-bis. 2-bis. The penalties provided for by the preceding paragraphs in relation to the commission of the crime referred to in Article 2 of Law No. 898 of 23/12/1986, shall be applied to the entity.*

*3. In the cases provided for by the preceding paragraphs, the disqualifying sanctions provided for by Article 9, paragraph 2 c), d) and e) shall be applied<sup>2</sup>."*

Regulatory detail:

- Misappropriation of public funds (Article 316-bis of the Italian Criminal Code).
- Undue collection of public disbursements (Article 316-ter of the Italian Criminal Code).
- Fraud in public procurement (Article 356 of the Italian Criminal Code).
- Fraud to the detriment of the state or a public entity (Article 640, paragraph 2 No. 1 of the Italian Criminal Code).
- Aggravated fraud for obtaining public funds (Article 640-bis of the Italian Criminal Code).
- Computer fraud (Article 640-ter of the Italian Criminal Code) - Limited to when the crime is committed to the detriment of the state or other public entity or the European Union.
- Improper collection of disbursements from the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development (Article 2 Law No. 898/1986)

**2. Computer crimes and unlawful data processing (Article 24-bis, Legislative Decree No. 231/2001) [Article added by Law No. 48/2008].**

*"1. In relation to the commission of the crimes referred to in Articles 615-ter, 617-quater, 617-quinquies, 635-bis, 635-ter, 635-quater and 635-quinquies of the Italian Criminal Code, a fine of one hundred to five hundred quotas shall be imposed on entities.*

*2. In relation to the commission of the crimes referred to in Articles 615-quater and 615-quinquies of the Italian Criminal Code, a fine of up to three hundred quotas shall be*

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<sup>2</sup> Administrative penalties (Article 9, Legislative Decree No. 8 of 08/06/2001)  
(omissis)

2. The disqualifying sanctions are:

- a) disqualification from conducting the business;
- b) the suspension or revocation of authorisations, licences or concessions which were functional to the commission of the offence;
- c) prohibition of negotiating with the public administration, except for obtaining the performance of a public service;
- d) exclusion from benefits, financing, contributions or subsidies and possible revocation of those already granted;
- e) ban on advertising goods or services.

*imposed on entities.*

*3. In relation to the commission of the crimes referred to in Articles 491-bis and 640-quinquies of the Italian Criminal Code, except for what is provided for by Article 24 of this Decree for cases of computer fraud to the detriment of the State or other public entities and the crimes referred to in Article 1, paragraph 11 of Decree-Law No. 105 of 21/09/2019, a fine of up to four hundred quotas shall be imposed on entities.*

*4. In cases of conviction for one of the crimes indicated in paragraph 1, the disqualifying sanctions provided for by Article 9, paragraph 2 a), b) and e) shall apply. In cases of conviction for one of the crimes indicated in paragraph 2, the disqualifying sanctions provided for by Article 9, paragraph 2 b) and e) shall apply. In cases of conviction for one of the crimes indicated in paragraph 3, the disqualifying sanctions provided for by Article 9, paragraph 2 c), d) and e) shall apply<sup>3</sup> .*

Regulatory detail:

- Computer documents (Article 491-bis of the Italian Criminal Code).<sup>4</sup>
- Unauthorised access to a computer or IT system (Article 615-ter of the Italian Criminal Code).
- Unauthorised possession, dissemination and installation of equipment codes, codes and other means of access to computers or IT systems (Article 615-quater of the Italian Criminal Code)
- Unauthorised possession, dissemination and installation of computer equipment, devices or programs aimed at damaging or disrupting computers or IT systems (Article 615-quinquies of the Italian Criminal Code)
- Unlawful wiretapping, obstruction or interruption of computer or IT communications (Article 617-quater of the Italian Criminal Code)
- Unauthorised possession, dissemination and installation of equipment and other means to wiretap, prevent or interrupt computer or IT communications (Article 617-quinquies of the Italian Criminal Code)
- Damage to computer information, data and programs (Article 635-bis of the Italian Criminal Code).
- Damage to information, data and computer programs used by the state or other public entities or, in any case, of public utility (Article 635-ter of the Italian Criminal Code)
- Damage to computers or IT systems (Article 635-quater of the Italian Criminal Code).
- Damage to computers or IT systems of public utility (Article 635-quinquies of the Italian Criminal Code)

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<sup>3</sup> See note 2 above.

<sup>4</sup> This case refers to the crimes of forgery of a public or private electronic document which may be used as evidence pursuant to Article 491 *bis* of the Italian Criminal Code." (see Special Part F MOGC 231 Rai).

- Computer fraud of the person providing electronic signature certification services (Article 640-quinquies of the Italian Criminal Code)
- Violation of regulations on national cybersecurity (Article 1, paragraph 11, Decree Law No. 105 of 21/09/2019, as converted, with amendments, by Law No. 133 of 18/11/2019)

**3. Organised crime offences (Article 24-ter, Legislative Decree No. 231/2001) [Article added by Law No. 94/2009; amendments to predicate offences introduced by Law 69/2015 and Law No. 236/2016]**

*"1. In relation to the commission of any of the crimes referred to in Articles 416, paragraph 6, 416-bis, 416-ter and 630 of the Italian Criminal Code, crimes committed by people availing themselves of the conditions provided for by the abovementioned Article 416-bis in order to facilitate the activity of the associations provided for by the same Article, as well as the crimes provided for by Article 74 of the Consolidated Act under the Decree of the President of the Italian Republic No. 309 of 09/10/1990, a fine of four hundred to one thousand quotas shall be imposed.*

*2. In relation to the commission of any of the crimes referred to in Article 416 of the Italian Criminal Code, excluding the sixth Paragraph, or in Article 407, Paragraph 2, letter a), number 5), of the Code of Criminal Procedure, a fine of three hundred to eight hundred quotas shall be imposed.*

*3. In cases of conviction for any of the crimes specified in paragraphs 1 and 2, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>5</sup> shall be applied for a term of not less than one year.*

*4. If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes indicated in paragraphs 1 and 2, permanent disqualification from carrying out the activity pursuant to Article 16, paragraph 3<sup>6</sup> " shall be applied.*

Regulatory detail:

- Criminal organisation (Article 416 of the Italian Criminal Code) [Article amended by Law No. 236/2016];
- Mafia-type associations, including foreign ones (Article 416-bis of the Italian Criminal Code) [Article amended by Law No. 69/2015]. Crimes committed by taking advantage of the conditions provided for by Article 416-bis (power to intimidate arising from the existence of a bond between the members of the association and their subjugation, as well as the resulting code of silence) or in order to facilitate the activity of the associations provided for by the abovementioned Article 416-bis of the Italian Criminal Code;

<sup>5</sup> See note 2 above.

<sup>6</sup> Definitive disqualifying sanctions applied (Article 16, Legislative Decree No. 231 of 08/06/2001) (omissis)

3. If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of crimes in relation to which its liability is provided for, permanent disqualification from carrying out the activity is always ordered, and the provisions of Article 17 do not apply.



- Political-mafia electoral exchange (Article 416-ter of the Italian Criminal Code), as amended by Law No. 43/2019;
- Kidnapping for the purpose of robbery or extortion (Article 630 of the Italian Criminal Code)
- Association for the purpose of illicit trafficking of narcotic drugs or psychotropic substances (Article 74, Decree of the President of the Italian Republic No. 309 of 09/10/1990)
- Maximum time limits for preliminary investigations (Article 407 of the Italian Code of Criminal Procedure).<sup>7</sup>

**4. Embezzlement, extortion, undue influence to give or promise benefits, and bribery and abuse of office (Article 25, Legislative Decree No. 231/2001) [Article last amended by Law No. 3/2019]**

*"1. In relation to the commission of the crimes referred to in Articles 318, 321 and 322, paragraphs 1 and 3, and 346-bis of the Italian Criminal Code, a fine of up to two hundred quotas shall be imposed.*

*2. In relation to the commission of the crimes referred to in Articles 319, 319-ter, paragraph 1, 321, 322, paragraphs 2 and 4, of the Italian Criminal Code, a fine of two hundred to six hundred quotas shall be imposed on entities.*

*3. In relation to the commission of the crimes referred to in Articles 317, 319, which is aggravated pursuant to Article 319-bis when an entity earns a significant profit from an act, 319-ter, paragraph 2, 319-quater, and 321 of the Italian Criminal Code, a financial penalty of three hundred to eight hundred quotas shall be imposed on entities.*

*4. The pecuniary penalties provided for the crimes referred to in paragraphs 1 to 3 apply to an entity even when these crimes are committed by the persons indicated in Articles 320 and 322-bis.*

*5. In cases of conviction for one of the crimes indicated in paragraphs 2 and 3, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>8</sup> shall be applied for a term of not less than four years and not more than seven years, if the crime was committed by one of the persons referred to in Article 5, paragraph 1 a), and for a term of not less than two years and not more than four years if the crime was committed by one of the persons referred to in Article 5, paragraph 1 b).*

*5-bis. If prior to the judgment of first instance an entity effectively takes steps to prevent a criminal activity from having further consequences, to secure evidence of the crimes and to identify the perpetrators or to seize the transferred sums or other utilities, and eliminates the organisational issues that led to the crime through the adoption and*

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<sup>7</sup> Article 2, paragraph 3, Law No. 110/1975, under the heading "Common firing arms and ammunition," reads, "Lastly, those known as 'indoor range guns', or gas-emitting weapons, as well as compressed air or compressed gas weapons - both long and short ones - whose projectiles deliver a kinetic energy greater than 7.5 joules, as well as rocket launchers are considered common firing weapons, unless they are intended for fishing or they are weapons and tools that, due to their respective features, do not cause harm to people according to the advisory commission referred to in Article 6."

