THE ORGANISATION, MANAGEMENT AND CONTROL MODEL

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Annex I

List of predicate offences and administrative offences pursuant to Legislative Decree no. 231/2001

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1 THE RELEVANT ADMINISTRATIVE CRIMES AND OFFENCES PURSUANT TO LEGISLATIVE DECREE NO. 231/2001

The following is a brief description of the crimes and administrative offences[1] whose commission by persons functionally linked to the Entity, whether they hold a top position or are subject to the control and supervision of others, determines, upon the occurrence of the conditions provided for by Legislative Decree 231/2001, the onset of the administrative liability of the Entity itself pursuant to and for the purposes of the aforementioned legislation.

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2 CRIMES AGAINST THE PUBLIC ADMINISTRATION [Articles 24 and 25 of Legislative Decree 231/2001]

2.1 Misappropriation of public funds

The crime of misappropriation of public funds consists in the use of funds provided by the State, by another Public Administration or by the European Union for the realization of works and activities of public interest, for purposes other than those for which they were disbursed.

The criminal hypothesis is therefore characterized by the obtaining of public funding in a lawful manner and the subsequent use of the same for purposes other than those underlying the disbursement.

The crime of embezzlement of public funds has undergone a regulatory change by Law no. 25/2022, in particular art. 28-bis, first paragraph of the same law, entitled as "Embezzlement of public funds" instead of "Embezzlement to the detriment of the State".
The new legislation has also extended the description of the object of the embezzlement conduct, providing as follows: Art. 316-bis. Criminal Code "Embezzlement of public funds"
Anyone who, outside the public administration, having obtained from the State or from another Public Administration or from the European Union contributions, subsidies, loans, subsidized loans or other disbursements of the same type, however denominated, intended for the

[1] The specification is consequent to the provision of administrative offences introduced by art. 9 of the EU Law on insider dealing and market manipulation. In particular, these are arts. 187 *bis* and 187 *ter* of the TUF, reported below

achievement of one or more purposes, does not allocate them to the intended purposes shall be punished with imprisonment from six months to four years.
With reference to the crime of embezzlement of public disbursements, it should be clarified that, with the new formula “other disbursements of the same type, however denominated”, the legislator intended to mean any form of economic intervention, including subsidized loans and any disbursement of a public nature, disbursed, in addition to the State, by other public bodies or by the European Union, while with the reference to works or activities of public interest it seems that the legislator wanted to refer not so much to the nature of the work or activity in and of itself considered but rather to the purpose pursued by the providing entity.

2.2 Aggravated fraud for the achievement of public disbursements and undue receipt of public disbursements

The crimes of aggravated fraud for the achievement of public disbursements and undue receipt of public disbursements are characterized by the unlawful obtaining of disbursements from the State, the European Union or other public bodies.
Unlike the embezzlement of public funds which aims to repress the illegal use of contributions lawfully obtained, the crimes in question are aimed at sanctioning the undue receipt of public contributions.

The above-mentioned crimes have also undergone regulatory changes by Article 28-bis of Law no. 25/2022, which extended to the regulatory body both art. 640-bis of the Criminal Code and in that of art. 316-ter of the Criminal Code.

Article 640-bis of the Criminal Code – “Aggravated fraud for the achievement of public funds”
The penalty shall be imprisonment of between two and seven years and shall be prosecuted ex officio if the act referred to in Article 640 concerns contributions, subsidies, loans, subsidised loans or other disbursements of the same type, however denominated, granted or disbursed by the State, other public bodies or the European Union. The penalty is imprisonment from one to four years if the act is committed by a public official or a person in charge of a public service with abuse of his position or powers. The penalty is imprisonment from six months to four years if the act offends the fiscal interests of the European Union and the damage or profit exceeds EUR 100 000.

Article 316-ter. Criminal Code “Undue perception of public disbursements”

Unless the act constitutes the offence provided for in Article 640-bis, any person who, through the use or presentation of false declarations or documents or attesting to untrue things, or through the omission of due information, unduly obtains, for himself or for others, contributions, loans, subsidised loans or other disbursements of the same type, however denominated, granted or disbursed by the State, by other public bodies or by the European Union shall be punished with imprisonment from six months to three years.

When the sum unduly received is equal to or less than € 3,999.96, only the administrative sanction of the payment of a sum of money from € 5,164 to € 25,822 is applied. This sanction may not exceed three times the benefit obtained.

2.3 Fraud to the detriment of the State or other Public Administration or the European Union

For the purposes of applying the provisions of Legislative Decree 231/2001, the case of fraud is relevant only if the taxable person of the artifices and deceptions that characterize the related conduct is the State or other Public Administration. The crime of “Fraud to the detriment of the State or other Public Administration or the European Union” was recently amended by Legislative Decree No. 150 of 10 October 2022, “Implementation of Law No. 134 of 27 September 2021, delegating to the Government for the efficiency of the criminal process, as well as in the field of restorative justice and provisions for the rapid definition of judicial proceedings” (the so-called “Cartabia Reform”).
Specifically, the aforementioned measure abolished the aggravating circumstance referred to in art. 61 first paragraph no. 7) of the Criminal Code, thus amending the body of regulations of art. 640 of the Criminal Code.

Article 640 of the Criminal Code – Fraud to the detriment of the State or other Public Administration or of the European Union
Anyone who, by artifice or deception, by misleading someone, procures for himself or others an unjust profit to the detriment of others, shall be punished with imprisonment from six months to three years and a fine from 51 to 1,032 euros.
The penalty is imprisonment from one to five years and a fine from 309 to 1,549 euros:
1) if the offence is committed to the detriment of the State or another Public Administration or of the European Union or under the pretext of exempting someone from military service;
2) if the act is committed by generating in the injured person the fear of an imaginary danger or the erroneous belief that he or she must carry out an order of the Authority;
2a) if the offence is committed in the presence of the circumstance referred to in Article 61

The offence is punishable upon complaint by the injured party, unless any of the circumstances provided for in the previous paragraph occur.

2.4 Computer fraud to the detriment of the State or other Public Administration

For the purposes of applying the provisions of Legislative Decree 231/2001, the case of information fraud is relevant only if the alteration of the computer or telematic system or the data contained therein is perpetrated to the detriment of the State or other Public Administration.
"Information system" means hardware (all the elements that make up the central processing unit) and software (set of programs that allow the central computer to carry out operations), as well as the other elements that enrich the system functions and utilities (printers, videos, scanners, keyboards), which allow the automatic processing of data and the automatic processing of information, while a telematic system must be understood as a set of objects, connected to each other, which exploits principles and technologies related to computers and telecommunications and which presupposes the user's access to databases stored on a central computer (for example, a computer connected to the telephone network by modem constitutes a telematic system).
The body of legislation of the aforementioned offence was also amended by Legislative Decree No. 150 of 10 October 2022, "Implementation of Law No. 134 of 27 September 2021, delegating to the Government for the efficiency of the criminal process, as well as in the field of restorative justice and provisions for the rapid definition of judicial proceedings" (the so-called "Cartabia Reform"), as follows:

Article 640-ter of the Criminal Code – "Computer fraud to the detriment of the State or other Public Administration"
Anyone who, altering in any way the operation of a computer or telematic system or intervening without right in any way on data, information or programs contained in a computer or telematic system or pertaining to it, procures for himself or others an unfair profit with damage to others, shall be punished with imprisonment from six months to three years and a fine from €51 to €1,032.
The penalty is imprisonment from one to five years and a fine from €309 to €1,549 if one of the circumstances provided for in number 1 of the second paragraph of Article 640 occurs, or if the act is committed with abuse of the quality of system operator.

The penalty is imprisonment from two to six years and a fine from 600 to 3,000 euros if the act is committed with theft or improper use of the digital identity to the detriment of one or more subjects.

The offence shall be punishable upon complaint by the injured party, unless any of the circumstances referred to in the second and third paragraphs occur, unless any of the circumstances referred to in the second and third paragraphs or the circumstance provided for in Article 61, first paragraph, number 5, occurs, limited to having taken advantage of personal circumstances, including with reference to age.

2.5 Fraud in public supplies

Article 356 of the Criminal Code – "Fraud in public supplies"

Anyone who commits fraud in the execution of supply contracts or in the fulfilment of the other contractual obligations indicated in the previous article shall be punished with imprisonment from one to five years and a fine of not less than € 1,032.

The penalty shall be increased in the cases provided for in the first paragraph of the preceding article.

The crime of fraud in public procurement was introduced by Legislative Decree no. 75/2020, with the aim of protecting the good performance of the public administration and, more specifically, the regular functioning of public services and public establishments.

Specifically, it is a proper crime, which can only be committed by a person contractually bound to the State, with a Public Administration or with a company carrying out a service of public necessity, and therefore by the supplier, the subcontractor, the mediator and the representative. For the purposes of the completion of the crime, it is not necessary for the subject to act with specific deceptions or for the defects of the thing supplied to be hidden, provided that there is bad faith in the execution of the contract. In fact, the crime in question can compete with aggravated fraud against the State (art. 640), if in addition to the bad faith mentioned above there is also the use of artifices or deceptions.

2.6 Fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development

Art. 2. Law no. 898/1986 – "Fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development"

If the act does not constitute the most serious offence provided for in Article 640-bis of the Criminal Code, any person who, through the disclosure of false data or information, unduly

obtains, for himself or for others, aid, premiums, allowances, refunds, contributions or other disbursements borne in whole or in part by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development shall be punished with imprisonment from six months to three years. The penalty is imprisonment from six months to four years when the damage or profit is greater than 100,000 euros. When the sum unduly received is equal to or less than 5,000 euros, only the administrative sanction referred to in the following articles shall apply.
2. For the purposes of the provisions of paragraph 1 above and that of paragraph 1 of Article 3, the disbursements charged to the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development shall be treated in the same way as the national quotas provided for by Community legislation in addition to the sums charged to those Funds, as well as the disbursements charged entirely to the national finance on the basis of Community legislation.
3. By the judgment, the court shall also determine the amount unduly received and order the offender to return it to the administration that ordered the payment referred to in paragraph 1.
The crime of fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development was also introduced by Legislative Decree no. 75/2020.

2.7 ***Bid rigging***

Law No. 137 of 9 October 2023, converting with amendments Decree-Law No. 105 of 10 August 2023, containing “Urgent provisions on criminal proceedings, civil proceedings, forest fire fighting, recovery from drug addiction, health and culture, as well as on the personnel of the judiciary and public administration” has extended the catalogue of networks prerequisite for the administrative liability of entities, expanding the scope of risky activities in relations with the Public Administration, also involving the preparatory phases for the conduct of public tenders.

Article 353 of the Criminal Code – “Bid rigging”
Anyone who, with violence or threats, or with gifts, promises, collusion or other fraudulent means, prevents or disturbs the tender in public tenders or private tenders on behalf of Public Administrations, or dismisses bidders, shall be punished with imprisonment from six months to five years and a fine from €103 to €1,032.
If the culprit is a person appointed by law or by the Authority to the aforementioned auctions or tenders, imprisonment is from one to five years and the fine from 516 to 2,065 euros.

The penalties established in this article also apply in the case of private tenders on behalf of private individuals, directed by a public official or by a legally authorized person; but they are reduced to half.

The case outlined by art. 353 of the Criminal Code is among the crimes of private individuals against the public administration. The undisputed rationale of the rule in question is to ensure effective protection with respect to the formation phase of the negotiation activity of the public administration, with specific regard to the choice of contractors and compliance with the rules aimed at governing the tenders in which the administration is interested.

Doctrine and jurisprudence tend to qualify the crime referred to in art. 353 of the Criminal Code as a multi-offence offence, the protected good of which “is represented not only by the freedom to participate in tenders in public contracts or private tenders, but also by the freedom of those who participate in them to influence the outcome, according to free competition and through the game of increased bids. All in line with the principle of ensuring equal treatment, which is inherent in any insolvency procedure” (Cass. Pen., sec. II, 26.1.2006, n. 4925, in Riv. Pen., 2006, 654).

The active subject of the crime of Bid rigging can be anyone, whether extraneous, interested or even counter-interested in the tender. It is, therefore, a common crime. Paragraph 2 of art. Article 353 of the Criminal Code, on the other hand, introduces, in relation to the active party, an aggravating circumstance with a special effect, where the latter is identified as a “person appointed by law or by the authority to enchantments or tenders”. With regard to the notion of “person in charge”, it has been specified that it “must be determined with reference not limited to the terminal moment – i.e. the celebration of the tender – but with regard to the entire procedural process that the public tender for its implementation entails: the performance of the public tender, in fact, gives rise to a complex administrative procedure, in which the function of the person in charge is inserted and operates through the specific tasks to which he is called, so that the qualification of person appointed by law or by the authority to public tenders or private tenders cannot be limited to the person who presides over and directs the tender, but includes all those who perform essential functions throughout the procedure" (Cass. Pen., sec. VI, 13.1.2005, no. 4185).

Despite the ample description of the ways in which the case can be configured, the phrase “other fraudulent means” leads to the conclusion that it is a free-form crime, since the legislator wants to include all the means concretely suitable for disturbing the freedom of the auctions, altering the regular functioning and free participation of the bidders in the tender.

Given the nature of a crime of danger, it is carried out regardless of the result of the tender, it being sufficient that its regular course is diverted. The prerequisite for the crime is the publication of the notice, since there can be no consummation, not even in the attempted form, before that moment.

Fraud is generic and consists in the desire to prevent or disturb the tender or to remove bidders through the methods set out in the law.

2.8 Disturbance of the procedure for selecting the contractor

Until the 2010 novella, which introduced the case referred to in art. 353 bis of the Criminal Code (art. 10 of Law no. 136/2010), all conducts, identical to those outlined by art. 353 of the Criminal Code, intended to affect the phase prior to the tender, in which, however, equally significant facts could occur for the purposes of determining the contents of the notice and other equivalent acts likely to affect the choice of contractors by the public administration.

The legislator, in order to counter the deplorable phenomenon of auction rigging which, in its multifaceted manifestations, can also affect the procedure for the formation of the call for tenders, conditioning its content in such a way that a given subject can be misled in the award even before the opening of the tender, thus endangering, on the one hand, the good performance of the public administration and on the other hand the free competition of the participants in the tender – has introduced The new figure of crime described by art. 353 bis of the Criminal Code, which, alongside art. 353, represses the conduct of disturbance carried out prior to the publication of the notice.

Article 353 bis of the Criminal Code – "Disturbance of the procedure for selecting the contractor". *Unless the fact constitutes a more serious crime, anyone who, with violence or threats, or with gifts, promises, collusion or other fraudulent means, disturbs the administrative procedure aimed at establishing the content of the notice or other equivalent act in order to condition the methods of choice of the contractor by the Public Administration shall be punished with imprisonment from six months to five years and a fine from 103 to 1,032 euros.*

It is clear that the case referred to in art. 353 bis of the Criminal Code is constructed as a crime of danger (acts aimed at disturbing the administrative procedure for the formation of the tender), with specific intent (purpose of influencing the choice of the contractor); therefore, the consummation is independent of the achievement of the purpose itself and is brought forward to the phase of public tenders prior to the publication of the notice.

2.9 Extortion by a public official and undue inducement to give or promise benefits

With the recent Law no. 190 of 6.11.2012, published in the Official Gazette of 13.11.2012, the Italian Legislator has made some substantial changes to art. 317 of the Criminal Code (bribery), then subsequently amended by Law no. 69 of 27-05.2015, and introduced in Legislative Decree 231/01 the new crime of undue inducement to give or promise benefits (art. 319-quarter of the Criminal Code).

Regarding the regulatory intervention on the previous crime of bribery provided for by art. 317 of the Criminal Code, it is noted that the original criminal conduct has essentially been divided into two different criminal cases now contained in art. 317 as amended and in art. 319-quarter.

Previously, the crime of bribery was punished by “the *public official* or the *person in charge of a public service* who, abusing his position or powers, *forces* or *induces* someone to give or promise unduly, to him or to a third party, money or other benefits”.

Today:

- is punished for the crime of extortion (Article 317 of the Criminal Code) the *public official* or *the person in charge of a public service*, only when *they force* (no longer when they induce) someone to give or promise money or other benefits unduly;
- both the *public official* and *the person in charge of public service*, if *they induce* someone to unduly give or promise money or other benefits, will carry out the different crime of “Undue inducement to give or promise benefits” (Article 319 quarter of the Criminal Code).

Article 317 of the Criminal Code “Bribery”

A public official or person in charge of a public service who, abusing his or her position or powers, forces someone to give or promise unduly to him or to a third party, money or other benefits shall be punished with imprisonment from six to twelve years.

Article 319-quarter of the Criminal Code “Undue inducement to give or promise benefits”

Unless the act constitutes a more serious offence, a public official or person in charge of a public service who, abusing his or her position or powers, induces someone to give or unduly promise, to him or to a third party, money or other benefits shall be punished with imprisonment of between three and eight years.

In the cases provided for in the first paragraph, anyone who gives or promises money or other benefits shall be punished with imprisonment of up to three years.

2.10 Corruption

Corruption occurs when the parties, being in an equal position with each other, put in place a real agreement, unlike bribery (or undue inducement to give or promise benefits) which instead

presupposes the exploitation by the official of his position of superiority to which corresponds in private a situation of subjection or coercion.
For this reason, both the corrupt and the corruptor suffer the penalties, as specified below.

The object of corruption may consist of either an act contrary to official duties (so-called **proper** corruption) or the exercise of the function (so-called **improper corruption**). A distinction is also made between cases where the act of corruption refers to an act that the public servant has yet to perform (known as **antecedent** corruption) and cases where it refers to an act that the official has already performed (known as **subsequent** corruption).

The relevant cases of corruption pursuant to Legislative Decree 231/2001 are the following:

Article 318 – “Corruption in the exercise of the office”
A public official who, in the exercise of his functions or powers, unduly receives, for himself or for a third party, money or other benefits in money or other benefits or accepts the promise thereof, shall be punished with imprisonment from one to five years.

With the recent Law no. 190 of 6.11.2012, published in the Official Gazette of 13.11.2012, the Italian Legislator has made some substantial changes to art. 318 of the Criminal Code and art. 322 of the Criminal Code (Incitement to corruption, see below).
These amendments highlight how the legislator has deviated, as regards the purposes of the bestowal or promise:

- and from the previous approach which provided as follows: “to perform an act of his office”,
- and by the provisions of the Strasbourg Convention of 27 January 1999, ratified by Law no. 110 of 28.6.2012 which imposes, in arts. 2 and 3, to consider active and passive corruption a crime in the case of promises, offers or donations made so that the public official “performs or refrains from performing an act in the exercise of his functions”.

Today they are punished under art. 318 and 322 of the Criminal Code:

- the public official or person in charge of a public service who unduly receives the bestowal or promise (318 of the Criminal Code) or who solicits the bestowal or promise (322 par. 3 of the Criminal Code) simplistically “for the exercise of his functions or powers” and

- anyone who offers or promises to give to a public official or person in charge of a public service (322 par. 1 of the Criminal Code) “for the exercise of his functions or powers”.

It is evident that this change is not only terminological but is substantial because it unties criminal conduct from the performance of an act.
Instead, a broader formula is used, but certainly with somewhat blurred contours, which will cause many interpretative problems in the application of the regulatory case to concrete cases.

Art. 319 – “Corruption for an act contrary to the duties of office”
A public official who, by omitting or delaying or omitting or delaying an act of his office, or by performing or having performed an act contrary to the duties of office, receives, for himself or for a third party, money or other benefits, or accepts the promise thereof, shall be punished with imprisonment from four to eight years

Pursuant to art. 319 bis of the Criminal Code (“Aggravating circumstances”), the penalty is increased if the fact referred to in the previous provision has as its object the conferral of public employment or salaries or pensions or the stipulation of contracts in which the administration to which the public official belongs is interested.