<sup>8</sup> See note 2 above.

*implementation of organisational models suitable for preventing crimes of the kind that occurred, the disqualifying sanctions shall have the duration established by Article 13, paragraph 2."*

Regulatory detail:

- Embezzlement (Article 314, paragraph 1 of the Italian Criminal Code - exclusion of embezzlement for non-permanent use in paragraph 2) - limited to when "*the act goes against the financial interests of the EU*"
  - Embezzlement by profiting from the error of others (Article 316 of the Italian Criminal Code) - limited to when "*the act goes against the financial interests of the EU*"
  - Extortion (Article 317 of the Italian Criminal Code) [Article amended by Law No. 69/2015]
  - Bribery for the performance of functions (Article 318 of the Italian Criminal Code) [Article amended by Law No. 190/2012, Law No. 69/2015, Law No. 3/2019]
  - Bribery for an act which goes against official duties (Article 319 of the Italian Criminal Code) [Article amended by Law No. 69/2015]
  - Aggravating circumstances (Article 319-bis of the Italian Criminal Code)
  - Bribery in judicial acts (Article 319-ter of the Italian Criminal Code) [Article amended by Law No. 69/2015]
  - Undue influence to give or promise benefits (Article 319-quater) [Article added by Law No. 190/2012 and amended by Law No. 69/2015]
  - Bribery of a person in charge of a public service (Article 320 of the Italian Criminal Code)
  - Penalties for the corruptor (Article 321 of the Italian Criminal Code).
  - Incitement to bribery (Article 322 of the Italian Criminal Code).
  - Embezzlement, extortion, undue influence to give or promise benefits, bribery and incitement to bribery of members of the International Courts or bodies of the European Communities or international parliamentary assemblies or international organisations and officials of the European Communities and foreign states (Article 322 bis of the Italian Criminal Code) [Article amended by Law No. 190/2012 and Law No. 3/2019]
  - Abuse of office (Article 323 of the Italian Criminal Code) - limited to when "*the act goes against the financial interests of the EU*"
  - Trafficking of unlawful influence (Article 346-bis of the Italian Criminal Code) [amended by Law No. 3/2019].
- 5. Forgery of money, banknotes, paper and coupons issued by governments, revenue stamps and instruments or signs of recognition (Article 25-bis, Legislative Decree No. 231/2001) [Article added by Decree Law No. 350/2001,**

**converted with amendments by Law No. 409/2001; amended by Law No. 99/2009; amendments to predicate offences introduced by Legislative Decree No. 125/2016]**

*"1. In relation to the commission of the crimes provided for by the Italian Criminal Code regarding forgery of money, banknotes, paper and coupons issued by governments, revenue stamps and identification instruments or signs, the following financial penalties shall be applied to entities:*

- a) for the crime referred to in Article 453, a fine of three hundred to eight hundred quotas;*
- b) for the crimes referred to in Articles 454, 460 and 461 a fine of up to five hundred quotas;*
- c) for the crime referred to in Article 455, the fines established by a) in relation to Article 453, and b) in relation to Article 454, reduced from one-third to one-half;*
- d) for the crimes referred to in Articles 457 and 464, paragraph 2, pecuniary penalties of up to two hundred quotas;*
- e) for the crime referred to in Article 459, the fines established in a), c) and d), reduced by one third;*
- f) for the crime referred to in Article 464, paragraph 1, a fine of up to three hundred quotas.*

*f-bis) for the crimes referred to in Articles 473 and 474, a fine of up to five hundred quotas.*

*2. In case of conviction for one of the crimes referred to in Articles 453, 454, 455, 459, 460, 461, 473 and 474 of the Italian Criminal Code, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>9</sup> for a duration of not more than one year shall be applied to entities."*

Regulatory detail:

- Forgery of money, spending and introduction into the state, through a concerted action, of counterfeit money (Article 453 of the Italian Criminal Code)
- Altering of currency (Article 454 of the Italian Criminal Code).
- Spending and introduction into the state, without a concerted action, of counterfeit money (Article 455 of the Italian Criminal Code)
- Spending of counterfeit money received in good faith (Article 457 of the Italian Criminal Code)
- Forgery of revenue stamps, introduction into the state, purchase, holding or uttering of forged revenue stamps (Article 459 Italian Criminal Code)
- Forgery of watermarked paper used to make banknotes, paper and coupons issued

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<sup>9</sup> See note 2 above.

by governments or revenue stamps (Article 460 of the Italian Criminal Code)

- Manufacture or possession of watermarks or tools intended for the counterfeiting of money, revenue stamps or watermarked paper (Article 461 of the Italian Criminal Code)
- Use of forged or altered revenue stamps (Article 464 of the Italian Criminal Code).
- Forgery, altering or use of trademarks or distinctive signs as well as patents, models and designs (Article 473 of the Italian Criminal Code)
- Introduction into the State and trade of products with counterfeit signs (Article 474 of the Italian Criminal Code)

**6. Crimes against industry and trade (Article 25-bis.1, Legislative Decree No. 231/2001) [Article added by Law No. 99/2009]**

*"1. In relation to the commission of crimes against industry and trade provided for by the Italian Criminal Code, the following financial penalties shall be applied to entities:*

*a) for the crimes referred to in Articles 513, 515, 516, 517, 517-ter and 517-quater, a fine of up to five hundred quotas;*

*b) for the crimes referred to in Articles 513-bis and 514, a fine of up to eight hundred quotas.*

*2. In case of conviction for the crimes referred to in paragraph 1 b), the disqualifying sanctions provided for by Article 9, paragraph 2<sup>10</sup> shall be applied to entities."*

Regulatory detail:

- Disruption of the freedom of industry or trade (Article 513 of the Italian Criminal Code)
- Unlawful competition with threats or violence (Article 513-bis of the Italian Criminal Code).
- Fraud against national industries (Article 514 of the Italian Criminal Code).
- Fraud in the exercise of trade (Article 515 of the Italian Criminal Code).
- Sale of non-genuine foodstuffs as genuine (Article 516 of the Italian Criminal Code)
- Sale of industrial products with counterfeit signs (Article 517 of the Italian Criminal Code)
- Manufacture and trade of goods made by unlawfully taking possession of industrial property rights (Article 517-ter of the Italian Criminal Code)
- Forgery of geographical indications or designation of origin of agri-food products (Article 517-quater of the Italian Criminal Code)

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<sup>10</sup> See note 2 above.

**7. Corporate offences (Article 25-ter, Legislative Decree No. 231/2001) [Article added by Legislative Decree No. 61/2002, amended by Law No. 190/2012, Law No. 69/2015 and by Legislative Decree No. 38/2017]**

*"1. In relation to corporate crimes under the Italian Civil Code, the following financial penalties shall be applied to entities:*

- a) for the crime of false corporate communications provided for by Article 2621 of the Italian Civil Code, a fine of two hundred to four hundred quotas;*
- a-bis) for the crime of false corporate communications provided for by Article 2621-bis of the Italian Civil Code, a fine of one hundred to two hundred quotas;*
- b) for the crime of false corporate communications provided for by Article 2622 of the Italian Civil Code, a fine of four hundred to six hundred quotas;*
- c) (repealed by Law 27/05/2015, No. 69);*
- d) for the offence of false statement(s) in a prospectus provided for by Article 2623, paragraph 1 of the Italian Civil Code, a fine of two hundred to two hundred and sixty quotas;*
- e) for the crime of false statement(s) in a prospectus provided for by Article 2623, paragraph 2 of the Italian Civil Code, a fine of four hundred to six hundred and sixty quotas;*
- f) for the offence of false statement(s) in reports or communications of auditing companies provided for by Article 2624, paragraph 1 of the Italian Civil Code, a fine of two hundred to two hundred and sixty quotas;*
- g) for the crime of falsification of reports or communications of auditing companies, provided for by Article 2624, paragraph 2 of the Italian Civil Code, a fine of four hundred to eight hundred quotas;*
- h) for the crime of impeding audit provided for by Article 2625, paragraph 2 of the Italian Civil Code, a fine of two hundred to three hundred and sixty quotas;*
- i) for the crime of fictitious share capital formation provided for by Article 2632 of the Italian Civil Code, a fine of two hundred to three hundred and sixty quotas;*
- l) for the crime of improper return of contributions provided for by Article 2626 of the Italian Civil Code, a fine of two hundred to three hundred and sixty quotas;*
- m) for the offence of unlawful distribution of profits and reserves provided for by Article 2627 of the Italian Civil Code, a fine of two hundred to two hundred and sixty quotas;*
- n) for the crime of unlawful transactions on the company's shares or quotas or those of the parent company provided for by Article 2628 of the Italian Civil Code, a fine of two hundred to three hundred and sixty quotas;*
- o) for the crime of transactions made to the detriment of creditors provided for by Article 2629 of the Italian Civil Code, a fine of three hundred to six hundred and sixty quotas;*
- p) for the crime of improper distribution of corporate assets by liquidators provided for by Article 2633 of the Italian Civil Code, a fine of three hundred to six hundred and sixty quotas;*
- q) for the crime of unlawful influence on the shareholders' meeting provided for by Article 2636 of the Italian Civil Code, a fine of three hundred to six hundred and sixty quotas;*
- r) for the crime of market rigging provided for by Article 2637 of the Italian Civil Code, and for the crime of failure to disclose conflict of interest provided for by*