Article 319-ter – “Corruption in judicial acts”
If the acts referred to in Articles 318 and 319 are committed to favour or harm a party in civil, criminal or administrative proceedings, the penalty of four to ten years shall apply.
If the fact results in the unjust sentence of someone to imprisonment not exceeding five years, the penalty is imprisonment is from five to twelve years; if the unjust sentence results in imprisonment of more than five years or life imprisonment, the penalty is imprisonment from six to twenty years.

Pursuant to art. 321 of the Criminal Code (“Penalties for the corruptor”), the penalties established by the previous provisions, in relation to the cases of art. 318 and 319, also apply to those who give or promise money or other benefits to the public official or to the person in charge of a public service.

Article 320 – “Corruption of a person in charge of a public service”
The provisions of Articles 318 and 319 shall also apply to persons in charge of a public service.
In both cases, the penalty is reduced by no more than one third.

This rule – which according to part of the doctrine describes an autonomous figure of crime – extends the applicability of the provisions of art. 319 of the Criminal Code. To any person in charge of a public service (even if he or she does not have the status of public employee), as well as the provisions of art. 318 of the Criminal Code. To the person in charge of a public service who has the status of public employee. In such cases, penalties are reduced by no more than one third.

Article 322 – "Incitement to corruption"
Anyone who offers or promises money or other benefits not due to a public official or a person in charge of a public service for the exercise of his functions or powers, is subject, if the offer or promise is not accepted, to the penalty established in the first paragraph of art. 318, reduced by a third.
If the offer or promise is made to induce a public official or a person in charge of a public service to omit or delay an act of his office, or to do an act contrary to his duties, the culprit is subject, if the offer or promise is not accepted, to the penalty established in the first paragraph of art. 319, reduced by a third.
The penalty referred to in the first paragraph shall apply to a public official or person in charge of a public service who solicits a promise or donation of money or other benefits for the exercise of his functions or powers.
The penalty referred to in the second paragraph applies to a public official or to the person in charge of a public service who solicits a promise or donation of money or other benefits from a private individual for the purposes indicated in art. 319.

For the recent amendment made to the article by Law no. 190 of 6.11.2012, see what was described above for art. 318 of the Criminal Code (Corruption for the exercise of the function).

2.11 Embezzlement, extortion, undue inducement, corruption and incitement to corruption of members of EU institutions, EU officials and officials of foreign States

Article 322-bis – "Embezzlement, bribery, undue inducement to give or promise benefits, corruption and incitement to corruption of members of the bodies of the European Union and officials of the European Union and of foreign States"
For the purposes of the application of the offences listed above, the following persons are to be treated in the same way as public officials and persons in charge of public services, by virtue of the provisions of Article 322-bis ("Embezzlement, bribery, corruption and incitement to corruption of members of the bodies of the European Union and officials of the European Union and of foreign States") of the Criminal Code:

- Members of the Commission of the European Union, the European Parliament, the Court of Justice and the Court of Auditors of the European Union;
- officials and other servants engaged under contract under the Staff Regulations of Officials of the European Union or the Conditions of Employment of Servants of the European Union;
- persons seconded by the Member States or by any public or private body within the European Union, who perform duties corresponding to those of officials or servants of the European Union;
- members and employees of bodies established on the basis of the Treaties establishing the European Union;
- those who, within other Member States of the European Union, perform functions or activities corresponding to those of public officials and persons in charge of a public service.

2.12 Influence peddling

Article 346-bis of the Criminal Code – "Trafficking in illicit influence"

Any person who, except in cases of complicity in the offences referred to in Articles 318, 319, 319-ter and in the offences of corruption referred to in Article 322-bis, exploiting or boasting existing or alleged relations with a public official or a person in charge of a public service or one of the other subjects referred to in Article 322-bis, unduly causes to be given or promised, to himself or to others, money or other benefits, as the price of his or her illicit mediation towards a public official or a person in charge of a public service or one of the other subjects referred to in Article 322-bis, or to remunerate him in relation to the exercise of his or her functions or powers, shall be punished with a sentence of imprisonment from one year to four years and six months. The same penalty applies to those who unduly give or promise money or other benefits. The penalty is increased if the person who unduly causes money or other benefits to be given or promised, to himself or to others, has the status of public official or person in charge of a public service. The penalties are also increased if the acts are committed in relation to the exercise of judicial activities or to remunerate the public official or the person in charge of a public service or one of the other persons referred to in Article 322-bis in relation to the performance of an act contrary to the duties of office or the omission or delay of an act of his office. If the facts are particularly tenuous, the penalty is reduced.

The offence of Influence peddling exists whenever a person, exploiting or boasting existing or alleged relations with a public agent, is unduly given or promised money or other benefits as the price of illicit mediation or to remunerate the exercise of his functions or powers.

Pursuant to the aforementioned article, both the mediator and the person who promises or gives the money or benefit are punished, regardless of whether or not there is a difference between the mediator and the public official.

For the purpose of the completion of the crime, it is not necessary that the illicit influence is actually put in place; In the event that this were to happen and the extremes of the corruption crimes referred to in articles 318, 319, 319-ter illustrated above existed, the parties to the illicit agreement would be punished not pursuant to art. 346-bis, but by way of complicity in the commission of these crimes.

It is, therefore, a crime of danger, which punishes even the mere danger of any corrupt agreements.

2.13 Embezzlement

Article 314 of the Criminal Code – "Embezzlement"

A public official or person in charge of a public service who, having by reason of his office or service the possession or in any case the availability of money or other movable property of others, appropriates it, shall be punished with imprisonment from four years to ten years and six months.

2.14 Embezzlement by taking advantage of the error of others

Article 316 of the Criminal Code – "Embezzlement by taking advantage of the error of others"

A public official or person in charge of a public service who, in the exercise of his functions or service, taking advantage of the error of others, receives or unduly retains, for himself or for a third party, money or other benefits, shall be punished with imprisonment from six months to three years. The penalty is imprisonment from six months to four years if the act offends the financial interests of the European Union and the damage or profit exceeds EUR 100 000.

The embezzlement, limited to the first paragraph of art. 314 of the Criminal Code, consists of embezzlement committed by a public official or a person in charge of a public service.

It is a multi-offensive and proper crime, which harms both the regular and good performance of the Public Administration, as well as the patrimonial interests of the latter and of private individuals.

The crime is perfected with the distraction or appropriation of the thing, given that the jurisprudence has, by now, equated the conduct of distraction and the conduct of appropriation, as the conduct of appropriation implies and underlies an action of distraction.

For the purposes of committing the crime of embezzlement, mediated possession is also relevant, in which the agent disposes of the thing by means of the possession of others, so that in any case the agent can return to possession at any time.
Finally, an essential element for the configurability of the crime of embezzlement is the existence of a functional relationship between the thing and the acting subject, with the clarification that, if the thing is available to the office and not directly and exclusively to the acting subject, the aggravating circumstance of abuse of official relations will occur. The last requirement is the otherness of the thing (money or other movable thing of others).

With regard to art. 316 of the Criminal Code (Embezzlement by taking advantage of the error of others), on the other hand, does not count the possession of another's property.
The crime of embezzlement by profiting from the mistake of others is a crime in its own right, as it can only be carried out by the public official or by the person in charge of a public service, in the exercise of his functions or service. The crime is perfected with the conduct of reception (undue acceptance) and with the conduct of retention (retention of what has been delivered by mistake, for oneself or for third parties. In order for the crime to occur, the erroneous belief of the third party that he must deliver money or other benefits to the public official or to the person in charge of public service, who accepts it or considers it using the error, is necessary.
The error of the third party is therefore an essential and pre-existing prerequisite for the conduct of the official, remarking, in the opposite case, the case of bribery.

2.15 Abuse of office

Art. 323 – "Abuse of Office"
The crime of abuse of office constitutes a hypothesis of a multi-offensive crime, given that the protected legal asset is both the good performance of the Public Administration and the assets of the third party damaged by the abuse of the public official.
It is also a proper crime, given that the acting subject is the public official or the person in charge of a public service in the performance of the functions or service. The normative description of the conduct allows not only administrative measures to be considered as the object of the crime, but any act or activity carried out by the official.
The crime referred to in art. 323 of the Criminal Code is configured as an event crime, which is perfected at the time of the actual production of an unfair financial advantage or unjust damage to others.
With regard to the unfair advantage, it can be understood exclusively in a patrimonial sense (therefore not any utility) and takes the form of a favourable situation for the set of subjective rights with a patrimonial content of the public subject, regardless of an actual economic increase.

The legislator, in the formulation of the harmful conduct, has required the so-called double injustice of the damage, in the sense that both the conduct must be unjust, as well as the violation of the law, and the financial advantage obtained.
The same identified, in order not to violate the principle of determination, what the abusiveness of the conduct should consist of, namely:

- violation of laws or regulations, which, it is believed, should also include mere procedural rules, if they are likely to procure an unfair financial advantage or unjust damage. On the other hand, the excess of power in discretionary measures does not fall within the scope of the present case;
- violation of the obligation to abstain, if there is a legal obligation to abstain in the presence of a situation of conflict of interest.

The legislator has also introduced the reserve clause "unless the fact constitutes a more serious crime", intending to give the figure in question the nature of a consumption clause.
Unless the act constitutes a more serious offence, a public official or person in charge of public service who, in the performance of his or her duties or service, in violation of specific rules of conduct expressly provided for by law or by acts having the force of law and from which there is no margin of discretion, or by failing to abstain in the presence of his or her own interest or that of a close relative or in the other cases prescribed, intentionally procures an unfair financial advantage for himself or others or causes unjust damage to others is punished with imprisonment from one to four years.
The penalty is increased in cases where the advantage or damage is of a significant nature.

3 COMPUTER CRIMES AND UNLAWFUL PROCESSING OF DATA [art. 24-bis of Legislative Decree 231/2001]

As of 5 April 2008, Law 48/08 ratifying the Convention on Cybercrime has extended, with the introduction of Article 24-bis in Legislative Decree 231/01, the administrative liability of legal persons to crimes of "computer crime".

With respect to the crime of Computer Fraud (Article 640-ter of the Criminal Code) already contemplated by the Decree (Article 24) and which assumes that the crime assumes relevance only if committed to the detriment of the Public Administration, the new crimes extend the liability of entities even when they are committed against private individuals, if carried out in the interest or to the advantage of the entity.

The articles of the Criminal Code referred to in Article 24-bis are as follows:

- Article 491-bis – Electronic documents;
- Article 615-ter – Abusive access to a computer or telematic system;
- Article 615-quarter – Illegal possession, dissemination and installation of equipment, codes and other means of access to computer or telematic systems;
- Article 615-quinquies – Illegal possession, dissemination and installation of equipment, devices or computer programs aimed at damaging or interrupting an IT or telematic system;
- Article 617-quarter – Unlawful interception, impediment or interruption of computer or telematic communications;
- Article 617-quinquies – Unlawful possession, dissemination and installation of equipment and other means to intercept, prevent or interrupt computer or telematic communications;
- Article 635-bis – Damage to information, data and computer programs;
- Article 635-ter – Damage to information, data and computer programs used by the State or by another Public Administration or in any case of public utility;
- Article 635-quarter – Damage to computer or telematic systems;
- Article 635-quinquies – damage to computer or telematic systems of public utility;
- Article 640-quinquies – Computer fraud of the person who provides electronic signature certification services.

The provisions of the above-mentioned articles are highlighted below.

3.1 Electronic documents

[…] If any of the falsehoods provided for in this Chapter concern a public electronic document or a document for evidentiary purposes, the provisions of this Chapter concerning authentic instruments shall apply.

The rule, of general application, extends the penalties provided for the falsity of public documents, to falsehoods concerning, respectively, a public electronic document having probative value according to civil law[2].

[2] In this regard, it should be noted that, pursuant to the Digital Administration Code (cfr.art. 1, letter p) of Legislative Decree no. 82/2005), the electronic document is "the electronic representation of legally relevant acts, facts or data", but:

- if it is not signed with an electronic signature (art. 1, letter q), it cannot have any probative value, but can at most, at the discretion of the Judge, satisfy the legal requirement of the written form (art. 20, c. 1 bis);

Among the crimes referred to in art. 491 bis, forgery in a private deed (art. 485 of the Criminal Code) and, if they concern a private deed, the use of a false deed (art. 489 of the Criminal Code) and the suppression, destruction and concealment of true deeds (art. 490 of the Criminal Code) are punishable upon complaint by the injured party.

The unlawful conduct can therefore take the form of the alteration of data contained on the Hard Disk and electronic documents (files), public, for evidentiary purposes (including but not limited to: contract acceptances, bank instructions, word documents of various kinds, e-mails containing relevant information, log files, electronic signature algorithm, etc.).

3.2 Abusive access to a computer or telematic system

Anyone who illegally enters a computer or telematic system protected by security measures or remains there against the express or tacit will of those who have the right to exclude him, is punished with imprisonment of up to three years.

The penalty is imprisonment from one to five years:
1) if the act is committed by a public official or by a person in charge of a public service, with abuse of powers or with violation of the duties inherent in the function or service, or by someone who also illegally exercises the profession of private investigator, or with abuse of the quality of system operator;
2) if the culprit uses violence against things or people to commit the act, or if he is clearly armed;
3) if the fact results in the destruction or damage of the system or the total or partial interruption of its operation, or the destruction or damage of the data, information or programs contained therein.
If the facts referred to in the first and second paragraphs concern computer or telematic systems of military interest or relating to public order or public safety or health or civil protection or in any case of public interest, the penalty is, respectively, imprisonment from one to five years and from three to eight years.
In the case provided for in the first paragraph, the offence is punishable upon complaint by the injured party; in other cases, proceedings are carried out ex officio.

- even when it is signed with a "simple" (i.e. unqualified) electronic signature, it may not have probative value (the judge will in fact have to take into account, in order to attribute this effectiveness, the objective characteristics of quality, security, integrity and immutability of the electronic document);
- The electronic document signed with a digital signature or other type of qualified electronic signature has the effectiveness provided for by Article 2702 of the Civil Code), i.e. it is full proof, up to the point of a complaint of forgery, if the person against whom it is produced acknowledges its signature

The provision in question punishes unauthorized access to a computer or telematic system of others, protected by internal security measures, whether hardware or software, in order to acquire confidential commercial or industrial information.
The unlawful conduct can take the form of both an activity of abusive “introduction” and “permanence” in the computer or telematic system of the owner of the same.
It is not required that the crime be committed for profit or damage to the system; it can therefore also be achieved if the purpose is to demonstrate one’s own ability and the vulnerability of other people’s systems, even if more frequently the abusive access occurs for the purpose of damaging or is preparatory to the commission of fraud or other computer crimes.
The crime in question, for example, counteracts the phenomenon of the so-called “hackers”, i.e. those subjects who break into the computer systems of others, through telematic networks, bypassing the electronic protections created by the owners of these systems to protect themselves from unwanted access.
In the business context, the crime can also be committed by an employee who, despite possessing access credentials to the company system or those of third parties, accesses parts of it precluded to him, or accesses, without being legitimate, through:

- use of the credentials of other authorized colleagues;
- insertion into a colleague’s PC by identifying PC security flaws;
- promotion of its user to an administrator through the use of hacking SW;
- access to websites by entering appropriate strings of characters;
- access to websites using cookies;
- access to websites by exceeding the capacity of the RAM memory;
- access to computer systems using viruses embedded in e-mails.

The crime is aggravated, among other cases, if committed by a person who abuses his or her capacity as operator of the computer or telematic system.

3.3 Illegal possession, dissemination and installation of equipment, codes and other means of access to computer or telematic systems

With the entry into force of Law no. 238 of 23 December 2021 (the so-called European Law) containing provisions for the fulfilment of the obligations deriving from Italy’s membership of the European Union, numerous amendments have been introduced to the catalogue of predicate offences of Legislative Decree 231/2001, including those relating to computer crimes.
In particular, with reference to the offence pursuant to Article 615-quarter, the description of the conduct of the offence of detention, dissemination and illegal installation of equipment, codes and other means of access to computer or telematic systems has been extended (Article 615 quarter of the Criminal Code), with a consequent amendment to the heading of the rule.

Any person who, in order to procure a profit for himself or others or to cause damage to others, unlawfully procures, holds, produces, reproduces, disseminates, imports, communicates, delivers, otherwise makes available to others or installs equipment, tools, parts of equipment or tools, codes, keywords or other means suitable for access to a computer or telematic system, protected by security measures, or in any case provides indications or instructions suitable for the aforementioned purpose, is punished with imprisonment of up to two years and a fine of up to € 5,164. The penalty is imprisonment from one to three years and a fine from €5,164 to €10,329 if any of the circumstances referred to in the fourth paragraph of Article 617-quarter occur.

The rule in question, by protecting the confidentiality of access codes, punishes the conduct of those who illegally procure codes, keywords or other suitable means to access a computer or telematic system protected by security measures.

The unlawful conduct typified by the law also includes the activities of possession, reproduction, dissemination, importation, communication or delivery to third parties of the aforementioned codes suitable for access, as well as the communication of indications or instructions suitable for the aforementioned purpose.

The rule sanctions only conduct that is preparatory to abusive access to the computer or telematic system.

3.4 Illegal possession, dissemination and installation of equipment, devices or computer programs aimed at damaging or interrupting a computer or telematic system

The offence pursuant to Article 615-quinquies was also amended following the entry into force of European Law no. 238 of 23 December 2021, which extended the conduct of the offence of unlawful detention, dissemination and installation of equipment, devices or computer programs aimed at damaging or interrupting a computer or telematic system (Article 615 quinquies of the Criminal Code), with consequent modification of the heading of the standard.

Any person who, with the aim of unlawfully damaging a computer or telematic system, the information, data or programs contained therein or pertaining to it, or of facilitating the total or partial interruption or alteration of its operation, unlawfully procures, holds, produces, reproduces, imports, disseminates, communicates, delivers or, in any case, otherwise makes available to others or installs equipment; devices or computer programs, is punished with imprisonment of up to two years and a fine of up to € 10,329.

The rule in question sanctions those abusive conducts that consist in the possession, production, reproduction, importation, dissemination, communication or delivery of equipment, devices or computer programs aimed at damaging or interrupting a computer or telematic system.

The typical hypothesis is that of the creation of the so-called "viruses", which, by spreading and reproducing, undermine the functionality of the systems where they manage to enter and more precisely the crime could be committed through the incorrect use of e-mail through which it is possible to send "harmful" files (viruses) or a link for its download, aimed at destroying data/information of competing entities, public or private.

3.5 Unlawful interception, impediment or interruption of computer or telematic communications

Law no. 238 of 23 December 2021 (so-called European Law) containing provisions for the fulfilment of the obligations deriving from Italy's membership of the European Union has amended the sanctioning treatment provided for the aforementioned offence.

Anyone who fraudulently intercepts communications relating to a computer or telematic system or between several systems, or prevents or interrupts them, is punished with imprisonment from one year and six months to five years. Unless the act constitutes a more serious offence, the same penalty shall apply to any person who reveals, by any means of information to the public, in whole or in part, the content of the communications referred to in the first paragraph. The offences referred to in the first and second paragraphs shall be punishable upon complaint by the injured party.

However, it is prosecuted ex officio and the penalty is imprisonment from three to eight years if the act is committed:

- to the detriment of an IT or telematic system used by the State or by another Public Administration or by a company providing public services or public necessity;
- by a public official or a person in charge of a public service, with abuse of powers or with violation of the duties inherent in the function or service, or with abuse of the quality of system operator;
- by those who also illegally exercise the profession of private investigator.

The conduct punished by the law consists in fraudulently intercepting communications (via the Internet or through any other network) relating to a computer or telematic system or between several systems, or in preventing or interrupting them without the knowledge of the person transmitting the communication.