*Article 2629-bis of the Italian Civil Code, a fine of four hundred to one thousand quotas;*

s) *for the crime of obstructing the performance of functions of public supervisory authorities provided for by Article 2638, paragraphs 1 and 2 of the Italian Civil Code, a fine of four hundred to eight hundred quotas;*

s-bis) *for the crime of bribery among private individuals, in the cases provided for by Article 2635, paragraph 3 of the Italian Civil Code, a fine of four hundred to six hundred quotas, and in the cases of incitement referred to in Article 2635-bis, paragraph 1 of the Italian Civil Code, a fine of two hundred to four hundred quotas. The disqualifying sanctions provided for by Article 9, paragraph 2 shall also be applied."*

3. *If, as a result of the commission of the crimes referred to in paragraph 1, an entity earns a significant profit, the fine shall be increased by one-third. "*

Regulatory detail:

- False corporate communications (Article 2621 of the Italian Civil Code) [Article amended by Law No. 69/2015].
- Misdemeanours (Article 2621-bis of the Italian Civil Code)
- False corporate communications of listed companies (Article 2622 of the Italian Civil Code) [Article amended by Law No. 69/2015].
- Impeding audit (Article 2625, paragraph 2 of the Italian Civil Code)
- Improper return of contributions (Article 2626 of the Italian Civil Code)
- Unlawful distribution of profits and reserves (Article 2627 of the Italian Civil Code)
- Unlawful transactions on the company's shares or quotas or those of the parent company (Article 2628 of the Italian Civil Code)
- Transactions made to the detriment of creditors (Article 2629 of the Italian Civil Code)
- Failure to disclose conflict of interest (Article 2629-bis of the Italian Civil Code) [added by Law No. 262/2005]
- Fictitious share capital formation (Article 2632 of the Italian Civil Code)
- Improper distribution of corporate assets by liquidators (Article 2633 of the Italian Civil Code)
- Bribery among private individuals (Article 2635 of the Italian Civil Code) [added by Law No. 190/2012; Article last amended by Legislative Decree No. 38/2017 and Law No. 3/2019]
- Incitement to bribery among private individuals (Article 2635 bis of the Italian Civil Code) [added by Legislative Decree 38/2017 and Law No. 3/2019]
- Unlawful influence on the shareholders' meeting (Article 2636 of the Italian Civil Code)

- Market rigging (Article 2637 of the Italian Civil Code)
- Obstructing the performance of functions of public supervisory authorities (Article 2638, Paragraphs 1 and 2, Italian Civil Code)

**8. Crimes for the purpose of terrorism or subversion of the democratic order provided for by the Italian Criminal Code and special laws (Article 25-quater, Legislative Decree No. 231/2001) [Article added by Law No. 7/2003]**

*"1. In relation to the commission of crimes for the purpose of terrorism or subversion of the democratic order provided for by the Italian Criminal Code and special laws, the following financial penalties shall be applied to entities:*

*(a) if the crime is punishable by imprisonment of less than ten years, a fine of two hundred to seven hundred quotas;*

*(b) if the crime is punishable by imprisonment of not less than ten years or life imprisonment, a fine of four hundred to one thousand quotas.*

*2. In cases of conviction for one of the crimes specified in paragraph 1, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>11</sup> shall be applied for a term of not less than one year.*

*3. If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes indicated in paragraph 1, permanent disqualification from carrying out the activity pursuant to Article 16, paragraph 3<sup>12</sup> shall be applied.*

*4. The provisions of paragraphs 1, 2 and 3 shall also be applied in relation to the commission of crimes other than those specified in paragraph 1, which are committed and found to be in violation of what is provided for by Article 2 of the International Convention for the Suppression of the Financing of Terrorism adopted in New York on 9 December 1999."*

Regulatory detail:

- Subversive associations (Article 270 of the Italian Criminal Code)
- Associations for the purpose of terrorism, including international terrorism or subversion of the democratic order (Article 270 bis of the Italian Criminal Code)
- Aggravating and mitigating circumstances (Article 270-bis. 1)
- Assistance to associates (Article 270b, Italian Criminal Code)
- Enlistment for the purpose of terrorism, including international terrorism (Article 270 quater of the Italian Criminal Code).
- Organisation of transfers for the purpose of terrorism (Article 270c.1 of the Italian

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<sup>11</sup> See note 2 above.

<sup>12</sup> See note 5 above.

## Criminal Code)

- Training for activities with the purpose of terrorism, including international terrorism (Article 270 quinquies of the Italian Criminal Code).
- Financing of conduct for the purpose of terrorism (Article 270 quinquies.1 of the Italian Criminal Code) [Article added by Law No. 153/2016].
- Misappropriation of seized property or money (Article 270d.2 of the Italian Criminal Code) [Article added by Law No. 153/2016].
- Conduct for the purpose of terrorism (Article 270 sexies of the Italian Criminal Code);
- Confiscation (Article 270f of the Italian Criminal Code).
- Attack for the purpose of terrorism or subversion (Article 280 of the Italian Criminal Code).
- Act of terrorism with deadly or explosive devices (Article 280 bis of the Italian Criminal Code).
- Acts of nuclear terrorism (Article 280 ter of the Italian Criminal Code) [Article added by Law No. 153/2016].
- Kidnapping for the purpose of terrorism or subversion (Article 289 bis of the Italian Criminal Code);
- "Incitement to commit any of the above crimes (Article 302 of the Italian Criminal Code)."

Urgent Measures for the protection of democratic order and public security (Decree-Law No. 625 of 15/12/1979 converted, with amendments, into Law No. 5 of 06/02/1980, on '*Urgent measures for the protection of democratic order and public security*');)

- Crimes in any case committed in violation of Article 2 of the International Convention for the Suppression of the Financing of Terrorism adopted in New York on 09/12/1999 and ratified by Italy with Law No. 7 of 14/04/2003;
- special laws, if any, in light of the generic reference made by Article 25-*quater*, paragraph 4;

### **9. Female genital mutilation practices (Article 25-*quater*.1, Legislative Decree No. 231/2001) [Article added by Law No. 7/2006].**

*"1. In relation to the commission of the crimes referred to in Article 583-bis of the Italian Criminal Code, a fine of 300 to 700 quotas and the disqualifying sanctions provided for by Article 9, paragraph 2<sup>13</sup>, for a period of not less than one year, shall be applied to an entity in which the crime is committed. In the case of an accredited private entity, the accreditation shall also be revoked.*

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<sup>13</sup> See note 2 above.



*2. If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes indicated in paragraph 1, permanent disqualification from carrying out the activity pursuant to Article 16, Paragraph 3<sup>14</sup> shall be applied."*

Regulatory detail:

- Practices of female genital mutilation (Article 583-bis of the Italian Criminal Code).

**10. Crimes against the individual (Article 25-quinquies, Legislative Decree No. 231/2001) [Article added by Law No. 228/2003; last amended by Law No. 199/2016]**

*"1. In relation to the commission of the crimes provided for by Section I of Chapter III of Title XII of Book II of the Italian Criminal Code, the following financial penalties shall be applied to entities:*

*(a) for the crimes referred to in Articles 600, 601, 602 and 603-bis, a fine of four hundred to one thousand quotas;*

*(b) for the crimes referred to in Articles 600-bis, paragraph 1, 600-ter, paragraphs 1 and 2, including those relating to pornographic materials referred to in Article 600-quater.1, and 600-quinquies, a fine of three hundred to eight hundred quotas;*

*(c) for the crimes referred to in Article 600-bis, paragraph 2, 600-ter, paragraphs 3 and 4, and 600-quater, even if related to the pornographic material referred to in Article 600-quater.1, as well as for the crime referred to in Article 609-undecies, a fine of two hundred to seven hundred quotas.*

*2. In cases of conviction for one of the crimes indicated in paragraph 1 a) and b), the disqualifying sanctions provided for by Article 9, paragraph 2<sup>15</sup> shall be applied for a term of not less than one year.*

*3. If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes indicated in paragraph 1, permanent disqualification from carrying out the activity pursuant to Article 16, paragraph 3<sup>16</sup> shall be applied."*

Regulatory detail:

- Forcing into slavery or servitude (Article 600 of the Italian Criminal Code)
- Child prostitution (Article 600-bis of the Italian Criminal Code).
- Child pornography (Article 600-ter of the Italian Criminal Code).
- Possession of or access to pornographic material (Article 600-quater)
- Virtual pornography (Article 600-quater.1, Italian Criminal Code) [added by Article

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<sup>14</sup> See note 5above.