Interception can take place either by means of technical devices or by the use of software (so-called spyware). The impediment or interruption of communications can also consist in a slowdown of communications and can be achieved not only through the use of computer viruses,

but also, for example, by overloading the system with the entry of numerous false communications or with the unauthorized installation of software by an employee.
The crime is aggravated, among other cases, if committed by a person who abuses his or her capacity as operator of the computer or telematic system.

3.6 Unlawful possession, dissemination and installation of equipment and other means to intercept, prevent or interrupt computer or telematic communications

Law no. 238 of 23 December 2021 (so-called European Law) containing provisions for the fulfilment of the obligations deriving from Italy's membership of the European Union, introduced numerous amendments to the catalogue of predicate offences of Legislative Decree 231/2001, including those relating to computer crimes referred to in art. 24-bis of the aforementioned Legislative Decree.
As with the amendments described above, the conduct of the crime of illegal possession, dissemination and installation of equipment and other means to intercept, prevent or interrupt computer or telematic communications has also been extended (Article 617 quinquies of the Criminal Code), with a consequent modification of the heading of the rule.
Whoever, except in the cases permitted by law, in order to intercept communications relating to a computer or telematic system or between several systems, or to prevent or interrupt them, procures, holds, produces, reproduces, disseminates, imports, communicates, delivers, otherwise makes available to others or installs equipment, programs, codes, keywords or other means suitable for intercepting, preventing or interrupting communications relating to a computer or telematic system or between several systems, is punished with imprisonment from one to four years. The penalty is imprisonment from one to five years in the cases provided for in the fourth paragraph of Article 617 quarter
The provision in question punishes the conduct of possession, production, reproduction, dissemination, importation, communication, delivery or installation of equipment designed to intercept, prevent or interrupt computer or telematic communications, carried out outside the cases expressly permitted by law.

3.7 Damage to information, data and computer programs

Unless the act constitutes a more serious crime, anyone who destroys, deteriorates, deletes, alters or suppresses information, data or computer programs of others is punished, upon complaint by the injured party, with imprisonment from six months to three years.

If the circumstance referred to in number 1) of the second paragraph of Article 635 occurs[3] , or if the act is committed with abuse of the status of system operator, the penalty is imprisonment from one to four years and proceedings are carried out ex officio.

The law punishes anyone who destroys, deteriorates, deletes, alters, suppresses information, data or computer programs of others.
The crime is aggravated, among other cases, if committed by a person who abuses his or her capacity as operator of the computer or telematic system.
The offence could be committed through an unauthorised intrusion into the information system of a competitor in order to alter or delete the latter's information and data (such as those relating to balance sheet or market share), for example with operating systems distributed on live CDs in order to bypass security rules and capture data on the hard drive, i.e. with viruses inserted in e-mails, by installing hacking software, inserting appropriate character strings, etc.;

3.8 Damage to information, data and computer programs used by the State or by another Public Administration or in any case of public utility

Unless the act constitutes a more serious crime, anyone who commits an act aimed at destroying, deteriorating, erasing, altering or suppressing information, data or computer programs used by the State or other Public Administration or pertaining to them, or in any case of public utility, shall be punished with imprisonment from one to four years.
If the act results in the destruction, deterioration, cancellation, alteration or suppression of information, data or computer programs, the penalty is imprisonment from three to eight years.
If the circumstance referred to in number 1) of the second paragraph of Article 635 occurs, or if the act is committed with abuse of the status of system operator, the penalty is increased.

The rule punishes conduct aimed at targeting information, data or computer programs used by the State or other Public Administration or pertaining to them, or in any case of public utility.

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[3] Art. 635 - Damage
"Anyone who destroys, disperses, deteriorates or renders, in whole or in part, the movable or immovable property of others useless is punished, upon complaint by the injured person, with imprisonment of up to one year or with a fine of up to 309 euros.
The penalty is imprisonment from six months to three years and is prosecuted ex officio, if the act is committed:
1) with violence to the person or with threat;
2) by employers on the occasion of lockouts, or by workers on the occasion of strikes, or on the occasion of any of the crimes provided for by art. 330, 331 and 333;
3) on public buildings or buildings intended for public use for the exercise of worship, or on other of the things indicated in no. 7 of article 625;
4) on works intended for irrigation;
5) on vine plants, trees or fruit-bearing shrubs, or on woods, woods or forests, or on forest nurseries intended for reforestation".

Therefore, conduct concerning data, information and programs used by private entities also falls within this case, provided that they are intended to satisfy an interest of public necessity.
The crime could be committed through fraudulent intrusion into the computer system of the Public Administration in order to alter or delete information or data concerning, for example, the outcome of checks carried out by the Supervisory Authority, tax returns, etc.

3.9 Damage to computer or telematic systems

Unless the act constitutes a more serious crime, anyone who, through the conduct referred to in Article 635-bis, or through the introduction or transmission of data, information or programs, destroys, damages, renders, in whole or in part, computer or telematic systems of others useless or seriously hinders their operation shall be punished with imprisonment from one to five years.
If the circumstance referred to in number 1) of the second paragraph of Article 635 occurs, or if the act is committed with abuse of the status of system operator, the penalty is increased.

The rule in question punishes the conduct of damage referred to in art. 635 bis of the Criminal Code concerning the operation of a computer system, including that of "making the computer system useless in whole or in part" and that of having "seriously hindered" its operation.
The reference to the fact that punishable damage can also be committed through the "introduction or transmission of data" demonstrates the attention of the Legislator to the punishment of conduct that takes the form of the spread of computer viruses.

3.10 Damage to computer or telematic systems of public utility

If the act referred to in Article 635-quarter is aimed at destroying, damaging, rendering, in whole or in part, computer or telematic systems of public utility unusable or seriously hindering their operation, the penalty shall be imprisonment from one to four years.
If the fact results in the destruction or damage of the computer or telematic system of public utility or if this is rendered, in whole or in part, unusable, the penalty is imprisonment from three to eight years.
If the circumstance referred to in number 1) of the second paragraph of Article 635 occurs, or if the act is committed with abuse of the status of system operator, the penalty is increased.

The rule in question punishes the same conduct described in the previous article even if the harmful events do not actually occur; their occurrence constitutes an aggravating circumstance of the penalty (it should be noted, however, that the concrete obstacle to the functioning of the system is not expressly included among the aggravating "events"). However, it must be conduct that endangers computer or telematic systems of public utility.

The crime is aggravated, among other cases, if committed by a person who abuses his or her capacity as operator of the computer or telematic system.
It is to be considered that cases of damage to systems absorb the conduct of damage to data and programs if these render the systems unusable or seriously hinder their regular operation.
If the conduct described results from abusive access to the system, it will be punished pursuant to the above-mentioned Article 615 ter of the Criminal Code.

3.11 Computer fraud of the entity providing electronic signature certification services

The person who provides electronic signature certification services, who, in order to procure an unfair profit for himself or others or to cause damage to others, violates the obligations provided for by law for the issuance of a qualified certificate, is punished with imprisonment of up to three years and a fine from 51 to 1,032 euros.

The rule in question punishes computer fraud committed exclusively by the entity that provides electronic signature certification services or provides other services related to the latter, in accordance with the provisions of the Digital Administration Code pursuant to Legislative Decree 82/2005.

4 CRIMES OF ORGANIZED CRIME [art. 24-ter of Legislative Decree 231/2001]

Law no. 94 of 15 July 2009 introduced the following crimes of organized crime:

- Article 416 of the Criminal Code – General criminal association;
- Article 416, paragraph 6 of the Criminal Code – Criminal association aimed at committing crimes relating to slavery and human trafficking;
- Article 416-bis of the Criminal Code – Mafia-type association;
- Article 416-ter of the Criminal Code – Political-mafia electoral exchange;
- Article 630 of the Criminal Code – Kidnapping for the purpose of robbery or extortion;
- Article 74, Presidential Decree 309/90 – Association aimed at the illicit trafficking of narcotic or psychotropic substances;
- Article 407, paragraph 2, letter a), no. 5), of the Code of Criminal Code – *Offences relating to weapons and explosives*;

Among the articles referred to[4], the following are particularly highlighted.

[4] Articles 416 and 416 bis of the Criminal Code and Article 74 of Presidential Decree no. 309 of 9 October 1990 were already referred to as transnational crimes (see below).

4.1 Criminal association

When three or more persons associate for the purpose of committing several crimes, those who promote or constitute or organize the association are punished, for that reason alone, with imprisonment from three to seven years. For the mere fact of participating in the association, the penalty is imprisonment from one to five years.
The leaders are subject to the same penalty as the promoters.
If the members run through the countryside or public roads in arms, imprisonment from five to fifteen years is applied.
The penalty is increased if the number of members is ten or more.
If the association is aimed at committing any of the crimes referred to in Articles 600[5], 601[6] , 601-bis and 602[7], as well as in Article 12, paragraph 3-bis, of the consolidated text of the provisions concerning the regulation of immigration and rules on the condition of foreigners, referred to in Legislative Decree No. 286 of 25 July 1998, as well as in Articles 22, paragraphs 3 and 4, and 22-bis, paragraph 1, of Law no. 91 of 1 April 1999, imprisonment from five to fifteen years is applied in the cases provided for in the first paragraph and from four to nine years in the cases provided for in the second paragraph.
If the association is aimed at committing any of the crimes provided for in articles 600-bis, 600-ter, 600-quarter, 600-quarter.1, 600-quinquies, 609-bis, when the act is committed to the detriment of a minor under the age of eighteen, 609-quarter, 609-quinquies, 609-octies, when the act is committed to the detriment of a minor under the age of eighteen, and 609-undecies, imprisonment from four to eight years shall apply in the cases provided for in the first paragraph and imprisonment from two to six years in the cases provided for in the second paragraph.

With reference to the cases of criminal associations considered above, the criminal sanction is linked to the sole fact of the promotion, establishment, participation in a criminal association formed by three or more people, regardless of the actual commission (and distinct punishment) of the crimes that constitute the purpose of the association.

In addition, Law 236/2016 inserted the new article 601-bis ("Trafficking in organs taken from a living person") into the Criminal Code. The provision punishes – with imprisonment from 3 to 12 years and a fine from 50 thousand to 300 thousand euros – *"anyone who, illegally, trades, sells, buys or, in any way and for any reason, procures or deals in organs or parts of organs taken from a living person".*

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[5] reduction or maintenance in slavery (Article 600 of the Criminal Code)
[6] slave trade and trade (Article 601 of the Criminal Code)
[7] purchase and alienation of slaves (Article 602 of the Criminal Code);

If the offender is a person who carries out a health profession, the conviction entails the additional penalty of perpetual disqualification from the exercise of the profession itself. While for those who organize or promote trips aimed at organ trafficking, or disseminate announcements by any means (including by computer or telematics), there is a prison sentence of 3 to 7 years and a fine of 50 thousand to 300 thousand euros.

4.2 Mafia-type association

Anyone who is part of a mafia-type association formed by three or more people is punished with imprisonment from ten to fifteen years.

Those who promote, direct or organize the association are punished, for this reason alone, with imprisonment from twelve to eighteen years.

The association is of the mafia type when those who are part of it make use of the force of intimidation of the associative bond and the condition of subjection and silence that derives from it to commit crimes, to acquire directly or indirectly the management or in any case the control of economic activities, concessions, authorizations, contracts and public services or to make profits or unfair advantages for themselves or for others, or in order to prevent or hinder the free exercise of the vote or to procure votes for oneself or for others on the occasion of electoral consultations.

If the association is armed, the penalty of imprisonment from twelve to twenty years shall be applied in the cases provided for in the first paragraph and from fifteen to twenty-six years in the cases provided for in the second paragraph.

The association is considered armed when the participants have the availability, for the achievement of the purpose of the association, of weapons or explosive materials, even if concealed or kept in a place of storage.

If the economic activities of which the members intend to take or maintain control are financed in whole or in part by the price, the product, or the profit of crimes, the penalties established in the preceding paragraphs shall be increased from one third to one-half.

The confiscation of the things that served or were intended to commit the crime and of the things that are its price, product, profit or that constitute its use, is always obligatory against the convicted.

The provisions of this article also apply to the Camorra and other associations, however locally denominated, including foreign ones, which, making use of the intimidating force of the associative bond, pursue purposes corresponding to those of mafia-type associations.

The mafia-type association (Article 416-bis of the Criminal Code) is distinguished from the general criminal association by the fact that those who are part of it make use of the force of intimidation of the associative bond and the condition of subjection and silence that derives from it to commit crimes, or – even not through the commission of crimes, but still with the use of the mafia method – to acquire directly or indirectly the management or in any case the control of economic activities, concessions, authorisations, contracts and public services or to make unfair profits or advantages for oneself or for others, or in order to prevent or hinder the free exercise of the vote or to procure votes for oneself or others during elections.

4.3 Political-mafia electoral exchange

The penalty established by the first paragraph of Article 416-bis also applies to those who obtain the promise of votes provided for in the third paragraph of the same Article 416-bis in exchange for the disbursement of money.

4.4 Kidnapping for extortion

Anyone who kidnaps a person for the purpose of obtaining, for himself or for others, an unjust profit as the price of his release, shall be punished with imprisonment from twenty-five to thirty years.

If the kidnapping results in the death, as an unintended consequence of the offender, of the kidnapped person, the culprit is punished with imprisonment of thirty years.

If the culprit causes the death of the kidnapped, the penalty of life imprisonment is applied.

A competitor who, by dissociating himself from the others, takes steps to ensure that the taxable person regains his freedom, without this result being a consequence of the price of release, shall be subject to the penalties provided for in Article 605. If, however, the taxable person dies as a result of the kidnapping after release, the penalty is imprisonment from six to fifteen years.

In the case of a competitor who, dissociating himself from the others, endeavours, outside the case provided for in the previous paragraph, to prevent the criminal activity from being carried to further consequences or concretely assists the police or judicial authorities in the collection of decisive evidence for the identification or capture of competitors, the penalty of life imprisonment is replaced by that of imprisonment from twelve to twenty years and the other penalties are reduced from one third to two Third.

When there is an extenuating circumstance, the penalty provided for in the second paragraph shall be replaced by imprisonment from twenty to twenty-four years; the penalty provided for in the third paragraph shall be replaced by imprisonment from twenty-four to thirty years. If there are several mitigating circumstances, the penalty to be applied as a result of the reductions may not be less than

ten years, in the case provided for in the second paragraph, and fifteen years, in the case provided for in the third paragraph.

The penalty limits provided for in the previous paragraph may be exceeded when the mitigating circumstances referred to in the fifth paragraph of this article are present.

4.5 Association aimed at the illicit trafficking of narcotic or psychotropic substances

When three or more persons join together for the purpose of committing more than one of the crimes provided for in Article 73, the person who promotes, establishes, directs, organizes or finances the association shall be punished for this only with imprisonment of not less than twenty years.

Those who participate in the association are punished with imprisonment of not less than ten years.

The penalty is increased if the number of members is ten or more or if among the participants there are people addicted to the use of narcotic or psychotropic substances.

If the association is armed, the penalty, in the cases indicated in paragraphs 1 and 3, may not be less than twenty-four years' imprisonment and, in the case provided for in paragraph 2, twelve years' imprisonment.

The association is considered armed when the participants have the availability of weapons or explosive materials, even if concealed or kept in a place of storage.

The penalty shall be increased if the circumstance referred to in letter e) of paragraph 1 of Article 80 occurs.

If the association is formed to commit the acts described in paragraph 5 of Article 73, the first and second paragraphs of Article 416 of the Criminal Code shall apply.

The penalties provided for in paragraphs 1 to 6 are reduced from half to two thirds for those who have effectively worked to ensure evidence of the crime or to deprive the association of decisive resources for the commission of crimes.

When laws and decrees refer to the offence provided for in Article 75 of Law No. 685 of 22 December 1975, repealed by Article 38, paragraph 1, of Law No. 162 of 26 June 1990, the reference shall be understood as referring to this article.

4.6 Crimes involving weapons and explosives

Offences of unlawful manufacture, introduction into the State, sale, transfer, possession and carrying in a public place or place open to the public of weapons of war or war-type weapons or parts thereof, explosives, clandestine weapons as well as several common firearms, excluding those provided for in Article 2, third paragraph, of the Law of 18 April 1975, No. 110.

Crimes relating to weapons and explosives are cases provided for by the special laws in force on the subject (in particular by Law No. 110/1975 and Law No. 895/1967), which punish the conduct of illegal manufacture, introduction into the State, sale, transfer, possession and illegal carrying of explosives, weapons of war and common firearms.

5 CRIMES RELATED TO THE FALSIFICATION OF VALUES AND IDENTIFICATION SIGNS [art. 25-bis Legislative Decree 231/2001]

The articles of the Criminal Code referred to in Article 25-bis are as follows:

- Article 453 – Counterfeiting of coins, spending and introduction into the State, after concert, of counterfeit coins;
- Article 454 – Alteration of coins;
- Article 455 – Spending and introduction into the State, without concert, of counterfeit coins;
- Article 457 – Spending of counterfeit coins received in good faith;
- Article 459 – Forgery of revenue stamps, introduction into the State, purchase, possession or putting into circulation of falsified revenue stamps;
- Article 460 – Counterfeiting of watermarked paper used for the manufacture of public credit cards or revenue stamps;
- Article 461 – Manufacture or possession of watermarks or instruments intended for the counterfeiting of coins, revenue stamps or watermarked paper.
- Article 464 – Use of counterfeit or altered revenue stamps;
- Article 473 – Counterfeiting, alteration or use of trademarks or distinctive signs or patents, models and designs.
- Article 474 – Introduction into the State and trade in products with false signs

Among the articles referred to, the following are particularly highlighted.

5.1 Crimes related to the management of valuables

Art. 453 “Counterfeiting of coins, spending and introduction into the State, after concert, of counterfeit coins”

The following shall be punished with imprisonment from three to twelve years and a fine from €516 to €3,098:

1) anyone who counterfeits national or foreign currencies, having legal tender in the State or abroad;

2) anyone who alters genuine coins in any way, by giving them the appearance of a superior value;

3) anyone who, not being a participant in the counterfeiting or alteration, but in agreement with the person who carried it out or with an intermediary, introduces counterfeit or altered coins into the territory of the State or holds or spends or otherwise puts into circulation;

4) anyone who, in order to put them into circulation, buys or in any case receives, from the person who has counterfeited them, or from an intermediary, counterfeit or altered coins.

Art. 454 “Alteration of coins”.
Anyone who alters coins of the quality indicated in the preceding article, diminishing their value in any way, or, in relation to the coins thus altered, commits any of the acts indicated in numbers 3 and 4 of the said article, shall be punished with imprisonment from one to five years and a fine from 103 to 516 euros.

Art. 455 “Spending and introduction into the State, without concert, of counterfeit coins”
Whoever, except in the cases provided for in the two preceding articles, introduces into the territory of the State, acquires or holds counterfeit or altered coins, in order to put them into circulation, or spends them or otherwise puts them into circulation, shall be subject to the penalties established in the said articles, reduced from one third to one-half.

Article 457 of the Criminal Code “Spending of counterfeit coins received in good faith”.
Anyone who spends, or otherwise puts into circulation, counterfeit or altered coins, received by him in good faith, is punished with imprisonment of up to six months or a fine of up to 1,032 euros.

Article 459 of the Criminal Code “Falsification of revenue stamps, introduction into the State, purchase, possession or putting into circulation of falsified revenue stamps”.
The provisions of Articles 453, 455 and 457 shall also apply to the counterfeiting or alteration of revenue stamps and to the introduction into the territory of the State, or to the purchase, possession and putting into circulation of counterfeit revenue stamps; but the penalties are reduced by a third.
For the purposes of criminal law, revenue stamps are understood to mean stamped paper, revenue stamps, stamps and other values equivalent to these by special laws.

Article 460 of the Criminal Code “Counterfeiting of watermarked paper used for the manufacture of public credit cards or revenue stamps”.
Anyone who counterfeits watermarked paper used to manufacture public credit cards or revenue stamps, or purchases, holds or alienates such counterfeit paper, shall be punished, if the fact does not constitute a more serious offence, with imprisonment from two to six years and a fine of between €309 and €1,032.

Article 461 of the Criminal Code "Manufacture or possession of watermarks or instruments intended for the counterfeiting of coins, revenue stamps or watermarked paper".
Anyone who manufactures, purchases, possesses or sells watermarks, computer programs or tools intended exclusively for the counterfeiting or alteration of coins, revenue stamps or watermarked paper is punished, if the fact does not constitute a more serious crime, with imprisonment from one to five years and a fine from 103 to 516 euros.

Article 464 of the Criminal Code "Use of counterfeit or altered revenue stamps".
Anyone who, not being complicit in the counterfeiting or alteration, makes use of counterfeit or altered revenue stamps shall be punished with imprisonment of up to three years and a fine of up to 516 euros.

The conduct relating to the articles set out above can be divided into:

513. counterfeit: production of values, by those who are not authorized, in such a way as to deceive the public and therefore harm the interests protected by the law;

2. alteration: modification of the material or formal characteristics of genuine values, aimed at creating the appearance of a different monetary value;

3. introduction, detention, spending, putting into circulation counterfeit or altered values:
- the introduction consists in bringing counterfeit values elsewhere into the territory of the State;
- possession represents the disposal, for any reason, even temporarily, of counterfeit or altered values;
- spending and putting into circulation, on the other hand, are respectively supplemented by using counterfeit or altered values as a means of payment or by taking counterfeit or altered values out of their sphere of custody, for any reason;

4. Purchase or receipt of counterfeit values by a counterfeiter or intermediary in order to put them into circulation:
- the purchase represents a real buying and selling of values;
- Receipt, on the other hand, is represented by simply becoming the recipient of the aforementioned values as a result of a transfer other than the sale. In order for the crime to exist, it is necessary that the subject acts with the precise purpose of putting the counterfeit or altered values into circulation.

Values include: coins, revenue stamps, watermarked papers, bearer cards and coupons issued by governments (i.e. banknotes, state tickets, bearer cards) and other values equivalent to these by special laws (such as, for example, insurance stamps, stamps of foreign countries, postcards, postal tickets, bulletins and parcel stamps issued by the State, stamps issued by other public or private bodies by concession of the State).

The survey is aimed at identifying any conduct that endangers the certainty and reliability of monetary traffic (so-called "forgery crimes"). Criminal conduct is indicated in art. 453 of the Criminal Code, while the following articles cited provide for similar hypotheses with some specific peculiarities.

While, from a practical point of view, it seems difficult to configure hypotheses in which the Company's liability can be recognized in the crimes of forgery or alteration of coins or counterfeiting of watermarked paper, the crimes of spending – possibly in good faith – of counterfeit coins are fully conceivable, in the event that the safeguards provided for by law for the withdrawal from circulation of counterfeit coins that have nevertheless become available are not adopted of the Company.

5.2 Offences related to the management of identification signs

Article 473 of the Criminal Code "Counterfeiting, alteration or use of trademarks or distinctive signs or patents, models and designs".

Anyone who, being aware of the existence of the industrial property right, counterfeits or alters national or foreign trademarks or distinctive signs of industrial products, or whoever, without being involved in the counterfeiting or alteration, makes use of such counterfeit or altered trademarks or signs, shall be punished with imprisonment from six months to three years and a fine of between €2,500 and €25,000.

Anyone who infringes or alters patents, industrial designs, national or foreign, or, without being a contributor to the infringement or alteration, makes use of such counterfeit or altered patents, designs or models, shall be subject to imprisonment from one to four years and a fine of between €3,500 and €35,000.

The law punishes the conduct of those who, while being able to ascertain the ownership of other trademarks and other distinctive signs of industrial products, counterfeit them, or alter the originals, or make use of the false trademarks without having participated in the falsification[8].

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[8] By "making use" of false trademarks should be understood as residual conduct, such as affixing trademarks falsified by third parties on one's own products. That is, it must be conduct other than both

Infringement is constituted by hypotheses consisting in the identical reproduction or imitation of the essential elements of the identifying sign, in such a way that at first perception it may appear authentic. These are those material falsifications capable of damaging public confidence about the origin of products or services from the company that is the owner, licensee or assignee of the registered trademark. According to case law, the trademark not yet registered, for which the relevant application has already been filed, is also protected, as it makes it formally knowable. Fraud is required, which could exist even if the agent, although not certain of the existence of other people's registrations (or registration requests), may doubt them and nevertheless does not proceed with verifications.

The second paragraph sanctions the conduct of counterfeiting, as well as the use by those who did not participate in the falsification, of patents, industrial designs and models of others[9]. This provision is also intended to combat false materials which, in this case, could affect documents proving the grant of patents or design registrations. The violation of the rights of exclusive economic exploitation of the patent is instead sanctioned by art. 517-ter of the Criminal Code.

Article 474 of the Criminal Code "Introduction into the State and trade in products with false signs"

Except in cases of complicity in the offences provided for in Article 473, anyone who introduces into the territory of the State, in order to make a profit, counterfeit or altered industrial products with trademarks or other distinctive signs, national or foreign, shall be punished with imprisonment from one to four years and a fine of between €3,500 and €35,000.

Except in cases of complicity in counterfeiting, alteration, introduction into the territory of the State, anyone who holds for sale, puts up for sale or otherwise puts into circulation, in order to make a profit, the products referred to in the first paragraph shall be punished with imprisonment of up to two years and a fine of up to € 20,000.

The crimes envisaged are punishable provided that the rules of domestic laws, EU regulations and international conventions on the protection of intellectual or industrial property have been observed.

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the putting into circulation of products bearing false trademarks provided for in art. 474 of the Criminal Code, and from the conduct more properly carried out of the infringement, such as the reproduction of the trademark of others in advertising communications, in commercial correspondence, on websites, etc.

[9] The Industrial Property Code (Legislative Decree no. 30/2005), in art. 2 states: "Patenting and registration give rise to industrial property rights. Inventions, utility models, new plant varieties are patented. Trademarks, designs and models, topographies of semiconductor products are subject to registration."

The legal good protected by the last two types of crime is commonly identified in public faith and, more precisely, in the interest of consumers in distinguishing the source of origin of the products placed on the market. These rules are therefore aimed at sanctioning the wide range of conducts that occur between the counterfeiting or alteration of registered trademarks or distinctive signs or industrial inventions, intellectual works, models and designs subject to patents, up to the marketing of products with false signs.

6 CRIMES AGAINST INDUSTRY AND COMMERCE [art. 25-bis 1. Legislative Decree 231/2001]

Law no. 99 of 23 July 2009 "Provisions for the development and internationalisation of companies, as well as in the field of energy", in a broader framework of initiatives to relaunch the economy and protect "Made in Italy", consumers and competition, in addition to amending Article 25-bis, introduced into Legislative Decree 231/01 the new Article 25-bis.1 "Crimes against industry and commerce" bringing numerous rules into the scope of the criminal liability of Entities some of which were issued or reformulated by the same law.

The offences in question provide for the sanctioning of the Company for crimes against industry and commerce, as set out in the following articles of the Criminal Code:

- Article 513 – Disturbed freedom of industry or commerce;
- Article 513-bis – Unlawful competition with threat or violence;
- Article 514 – Fraud against national industries;
- Article 515 – Fraud in the exercise of trade;
- Article 517 – Sale of industrial products with false signs;
- Article 516 – Sale of non-genuine foodstuffs as genuine;
- Article 517-quarter – Counterfeiting of geographical indications or designations of origin of agri-food products.
- Article 517-ter – Manufacture and trade of goods made by usurping industrial property rights;

Among the articles referred to, the following are particularly highlighted.

6.1 Offences against the free performance of industrial and commercial activities

Article 513 of the Criminal Code "Disturbed freedom of industry or commerce"

Anyone who uses violence against property or fraudulent means to prevent or disturb the exercise of an industry or trade is punished, on complaint by the injured party, if the fact does not constitute a more serious crime, with imprisonment of up to two years and a fine from 103 to 1,032 euros.

Article 513-bis of the Criminal Code “Unlawful competition with threat or violence”
Anyone who, in the exercise of a commercial, industrial or other productive activity, carries out acts of competition with violence or threat is punished with imprisonment from two to six years. The penalty is increased if the acts of competition concern a financial activity in whole or in part and in any way by the State or other public bodies.

6.2 Commercial fraud

Article 514 of the Criminal Code "Fraud against national industries"
Whoever, by selling or otherwise putting into circulation, on national or foreign markets, industrial products, with counterfeit or altered names, trademarks or distinctive signs, causes damage to the national industry shall be punished with imprisonment from one to five years and a fine of not less than 516 euros.
If the rules of national laws or international conventions on the protection of industrial property have been complied with for trademarks or distinctive signs, the penalty is increased and the provisions of Articles 473 and 474 do not apply.

Article 515 of the Criminal Code "Fraud in the exercise of trade"
Anyone who, in the exercise of a commercial activity, or in a shop open to the public, delivers to the buyer a movable thing for another, or a movable thing, by origin, provenance, quality or quantity, different from that declared or agreed, shall be punished, if the fact does not constitute a more serious crime, with imprisonment of up to two years or a fine of up to € 2,065.
If they are precious objects, the penalty is imprisonment of up to three years or a fine of not less than 103 euros.

The offence, provided that the extremes of fraud do not exist, consists in the delivery to the buyer by those who carry out a commercial activity of a movable thing for another, or which, despite being of the same kind, in terms of origin, provenance, quality or quantity, is different from that agreed.

Article 517 of the Criminal Code "Sale of industrial products with false signs"
Anyone who sells or otherwise puts into circulation intellectual works or industrial products, with national or foreign names, trademarks or distinctive signs, capable of misleading the buyer about the origin, provenance or quality of the work or product, is punished, if the fact is not provided for as a crime by another provision of law, with imprisonment of up to two years or a fine of up to twenty thousand euros.

It is sufficient that distinctive signs, also in relation to the other circumstances of the specific case (prices of the products, their characteristics, methods of sale) can generate confusion in the common consumer with similar products (but different in origin, provenance or quality) marked by the genuine trademark.
The rule protects honesty in trade and is applied subsidiarily, when the extremes of the most serious incriminations of art. 473 and 474 of the Criminal Code. This includes cases such as counterfeiting and the use of unregistered trademarks, the use of containers or packaging with original trademarks, but containing different products, the use by the legitimate owner of his trademark to distinguish products with quality standards different from those originally marked by the trademark (this is not the case if the production is commissioned to another company, but the customer must check compliance with its own quality specifications).

6.3 Crimes involving foodstuffs/agri-food products

Article 516 of the Criminal Code "Sale of non-genuine foodstuffs as genuine"
Anyone who sells or otherwise markets non-genuine food substances as genuine is punished with imprisonment of up to six months or a fine of up to €1,032.

Article 517-quarter. Criminal Code "Counterfeiting of geographical indications or designations of origin of agri-food products"
Anyone who counterfeits or otherwise alters geographical indications or designations of origin of agri-food products is punished with imprisonment of up to two years and a fine of up to € 20,000.
The same penalty applies to those who, in order to make a profit, introduce into the territory of the State, hold for sale, put on sale with a direct offer to consumers or in any case put into circulation the same products with the counterfeit indications or names.
The provisions of Articles 474-bis, 474-ter, second paragraph, and 517-bis, second paragraph, shall apply.
The offences provided for in the first and second paragraphs are punishable provided that the rules of domestic laws, EU regulations and international conventions on the protection of geographical indications and designations of origin of agri-food products have been observed.

6.4 Usurpation of industrial property rights

Article 517-ter of the Criminal Code: "Manufacture and trade of goods made by usurping industrial property rights"
Without prejudice to the application of articles 473 and 474, anyone who, being aware of the existence of the industrial property right, manufactures or industrially uses objects or other goods made by usurping an industrial property right or in violation of the same shall be punished,

upon complaint by the injured party, with imprisonment of up to two years and a fine of up to € 20,000

The same penalty shall apply to those who, in order to make a profit, introduce into the territory of the State, hold for sale, put up for sale with a direct offer to consumers or in any case put into circulation the goods referred to in the first paragraph.

The provisions of Articles 474-bis, 474-ter, second paragraph, and 517-bis, second paragraph, shall apply.

The offences provided for in the first and second paragraphs are punishable provided that the rules of domestic laws, EU regulations and international conventions on the protection of intellectual or industrial property have been observed.

The crime consists of two different cases. The first, which can be prosecuted, punishes anyone who, being able to know of the existence of patents or registrations of others, manufactures or uses objects or other goods for the purposes of industrial production, usurping an industrial property right or in violation of the same. If there is a falsification of trademarks or another of the conducts provided for by art. 473 and 474 of the Criminal Code, the usurper could also answer for these crimes.

The second case concerns the conduct of those who, in order to make a profit, introduce into Italy, hold for sale, put up for sale or in any case put into circulation goods manufactured in violation of industrial property rights. If the goods are marked with falsified signs, art. 474, paragraph 2, of the Criminal Code.

7 CORPORATE CRIMES [art. 25-ter Legislative Decree 231/2001]

The Company may also be called upon to answer for corporate offences provided for by the Civil Code, if committed in its interest or to its advantage by Directors, general managers or liquidators or by persons subject to their supervision.

Article 55 of Legislative Decree no. 19 of 2 March 2023 on *"Implementation of Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions"* amended Article 25-ter of Legislative *Decree* no. 231/2001, extending the punishability of the entity in relation to the offenses provided for not only by the Civil Code, but also by *"other special laws".*

Article 25-ter of the Decree was introduced by Legislative Decree 61/2002, which reformed the discipline of corporate crimes and contains a long series of corporate crimes that can determine the liability of the Company. One of the conditions indicated by art. 25-ter is constituted by the fact that the active subject of the crime must have acted in the interest of the Company, i.e.

aiming to obtain an appreciable result for the Company itself, (a result that may not even have been achieved).

For the commission of corporate crimes, only the financial penalty is envisaged which, where the company has achieved a significant profit, may be increased by one third.

In the following description, the offence referred to in Article 2624 of the Civil Code has not been taken into account on the subject of "Falsehood in the reports or communications of auditing firms", as a crime of auditing firms and subject to recent reorganization[10].

Article 1, paragraph 77 of Law 190/2012 introduces the crime of "corruption between private individuals" among the corporate crimes (letter "s-bis") of the Decree, while Law no. 69/2015 and subsequently Legislative Decree 38/2017 have:
- amended the rules on false accounting in the context of unlisted companies (Article 2621 of the Italian Civil Code);
- introduced specific hypotheses from which to obtain reduced penalties in the event of the commission of the crime pursuant to Article 2621 of the Italian Civil Code (Articles 2621-bis and 2621-ter);
- amended the rules on false accounting in the context of listed companies (Article 2622 of the Italian Civil Code);
- prepared, as a result of the modified system of crimes of false corporate communications (Articles 2621 et seq. of the Italian Civil Code), also a coordination with the discipline of the administrative liability of entities deriving from crimes pursuant to Legislative Decree no. No. 231/2001
- amended the discipline of corruption between private individuals referred to in art. 2635 of the Italian Civil Code, extending its applicability also to entities without legal personality and eliminating the reference to harm;
- introduced the regulation of the crime of incitement to corruption between private individuals (Article 2635-bis of the Italian Civil Code).
Finally, Article 55 of Legislative Decree No. 19 of 2 March 2023 mentioned above added a new letter *"s-ter"* introducing a new corporate offence, governed by Article 54 of the same Legislative

[10] Legislative Decree no. 39/2010, which reorganised the rules governing statutory audits, repealed, with effect from 7 April 2010, art. 2624 of the Civil Code, concerning the crime of falsity in the reports or communications of auditing firms, replacing it with the new offence provided for by art. 27 of the same Legislative Decree.
Since art. 25-ter of Legislative Decree no. 231/2001, which refers to art. 2624 of the Civil Code, has not been consequently amended by replacing the reference to the repealed provision with that to the new provision, serious doubts arise as to the permanent configurability of the liability of entities for the conduct in question.

Decree, providing for the application of financial penalties to the entity for the crime of false or omitted declarations for the issuance of the preliminary certificate provided for by the legislation implementing Directive (EU) 2019/2121, on cross-border conversions, mergers and divisions.

7.1 False corporate communications and minor facts

Article 2621 of the Italian Civil Code: "False corporate communications"
Except for the cases provided for by art. 2622, directors, general managers, managers responsible for preparing the company's financial reports, statutory auditors and liquidators, who, in order to obtain an unfair profit for themselves or for others, knowingly disclose material facts that are not true or omit material facts whose communication is required by law on the economic, equity or financial situation of the company or group to which it belongs, in a way that is concretely capable of misleading others, shall be punished with imprisonment from one to five years.
The same penalty also applies if the falsehoods or omissions concern assets owned or administered by the company on behalf of third parties.

Art. 2621-bis of the Italian Civil Code: "Minor facts"
Unless they constitute a more serious offence, a penalty of between six months and three years' imprisonment shall be applied if the acts referred to in Article 2621 are minor, taking into account the nature and size of the company and the manner or effects of the conduct.
Unless they constitute a more serious offence, the same penalty as in the preceding paragraph shall apply where the acts referred to in Article 2621 concern companies which do not exceed the limits set out in the second paragraph of Article 1 of Royal Decree No 267 of 6 March 1942. In this case, the crime can be prosecuted by the company, the partners, creditors or other recipients of the corporate communication.

The rule is aimed at safeguarding the principle of good faith that each company must respect towards shareholders, investors and the public in general and to protect the regularity of financial statements and other corporate communications, as it is in the interest of the community.

The offence may occur if untrue material facts are disclosed in financial statements, reports or corporate communications or mandatory information relating to the economic, equity and financial situation of the company or the group to which it belongs is omitted, in order to deceive shareholders or the public. Given the wording of the provision in question – which provides, at a quantitative level, for specific thresholds of punishability – "qualitative" information, which is incapable of significantly altering the representation of the economic, equity or financial situation of the company or group to which it belongs, seems to remain excluded from the scope of application of this provision.

Article 2622 of the Italian Civil Code: "False corporate communications of listed companies"
Directors, general managers, managers responsible for preparing the company's financial reports, statutory auditors and liquidators of companies issuing financial instruments admitted to trading on a regulated market in Italy or in another country of the European Union, who, in order to obtain an unfair profit for themselves or for others, knowingly disclose material facts in their financial statements, reports or other corporate communications addressed to shareholders or the public or omit material facts whose communication is required by law on the economic, equity or financial situation of the company or group to which it belongs, in a manner that is concretely likely to mislead others, shall be punished with imprisonment from three to eight years.
The companies referred to in the previous paragraph shall be treated as equivalent to:
1) companies issuing financial instruments for which a request for admission to trading has been submitted on a regulated market in Italy or in another country of the European Union;
2) companies issuing financial instruments admitted to trading on an Italian multilateral trading facility;
3) companies that control companies issuing financial instruments admitted to trading on a regulated market in Italy or in another country of the European Union;
4) companies that appeal to public savings or that in any case manage it.
The provisions of the preceding paragraphs shall also apply if the falsehoods or omissions concern assets owned or administered by the company on behalf of third parties.

7.2 Prevented control

Article 2625 of the Italian Civil Code: "Impeded control"
Directors who, by concealing documents or other suitable artifices, prevent or in any case hinder the performance of the control activities legally attributed to the shareholders or other corporate bodies, are punished with an administrative fine of up to € 10,329[11].