<sup>15</sup> See note 2 above.

<sup>16</sup> See note 5above.

10, Law 06/02/2006 No. 38]

- Tourism initiatives aimed at the exploitation of child prostitution (Article 600-quinquies of the Italian Criminal Code)
- Trafficking of human beings (Article 601 of the Italian Criminal Code).
- Purchase and transfer of slaves (Article 602 of the Italian Criminal Code).
- Unlawful intermediation and exploitation of labour (Article 603-bis of the Italian Criminal Code) [Article added by Law 199/2016].
- Solicitation of minors (Article 609-undecies of the Italian Criminal Code).

**11. Market abuse offences (Article 25-sexies, Legislative Decree No. 231/2001) [Article added by Law No. 62/2005].**

*"1. In relation to the crimes of abuse of inside information and market manipulation provided for by Part V, Title I-bis, Chapter II of the Consolidated Act set forth in Legislative Decree No. 58 of 24/02/1998<sup>17</sup>, a fine of four hundred to one thousand quotas shall be imposed on entities.*

*2. If, as a result of the commission of the crimes referred to in paragraph 1, an entity earns a significant product or profit, the penalty shall be increased up to ten times the value of such product or profit."*

Regulatory detail:

- Abuse or illegal communication of inside information. Recommendation by or influence of others to commit abuse of inside information (Article 184, Legislative Decree No. 58/1998, as amended by Legislative Decree No. 107/2018 on Rules for the adaptation of national legislation to the provisions of Regulation (EU) No. 596/2014, and by Law No. 238/2021 on Provisions for the fulfilment of obligations arising from Italy's membership of the European Union - European Law 2019-2020)
- Market manipulation (Article 185, Legislative Decree No. 58/1998, as amended by Legislative Decree No. 107/2018, on Rules for the adaptation of national legislation to the provisions of Regulation (EU) No. 596/2014)

**Liability of entities (Article 187-quinquies, Legislative Decree No. 58/1998) [Article inserted by Article 9, paragraph 2, of Law No. 62 of 18/04/2005 (Community Law 2004) and amended by Legislative Decree No. 107 of 10/08/2018].**

*"An entity shall be punished with a fine from twenty thousand euros up to fifteen million euros, or up to fifteen percent of the turnover, when this amount is more than fifteen*

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<sup>17</sup> Article 39, Paragraph 1 (*Increase in criminal and administrative penalties*) of Law No. 262 of Dec. 28, 2005, provided that *"The penalties provided for in the [...] Consolidation Act referred to in Legislative Decree No. 58 of Feb. 24, 1998 [...], are doubled within the limits set for each type of penalty by Book I, Title II, Chapter II, of the Italian Criminal Code."*

million euros and the turnover can be determined in accordance with Article 195, paragraph 1-bis, in the event that a violation of the prohibition referred to in Article 14 or the prohibition referred to in Article 15 of Regulation (EU) No. 596/2014 is committed in its interest or to its advantage:

a) by persons who hold positions of representation, administration or management of the entity or one of its organisational units with financial or functional autonomy as well as by persons who exercise, including de facto, the management and control of the entity;

b) by persons under the direction or supervision of one of the persons referred to in a).

2. If, as a result of the commission of the offences referred to in paragraph 1, an entity earns a significant product or profit, the penalty shall be increased up to ten times the value of such product or profit.

3. An entity shall not be held liable if it proves that the persons specified in paragraph 1 acted solely in their own interest or that of third parties.

4. In relation to the offences referred to in paragraph 1, Articles 6, 7, 8<sup>18</sup> and 12<sup>19</sup> of Legislative Decree No. 231 of 08/06/2001 shall apply, insofar as applicable. The Italian Ministry of Justice shall make the observations referred to in Article 6 of Legislative Decree No. 231 of 08/06/2001, after consulting CONSOB, with respect to the offences provided for by this title."

Regulatory detail:

- Prohibition of abuse of inside information and unlawful disclosure of inside information (Article 14 Reg. 16/04/2014, No. 596)
- Prohibition of market manipulation (Article 15 Reg. 16/04/2014, No. 596)

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<sup>18</sup> Autonomy of entity liability (Article 8, Legislative Decree No. 231/2001)

1. An entity shall also be liable when:

- (a) the offender is not identified or may not be charged;
- (b) the crime is extinguished by a cause other than amnesty.

2. Unless otherwise provided for by law, no proceedings shall be brought against an entity when an amnesty is granted for a crime in relation to which it is expected to be liable and the defendant has waived its application.

3. An entity may waive the amnesty.

<sup>19</sup> Cases of reduction of fines (Article 12, Legislative Decree No. 231/2001)

1. A fine shall be reduced by half and may not, in any case, exceed two hundred million lire if:

- a) the perpetrator committed the act in their own interest or a third party's interest, and an entity did not gain any or only gained minimal advantage from it;
- b) a minor property damage was caused;

2. The penalty shall be reduced by one third to one half if, prior to the declaration of the opening of the first instance hearing:

- a) an entity fully compensates for the damage and eliminates the harmful or dangerous consequences of the crime, or it attempted to do so in an effective way;
- b) a suitable organisational model is adopted and made operational in order to prevent crimes of the kind that occurred.

3. In the event that both the conditions set forth in the preceding paragraph are in place, the penalty shall be reduced by one half to two thirds.

4. In any case, the fine may not be less than twenty million lire.

**12. Manslaughter and serious or very serious injuries through negligence, committed in violation of accident-prevention regulations and the protection of hygiene and health in the workplace (Article 25-septies, Legislative Decree no. 231/2001) [Article inserted by Article 9, paragraph 1, Law No. 123 of 03/08/2007, and subsequently replaced by Legislative Decree No. 81 of 09/04/2008;]**

*"1. In relation to the crime referred to in Article 589 of the Italian Criminal Code, committed in violation of Article 55, paragraph 2<sup>20</sup> of the Legislative Decree implementing the mandate referred to in Law No. 123 of 03/08/2007 on health and safety in the workplace, a fine in the amount of 1,000 quotas shall be applied. In the case of conviction for the crime referred to in the previous period, the disqualifying sanctions referred to in Article 9, paragraph 2<sup>21</sup>, for a duration of not less than three months and not more than one year, shall be applied.*

*2. Except as provided for by paragraph 1, in relation to the crime referred to in Article 589 of the Italian Criminal Code, committed in violation of the regulations on the protection of health and safety in the workplace, a fine in an amount of not less than 250 quotas and not more than 500 quotas shall be applied. In the case of conviction for the crime referred to in the previous period, the disqualifying sanctions referred to in Article 9, paragraph 2<sup>22</sup> shall be applied for a term of not less than three months and not more than one year.*

*3. In relation to the crime referred to in Article 590, paragraph 3 of the Italian Criminal Code, committed in violation of the regulations on the protection of health and safety in the workplace, a fine in an amount not exceeding 250 quotas shall be applied. In the case of conviction for the crime referred to in the preceding sentence, the disqualifying sanctions referred to in Article 9, paragraph 2<sup>23</sup> shall be applied for a period not exceeding six months."*

Regulatory detail:

- Manslaughter (Article 589 of the Italian Criminal Code).
- Personal injuries through negligence (Article 590 of the Italian Criminal Code).

**13. Receiving stolen goods, money laundering and use of money, goods or utilities of unlawful origin, as well as self-laundering (Article 25-octies, Legislative Decree No. 231/2001) [Article added by Legislative Decree No. 231/2007; amended by Law No. 186/2014 and Legislative Decree No. 90/2017]**

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<sup>20</sup> *Penalties for employers and managers (Article 55, Legislative Decree No. 81 of 09/04/2008)*  
(omissis)

2. In the cases provided for by paragraph 1 a), imprisonment from four to eight months shall be applied if the violation is committed:

- a) in the companies referred to in Article 31, paragraph 6 a), b), c), d), f) and g);
- b) in companies where activities exposing workers to the biological hazards referred to in Article 268, paragraph 1 c) and d) brought about by explosive atmospheres, mutagenic carcinogens, and asbestos maintenance, removal, disposal and remediation are carried out;
- c) for activities regulated by Title IV and characterised by the coexistence of several businesses and whose presumed workflow is not less than 200 man-days.

(omissis)

<sup>21</sup> See note 2 above.

<sup>22</sup> See note 2 above.

<sup>23</sup> See note 2 above.