[11] Art. 2625 of the Italian Civil Code also contemplated the crime of impeding control of directors over the auditing firm. This crime was expunged by art. 2625 of the Italian Civil Code by Legislative Decree no. 39/2010, which reorganized the discipline of statutory auditing, and is now punished pursuant to art. 29 of this decree, in force since 7 April 2010, which provides for ex officio prosecution and more serious sanctions if damage is caused to shareholders and third parties, or in the case of statutory auditing of public-interest entities.

If the conduct has caused damage to the members, imprisonment of up to one year is applied and the injured party is sued.
The penalty is doubled if the company is a company with securities listed on regulated markets in Italy or in other European Union countries or widely distributed among the public pursuant to art. 116 of the Consolidated Law referred to in Legislative Decree no. 58 of 24 February 1998.

For the purposes of the company's liability, pursuant to Article 25-ter of the Decree, only the hypothesis provided for in the second paragraph of Article 2625 of the Civil Code is relevant, i.e. the case in which the conduct has caused damage to the shareholders.
The offence is committed when the shareholders suffer damage from the obstacle placed by the directors in the way of the shareholders carrying out controls within the company

7.3 Crimes on Capital

Article 2626 of the Italian Civil Code: "Undue restitution of contributions"
Directors who, except in cases of legitimate reduction of the share capital, return, even simulated, the contributions to the shareholders or release them from the obligation to perform them, shall be punished with imprisonment of up to one year.

The rule is aimed at safeguarding the financial solidity of the company, avoiding phenomena of "watering down" of the share capital.

Article 2627 of the Italian Civil Code: "Illegal distribution of profits and reserves"
Unless the act constitutes a more serious crime, directors who allocate profits or advances on profits not actually achieved or allocated by law to reserves, or who distribute reserves, even if not constituted with profits, which cannot be distributed by law, shall be punished with imprisonment for up to one year. The return of profits or the replenishment of reserves before the deadline for the approval of the financial statements extinguishes the offence.

The rule is aimed at safeguarding the financial capacity of companies.

Article 2628 of the Italian Civil Code: "Unlawful transactions on the shares or quotas of the company or of the parent company"
Directors who, except in the cases permitted by law, purchase or subscribe to shares or quotas, causing damage to the integrity of the share capital or reserves that cannot be distributed by law, shall be punished with imprisonment of up to one year.
The same penalty applies to directors who, except in the cases permitted by law, purchase or subscribe to shares or quotas issued by the parent company, causing damage to the share

capital or reserves that cannot be distributed by law. If the share capital or reserves are replenished before the deadline for the approval of the financial statements relating to the financial year in relation to which the conduct was committed, the offence is extinguished.

The rule is aimed at safeguarding the financial solidity of the company, avoiding phenomena of "watering down" of the share capital.
The cases and limits for the purchase of treasury shares by the company, to which art. 2628 of the Italian Civil Code, are established by the Civil Code and by the legislation on issuers.
The Italian Civil Code also regulates the time and content limits for the purchase of treasury shares by the Directors delegated to do so.

Article 2629 of the Italian Civil Code: "Transactions to the detriment of creditors"
Directors who, in violation of the provisions of the law protecting creditors, carry out reductions in the share capital or mergers with other companies or demergers, causing damage to creditors, shall be punished, upon complaint by the injured party, with imprisonment from six months to three years.
Compensation for damage to creditors before the trial extinguishes the crime.

The rule is aimed at protecting the creditors of commercial companies both from the point of view of financial capacity and from the point of view of the permanence of the debtor.

Article 2632 of the Italian Civil Code: "Fictitious formation of capital"
Directors and contributing shareholders who, even in part, fictitiously form or increase the capital of the company through the allocation of shares or quotas for a sum lower than their nominal value, reciprocal subscription of shares or quotas, significant overvaluation of contributions of assets in kind or receivables or of the company's assets in the event of transformation, they are punished with imprisonment of up to one year.

The rule is aimed at safeguarding the financial solidity of the company, avoiding phenomena of "watering down" of the share capital.

Article 2633 of the Italian Civil Code: "Undue distribution of company assets"
Liquidators who, by dividing the company's assets among the shareholders before the payment of the company's creditors or the provision of the sums necessary to satisfy them, cause damage to creditors, shall be punished, upon complaint by the injured party, with imprisonment from six months to three years. Compensation for damage to creditors before the trial extinguishes the crime.

The rule is aimed at safeguarding the defense of the mass of creditors in the phase of liquidation (voluntary or compulsory administrative) of the company.

7.4 Corruption between private individuals and incitement to corruption between private individuals

Article 2635 of the Italian Civil Code: "Corruption between private individuals"

Unless the act constitutes a more serious offence, directors, general managers, managers responsible for preparing the company's financial reports, statutory auditors and liquidators, who, even through an intermediary, solicit or receive, for themselves or for others, money or other benefits not due, or accept the promise thereof, to perform or omit an act in violation of the obligations inherent in their office or the obligations of loyalty, they are punished with imprisonment from one to three years. The same penalty shall be applied if the act is committed by those who, in the organisational context of the company or private entity, exercise managerial functions other than those of the persons referred to in the previous sentence.

The penalty of imprisonment of up to one year and six months shall be applied if the act is committed by a person who is subject to the direction or supervision of one of the subjects indicated in the first paragraph.

Anyone who, even through an intermediary, offers, gives or promises money or other benefits not due to the persons indicated in the first and second paragraphs shall be punished with the penalties provided for therein.

The penalties established in the preceding paragraphs are doubled in the case of companies whose securities are listed on regulated markets in Italy or in other States of the European Union or which are widely distributed among the public pursuant to Article 116 of the Consolidated Law on Financial Intermediation, referred to in Legislative Decree of 24 February 1998, 58, as amended.

The injured party is sued, unless the fact results in a distortion of competition in the acquisition of goods or services.

Without prejudice to the provisions of Article 2641, the measure of confiscation for equivalent value may not be less than the value of the benefit given, promised or offered.

Art. 2635-bis "Incitement to corruption between private individuals"

Any person who offers or promises money or other benefits that are not due to directors, general managers, managers responsible for preparing the company's financial reports, statutory auditors and liquidators of companies or private entities, as well as to those who carry out a work activity in them with the exercise of managerial functions, so that he or she may perform or omit an act in violation of the obligations inherent in his office or the obligations of loyalty, if the offer or promise is not accepted, he shall be subject to the penalty laid down in the first paragraph of Article 2635, reduced by one third.

The penalty referred to in the first paragraph shall apply to directors, general managers, managers responsible for preparing the company's accounting documents, statutory auditors and liquidators of companies or private entities, as well as to those who carry out work in them with the exercise of managerial functions, who request for themselves or for others, including through an intermediary, a promise or giving of money or other benefits, to perform or omit an act in violation of the obligations inherent in their office or the obligations of loyalty, if the solicitation is not accepted.
The injured person is sued.

The offences of **corruption between private individuals** and **incitement to corruption between private individuals** (Article 25-ter, paragraph 1, letter s-bis) provide for the administrative liability of the entity only in the cases provided for in the third paragraph of the renewed Article 2635 of the Civil Code and in the first paragraph of Article 2615-bis (liability is provided for companies that corrupt, but not for companies that are corrupted).

The changes made to the crime by Law 190/2012 and, subsequently, by Legislative Decree 38/2017, actually lead to a more nominal-conceptual construction of corruption between private individuals, which is real and substantial.
In fact, even on this point it is clear that the legislator has departed from the dictates of the Strasbourg Convention of 27 January 1999, ratified by Law no. 110 of 28.6.2012, remaining linked in substance to the previous crime of "Infidelity following giving or promise of utility" referred to in the old art. 2635 of the Italian Civil Code.
The Strasbourg Convention imposes on the signatory States, on the basis of Articles 7 and 8, the punishment as a crime of **active and passive corruption in the private sector**, understood as conduct of promise, offer or giving, solicitation and receipt of an undue advantage, for oneself or for third parties, on the part of persons who manage or work in a private entity, so that they perform or refrain from performing an act in violation of their duties.

The Italian legislator in Law 190/2012 and, subsequently, by Legislative Decree 38/2017, instead provided that the crime is perfected **only when the subject actually performs or omits acts in violation of his obligations.**

It is therefore not a question of real corruption between private subjects, but of a "corporate crime", being only a violation in the relations between the subject and the entity for which it operates.

While the Strasbourg Convention intends to punish the behavior of those who give or promise the undue advantage and of those who receive the giving or promise of the advantage itself in order to perform an act contrary to their duties, today in art. 2635 of the Italian Civil Code and in art. 2635-bis of the Italian Civil Code, as amended, crimes exist only if the person who receives the undue advantage fails to fulfil his obligations towards his company, otherwise the corrupt act is not prosecuted.

The offences as provided for by the Italian legislator are therefore not aimed at ensuring ethical behaviour on the market and in competition.

The only positive sign in this last direction, however of little practical effect, is found only in the provision of **ex officio prosecution** (for corruption between private individuals) if the crime results in a **distortion of competition**.

7.5 Unlawful influence on the shareholders' meeting

Article 2636 of the Italian Civil Code: "Unlawful influence on the shareholders' meeting"

Whoever, by means of simulated or fraudulent acts, determines the majority in the assembly, with the aim of procuring an unjust profit for himself or others, shall be punished with imprisonment from six months to three years.

The rule is aimed at protecting the correctness and freedom of formation of the will of the shareholders' meeting in companies.

Rigging the market

7.6 Rigging the market

Article 2637 of the Italian Civil Code: "Rigging"

Any person who disseminates false information, or carries out simulated transactions or other artifices that are concretely capable of causing a significant alteration in the price of unlisted financial instruments or for which a request for admission to trading on a regulated market has not been submitted, or of significantly affecting the public's trust in the financial stability of banks or banking groups, is punished with imprisonment from one to five years.

The first conduct prohibited by the law is that of divulging, i.e. communicating to an indeterminate number of people, material facts that do not correspond to the truth; the second is instead supplemented by the performance of simulated operations. Finally, criminal conduct may consist in the preparation of artifices of various kinds as long as they are suitable for achieving the effect prohibited by the law.
The rule is aimed both at avoiding unfair transactions aimed at altering the value of financial instruments that are not listed or in any case not negotiable on regulated markets and, at the same time, at preserving the financial stability of banking companies.

7.7 Obstruction of the exercise of the functions of public supervisory authorities

Article 2638 of the Italian Civil Code: "Obstruction of the exercise of the functions of public supervisory authorities"
Directors, general managers, statutory auditors and liquidators of companies or entities and other persons subject by law to the public supervisory authorities, or bound by obligations towards them, who, in their communications to the aforementioned authorities provided for by law, in order to obstruct the exercise of supervisory functions, disclose material facts that do not correspond to the truth, even if they are subject to an assessment of the economic, equity or financial situation of the persons subject to supervision or, for the same purpose, conceal by other fraudulent means, in whole or in part, facts that they should have communicated, concerning the situation itself, shall be punished with imprisonment from one to four years. The punishability is also extended to the case in which the information concerns assets owned or administered by the company on behalf of third parties.
The same penalty shall be punished for directors, general managers, statutory auditors and liquidators of companies or entities and other persons subject by law to the public supervisory authorities or bound by obligations towards them, who, in any form, even by omitting the communications due to the aforementioned authorities, knowingly obstruct their functions.
The penalty is doubled if the company is a company with securities listed on regulated markets in Italy or in other European Union countries or widely distributed among the public pursuant to art. 116 of the Consolidated Law referred to in Legislative Decree no. 58 of 24 February 1998.

The rule is aimed at protecting the fairness of the relations between the Company and the bodies appointed by law to supervise the same, in order to allow the best exercise of the supervisory functions of the companies, removing all forms of obstacles.

The obstacle to the exercise of the functions of public supervisory authorities occurs in two cases:

- In the event that certain persons (directors, general managers, statutory auditors, liquidators of companies or entities and, in general, persons subject to public supervisory authorities *by law*) in order to hinder the activity of public supervisory authorities:
  a) expose, on the occasion of communications to the public supervisory authorities, to which they are required by law, material facts that do not correspond to the truth, even if subject to assessment, or
  b) conceal, totally or partially, by fraudulent means, facts that they were required to communicate, about the assets, economic or financial situation of the company, even if the information concerns assets owned or administered by the company on behalf of third parties;
- in the event that the conduct, even omission, of the same subjects, regardless of the purpose pursued, effectively hinders the activity of the public supervisory authority.

The rule does not specify which "public supervisory authorities" are the recipients of criminal protection. In this regard, it should be noted that two opposing orientations are facing each other on this point. The former, relying on the fact that the provision in question is aimed at unifying the cases of obstacle against the Bank of Italy and Consob originally contained in the TUB and the TUF, limits their applicability only to the "*authorities*" of the sector in the strict sense (e.g.: Consob, Bank of Italy, Isvap, Covip, UIC ...). The second orientation, of which there is a trace in the guidelines of certain trade associations, extends the notion in question to any public entity that holds powers of an inspection or control nature.

7.8 Failure to disclose conflict of interest

Article 2629-bis of the Italian Civil Code: "Failure to communicate the conflict of interest"
The director or member of the management board of a company whose securities are listed on regulated markets in Italy or in another State of the European Union or which are widely distributed among the public pursuant to Article 116 of the consolidated text referred to in Legislative Decree no. 58 of 24 February 1998, as amended, or of a person subject to supervision pursuant to the consolidated text referred to in Legislative Decree 1 September 1993, 385 of the aforementioned consolidated text referred to in Legislative Decree No 58 of 1998, Law No 576 of 12 August 1982, or Legislative Decree No 124 of 21 April 1993, which violates the obligations laid down in the first paragraph of Article 2391, shall be punished with imprisonment of between one and three years, if the breach has resulted in damage to the company or to third parties.

The criminal figure aims to punish the failure to comply with the obligations of prior communication and/or abstention to which the directors are required in the event of interests held on their own behalf or on behalf of third parties in a given transaction of the company, when such non-compliance results in damage to the company itself or to third parties.

The rule is aimed at safeguarding the sound and prudent management of the company in any transaction and avoiding unfair transactions, to protect both the company itself and third parties.

7.9 False or omitted declarations for the issuance of the preliminary certificate

Art. 54 of Legislative Decree 19/2023 – "False or omitted declarations for the issuance of the preliminary certificate"

1. Any person who, in order to ensure that the conditions for issuing the preliminary certificate referred to in Article 29 are met, prepares documents that are wholly or partly false, alters true documents, makes false statements or omits relevant information, shall be punished by imprisonment of between six months and three years.

2. In the event of a sentence of not less than eight months' imprisonment, the additional penalty referred to in Article 32-bis of the Criminal Code shall be applied.

The new predicate offence, added by Legislative Decree no. 19/2023, provides for the application of financial penalties to the entity for the crime of false or omitted declarations for the issuance of the preliminary certificate provided for by the legislation implementing Directive (EU) 2019/2121, on cross-border transformations, mergers and divisions; The financial penalty envisaged is from one hundred and fifty to three hundred shares.

The "preliminary certificate" referred to in art. 54 of Legislative Decree 19/2023 is governed by the same decree in art. 29:

"1. *At the request of the Italian company participating in the cross-border merger, the notary shall issue the preliminary certificate certifying the regular fulfilment, in accordance with the law, of the acts and formalities prior to the implementation of the merger*".

8 CRIMES WITH THE PURPOSE OF TERRORISM OR SUBVERSION OF THE DEMOCRATIC ORDER [art. 25-quarter of Legislative Decree 231/2001]

The crimes under analysis were introduced with Article 3 of Law 7/2003 with which they were included in the list of crimes provided for by the Decree, through art. 25-quarter, crimes with the purpose of terrorism or subversion of the democratic order.

In particular, the third paragraph of the aforementioned article provides that if the Entity or one of its organizational units is permanently used for the sole or prevalent purpose of allowing or facilitating the commission of crimes of terrorism or subversion of the democratic order, provided for by the Criminal Code and special laws, the sanction of permanent disqualification from exercising the activity pursuant to Article 16 shall apply. paragraph 3.

Article 25-quarter of Legislative Decree 231/2001: "Crimes with the purpose of terrorism or subversion of the democratic order"

1) In relation to the commission of crimes with the purpose of terrorism or subversion of the democratic order, provided for by the penal code and special laws, the following financial penalties are applied to the entity:
    a) if the offence is punishable by imprisonment of less than ten years, a fine of between two hundred and seven hundred shares;
    b) if the offence is punishable by imprisonment of not less than ten years or life imprisonment, a fine of between four hundred and one thousand shares.
2) In cases of conviction for one of the crimes indicated in paragraph 1, the disqualification sanctions provided for in Article 9, paragraph 2, shall be applied for a period of not less than one year.
3) If the entity or one of its organisational units is permanently used for the sole or predominant purpose of allowing or facilitating the commission of the offences referred to in paragraph 1, the sanction of permanent disqualification from exercising the activity pursuant to Article 16, paragraph 3 shall apply.
4) The provisions of paragraphs 1, 2 and 3 shall also apply in relation to the commission of crimes, other than those indicated in paragraph 1, which have in any case been committed in violation of the provisions of Article 2 of the International Convention for the Suppression of the Financing of Terrorism made in New York on 9 December 1999.

As a result of the reference made by paragraph 1 of the new Article 25-quarter of Legislative Decree 231/2001, the offence provided for by the Italian Criminal Code in Article 270 bis (associations with the purpose of terrorism, including international terrorism or subversion of the democratic order) is mainly relevant:
Anyone who promotes, establishes, organizes, directs or finances associations that propose to carry out acts of violence for the purpose of terrorism or subversion of the democratic order shall be punished with imprisonment from seven to fifteen years.

Anyone who participates in such associations is punished with imprisonment from five to ten years.

For the purposes of criminal law, the purpose of terrorism also occurs when the acts of violence are directed against a foreign state, an institution or an international body.

The confiscation of the things that served or were intended to commit the crime and of the things that are its price, product, profit or that constitute its use, is always obligatory against the convicted.

Among the other cases that can be configured in the abstract, there are also those classified under the heading of "assistance" (such as: Article 270-ter of the Criminal Code - assistance to associates; Article 307 of the Criminal Code - assistance to participants in conspiracy or armed gang; Article 418 of the Criminal Code - assistance to associates - mafia association) in which the conduct of the crime translates into logistical support or the provision of shelter, food, hospitality, means of transport or communication tools.

As a result of the reference made by paragraph 4 of the new Article 25-quarter of Legislative Decree 231/2001, the following types of offences provided for by international conventions to combat terrorism are mainly relevant:

International Convention for the Suppression of the Financing of Terrorism – December 1999 (Art. 2)

1) Any person who, by any means, directly or indirectly, unlawfully and deliberately provides or collects funds with the intent to have them used, or knowing that they will be used, in whole or in part, for the purpose of committing the following shall be committed as a criminal offence under this Convention:

    a) an act constituting an offence within the meaning and as defined in one of the Treaties listed in the Annex;

    b) any other act intended to kill or seriously injure a civilian or any other person not directly participating in hostilities in a situation of armed conflict where, by its nature or context, such act is intended to intimidate a population or to compel a government or an international organisation to carry out or refrain from committing it, Any act.

2) <omission>

3) In order for an act to constitute an offence within the meaning of paragraph 1, the funds need not have actually been used to commit an offence referred to in subparagraphs (a) or (b) of paragraph 1 of this Article.

4) Any person who attempts to commit an offence within the meaning of paragraph 1 of this Article shall also commit an offence.

5) <omission>

The aforementioned article also refers to numerous international conventions with the aim of repressing acts of terrorism (by way of example, the following are reported: Protocol for the Suppression of Unlawful Acts Directed against the Security of Fixed Installations on the Continental Shelf - Rome, 10 March 1988 -, International Convention for the Suppression of Terrorist Attacks with Explosives, adopted by the General Assembly of the United Nations on 15 December 1997, etc.).

In this case, it may be possible that relationships may be established, in the interest of the Company, with clients who pursue, directly or as figureheads, purposes of terrorism, subversion or subversion of the constitutional order, facilitating them in the achievement of their criminal objectives. These rules tend, in fact, to punish not only cases of establishment of terrorist and/or subversive associations, but also any hypothesis of flanking or supporting them through the provision of financial resources – both through donations and in the context of the performance of typical financial activity – as well as means of transport, shelters or logistical offices.

9 PRACTICES OF MUTILATION OF FEMALE GENITAL ORGANS [art. 25.quarter.1. Legislative Decree 231/2001]

Law no. 7 of 9 January 2006 "Provisions concerning the prevention and prohibition of female genital mutilation practices", introduced in Legislative Decree no. 231/2001 art. "25-quarter.1 Practices of mutilation of female genital organs".

The offence in question punishes anyone who, in the absence of therapeutic needs, causes mutilation of the female genital organs, as well as anyone who, in the absence of therapeutic needs, causes, in order to impair sexual functions, injuries to the female genital organs other than those indicated from which a disease in the body or mind arises, clitoridectomy being understood as practices of mutilation of the female genital organs, excision and infibulation and any other practice that causes effects of the same type.

The rationale of the rule can be seen in the legislator's desire to sanction entities (and in particular, health facilities, voluntary organizations, etc.) that are responsible for carrying out, within them, prohibited mutilative practices.

10 CRIMES AGAINST THE INDIVIDUAL PERSONALITY [art. 25-quinquies of Legislative Decree 231/2001]

Art. 5 of Law no. 228/2003, on measures against trafficking in persons, added to Legislative Decree 231/2001 article 25-quinquies which provides for the application of administrative sanctions to legal persons, companies and associations for the commission of crimes against the individual personality.

Law no. 38 of 6 February 2006 "Provisions on the fight against the sexual exploitation of children and child pornography also via the Internet", and subsequently Legislative Decree no. 39 of 4 March 2014, issued in implementation of Directive 2011/93/EU on the fight against the sexual abuse and exploitation of minors and child pornography, amended Article 25-quinquies of Legislative Decree 231/01 with reference to certain types of crimes against the individual to which the administrative liability of the entity deriving from a crime is extended.

The crimes sanctioned are:

- reduction or maintenance in slavery or servitude (Article 600 of the Criminal Code);
- child prostitution (Article 600-bis, paragraphs 1 and 2 of the Criminal Code);
- child pornography (Article 600-ter of the Criminal Code);
- virtual pornography (art. 600-quarter.1 of the Criminal Code);
- tourist initiatives aimed at the exploitation of child prostitution (Article 600-quinquies of the Criminal Code);
- trafficking in persons (Article 601 of the Criminal Code);
- alienation and purchase of slaves (Article 602 of the Criminal Code);
- illegal intermediation and exploitation of labour (Article 603-bis of the Criminal Code);
- solicitation of minors (609-undecies).

Law no. 238 of 23 December 2021 (the so-called European Law) containing provisions for the fulfilment of the obligations deriving from Italy's membership of the European Union, introduced numerous amendments to the catalogue of predicate offences of Legislative Decree 231/2001, also with reference to crimes against the individual personality.

Specifically, the conduct referred to in art. 600 quarter of the Criminal Code (possession of pornographic material) also to international access, and further aggravating circumstances have been provided for the crime referred to in art. 609-undecies of the Criminal Code (crime of solicitation of minors).

Article 600 of the Criminal Code: "Reduction or maintenance in slavery or servitude"

Anyone who exercises powers over a person corresponding to those of the right to property or anyone who reduces or maintains a person in a state of continuous subjection, forcing him or

her to perform work or sexual services or begging or in any case to carry out illegal activities that involve his exploitation or to undergo the removal of organs, is punished with imprisonment from eight to twenty years.
Reduction or maintenance in a state of subjection takes place when the conduct is carried out through violence, threat, deception, abuse of authority or taking advantage of a situation of vulnerability, physical or mental inferiority or a situation of need, or through the promise or giving of sums of money or other advantages to those who have authority over the person.

Article 600-bis of the Criminal Code: "Child prostitution"
Anyone who:
1) recruits or induces a person under the age of eighteen into prostitution;
2) facilitates, exploits, manages, organizes or controls the prostitution of a person under the age of eighteen, or otherwise profits from it.
Unless the fact constitutes a more serious crime, anyone who performs sexual acts with a minor between the ages of fourteen and eighteen, in exchange for a consideration in money or other benefits, even if only promised, is punished with imprisonment from one to six years and a fine from 1,500 to 6,000 euros.

Article 600-ter of the Criminal Code: "Child pornography"
Anyone who:
1) using minors under the age of eighteen, makes pornographic exhibitions or shows or produces pornographic material;
2) recruits or induces minors under the age of eighteen to participate in pornographic exhibitions or shows or otherwise derives profit from such shows.
The same penalty applies to those who trade in the pornographic material referred to in the first paragraph.
Anyone who, outside the cases referred to in the first and second paragraphs, by any means, including electronically, distributes, disseminates, disseminates or advertises the pornographic material referred to in the first paragraph, or distributes or disseminates news or information aimed at the solicitation or sexual exploitation of minors under the age of eighteen, shall be punished with imprisonment from one to five years and a fine from €2,582 to €51,645.
Anyone who, outside the cases referred to in the first, second and third paragraphs, offers or transfers to others, even free of charge, the pornographic material referred to in the first paragraph, shall be punished with imprisonment of up to three years and a fine of between €1,549 and €5,164.
In the cases provided for in the third and fourth paragraphs, the penalty shall be increased by no more than two thirds if the material is of a large quantity.

Unless the fact constitutes a more serious crime, anyone who attends pornographic exhibitions or shows involving minors under the age of eighteen is punished with imprisonment of up to three years and a fine of between €1,500 and €6,000.

For the purposes of this section, child pornography means any depiction, by any means, of a child under the age of eighteen engaging in explicit sexual activity, real or simulated, or any representation of the sexual organs of a child under the age of eighteen for sexual purposes.

Article 600-quarter of the Criminal Code: "Possession of pornographic material"

Anyone who, outside the cases provided for in Article 600-ter, knowingly procures or possesses pornographic material made using minors under the age of eighteen, shall be punished with imprisonment of up to three years and a fine of not less than €1,549.

The penalty shall be increased by no more than two-thirds if the material held is of a large quantity.

Article 600-quarter.1 of the Criminal Code: "Virtual pornography"

The provisions of Articles 600-ter and 600-quarter shall also apply when the pornographic material represents virtual images made using images of minors under the age of eighteen or parts thereof, but the penalty shall be reduced by one third.

Virtual images are images created with graphic processing techniques that are not associated in whole or in part with real situations, whose quality of representation makes non-real situations appear as real.

Article 600-quinquies of the Criminal Code: "Tourist initiatives aimed at the exploitation of child prostitution"

Anyone who organizes or promotes trips aimed at the use of prostitution activities to the detriment of minors or in any case including such activity is punished with imprisonment from six to twelve years and with a fine of 15,493 and 154,937 euros.

Article 601 of the Criminal Code: "Trafficking in persons"

Anyone who recruits, introduces into the territory of the State, transfers even outside it, transports, cedes authority over the person, hosts one or more persons who are in the conditions referred to in Article 600, or carries out the same conduct on one or more persons, by means of deception, violence, threatening, abusing authority or taking advantage of a situation of vulnerability, physical, psychological inferiority or necessity, or through the promise or giving of money or other advantages to the person who has authority over it, in order to induce or force them to work, sexual or begging or in any case to carry out illegal activities that involve their exploitation or to undergo organ harvesting.

The same penalty shall apply to anyone who, even outside the procedures referred to in the first paragraph, carries out the conduct provided for therein against a minor.

Article 602 of the Criminal Code: "Purchase and alienation of slaves"
Whoever, except in the cases indicated in Article 601, acquires or alienates or transfers a person who is in one of the conditions referred to in Article 600 shall be punished with imprisonment from eight to twenty years.
The penalty shall be increased from one third to one half if the injured person is under the age of eighteen or if the acts referred to in the first paragraph are aimed at the exploitation of prostitution or in order to subject the injured person to the removal of organs.

Article 603-bis of the Criminal Code: "Illegal intermediation and exploitation of labour"
Unless the fact constitutes a more serious crime, anyone who:
1) recruits labour in order to allocate it to work for third parties in exploitative conditions, taking advantage of the workers' state of need;
2) uses, hires or employs labour, including through the intermediation activity referred to in number 1), subjecting workers to conditions of exploitation and taking advantage of their state of need.
If the acts are committed by violence or threat, the penalty of imprisonment from five to eight years and a fine of 1,000 to 2,000 euros is applied for each worker recruited.
For the purposes of this article, the existence of one or more of the following conditions constitutes an indication of exploitation:
1) the repeated payment of wages in a way that is clearly different from the national or territorial collective agreements stipulated by the most representative trade unions at national level, or in any case disproportionate to the quantity and quality of the work performed;
2) the repeated violation of the legislation relating to working hours, rest periods, weekly rest, compulsory leave, holidays;
3) the existence of violations of the rules on safety and hygiene in the workplace;
4) the subjection of the worker to degrading working conditions, methods of surveillance or housing situations.
The following constitute a specific aggravating circumstance and entail an increase in the penalty from one third to one-half:
1) the fact that the number of workers recruited is greater than three;
2) the fact that one or more of the recruited subjects are minors of non-working age;
3) having committed the act by exposing the exploited workers to situations of serious danger, having regard to the characteristics of the services to be performed and the working conditions.

Article 609-undecies of the Criminal Code: "Solicitation of minors"

Any person who, for the purpose of committing the offences referred to in Articles 600, 600-bis, 600-ter and 600-quarter, even if they relate to the pornographic material referred to in Article 600-quarter.1, 600-quinquies, 609-bis, 609-quarter, 609-quinquies and 609-octies, lures a minor under the age of sixteen, shall be punished, if the act no longer constitutes a serious offence, with imprisonment from one to three years. Solicitation means any act aimed at stealing the trust of the minor through artifice, flattery or threats also carried out through the use of the internet or other networks or means of communication.

The penalty is increased: 1) if the offence is committed by several persons together; 2) if the crime is committed by a person who is part of a criminal association and in order to facilitate its activity; 3) if the fact, due to the repetition of the conduct, causes serious harm to the minor; 4) if the act endangers the life of the minor.

These rules punish anyone who reduces or maintains people to slavery and who makes them the object of trafficking, acquisition or alienation; anyone who induces a minor person into prostitution; anyone who exploits minors to make pornographic exhibitions or produce pornographic material; anyone who organizes or promotes tourist initiatives aimed at the exploitation of child prostitution (so-called sex tourism).

The case in question is aimed at repressing the hypotheses of illicit enrichment obtained through activities related to human trafficking, the so-called "sex tourism" or child pornography.

For some of the crimes mentioned above, it is difficult to identify the existence of an interest or advantage for the entity (e.g. child prostitution). However, there are cases in which the entity can benefit from the offence. This is the case, for example, of child pornography or tourist initiatives aimed at exploiting child prostitution.

By way of example, it is appropriate to recall some prevention tools that the company or entity may prepare to prevent the commission of significant conduct. In particular, the company or entity may:

- introduce a specific prohibition in the code of ethics on child pornography;
- equip themselves with IT tools that prevent access to and/or receipt of material relating to child pornography;
- establish clear and unequivocal reminders to the correct use of the IT tools in the possession of its employees;
- evaluate and regulate with particular attention and sensitivity the direct and/or indirect organisation of trips or periods of stay in foreign locations with specific regard to places known for the phenomenon of the so-called "sex tourism";
- pay particular attention to the evaluation of possible commercial partnerships with companies operating in sectors such as the electronic communication of material relating

to child pornography and tourism in the geographical areas referred to in the previous point;
- prepare an adequate system of disciplinary sanctions that takes into account the particular seriousness of the violations referred to in the previous points.

On the other hand, with regard to crimes related to slavery and illegal intermediation and exploitation of labour, in addition to recalling that these hypotheses of crime extend not only to the person who directly carries out the illegal offence, but also to those who knowingly facilitate the same conduct, even if only financially, it is also appropriate to provide for specific prevention measures.

The relevant conduct in these cases is the illegal procurement of the workforce through migrant trafficking, the slave trade and illegal intermediation (so-called "caporalato"). In order to prevent the commission of such offences, the company or entity may:

- provide, in the Code of Ethics, a specific commitment to respect and ensure that its suppliers comply with the regulations in force on labour, with particular attention to child labour and the provisions of the law on health and safety;
- diversify the control points within the company structure responsible for hiring and managing personnel, in cases where individual companies or entities identify areas with a higher risk of crime (in these cases risk indicators could be age, nationality, labour costs, etc.);
- require and verify that their partners comply with legal obligations regarding:
    - protection of child labour and women;
    - hygienic-sanitary and safety conditions;
    - trade union rights or in any case of association and representation.

11 CRIMES OF MARKET ABUSE [art. 25-sexies of Legislative Decree 231/2001]

Among the regulatory amendments made by Law no. 238 of 23 December 2021 (so-called European Law) to the catalogue of predicate offences of Legislative Decree 231/2001, are those relating to market abuse offences, with the aim of adapting the internal regulations on market abuse to current European legislation. This objective is also pursued by the aforementioned Law through the amendment of the sanctioning framework on market abuse, in particular with reference to the crimes of insider dealing and market manipulation, also extending the cases of exemption from sanctions to trading in securities or related transactions.

The crimes of market abuse are referred to in 25-sexies of Legislative Decree 231/2001, and by these we mean art. 184 of Legislative Decree no. 58/1998 (of which the heading has been changed to "abuse or unlawful communication of inside information. recommendation or inducement of others to commit insider dealing", as well as the crime of market manipulation pursuant to Article 185 of Legislative Decree No. 58/1998.

Furthermore, with reference to the discipline of confiscation pursuant to Article 187 of Legislative Decree No. 58/1998, European Law has provided that the object of confiscation is only the profit of the crime, but not also the product of the crime and the assets used to commit it.

Finally, the scope of application of the aforementioned crimes has also been expanded by amending the text of art. 182 of the TUF, providing as follows:

"(a) Article 182 is replaced by the following:

'Article 182 (Scope).

1. The provisions of Articles 184, 185, 187-bis and 187-ter shall apply to facts concerning:

financial instruments admitted to trading or for which a request for admission to trading has been submitted on a regulated market in Italy or in another country of the European Union;

financial instruments admitted to trading or for which a request for admission to trading has been submitted on an Italian multilateral trading facility or in another country of the European Union;

financial instruments traded on an OTF;

financial instruments not referred to in points (a), (b) and (c), the price or value of which depends on or has an effect on the price or value of a financial instrument referred to in those points, including, but not limited to, credit default swaps and contracts for difference; 2. The provisions of Articles 185 and 187-ter shall also apply to facts concerning:

conduct or transactions, including bids, relating to auctions on an authorised auction platform, such as a regulated market for emission allowances or other related auctioned products, even when the auctioned products are not financial instruments, within the meaning of Regulation (EU) No. Commission Regulation (EC) No 1031/2010 of 12 November 2010.

2. The provisions of Articles 185 and 187-ter shall also apply to facts concerning:

spot contracts on commodities that are not wholesale energy products, capable of causing a significant alteration in the price or value of the financial instruments referred to in Article 180, paragraph 1, letter a);

financial instruments, including derivative contracts or credit risk transfer derivatives, which are likely to cause a significant alteration in the price or value of a spot commodity contract, where the price or value is dependent on the price or value of those financial instruments;

benchmarks.

3. The provisions of this Title shall apply to any transaction, order or other conduct relating to the financial instruments referred to in paragraphs 1 and 2, whether or not such transaction, order or conduct takes place on a trading venue;

4. The offences and offences referred to in this Title shall be punishable under Italian law, even if they are committed in foreign territory, when they relate to financial instruments admitted or for which a request for admission to trading has been submitted on an Italian regulated market or on an Italian multilateral trading facility or to financial instruments traded on an Italian OTF.'

11.1 Misuse or unlawful disclosure of inside information. recommending or inducing others to commit insider dealing

Art. 184 D. lgs. 58/1998 (TUF) – "Abuse or unlawful communication of inside information. recommendation or inducement of others to the commission of insider dealing"

Any person who is in possession of inside information by virtue of his or her status as a member of the issuer's administrative, management or supervisory bodies, participation in the issuer's capital or the exercise of a job, profession or function shall be punished with imprisonment from two to twelve years and a fine of between twenty thousand and three million euros. also public, or of an office:

(a) buys, sells or carries out other transactions, directly or indirectly, on his own account or on behalf of third parties, in financial instruments using the same information;

(b) communicate that information to others, outside the normal exercise of his or her job, profession, function or office or a market sounding carried out in accordance with Article 11 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014;

c) recommends or induces others, on the basis of this information, to carry out any of the operations indicated in letter a).

The same penalty referred to in paragraph 1 shall apply to any person who, being in possession of inside information as a result of the preparation or execution of criminal activities, commits any of the acts referred to in paragraph 1.

Except in cases of complicity in the offences referred to in paragraphs 1 and 2, any person who is in possession of inside information for reasons other than those indicated in paragraphs 1 and 2 and knowing the privileged nature of such information shall be punished with imprisonment from one year and six months to ten years and with a fine of between twenty thousand and two million and five hundred thousand euros, commits any of the acts referred to in paragraph 1.

In the cases referred to in paragraphs 1, 2 and 3, the penalty of the fine may be increased up to three times or to the greater amount of ten times the proceeds or profits obtained from the offence when, due to the significant offensiveness of the act, the personal qualities of the offender or the extent of the product or profit obtained from the offence, it appears inadequate even if applied to the maximum.

The provisions of this Article shall also apply where the facts referred to in paragraphs 1, 2 and 3 relate to conduct or transactions, including bids, relating to auctions on an authorised auctioning platform, such as a regulated market for emission allowances or other related auctioned products, including where the auctioned products are not financial instruments, pursuant to Commission Regulation (EU) No. 1031/2010 of 12 November 2010.

The rule punishes three criminal conducts, referable to persons who have access to inside information due to their profession, participation in the issuer's capital, or participation in the administration, management or control bodies of the same (so-called "Insider Control"). " primary" insiders).

In detail, the following conducts are punished:

- buy, sell or carry out other transactions, directly or indirectly, on one's own account or on behalf of third parties, on financial instruments using inside information (so-called trading);
- communicating inside information to others, outside the normal exercise of work, profession, function or office (so-called tipping);
- recommending or inducing others, on the basis of inside information, to carry out some of the transactions on financial instruments (so-called tuyautage).

The offence in question, as well as the offence of "Market manipulation", which is dealt with below, is punished if it relates to financial instruments admitted or for which a request for admission to trading on a regulated market has been submitted, while the following "Securities and Finances" are excluded from the scope of application of Article 184 of the TUF (as well as of the subsequent Article 185)*operations relating to monetary policy, currency policy or the management of public debt carried out by the Italian State, a Member State of the European Union, the European System of Central Banks, a Central Bank of a Member State of the European Union, or any other officially designated body or by a person acting on their behalf*", as well as "*trading in shares, bonds and other listed own financial instruments, carried out as part of buyback programs by the issuer or subsidiaries or associates, and stabilization transactions of financial instruments that comply with the conditions established by CONSOB with regulation*".