*"1. In relation to the crimes referred to in Articles 648, 648-bis, 648-ter and 648-ter.1 of the Italian Criminal Code, a fine of 200 to 800 quotas shall be applied entities. In the event that money, goods or other utilities come from a crime for which more than a maximum of five years imprisonment of is provided for, a fine of 400 to 1,000 quotas shall be applied.*

*2. In cases of conviction for one of the crimes referred to in paragraph 1, the disqualifying sanctions provided for by Article 9, paragraph 2, shall be applied to an entity for a period not exceeding two years.*

*3. In relation to the offences referred to in paragraphs 1 and 2, the Italian Ministry of Justice, after hearing the opinion of the FIU, shall make the observations referred to in Article 6<sup>24</sup> of Legislative Decree No. 231 of 08/06/2001."*

Regulatory detail:

- Receiving stolen goods (Article 648 of the Italian Criminal Code)
- Money laundering (Article 648-bis of the Italian Criminal Code).
- Use of money, goods or utilities of unlawful origin (Article 648-ter of the Italian Criminal Code)
- Self-laundering (Article 648-ter.1 of the Italian Criminal Code)

**14. Crimes related to payment instruments other than cash (Article 25-octies.1, Legislative Decree No. 231/2001) [Article added by Legislative Decree No. 184/2021]**

*"1. In relation to the commission of the crimes provided for by the Italian Criminal Code regarding payment instruments other than cash, the following financial penalties shall be applied to entities:*

*(a) for the crime referred to in Article 493-ter, a fine of 300 to 800 quotas;*

*(b) for the crime referred to in Article 493-quater and for the crime referred to in Article 640-ter, in case of the alleged aggravated crime of carrying out of transfers of money, monetary value or virtual currency, a fine of up to 500 quotas.*

*2. Unless the act constitutes another administrative offence sanctioned more seriously, in relation to the commission of any other crime against public faith, against property or otherwise offending property provided for by the Italian Criminal Code, when it relates to payment instruments other than cash, the following financial penalties shall be applied to entities:*

*(a) if the crime is punishable by imprisonment of less than ten years, a fine of up to 500*

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<sup>24</sup> Top management and organisational models of an entity (Article 6, paragraph 3 Legislative Decree 08/06/2001, No. 231)

*(omissis)*

3. Organisational and management models may be adopted, by ensuring the requirements under paragraph 2 are met, on the basis of the codes of conduct drawn up by associations representing entities, communicated to the Italian Ministry of Justice, which, in consultation with the relevant ministries, may make comments within thirty days on the suitability of the models to prevent crimes.

*(omissis)*

quotas;

*(b) if the crime is punishable by not less than ten years' imprisonment, a fine of 300 to 800 quotas.*

*3. In cases of conviction for one of the crimes referred to in paragraphs 1 and 2, the disqualifying sanctions provided for by Article 9, paragraph 2 shall be applied to entities."*

Regulatory detail:

- Unlawful use and forgery of payment instruments other than cash (Article 493-ter of the Italian Criminal Code)
- Possession and dissemination of computer equipment, devices or programs aimed at committing crimes concerning payment instruments other than cash (Article 493-quater of the Italian Criminal Code)
- Computer fraud (Article 640-ter of the Italian Criminal Code), in case of the alleged aggravated crime of carrying out of transfers of money, monetary value or virtual currency
- As well as the following closing statement: "Any other crime against public faith, against property or otherwise offending property provided for by the Italian Criminal Code, when it relates to payment instruments other than cash "

**15. Crimes relating to violation of copyright (Article 25-novies, Legislative Decree No. 231/2001) [Article added by Law No. 99/2009]**

*"1. In relation to the commission of the crimes provided for by Articles 171, paragraph 1 a-bis) and paragraph 3, 171-bis, 171-ter, 171-septies, and 171-octies of Law No. 633 of 22/04/1941, a fine of up to five hundred quotas shall be imposed on entities.*

*2. In the case of conviction for the crimes referred to in paragraph 1, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>25</sup>, for a period not exceeding one year, shall be applied to entities. This is without prejudice to the provisions of Article 174-quinquies of the aforementioned Law No. 633 of 1941."*

Regulatory detail:

- Offences under Article 171, paragraph 1 a-bis) and Paragraph 3 Law of 22/04/1941 No. 633
- Offences under Article 171-bis Law of 22/04/1941 No. 633
- Offences under Article 171-ter, Law of 22/04/1941 No. 633
- Offences under Article 171-septies Law of 22/04/1941 No. 633
- Offences under Article 171-octies Law of 22/04/1941 No. 633

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<sup>25</sup> See note 2 above.

- Article 174-quinquies Law of 22/04/194 No. 633

**16. Incitement not to make statements or to make false statements to judicial authorities (Article 25-decies, Legislative Decree No. 231/2001) [Article inserted by Article 4, paragraph 1, Law No. 116 of 03/08/2009, as replaced by Article 2, paragraph 1, Legislative Decree No. 121 of 07/07/2011].**

*"1. In relation to the commission of the crime referred to in Article 377-bis of the Italian Criminal Code, a fine of up to five hundred quotas shall be imposed on entities."*

Regulatory detail:

- Incitement not to make statements or to make false statements to judicial authorities (Article 377-bis of the Italian Criminal Code).

**17. Environmental crimes (Article 25-undecies, Legislative Decree No. 231/2001) [Article added by Legislative Decree No. 121/2011, amended by Law No. 68/2015]**

*"1. In relation to the commission of the crimes provided for by the Italian Criminal Code, the following financial penalties shall be applied to entities:*

- a) for violation of Article 452-bis, a fine of two hundred and fifty to six hundred quotas;*
- b) for violation of Article 452-quater, a fine of four hundred to eight hundred quotas;*
- c) for violation of Article 452-quinquies, a fine of two hundred to five hundred quotas;*
- d) for aggravated crimes of association under Article 452-octies, a fine of three hundred to one thousand quotas;*
- e) for the crime of trafficking and abandonment of highly radioactive material under Article 452-sexies, a fine of two hundred fifty to six hundred quotas;*
- f) for violation of Article 727-bis, a fine of up to two hundred and fifty quotas;*
- g) for violation of Article 733-bis, a fine of one hundred and fifty to two hundred and fifty quotas.*

*1-bis. In cases of conviction for the crimes indicated in paragraph 1 a) and b) of this Article, in addition to the financial sanctions provided for therein, the disqualifying sanctions provided for by Article 9 shall be applied for a period not exceeding one year for the crime referred to in the aforementioned letter a).*

*2. In relation to the commission of the crimes provided for by Legislative Decree No. 152 of 03/04/2006 the following financial penalties shall be applied to entities:*

- a) for the crimes referred to in Article 137:*
  - 1) for violation of paragraphs 3, 5, first sentence, and 13, a fine of one hundred and fifty to two hundred and fifty quotas;*
  - 2) for violation of paragraphs 2, 5, second sentence, and 11, a fine of two hundred to three hundred quotas.*

*b) for the crimes referred to in Article 256:*

- 1) *for violation of paragraphs 1 a) and 6, first sentence, a fine of up to two hundred and fifty quotas;*
  - 2) *for violation of paragraphs 1 b), 3, first sentence, and 5, a fine of one hundred and fifty to two hundred and fifty quotas;*
  - 3) *for the violation of paragraph 3, second sentence, a fine of two hundred to three hundred quotas;*
- c) *for the crimes referred to in Article 257:*
- 1) *for the violation of paragraph 1, a fine of up to two hundred and fifty quotas;*
  - 2) *for the violation of paragraph 2, a fine of one hundred and fifty to two hundred and fifty quotas;*
- d) *for violation of Article 258, paragraph 4, second sentence, a fine of one hundred and fifty to two hundred and fifty quotas;*
- e) *for violation of Article 259, paragraph 1, a fine of one hundred and fifty to two hundred and fifty quotas;*
- f) *for the crime referred to in Article 260, a fine of three hundred to five hundred quotas in the case provided for by paragraph 1, and four hundred to eight hundred quotas in the case provided for by paragraph 2;*
- g) *for violation of Article 260-bis, a fine of one hundred and fifty to two hundred and fifty quotas in the case provided for by paragraphs 6, 7, second and third sentences, and 8, first sentence, and a fine of two hundred to three hundred quotas in the case provided for by paragraph 8, second sentence;*
- h) *for violation of Article 279, paragraph 5, a fine of up to two hundred and fifty quotas.*
3. *In relation to the commission of the crimes provided for by Law No. 150 of 07/02/1992, the following financial penalties shall be applied to entities:*
- a) *for violation of Article 1, paragraph 1, Article 2, paragraphs 1 and 2, and Article 6, paragraph 4, a fine of up to two hundred and fifty quotas;*
  - b) *for the violation of Article 1, paragraph 2, a fine of one hundred and fifty to two hundred and fifty quotas;*
  - c) *for the crimes in the Italian Criminal Code referred to in Article 3-bis, paragraph 1 of the same Law No. 150 of 1992, respectively:*
    - 1) *the fine of up to two hundred and fifty quotas, in the case of commission of crimes for which no more than a maximum of one year imprisonment is provided for;*
    - 2) *the monetary penalty of one hundred and fifty to two hundred and fifty quotas, in the case of commission of crimes for which no more than a maximum of two years' imprisonment are provided for;*



- 3) *a fine of two hundred to three hundred quotas, in the case of commission of crimes for which no more than a maximum of three years' imprisonment is provided for;*
- 4) *a fine of three hundred to five hundred quotas, in the case of committing crimes for which no more than a maximum of three years' imprisonment is provided for.*

4. *In relation to the commission of the crimes provided for by Article 3, paragraph 6 of Law No. 549 of 28/012/1993, a financial penalty of one hundred and fifty to two hundred and fifty quotas shall be applied entities.*

5. *In relation to the commission of the crimes provided for by Legislative Decree No. 202 of 06/11/2007, the following financial penalties shall be applied to entities:*