The regulatory changes described above have innovated the sanctioning framework, while the essential elements of the crime remain unchanged, with the introduction of an aggravation of the penalty provided for the primary insider (i.e. for the person "in possession of inside information by virtue of his or her capacity as a member of the issuer's administrative, management or control bodies, participation in the issuer's capital, or the exercise of a work, a profession or a function, including a public one or an office") and also for the criminal insider – i.e., the person who is in possession of the aforementioned information "due to the preparation or execution of criminal activities" – with the provision of the penalty of imprisonment from 2 to 12 years and a fine from 20,000 to 3 million euros.

Among the most impactful changes introduced by European Law no. 238/2021 is the one relating to the crime of "Insider Trading and the figure of the secondary insider, i.e. the person who does not acquire inside information himself, but, after acquiring it from third parties, makes

use of it through the conduct referred to in the first paragraph of Article 184 of Legislative Decree no. 58/1998. Following a first decriminalization, which took place with Law no. 62 of 18 April 2005, the conduct of the second insider is now relevant again and punished, both through an administrative fine and through the penalty of imprisonment.
With regard to the concept of inside information, Legislative Decree 107/2018 repealed art. 181 of the TUF, which contained the definition, and inserted, in art. 180 of the TUF, in paragraph 1 letter b-ter) the explicit reference to the definition of inside information provided for by art. 7, paragraphs 1 to 4 of Regulation (EU) No 596/2014.

Therefore, inside information is defined as:
"1. (a) information of a precise nature, which has not been made public, concerning, directly or indirectly, one or more issuers or one or more financial instruments, and which, if made public, could have a significant effect on the prices of those financial instruments or on the prices of related derivative financial instruments;
(b) in relation to commodity derivatives, information of a precise nature, which has not been disclosed to the public, concerning, directly or indirectly, one or more of those derivatives or relating directly to the related spot commodity contract, and which, if disclosed to the public, could have a significant effect on the prices of such derivatives or related spot commodity contracts and where it is information that could be reasonably expect to be communicated or required to be reported in accordance with Union or national laws, regulations, market rules, contracts, practices or customs, conventions on the relevant commodity derivatives or spot markets;
(c) in relation to emission allowances or related auctioned products, information of a precise nature, which has not been disclosed to the public, concerning, directly or indirectly, one or more of those instruments and which, if disclosed to the public, could have a significant effect on the prices of those instruments or on the prices of related derivative financial instruments;
(d) in the case of persons entrusted with the execution of orders in respect of financial instruments, it shall also mean information transmitted by a client in connection with pending orders in financial instruments of the client, which is of a precise nature and relates, directly or indirectly, to one or more issuers or to one or more financial instruments and which, if disclosed to the public, could have a significant effect on the prices of those financial instruments; on the price of related spot commodity contracts or on the price of related derivative financial instruments.
2. For the purposes of paragraph 1, information shall be deemed to be of a precise nature if it relates to a series of circumstances which exist or which may reasonably be expected to occur or to an event which has occurred or which can reasonably be expected to occur and if that information is sufficiently specific to permit conclusions to be drawn as to the possible effect of

that set of circumstances or of that particular set of circumstances or of that information event on the prices of financial instruments or related derivative financial instruments, related spot commodity contracts or products auctioned on the basis of emission allowances. In that regard, in the case of a prolonged process which is intended to materialise, or which results in, a particular circumstance or event, that future circumstance or event, as well as the intermediate stages of that process which are linked to the materialisation or determination of the future circumstance or event, may be regarded as information of a precise nature.

3. An intermediate step in a protracted process shall be considered inside information if it meets the criteria set out in this Article with regard to inside information.

4. For the purposes of paragraph 1, information which, if disclosed to the public, is likely to have a significant effect on the prices of financial instruments, derivative financial instruments, related spot commodity contracts or products auctioned on the basis of emission allowances shall mean information that a reasonable investor is likely to use as one of the factors on which to base his or her investment decisions."

11.2 **Market manipulation**

Art. 185 D. lgs. 58/1998 (TUF) – "Market manipulation"

Article 26 of Chapter IV of Law no. 238/2021 amended the penalty framework for the offence referred to in Article 185 of the TUF, providing as follows: "*in Article 185, paragraphs 2-bis and 2-ter are repealed*"

Anyone who spreads false news or carries out simulated transactions or other artifices concretely suitable for causing a significant alteration in the price of financial instruments, is punished with imprisonment from one to six years and a fine from twenty thousand euros to five million euros.

A person who has committed the act through orders to trade or transactions carried out for legitimate reasons and in accordance with accepted market practice, pursuant to Article 13 of Regulation (EU) No 596/20141054, shall not be punished. The judge may increase the fine up to three times or up to the greater amount of ten times the product or profit obtained from the crime when, due to the significant offensiveness of the act, the personal qualities of the offender or the extent of the product or profit obtained from the crime, it appears inadequate even if applied to the maximum.

The law punishes anyone who spreads false news or carries out simulated transactions or other artifices concretely capable of causing a significant alteration in the price of listed financial instruments.

The case aims to repress the following conducts, put in place in order to disturb the market value of listed financial instruments or for which listing has been requested:

- dissemination of fake news;
- implementation of simulated operations;
- carrying out other artifices concretely capable of causing a significant alteration in the price of financial instruments.

It should be noted that the following may constitute a crime, if they are accompanied by intent and the ability to cause alterations in the price of financial instruments:

- the dissemination, through the media, including *the internet* and any other means, of false or misleading information, rumors or news that provide or are likely to provide false or misleading information about financial instruments;
- the execution of transactions or orders to buy and sell that provide or are likely to provide false or misleading indications regarding the offer, demand or price of financial instruments;
- the taking of long-term positions with subsequent purchases and dissemination of misleading positive news;
- the taking of short-term positions with subsequent sales and dissemination of misleading negative news;
- the execution of transactions or orders to buy and sell that allow, through the action of one or more persons acting in concert, to fix the market price of one or more financial instruments at an anomalous or artificial level;
- the execution of transactions or orders to buy and sell that use artifices or any other type of deception or expedient;

the use of other artifices capable of providing false or misleading indications regarding the supply, demand or price of financial instruments. The crime can be committed, for example, through the dissemination of false news about business strategies or through the performance of simulated transactions or other artifices on the capital of the company or of the parent company or subsidiaries. The dissemination of false news can also take place through half-yearly reports or the report and preparation of the financial statements.
On the other hand, those who have committed the crime through orders to sell or transactions carried out for legitimate reasons and in accordance with accepted market practices, pursuant to art. 13 of Regulation (EU) No 596/2014. This provision was introduced by Legislative Decree 107/2018.

12 CRIMES OF MANSLAUGHTER AND SERIOUS OR VERY SERIOUS CULPABLE INJURIES [art. 25-septies of Legislative Decree 231/2001]

Art. 25-septies of Legislative Decree 231/2001 provides for the administrative liability of the Entities for the crimes of manslaughter and serious or very serious culpable injuries, committed in violation of accident prevention regulations and on the protection of hygiene and health at work. In particular, the aforementioned provision expressly provides:

1) In relation to the offences referred to in Articles 589 and 590, third paragraph, of the Criminal Code, committed in violation of accident prevention regulations and on the protection of hygiene and health at work, a fine of not less than one thousand shares shall be applied.
2) In the event of conviction for one of the offences referred to in paragraph 1, the disqualification sanctions referred to in Article 9, paragraph 2, shall be applied for a period of not less than three months and not more than one year.

Art. 589 of the Criminal Code (Manslaughter) expressly provides:

1) Anyone who causes the death of a person through negligence is punished with imprisonment from six months to five years.
2) If the act is committed in violation of the rules on road traffic regulation or those for the prevention of accidents at work, the penalty is imprisonment from one to five years.
3) In the case of death of more than one person, or death of one or more people and injuries of one or more people, the penalty that should be imposed for the most serious of the violations committed increased by up to three times is applied, but the penalty cannot exceed twelve years".

Art. 590 of the Criminal Code (Culpable personal injury) establishes:

1) Anyone who causes personal injury to others, through negligence, is punished with imprisonment of up to three months or a fine of up to 309 euros.
2) If the injury is serious, the penalty is imprisonment from one to six months or a fine from 123 to 619 euros; if it is very serious, imprisonment from three months to two years or a fine from 309 to 1,239 euros.
3) If the acts referred to in the second paragraph are committed in violation of the rules on road traffic or those for the prevention of accidents at work, the penalty for serious injuries is imprisonment from three months to one year or a fine from 500 to 2,000 euros; and the penalty for very serious injuries is imprisonment from one to three years. In cases of violation of road traffic regulations, if the act is committed by a person in a state of alcoholic intoxication pursuant to Article 186, paragraph 2, letter c) of Legislative Decree No. 285 of 30 April 1992, as amended, or by a person under the influence of narcotic or psychotropic substances, the penalty for serious injuries is imprisonment from six months to two years and the penalty for very serious injuries is imprisonment from one year and six months to four years.

4) In the case of injuries to more than one person, the penalty that should be imposed for the most serious of the violations committed is applied, increased up to three times; but the penalty of imprisonment cannot exceed five years.
5) The crime is punishable upon complaint by the injured person, except in the cases provided for in the first and second paragraphs, limited to facts committed in violation of the rules for the prevention of accidents at work or relating to occupational hygiene or which have led to an occupational disease".

13 CRIMES OF RECEIVING STOLEN GOODS, MONEY LAUNDERING, USE OF MONEY, GOODS OR UTILITIES OF ILLEGAL ORIGIN AS WELL AS SELF-LAUNDERING [art. 25-octies of Legislative Decree 231/2001]

Legislative Decree 231 of 16 November 2007 introduced art. 25-octies which expressly provides for the administrative liability of the entity for the crimes of receiving stolen goods, money laundering and use of money, goods or utilities of illegal origin.
The same Legislative Decree 231 of 16 November 2007 expressly repeal, in art. 64, paragraph I, letter f), paragraphs 5 and 6 of article 10 of Law no. 146 of 16 March 2006, concerning the ratification and execution of the United Nations Convention and Protocols against transnational organized crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001.

By virtue of this legislative intervention, the crimes of money laundering and use of money, goods or utilities of illegal origin are no longer relevant, for the purposes of the application of Legislative Decree 231/2001, only if they are carried out transnationally, but make the entity liable even if committed only on the territory of the Italian State.
Finally, art. 3 of Law no. 186 of 15 December 2014 on the emergence and repatriation of capital held abroad and self-laundering provided for the introduction of art. 648-ter. 1 of the penal code entitled "Self-laundering" at the same time also providing for the administrative liability of the entity for the aforementioned crime.
The crimes referred to in art. 25 octies of Legislative Decree 231/01 have been extended, by virtue of Legislative Decree no. 195, of 8 November 2021, in implementation of Directive (EU) 2018/1673 of the European Parliament and of the Council, of 23 October 2018, with the introduction of contraventions, as well as culpable crimes only in cases of money laundering and self-laundering.
Contraventions are punished with imprisonment exceeding a maximum of 1 year or a minimum of 6 months.

13.1 Receiving

Article 648 of the Criminal Code: "Receiving stolen goods"

1. *Except in cases of complicity in the crime, anyone who, in order to procure a profit for himself or others, buys, receives or conceals money or things deriving from any crime, or in any case interferes in having them acquired, received or concealed, is punished with imprisonment from two to eight years and a fine from 516 to 10,329 euros. The penalty is increased when the offence concerns money or property resulting from crimes of aggravated robbery pursuant to the third paragraph of Article 628, of aggravated extortion pursuant to the second paragraph of Article 629, or of aggravated theft pursuant to the first paragraph of Article 625, no. 7-bis).*
2. *The penalty is imprisonment from one to four years and a fine from €300 to €6,000 when the fact concerns money or things deriving from a contravention punishable by imprisonment exceeding a maximum of one year or a minimum of six months. The penalty is increased if the act is committed in the exercise of a professional activity.*
3. *If the fact is particularly tenuous, the penalty of imprisonment of up to six years and a fine of up to € 1,000 in the case of money or things deriving from a crime and the penalty of imprisonment of up to three years and a fine of up to € 800 in the case of money or things deriving from a contravention are applied.*
4. *The provisions of this article shall also apply when the perpetrator of the offence from which the money or property derives is not imputable or is not punishable or when there is no condition of admissibility relating to that offence."*

For this crime, the presence of specific intent on the part of the person acting is required, i.e. the awareness and willingness to profit, for oneself or for others, from the purchase, receipt or concealment of goods of criminal origin.
Knowledge of the criminal origin of the money or asset is also required; The existence of this psychological element could be recognized in the presence of serious and unambiguous circumstances - such as the quality and characteristics of the asset, the unusual economic and contractual conditions of the transaction, the condition or profession of the owner of the assets - from which it can be inferred that the person who acted could be certain of the illicit origin of the money or asset.

13.2 Recycling

Article 648-bis of the Criminal Code: "Money laundering"
Except in cases of complicity in the crime, anyone who replaces or transfers money, goods or other benefits deriving from the crime, or carries out other operations in relation to them, in such

a way as to hinder the identification of their criminal origin, is punished with imprisonment from four to twelve years and a fine from 5,000 to 25,000 euros.
The penalty is imprisonment from two to six years and a fine from €2,500 to €12,500 when the fact concerns money or things deriving from a contravention punishable by imprisonment exceeding a maximum of one year or a minimum of six months.
The penalty is increased when the act is committed in the exercise of a professional activity.
The penalty is reduced if the money, goods or other benefits come from a crime for which the penalty is imprisonment of less than five years. The last paragraph of Article 648 shall apply.

There are three types of conduct sanctioned:

- substitution of money, goods or other benefits deriving from a crime, including culpable crime: this includes all activities aimed at affecting the criminal compendium, separating any possible connection with the crime;
- transfer of the same: it is a specification of the first conduct and consists in the transfer of the values of illicit origin from one subject to another, so as to lose track of their origin and their specific destination;
- carrying out other operations, in such a way as to hinder the identification of their illicit origin: given that "transactions" is a concept of gender, not susceptible to particular limitations, money laundering must be considered, in essence, a free-form crime.

The case, as amended by Legislative Decree no. 195/2021, now also includes negligent conduct.
The crime of money laundering also occurs when the perpetrator of the crime from which the money, goods or other utilities derive is not attributable or is not punishable or when there is no condition of admissibility referring to this crime.
The reserve clause "*outside the cases of conspiracy*" was introduced to comply with the *ne bis in idem*: the subsequent use of the illicit proceeds represents a natural continuation, almost a perfection of the same criminal conduct and therefore a *post factum* not punishable pursuant to art. 648-bis of the Criminal Code. Scholars have observed that the current impunity of the perpetrator or participant in the predicate crime often results in a sort of privilege compared to the subjects responsible for money laundering and in practice leads to a failure to apply the rule.
The offence in question is committed if the Company replaces or transfers money, goods or other benefits deriving from a crime, including culpable negligence, or carries out other operations in relation to them, in such a way as to hinder the identification of their criminal origin.
Possible occasions:

- establishment or participation in an association aimed at transnational money laundering activities;

- investments with free assets;
- sale or lease of owned property;
- anti-money laundering obligations;
- economic movements relating to all kinds of financial relationships.

13.3 Use of illicit money, goods or utilities

Article 648-ter of the Criminal Code: "Use of money, goods or utilities of illicit origin"

Anyone who, except in cases of complicity in the crime and in the cases provided for in articles 648 and 648-bis, uses money, goods or other benefits deriving from a crime in economic or financial activities, shall be punished with imprisonment from four to twelve years and a fine from 5,000 to 25,000 euros. The penalty is imprisonment from two to six years and a fine from €2,500 to €12,500 when the fact concerns money or things deriving from a contravention punishable by imprisonment exceeding a maximum of one year or a minimum of six months. The penalty is increased when the act is committed in the exercise of a professional activity. The penalty is reduced in the case referred to in the fourth paragraph of Article 648. The last paragraph of Article 648 shall apply.

The subsidiarity of this provision with respect to the crimes of receiving stolen goods and money laundering does not leave much room for the case in question: it seems, in fact, difficult to imagine a use in economic or financial activities that is not, precisely, a way in which dirty money is laundered.

13.4 Self-laundering

1. The penalty of imprisonment from two to eight years and a fine from €5,000 to €25,000 is applied to anyone who, having committed or contributed to committing a crime, uses, replaces, transfers, in economic, financial, entrepreneurial or speculative activities, the money, goods or other benefits deriving from the commission of such crime, in such a way as to concretely hinder the identification of their criminal origin.
2. The penalty is imprisonment from one to four years and a fine from €2,500 to €12,500 when the fact concerns money or things deriving from a contravention punishable by imprisonment exceeding a maximum of one year or a minimum of six months.
3. The penalty is reduced if the money, goods or other benefits derive from a crime for which the penalty of imprisonment is established for a maximum of five years.
4. In any case, the penalties provided for in the first paragraph shall apply if the money, goods or other benefits derive from a crime committed under the conditions or purposes referred to in Article 416.bis.1.

5. Except in the cases referred to in the previous paragraphs, conduct for which money, goods or other utilities are used for mere personal use or enjoyment shall not be punished. The penalty is increased when the acts are committed in the exercise of a banking or financial activity or other professional activity.

6. The penalty is reduced by up to half for those who have effectively worked to prevent the conduct from being brought to further consequences or to ensure evidence of the crime and the identification of assets, money and other benefits deriving from the crime.

7. The last paragraph of Article 648 shall apply."

The "new" case of self-laundering makes the perpetrator of the predicate crime punishable (also) for the subsequent "cleaning" activity he himself carries out on criminal profit.

The case, as amended by Legislative Decree no. 195/2021, no longer bears, in the first paragraph, the wording "any non-culpable crime", thus also including negligent conduct.

The most classic common crimes against property (theft, embezzlement, etc.) and all the intrinsically illicit activities typical of organized crime (production and trade of drugs, exploitation of prostitution, etc.) certainly come to attention. Criminal/corporate cases also come to attention: tax or customs fraud, profitable market operations carried out by abusing privileged information or the result of manipulative conduct, the reuse of "black funds" accumulated thanks to the falsification of company records or the proceeds of a contract obtained as a result of corrupt conduct or auction rigging.

Finally, it should be remembered that the crime of self-laundering presupposes the same subjective nature between the perpetrator of the predicate crime and the author of the laundering post factum. Such "sameness" allows us to be able to safely affirm that the precautions and safeguards designed to prevent the subject from committing the predicate crime must be considered suitable (also) to prevent subsequent self-laundering. And this is due to the obvious observation that without a predicate crime there could be no self-laundering.

Therefore, self-laundering can only be discussed when the perpetrator of the predicate crime is the same natural person who then provides for the reuse of the profit, or only in cases where an agreement or criminal planning can be recognized upstream of the commission of the predicate crime.

14 CRIMES RELATING TO NON-CASH PAYMENT INSTRUMENTS [art. 25-octies.1 Legislative Decree 231/2001]

Legislative Decree no. 184/2021, implementing Directive (EU) no. 2019/713 on the fight against fraud and counterfeiting of non-cash means of payment, implemented the hypotheses of administrative liability of entities pursuant to Legislative Decree 231/2001 and the related catalogue of crimes, introducing the crimes referred to in art. 25-octies.1 ("Crimes relating to payment instruments other than cash").

The new predicate offences relating to payment instruments other than cash are potentially capable of establishing the administrative liability of the entity pursuant to Legislative Decree 231/01 if they are carried out in the interest or to the advantage of the Company. 25-octies.1 of Legislative Decree 231/2001 refers to the following crimes:

- Article 493-ter of the Criminal Code – *Undue use and falsification of payment instruments other than cash*;
- Article 493-quarter of the Criminal Code – *Possession and dissemination of equipment, devices or computer programs aimed at committing crimes concerning payment instruments other than cash*;
- Article 640-ter paragraph of the Criminal Code – Computer fraud aggravated by the implementation of a transfer of money, monetary value or virtual currency.