- a) *for the crime referred to in Article 9, paragraph 1, a fine of up to two hundred and fifty quotas;*
- b) *for the crimes referred to in Article 8, paragraph 1, and Article 9, paragraph 2, a fine of one hundred and fifty to two hundred and fifty quotas;*
- c) *for the offence referred to in Article 8, paragraph 2, a fine of two hundred to three hundred quotas.*

6. *The penalties provided for by paragraph 2 b) shall be reduced by half in the case of the commission of the crime provided for by Article 256, paragraph 4, of Legislative Decree No. 152 of 03/04/2006.*

7. *In cases of conviction for the crimes indicated in paragraph 2 a) no. 2), b) no. 3), and f), and paragraph 5 b) and c), the disqualifying sanctions provided for by Article 9, paragraph 2<sup>26</sup> of Legislative Decree No. 231 of 08/06/2001, shall be applied for a period not exceeding six months.*

8. *If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes referred to in Article 260 of Legislative Decree No. 152 of 03/04/2006, and Article 8 of Legislative Decree No. 202 of 06/11/2007, the sanction of permanent disqualification from carrying out the activity pursuant to Article 16, paragraph 3<sup>27</sup> of Legislative Decree No. 231 of 08/06/2001 shall apply."*

Regulatory detail:

- Environmental pollution (Article 452-bis of the Italian Criminal Code).
- Environmental disaster (Article 452-quater of the Italian Criminal Code).
- Unintentional crimes against the environment (Article 452-quinquies of the Italian Criminal Code).
- Trafficking and abandonment of highly radioactive material (Article 452-sexies of the Italian Criminal Code).
- Aggravated crimes of association or criminal organisations aimed at committing

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<sup>26</sup> See note 2 above.

<sup>27</sup> See note 6 above.

crimes against the environment as well as mafia-type associations aimed at committing crimes against the environment or the acquisition of management or otherwise control of economic activities of concessions, authorisations, contracts or public services in environmental matters (Article 452-octies of the Italian Criminal Code);

- Killing, destroying, capturing, taking, keeping specimens of protected wild animals or plant species (Article 727-bis of the Italian Criminal Code)
- Destruction or deterioration of habitat within a protected areas (Article 733-bis, Italian Criminal Code)
- Offences under Article 1, Law No. 150 of 07/02/1992.
- Offences under Article 2, Law No. 150 of 07/02/1992.
- Offences under Article 3-bis, Law No. 150 of 07/02/1992.
- Offences under Article 6, Law No. 150 of 07/02/1992.
- Unloading of industrial wastewater containing hazardous substances; unloading in the soil, subsoil and groundwater; unloading in the sea water from ships or aircrafts (Legislative Decree No. 152/2006, Article 137)
- Unauthorised waste management activities (Legislative Decree No. 152/2006, Article 256)
- Site decontamination (Legislative Decree No. 152/2006, Article 257)
- Violation of reporting obligations, mandatory record keeping and forms (Legislative Decree No. 152/2006, Article 258)
- Illegal waste trafficking (Legislative Decree No. 152/2006, Article 259)
- Organised activities for the illegal trafficking of waste (Article 452 quaterdecies, Italian Criminal Code) [introduced by Legislative Decree No. 21/2018, repealing Article 260 Legislative Decree No.152/2006]
- Digital waste tracking control system (Legislative Decree No. 152/2006, Article 260-bis)
- Penalties (Legislative Decree No. 152/2006, Article 279)
- Malicious spillage of pollutants into the sea from ships (Article 8, paragraphs 1 and 2, Legislative Decree No.202/2007)
- Malicious spillage of pollutants into the sea from ships (Article 9, paragraphs co 1 and 2, Legislative Decree No. 202/2007)
- Termination and reduction of the use of harmful substances (Law No. 549/1993, '*Measures to protect stratospheric ozone and the environment*', Article 3)

## **18. Employment of third-country nationals whose stay is irregular (Article 25-**

**duodecies, Legislative Decree No. 231/2001) [Article added by Legislative Decree No. 109/2012, amended by Law No. 161 of October 17, 2017]**

*"1. In relation to the commission of the crime referred to in Article 22, paragraph 12-bis, of Legislative Decree No. 286 of 25/07/1998, a fine of 100 to 200 quotas, within the limit of 150,000 euros, shall be imposed on entities.*

*1-bis. In relation to the commission of the crimes referred to in Article 12, paragraphs 3, 3-bis and 3-ter, of the Consolidation Act of Legislative Decree No. 286 of 25/07/1998, as amended, a fine of four hundred to one thousand quotas shall be imposed on entities.*

*1-ter. In relation to the commission of the crimes referred to in Article 12, paragraph 5, of the Consolidated Act referred to in Legislative Decree No. 286 of July 25, 1998, as amended, a fine of one hundred to two hundred quotas shall be imposed on entities.*

*1-quater. In cases of conviction for the crimes referred to in paragraphs 1-bis and 1-ter of this Article, the disqualifying sanctions provided for by Article 9, paragraph 2, shall be applied for a duration of not less than one year. "*

Regulatory detail:

- Aiding and abetting illegal entry of foreigners (Article 12, paragraphs 3, 3 bis and 3 ter, Legislative Decree No. 286/1998);
- Aiding and abetting illegal immigration (Article 12, paragraph 5, Legislative Decree No. 286/1998 bearing the Consolidated Act on immigration and the status of foreigners);
- Employment of foreign workers whose stay is irregular (Article 22 co 12 bis Legislative Decree No 286/1998).

**19. Racism and xenophobia (Article 25-terdecies, Legislative Decree No. 231/2001) [Article added by Law No. 167 of November 20, 2017, amendments to predicate offences introduced by Legislative Decree No. 21/2018]**

*"1. In relation to the commission of the crimes referred to in Article 3, paragraph 3-bis, of Law No. 654 of 13/10/1975, a financial penalty of two hundred to eight hundred quotas shall be applied to entities.*

*2. In cases of conviction for the crimes referred to in paragraph 1, the disqualifying sanctions provided for by Article 9, paragraph 2, for a period of not less than one year shall be applied to entities.*

*3. If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes indicated in paragraph 1, permanent disqualification from carrying out the activity pursuant to Article 16, paragraph 3 shall be applied."*

Regulatory detail:

- Propaganda and incitement to commit racial, ethnic, and religious discrimination (Article 604-bis of the Italian Criminal Code) [Article introduced by Legislative Decree No. 21/2018, which repealed Article 3 of Law No. 654 of 13/10/1975]

- Crime of genocide (Article 6 of Law No. 232 of 12/07/1999)
- Crimes against humanity (Article 7 of Law No. 232 of 12/07/1999)
- War crimes (Article 8 of Law No. 232 of 12/07/1999)

**20. Fraud in sports competitions, abuse of gambling or betting, and gambling by means of prohibited devices (Article 25-quaterdecies, Legislative Decree No. 231/2001) [Article added by Law No. 39/2019]**

*"1. In relation to the commission of the crimes referred to in Articles 1 and 4 of Law No. 401 of 13/12/1989, the following financial penalties shall be applied to entities:*

*(a) for crimes, a fine of up to five hundred quotas;*

*(b) for violations, a fine of up to two hundred and sixty quotas.*

*2. In cases of conviction for one of the crimes specified in paragraph 1 a) of this Article, the disqualifying sanctions provided for by Article 9 2) shall be applied for a term of not less than one year. "*

Regulatory detail:

- Fraud in sports competitions (Article 1 of Law of 13/12/1989, No. 401)
- Abuse of gambling or betting (Article 4 of Law of 13/12/1989, No. 401)

**21. Tax crimes (Article 25-quinquesdecies, Legislative Decree No. 231/2001) [Article inserted by 'Article 39, paragraph 2, Decree-Law No. 124 of 26/10/2019, converted, with amendments, by Law No. 157 of 19/12/2019]**

*"1. In relation to the commission of the crimes provided for by Legislative Decree No. 74 of 10/03/2000, the following financial penalties shall be applied to entities:*

*a) for the crime of fraudulent misrepresentation through the use of invoices or other documents for non-existent transactions provided for by Article 2, paragraph 1, a fine of up to five hundred quotas;*

*b) for the crime of fraudulent misrepresentation through the use of invoices or other documents for non-existent transactions, provided for by Article 2, paragraph 2-bis, a fine of up to four hundred quotas;*

*c) for the crime of fraudulent misrepresentation by means of other fraudulent acts, provided for by Article 3, a fine of up to five hundred quotas;*

*d) for the crime of issuing invoices or other documents for non-existent transactions, provided for by Article 8, paragraph 1, a fine of up to five hundred quotas;*

*e) for the crime of issuing invoices or other documents for non-existent transactions, provided for by Article 8, paragraph 2-bis, a fine of up to four hundred quotas;*

*f) for the crime of concealment or destruction of accounting documents, provided for by Article 10, a fine of up to four hundred quotas;*

g) for the crime of fraudulent tax evasion, provided for by Article 11, a fine of up to four hundred quotas.

1-bis. In relation to the commission of the crimes provided for by Legislative Decree No. 74 of 10/03/2000, if committed as part of fraudulent schemes and for the purpose of evading value-added tax for a total amount of not less than ten million euros, the following financial penalties shall be applied to entities:

a) for the crime of misrepresentation provided for by Article 4, a fine of up to three hundred quotas;

b) for the crime of failure to make a tax statement provided for by Article 5, a fine of up to four hundred quotas;

c) for the crime of undue compensation provided for by Article 10-quater, a fine of up to four hundred quotas.

2. If, as a result of the commission of the crimes indicated in paragraphs 1 and 1-bis, an entity earns a significant profit, the financial penalty shall be increased by one-third.

3. In the cases provided for by paragraphs 1, 1-bis and 2, the disqualifying sanctions set forth in Article 9, paragraph 2 c), d) and e) shall be applied."

Regulatory detail:

- Fraudulent misrepresentation through the use of invoices or other documents for non-existent transactions (Article 2 of Legislative Decree No. 74/2000)
- Fraudulent misrepresentation by means of other fraudulent acts (Article 3 of Legislative Decree No. 74/2000)
- Misrepresentation (Article 4 of Legislative Decree No. 74/2000) - Limited to when the act was committed "as part of cross-border fraudulent schemes and for the purpose of evading value-added tax for a total amount of not less than ten million euros"
- Failure to make a tax statement (Article 5 of Legislative Decree No. 74/2000) - Limited to when the act was committed "as part of cross-border fraudulent schemes and for the purpose of evading value-added tax for a total amount of not less than ten million euros"
- Issuance of invoices or other documents for non-existent transactions (Article 8 of Legislative Decree No. 74/2000)
- Concealment or destruction of accounting documents (Article 10 Legislative Decree No. 74/2000)
- Undue compensation (Article 10-quater Legislative Decree No. 74/2000) - Limited to when the act was committed "as part of cross-border fraudulent schemes and for the purpose of evading value-added tax for a total amount of not less than ten million euros"
- Fraudulent tax evasion (Article 11 of Legislative Decree No. 74/2000)

**22. Smuggling (Article 25-sexiesdecies, Legislative Decree No. 231/2001) [Article inserted by Legislative Decree No. 75/2020 implementing Directive (EU) 2017/1374, so-called 'PIF Directive']**

*"1. In relation to the commission of the crimes provided for by Decree of the President of the Italian Republic No. 43 of 23/01/1973, a fine of up to two hundred quotas shall be imposed on entities.*

*2. When the border fees due exceed one hundred thousand euros, a fine of up to four hundred quotas shall be imposed on entities.*

*3. In the cases provided for by paragraphs 1 and 2, the disqualifying sanctions set forth in Article 9, paragraph 2 c), d) and e) shall be applied to entities."*

Regulatory detail:

- Smuggling in the movement of goods across land borders and customs zones (Article 282 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in the movement of goods in cross-border lakes (Article 283 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in the maritime movement of goods (Article 284 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in the movement of air cargo (Article 285 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in non-customs zones (Article 286 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling for the unlawful use of goods imported with customs facilities (Article 287 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in customs warehouses (Article 288 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in cabotage and traffic (Article 289 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in the export of goods eligible for duty drawback (Article 290 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling in temporary import or export (Article 291 Decree of the President of the Italian Republic No. 43/1973)
- Smuggling of foreign manufactured tobacco products (Article 291-bis Decree of the President of the Italian Republic No. 43/1973)
- Aggravating circumstances in the crime of smuggling of foreign manufactured tobacco products (Article 291-ter Decree of the President of the Italian Republic No. 43/1973)
- Criminal organisations aimed at smuggling foreign manufactured tobacco (Article 291-quater Decree of the President of the Italian Republic No. 43/1973)
- Other cases of smuggling (Article 292 Decree of the President of the Italian Republic No. 43/1973)

- Equating attempted crime with actually committed crime (Article 293 Decree of the President of the Italian Republic No. 43/1973)
- Sentence for smuggling in case of failure or incomplete detection of the object of the offence (Article 294 Decree of the President of the Italian Republic No. 43/1973)
- Aggravating circumstances of smuggling (Article 295 Decree of the President of the Italian Republic No. 43/1973)

**23. Liability of entities for administrative offences resulting from a crime (Article 12, Law No. 9/2013) [These shall be prerequisites for entities operating in the virgin olive oil supply chain]**

*"Entities operating in the virgin olive oil supply chain shall be liable, in accordance with Legislative Decree No. 231 of 08/06/2001, for the offences referred to in Articles 440, 442, 444, 473, 474, 515, 516, 517 and 517-quater of the Italian Criminal Code, committed in their interest or to their benefit by persons:*

*a) who hold positions of representation, administration or management of an entity or of one of its organisational units with financial and functional independence as well as by persons who are in charge - also de facto - of the management and control of an entity;*

*b) being under the direction or supervision of one of the persons referred to in a).*

*2. An entity shall also be liable when the perpetrator of the crime is not identified or may not be charged."*

- Adulteration and counterfeiting of foodstuffs (Article 440 of the Italian Criminal Code)
- Trade of counterfeit or adulterated foodstuffs (Article 442 of the Italian Criminal Code).
- Trade of harmful foodstuffs (Article 444 of the Italian Criminal Code).
- Forgery, altering or use of trademarks or distinctive signs as well as patents, models and designs (Article 473 Italian Criminal Code)
- Introduction into the State and trade of products with counterfeit signs (Article 474 of the Italian Criminal Code)
- Fraud in the exercise of trade (Article 515 of the Italian Criminal Code).
- Sale of non-genuine foodstuffs as genuine (Article 516 of the Italian Criminal Code)
- Sale of industrial products with counterfeit signs (Article 517 of the Italian Criminal Code)
- Forgery of geographical indications or designation of origin of agri-food products (Article 517quater of the Italian Criminal Code)

**24. Transnational Crimes (Law No. 146/2006) [If committed transnationally, the following crimes shall be prerequisites for the administrative liability of entities]**

*"Law No. 146, 16/03/2006, "Ratification and Execution of the United Nations Convention and Protocols against Transnational Organised Crime, adopted by the General Assembly on 15/11/2000, and 31/05/2001"*

Article 3. Definition of transnational crime

1. *For the purposes of this law, a transnational crime is a crime punishable by imprisonment of not less than a maximum of four years if an organised criminal group is involved, as well as a crime:*

- a) *committed in more than one state;*
- b) *committed in one state, but a substantial part of its preparation, planning, direction or control takes place in another state;*
- c) *committed in one state, but an organised criminal group engaged in criminal activities in more than one state is involved in it;*
- d) *committed in one state but has substantial effects on another state.*

Article 10. Administrative liability of entities

1. *In relation to the administrative liability of entities for the crimes provided for by Article 3, the provisions of the following paragraphs shall apply.*

2. *In the case of the commission of the crimes provided for by Articles 416 and 416-bis of the Italian Criminal Code, Article 291-quater of the Consolidation Act referred to in Decree of the President of the Italian Republic No. 43 of 23/01/1973, and Article 74 of the Consolidation Act referred to in Decree of the President of the Italian Republic No. 309 of 09/10/1990, the administrative fine of four hundred to one thousand quotas shall be imposed on entities.*

3. *In cases of conviction for one of the crimes indicated in paragraph 2, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>28</sup> of Legislative Decree No. 231 of 08/06/2001, shall be applied to entities for a duration of not less than one year.*

4. *If an entity or one of its organisational units is permanently used for the sole or main purpose of enabling or facilitating the commission of the crimes indicated in paragraph 2, permanent disqualification from carrying out the activity pursuant to Article 16, Paragraph 3<sup>29</sup> of Legislative Decree No. 231 of 08/06/2001 shall be applied to the entity.*

5. *(repealed)*

6. *(repealed)*

7. *In the case of crimes concerning migrant smuggling, for the crimes referred to in Article 12, paragraphs 3, 3-bis, 3-ter, and 5, of the Consolidation Act of Legislative Decree No. 286 of 25/07/1998, as amended, an administrative fine of two hundred to one thousand quotas shall be applied to entities.*

8. *In cases of conviction for the crimes referred to in paragraph 7 of this Article, the disqualifying sanctions provided for by Article 9, paragraph 2<sup>30</sup> of Legislative Decree No. 231 of 08/06/2001, shall be applied to entities for a term not exceeding two years.*

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<sup>28</sup> See note 2 above.

<sup>29</sup> See note 5 above.

<sup>30</sup> See note 2 above.



9. *In the case of crimes concerning obstruction of justice, for the crimes referred to in Articles 377-bis and 378 of the Italian Criminal Code, a fine of up to five hundred quotas shall be imposed on entities.*

10. *The provisions of Legislative Decree No. 231 of 08/06/2001 shall apply to the administrative offences provided for by this Article."*

Regulatory detail:

- Provisions against illegal immigration (Article 12, paragraphs 3, 3-bis, 3-ter and 5, of the Consolidation Act of Legislative Decree No. 286 of 25/07/1998)
- Association for the purpose of illicit trafficking of narcotic drugs or psychotropic substances (Article 74 of the Consolidation Act of Decree of the President of the Italian Republic No. 309 of 09/10/1990)
- Criminal organisations aimed at smuggling foreign manufactured tobacco (Article 291-quater of the Consolidation Act of Decree of the President of the Italian Republic No. 43 of January 23, 1973);
- Incitement not to make statements or to make false statements to judicial authorities (Article 377-bis of the Italian Criminal Code)
- Aiding and abetting (Article 378, Italian Criminal Code)
- Criminal organisation (Article 416 of the Italian Criminal Code).
- Mafia-type associations, including foreign ones (Article 416-bis of the Italian Criminal Code).

**23. Urgent provisions regard the fight to violence at sporting events (Article 1 sexies, Decree-Law No. 28/2003, as amended by Article 17, Decree-Law No. 53/2019, which amended I)**

*"1. Anyone selling admission tickets for sporting events who does not belong to the companies specifically appointed for this purpose shall be punished with a fine of 2,500 to 10,000 euros. The penalty may be increased by up to half of the maximum for offenders selling or merchandising admission tickets at a higher price than the one charged by the company specifically appointed for their sale. The prohibition and requirements of Article 6 of Law No. 401 of 13/12/1989 may be applied against offenders.*

*1-bis. The provisions of paragraph 1, first and second sentences, shall also apply to the persons referred to in Article 1, paragraph 2, Legislative Decree No. 231 of 08/06/2001."*

**3. Article 45 Consolidation Act of radio and audiovisual media services**

Definition of the tasks of public radio, television and multimedia services (1)

1. The public radio, television and multimedia service is entrusted by concession to a joint-stock company, which, in compliance with the principles set forth in Article 7, performs it on the basis of a national service contract entered into with the Italian Ministry after deliberation by the Italian Council of Ministers, as well as regional service contracts and, for the

autonomous provinces of Trento and Bolzano, provincial service contracts, by which the rights and obligations of the concessionary company are identified. These contracts are renewed every five years within the framework of the concession that recognises RAI-Radiotelevisione italiana Spa's role as the manager of public radio, television and multimedia services (2).

2. However, according to Article 7, paragraph 4), public radio, television and multimedia services shall guarantee (3):

- a) the broadcasting of all public service television and radio broadcasts of the concessionary company with full national coverage, as far as the state of science and technology allows;
- b) a proper amount of hours of television and radio broadcasts devoted to education, information, training and cultural promotion, with particular regard to the enhancement of theatrical, cinematographic, television and musical works, including works in their original language, recognised as being of a high artistic level or particularly innovative; this number of hours shall be defined every three years by the Authority; entertainment broadcasts for minors shall be excluded from the calculation of these hours<sup>31</sup> ;
- c) the broadcasting of the programs referred to in b), in a proportionate manner, in all time slots, including those expected to have a wider audience, and on all television and radio broadcasts;
- d) the access to broadcasting schedules - within the limits and in the manner specified by law - by any parties and groups represented in the Parliament and in regional assemblies and councils, as well as of associations of local self-government, national trade unions, religious groups, political movements, political and cultural bodies and associations, legally recognised cooperative movements, associations of social promotion registered in national and regional registers, ethnic and linguistic groups, and other groups of social interest that may request them;
- e) the production, distribution and broadcasting of radio and television programs abroad, with the aim of raising awareness of the Italian language, culture and enterprise through the use of such programs and by spreading the most significant productions of the national audiovisual scene (4);
- f) the making of radio and television broadcasts in the German and Ladin languages for the autonomous province of Bolzano, in the Ladin language for the autonomous province of Trento, in the French language for the autonomous region of Valle d'Aosta, and in the Slovenian language for the autonomous region of Friuli-Venezia Giulia;
- g) the free broadcasting of messages of social utility or public interest requested by the Prime Minister's Office and the broadcasting of proper information on the viability of Italian roads and highways;
- h) the broadcasting of content specifically intended for minors - at appropriate times - by taking into account the needs and feelings characterising early

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<sup>31</sup> With specific reference to the broadcasting hours allocated to information, Article 9, paragraph 1 of Law No. 166/2016 provides that "the public radio, television and multimedia services referred to in Article 45 of the Consolidation Act referred to in Legislative Decree 31/07/2005, No. 177 shall ensure that, during the broadcasting hours allocated to information, pursuant to the aforementioned Article 45, paragraph 2 b), an adequate number of such hours is aimed at promoting behaviours and measures to reduce food, energy and any other kind of waste."

childhood and developmental age;

- i) the preservation of historical radio and television archives, ensuring public access to them;
- j) the allocation of not less than 15 percent of total annual revenues to the production of European works, including those made by independent producers; this quota has been applied as of the service contract concluded after 06/05/2004;
- k) within the time limits provided for by Law No. 112 of 03/05/2004, the implementation of infrastructures for radio and television broadcasting on terrestrial frequencies with digital technology;
- l) the implementation of interactive and digital public utility services;
- m) compliance with the limits on advertising space provided for by Article 38;
- n) public information both at national and regional level through each region's and autonomous province's own editorial offices and facilities to be used for specific productions, in compliance with the provisions of f) (5);
- o) the adoption of appropriate measures to protect people with sensory disabilities in implementation of Article 32, paragraph 6 (6);
- p) the enhancement and strengthening of decentralised production centres, specifically for the purposes of b) above and for the need to promote local cultures and language tools;
- q) the implementation of distance learning activities.

3. Offices that provide the service referred to in paragraph 2 f) shall maintain their financial and accounting autonomy in relation to the fulfilment of public service obligations entrusted to them and shall also serve as a decentralised production centre for the need to promote local cultures and language tools (7).

3-bis. In the agreement concluded between the concessionary company and the autonomous province of Bolzano relevant rights and obligations are identified, and in particular the timing and hours of radio and television broadcasts. In order to ensure transparency and accountability in the use of provincial public financing, the operating costs for the German and Ladino language service are represented by a special cost centre in the financial statements of the concessionary company, and the related charges shall be borne by the Autonomous Province of Bolzano through the resources identified pursuant to Article 79, paragraph 1 c), of the Consolidation Act of the President of the Republic Decree No. 670 31/08/1972, whose amount shall not exceed 10,313,000 euros annually. Any further charges resulting from the above-mentioned agreement shall be the sole responsibility of the Autonomous Province of Bolzano (8).

3-ter. The amount of 10,313,000 euros referred to in paragraph 3-bis shall be increased by 5,000,000 euros for the year 2015 and by 9,687,000 euros annually as of the year 2016. The related cost shall be covered - as to 5,000,000 euros for the year 2015 - by means of a corresponding payment, by the Presidency of the Italian Council of Ministers to the Italian national budget, for the same year, of an equal amount of resources available on its autonomous budget - as to 9,687,000 euros for the year 2016 - by means of a corresponding reduction of the Fund for structural economic policy interventions, referred to in Article 10,

paragraph 5, of Decree-Law No. 282, converted, with amendments, by Law No. 307 of 27/12/2004, and, as to 9,687,000 euros annually as of the year 2017, by a corresponding reduction of the projections of the allocation of the special current account fund entered, for the purposes of the three-year budget 2015-2017, under the program 'Reserves and special funds' of the mission "'Funds to be allocated' of the estimates made by the Italian Ministry of Economy and Finance for the year 2015, for the purpose of partially using the provision regarding the same Italian Ministry (9).

4. By a resolution adopted in the agreement between the Authority and the Italian Minister of Communications prior to each five-year renewal of the national service contract, guidelines on the content of further obligations of the public radio, television and multimedia services, which shall be defined depending on the development of markets, technological progress and changing cultural, national and local needs (10), shall be established.
- 4-bis. By resolution of the Italian Council of Ministers, the guidelines in order to have an agreement with the Authority, referred to in paragraph 4 (11), shall be defined.
5. The company to which the public radio, television and multimedia services is entrusted by concession shall be allowed to carry out, directly or through affiliated companies, commercial and publishing activities related to the broadcasting of images, sounds and data, as well as other related activities, provided that they are not detrimental to the performance of the public services granted and that they contribute to the balanced management of the company (12).

(1) Heading amended by Article 1, paragraph 1 a) of Law No. 220 of 28/12/2015.

(2) Paragraph amended by Article 1, paragraph 1 a) and b) of Law No. 220 of 28/12/2015.

(3) Alinea amended by Article 1, paragraph 1 a) of Law No. 220 of 28/12/2015.

(4) Letter amended by Article 21, paragraph 4-bis, of Decree-Law No. 66 of 24/04/2014, converted with amendments by Law No. 89 of 23/06/014.

(5) Letter replaced by Article 1, paragraph 1 c) of Law No. 220 of 28/12/2015.

(6) Letter amended by Article 1, paragraph 1 vv) of Legislative Decree No. 44 of 15/03/2010 and Article 1, paragraph 1 d) of Law No. 220 of 28/12/2015.

(7) Paragraph replaced by Article 1, paragraph 1 e) of Law No. 220 of 28/12/2015.

(8) Paragraph inserted by Article 1, paragraph 1 f) of Law No. 220 of 28/12/2015.

(9) Paragraph inserted by Article 1, paragraph 1 f) of Law No. 220 of 28/12/2015.

(10) Paragraph amended by Article 1, paragraph 1 a) and (g) of Law No. 220 of 28/12/2015.

(11) Paragraph inserted by Article 1, paragraph 1 h) of Law No. 220 of 28/12/2015.

(12) Paragraph amended by Article 1, paragraph 1 a) of Law No. 220 of 28/12/2015.