The crime of undue use and falsification of payment instruments other than cash punishes the conduct of the person who, in order to make a profit, uses, without being the holder, payment cards or any other payment instrument other than cash.

The same article punishes the conduct of the person who falsifies or alters payment instruments other than cash, or possesses, transfers or acquires instruments of illicit origin or in any case falsified or altered, and the related payment orders produced with them.

The crime of possession and dissemination of equipment, devices or computer programs aimed at committing crimes concerning payment instruments other than cash, on the other hand, punishes the conduct of the person who claims to be production or transfer actions aimed at procuring for himself or for others equipment, devices or computer programs which, due to technical-construction or design characteristics, are built with the aim of committing crimes of the category just described.

The crime of computer fraud aggravated by the realization of a transfer of money, monetary value or virtual currency constitutes an aggravated hypothesis of the crime of computer fraud, and consists in the transfer of money, monetary value or virtual currency.

Finally, Law no. 137/2023 converting with amendments Decree-Law no. 105/2023 containing "Urgent provisions on criminal proceedings, civil proceedings, forest fire fighting, recovery from drug addiction, health and culture, as well as on the personnel of the judiciary and public administration" introduced the new crime of fraudulent transfer of values.

Article 512-bis of the Criminal Code "Fraudulent transfer of values".

Unless the act constitutes a more serious offence, any person fictitiously attributes to others the ownership or availability of money, goods or other benefits in order to circumvent the provisions of the law on asset prevention or smuggling measures, or to facilitate the commission of one of *the offences referred to in Articles 648, 648 bis and 648 ter, is punished with imprisonment from two to six years.*

15 VIOLATION OF COPYRIGHT [art. 25-novies Legislative Decree 231/2001]

The provision contemplates some crimes provided for by Law 633/1941 to protect copyright (and, in particular, Articles 171, 171-bis, 171-ter, 171-septies and 171-octies), such as, for example:

- the dissemination, without having the right, of copies of intellectual works protected by placing them on telematic networks;
- the abusive duplication and dissemination in the territory of the State of computer programs without prior communication to the SIAE;
- the abusive reproduction, transmission and dissemination of intellectual works (literary, cinematographic, musical, scientific, didactic, etc.).

There are financial penalties up to a maximum of € 774,500 and disqualifications of up to 1 year.

Art. 171 of Law No. 633/1941[12]

Without prejudice to the provisions of art. 171-bis and article 171-ter, anyone who, without having the right to do so, for any purpose and in any form, shall be punished with a fine of between €51 and €2,065:

[…]

(a-bis) makes available to the public, by placing it in a system of telematic networks, by means of connections of any kind, a protected intellectual work, or part of it; […]

The penalty is imprisonment of up to one year or a fine of not less than € 516 if the above crimes are committed on a work of others not intended for advertising, or with usurpation of the authorship of the work, or with deformation, mutilation or other modification of the work itself, if it is offended to the honor or reputation of the author.

Art. 171-bis l.n. 633/1941

1. Any person who unlawfully duplicates, for profit, computer programs or for the same purposes imports, distributes, sells, holds for commercial or entrepreneurial purposes or leases programs contained in media not marked by the Italian Society of Authors and Publishers (SIAE), shall be subject to imprisonment from six months to three years and a fine of between €2,582 and €15,493. The same penalty applies if the act concerns any means intended solely to allow or

[12] Of art. 171 of Law 633/41, only the parts reported here are referred to, therefore all the other conducts described by the provision remain outside the list of predicate crimes

facilitate the arbitrary removal or functional circumvention of devices applied to protect a computer program.

The penalty is not less than two years of imprisonment and the fine is not less than 15,493 euros if the fact is of significant gravity.

2. Any person who, in order to make a profit, reproduces, transfers to another medium, distributes, communicates, presents or demonstrates in public the contents of a database in violation of the provisions of Articles 64-quinquies and 64-sexies, or extracts or re-uses the database in violation of the provisions of Articles 102-bis and 102-ter, or distributes, sells or leases a database, is subject to imprisonment from six months to three years and a fine from 2,582 to 15,493 euros.

The penalty is not less than two years of imprisonment and the fine is not less than 15,493 euros if the fact is of significant gravity.

Art. 171-ter l. n. 633/1941

1. If the act is committed for non-personal use, any person who, for profit, shall be punished with imprisonment from six months to three years and a fine of between EUR 2,582 and EUR 15,493:

a) unlawfully duplicates, reproduces, transmits or disseminates in public by any means, in whole or in part, an intellectual work intended for television, cinema, sale or rental, records, tapes or similar supports or any other medium containing phonograms or videograms of similar musical, cinematographic or audiovisual works or sequences of moving images;

b) unlawfully reproduces, transmits or disseminates in public, by any means, works or parts of literary, dramatic, scientific or didactic, musical or dramatic-musical works, or multimedia, even if included in collective or composite works or databases;

c) although it has not participated in the duplication or reproduction, introduces into the territory of the State, holds for sale or distribution, or distributes, puts on the market, rents or in any case transfers for any reason, screens in public, transmits by means of television by any means, transmits by means of radio, makes the duplications or abusive reproductions referred to in letters a) and b) heard in public;

d) holds for sale or distribution, puts on the market, sells, rents, assigns for any reason, projects in public, transmits by radio or television by any means whatsoever, video cassettes, cassettes, any medium containing phonograms or videograms of musical, cinematographic or audiovisual works or sequences of moving images, or other medium for which it is prescribed, pursuant to this law, the affixing of a mark by the Italian Society of Authors and Publishers (S.I.A.E.), without the same mark or with a counterfeit or altered mark;

e) in the absence of an agreement with the legitimate distributor, retransmits or disseminates by any means an encrypted service received by means of equipment or parts of equipment suitable for the decoding of conditional access transmissions;

f) introduces into the territory of the State, holds for sale or distribution, distributes, sells, leases, assigns for any reason, commercially promotes, installs special decoding devices or elements that allow access to an encrypted service without payment of the fee due.

f-bis) manufactures, imports, distributes, sells, rents, transfers for any reason, advertises for sale or rental, or holds for commercial purposes, equipment, products or components or provides services that have the prevalent purpose or commercial use of circumventing effective technological measures referred to in art. 102-quarter or are mainly designed, produced, adapted or manufactured with the aim of making possible or facilitating the circumvention of the aforementioned measures. Technological measures include those applied, or remaining, following the removal of the same measures as a result of the voluntary initiative of rightholders or agreements between the latter and the beneficiaries of exceptions, or following the execution of measures of the administrative or judicial authority;

(h) unlawfully removes or alters the electronic information referred to in Article 102d, or distributes, imports for distribution, broadcasts by radio or television, communicates or makes available to the public works or other protected subject matter from which the electronic information has been removed or altered.

2. Anyone shall be punished with imprisonment from one to four years and a fine of between €2,582 and €15,493 whoever:

a) reproduces, duplicates, transmits or disseminates illegally, sells or otherwise puts on the market, transfers for any reason or illegally imports more than fifty copies or copies of works protected by copyright and related rights;

a-bis) in violation of art. 16, for profit, communicates to the public by placing it in a system of telematic networks, through connections of any kind, an intellectual work protected by copyright, or part of it;

b) by exercising in an entrepreneurial form the activity of reproduction, distribution, sale or marketing, importation of works protected by copyright and related rights, is guilty of the acts referred to in paragraph 1;

c) promotes or organizes the illegal activities referred to in paragraph 1.

3. The penalty is reduced if the act is particularly tenuous.

4. Conviction for one of the offences referred to in paragraph 1 shall entail:

a) the application of the ancillary penalties referred to in Articles 30 and 32-bis of the Criminal Code;

b) the publication of the judgment in one or more newspapers, at least one of which has a national circulation, and in one or more specialized periodicals;

c) the suspension for a period of one year of the radio and television broadcasting concession or authorisation for the exercise of production or commercial activity.

5. The amounts deriving from the application of the financial penalties provided for in the preceding paragraphs shall be paid to the National Social Security and Assistance Agency for Painters and Sculptors, Musicians, Writers and Dramatic Authors.

Art. 171-septies l. n. 633/1941

1. The penalty referred to in Article 171-ter, paragraph 1, shall also apply:

a) to producers or importers of media not subject to the marking referred to in Article 181-bis, who do not communicate to the SIAE within thirty days from the date of placing on the market on the national territory or importing the data necessary for the unequivocal identification of the media themselves;

b) unless the act constitutes a more serious crime, to anyone who falsely declares that the obligations referred to in Article 181-bis, paragraph 2, of this Law have been fulfilled.

Art. 171-octies L. n. 633/1941

1. If the act does not constitute a more serious offence, any person who, for fraudulent purposes, produces, offers for sale, imports, promotes, installs, modifies, uses for public and private use equipment or parts of equipment suitable for the decoding of audiovisual transmissions with conditional access carried out over the air, shall be punished with imprisonment from six months to three years and a fine of between €2,582 and €25,822. via satellite, cable, in both analogue and digital form. Conditional access is understood to be all audiovisual signals transmitted by Italian or foreign broadcasters in such a way as to render the same. visible only to closed groups of users selected by the person who carries out the broadcast, regardless of the imposition of a fee for the use of this service.

2. The penalty shall not be less than two years' imprisonment and a fine of €15,493 if the offence is of significant gravity.

16 OFFENCES RELATING TO DECLARATIONS TO THE JUDICIAL AUTHORITIES [art. 25-decies of Legislative Decree 231/2001]

Article 377-bis of the Criminal Code: "Inducement not to make statements or to make false statements to the judicial authority"

Unless the act constitutes a more serious crime, any person who, by violence or threat, or by offering or promising money or other benefits, induces the person called upon to make statements before the judicial authority that can be used in criminal proceedings not to make statements or to make false statements, when the latter has the right not to answer, is punished with imprisonment from two to six years

The offence may arise, with reference to hypotheses of investigations or criminal judicial proceedings concerning or connected with the company's activity, also at national level.

17 ENVIRONMENTAL CRIMES [art. 25-undecies of Legislative Decree 231/2001]

17.1 Eco-crimes

Article 452-bis of the Criminal Code: "Environmental pollution"

Anyone who unlawfully causes significant and measurable impairment or deterioration shall be punished with imprisonment from two to six years and a fine from 10,000 to 100,000 euros:

1) water or air, or large or significant portions of the soil or subsoil;

2) of an ecosystem, biodiversity, including agricultural biodiversity, flora or fauna.

When pollution is produced in a protected natural area or subject to landscape, environmental, historical, artistic, architectural or archaeological constraints, or to the detriment of protected animal or plant species, the penalty is increased.

Article 452-quarter of the Criminal Code: "Environmental disaster"

Except in the cases provided for in Article 434, anyone who unlawfully causes an environmental disaster shall be punished with imprisonment from five to fifteen years.

The following constitute environmental disasters alternatively:

1. the irreversible alteration of the balance of an ecosystem;
2. the alteration of the balance of an ecosystem whose elimination is particularly costly and achievable only with exceptional measures;
3. offence to public safety due to the relevance of the fact, the extent of the impairment or its harmful effects or the number of persons offended or exposed to danger.

When the disaster is produced in a protected natural area or subject to landscape, environmental, historical, artistic, architectural or archaeological constraints, or to the detriment of protected animal or plant species, the penalty is increased.

Article 452-quinquies of the Criminal Code: "Culpable crimes against the environment"

If any of the acts referred to in Articles 452-bis and 452-quarter is committed through negligence, the penalties provided for in the same articles shall be reduced from one third to two thirds.

If the commission of the acts referred to in the previous paragraph results in the danger of environmental pollution or environmental disaster, the penalties are further reduced by one third.

Article 452-sexies of the Criminal Code: "Trafficking and abandonment of highly radioactive material".

Unless the fact constitutes a more serious crime, anyone who illegally transfers, purchases, receives, transports, imports, exports, procures to others, holds, transfers, abandons or illegitimately disposes of highly radioactive material shall be punished with imprisonment from two to six years and a fine from €10,000 to €50,000.

The penalty referred to in the first paragraph shall be increased if the act results in the danger of impairment or deterioration:

1. of water or air, or of large or significant portions of the soil or subsoil;
2. of an ecosystem, of biodiversity, including agricultural, of flora or fauna.

If the act results in danger to the life or safety of persons, the penalty is increased by up to half.

Art. 452-octies of the Criminal Code: "Aggravating circumstances".
Where the association referred to in Article 416 is directed, exclusively or concurrently, for the purpose of committing any of the offences provided for in this Title, the penalties provided for in Article 416 shall be increased.
When the association referred to in Article 416-bis is aimed at committing any of the offences provided for in this Title or at acquiring the management or in any case control of economic activities, concessions, authorisations, contracts or public services in environmental matters, the penalties provided for in the same Article 416-bis shall be increased.
The penalties referred to in the first and second paragraphs shall be increased from one third to one half if the association includes public officials or persons in charge of a public service who exercise functions or perform services in environmental matters.

17.2 Offences relating to protected species and sites

Article 727-bis of the Criminal Code: "Killing, destruction, capture, removal, possession of specimens of protected wild animal or plant species"
Unless the act constitutes a more serious crime, anyone who, outside the permitted cases, kills, captures or possesses specimens belonging to a protected wild animal species is punished with imprisonment from one to six months or with a fine of up to 4 months. 000 euros, except in cases where the action concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species.
Anyone who, outside the permitted cases, destroys, takes or keeps specimens belonging to a protected wild plant species shall be punished with a fine of up to 4. 000 euros, except in cases where the action concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species.

For the purposes of Article 727-bis of the Criminal Code, protected wild plant animal species are those listed in Annex IV ("Animal and plant species of Community interest requiring strict protection") of Directive 92/43/EC and in Annex I to Directive 2009/147/EC on the conservation of wild birds.

Article 733-bis of the Criminal Code: "Destruction or deterioration of habitats within a protected site"
Anyone who, outside the permitted cases, destroys a habitat within a protected site or in any case deteriorates it by compromising its state of conservation, shall be punished with imprisonment for up to eighteen months and a fine of not less than 3. 000 euros.

For the purposes of Article 733-bis of the Criminal Code, 'habitats within a protected site' means any habitat of species for which an area is classified as a special protection area pursuant to Article 4(1) or (2) of Directive 2009/147/EC, or any natural habitat or a habitat of species for which a site is designated as a special area of conservation pursuant to Art. 4, paragraph 4, of Directive 92/43/EC.

17.3 Offences provided for by the Consolidated Law on the Environment (Legislative Decree no. 152 of 3 April 2006)

Art. 137: "Criminal sanctions" (with regard to Part Three of the Consolidated Law on the Environment "Regulations on soil protection and fight against desertification, protection of water from pollution and management of water resources")
1. omitted
2. When the conduct described in paragraph 1[13] concerns discharges of industrial waste water[14] containing the hazardous substances included in the families and groups of substances indicated in Tables 5[15] and 3/A[16] of Annex 5 to Part Three of this decree, the penalty shall be imprisonment for a period of three months to three years.
3. Any person who, other than in the cases referred to in paragraph 5, discharges industrial waste water containing the hazardous substances included in the families and groups of substances listed in Tables 5 and 3/A of Annex 5 to Part Three of this decree without complying with the requirements of the authorisation, or with the other requirements of the competent

[13] Anyone who opens or otherwise carries out new discharges of industrial waste water, without authorization, or continues to carry out or maintain such discharges after the authorization has been suspended or revoked, shall be punished with imprisonment from two months to two years or with a fine from one thousand five hundred euros to ten thousand euros
[14] any type of waste water discharged from buildings or installations where commercial or production of goods activities are carried out, other than domestic waste water and run-off rainwater
[15] Arsenic, Cadmium, Total and hexavalent chromium, Mercury, Nickel, Lead, Copper, Selenium, Zinc, Phenols, Persistent mineral oils and persistent petroleum hydrocarbons, Aromatic organic solvents, Nitrogenous organic solvents, Halogenated organic compounds (including chlorinated pesticides), Phosphorus pesticides, Organic tin compounds, Substances classified simultaneously as 'carcinogenic' (R45) and 'hazardous to the aquatic environment' (R50 and 51/53) pursuant to Legislative Decree 3 52 of February 1997, as amended
[16] Cadmium, Mercury, Hexachlorocyclohexane (HCH), DDT, Pentachlorophenol (PCP), Aldrin, dieldrin, endrin, isodrin, Hexachlorobenzene (HCB), Hexachlorobutadiene (HCBB), Chloroform, Carbon tetrachloride (TETRA), Dichloroethane (EDC), Trichloroethylene (TRI), Trichlorobenzene (TCB), Perchloroethylene (PER)

authority pursuant to Articles 107, paragraph 1, and 108, paragraph 4, is punished with imprisonment for up to two years.

4. omitted

5. Any person who, in relation to the substances indicated in Table 5 of Annex 5 to Part III of this Decree, when discharging industrial waste water, exceeds the limit values set out in Table 3 or, in the case of discharge onto the ground, in Table 4 of Annex 5 to Part Three of this Decree, or the more restrictive limits set by the regions or autonomous provinces or by the competent authority pursuant to Art. 107, paragraph 1, is punished with imprisonment for up to 2 years and a fine from 3,000 euros to 30,000 euros. If the limit values set for the substances contained in Table 3/A of the same Annex 5 are also exceeded, imprisonment from six months to three years and a fine from six thousand euros to one hundred and twenty thousand euros are applied.

6. - 10. omitted

11. Anyone who does not comply with the prohibitions on discharges provided for in Articles 103 ("Discharges into the ground") and 104 ("Discharges into the subsoil and groundwater") shall be punished with imprisonment for up to three years.

12. omitted

13. The penalty of imprisonment of between two months and two years shall always apply if the discharge into sea waters by ships or aircraft contains substances or materials for which a total ban on spillage is imposed in accordance with the provisions contained in the relevant international conventions in force and ratified by Italy, unless they are in such quantities as to be rendered rapidly harmless by physical processes, chemical and biological hazards, which occur naturally at sea and provided that they are authorised in advance by the competent authority.

14.omissis

Art. 256: "Unauthorised waste management activities"

1. Anyone who carries out the activity of collection, transport, recovery, disposal, trade and brokerage of waste in the absence of the required authorisation, registration or communication referred to in Articles 208[17], 209[18], 210[19], 211[20], 212[21], 214[22], 215[23] and 216[24] shall be punished:

[17] Article 208 "Single authorisation for new waste disposal and recovery plants"
[18] Article 209 "Renewal of authorisations for companies in possession of environmental certification"
[19] Article 210 "Authorisations in special cases" (Article repealed by Article 39, paragraph 3, Legislative Decree No. 205 of 2010)
[20] Art. 211 "Authorization of research and experimentation facilities"
[21] art. 212 "National Register of Environmental Managers"
[22] Article 214 "Determination of the activities and characteristics of waste for admission to simplified procedures"
[23] Art. 215 "Self-disposal"
[24] Art. 216 "Recovery operations"

a) with the penalty of imprisonment from three months to one year or with a fine from two thousand six hundred euros to twenty-six thousand euros if it is non-hazardous waste;
b) with the penalty of imprisonment from six months to two years and with a fine from two thousand six hundred euros to twenty-six thousand euros if it is hazardous waste.
2. omitted
3. Anyone who builds or manages an unauthorised landfill shall be punished with imprisonment from six months to two years and a fine of between two thousand six hundred and twenty-six thousand euros. The penalty of imprisonment from one to three years and a fine of between five thousand two hundred and fifty-two thousand euros is applied if the landfill is intended, even in part, for the disposal of hazardous waste. The conviction or sentence issued pursuant to Article 444 of the Code of Criminal Code shall result in the confiscation of the area on which the illegal landfill is built if it is owned by the perpetrator or the participant in the crime, without prejudice to the obligations of reclamation or restoration of the state of the places.
4. The penalties referred to in paragraphs 1, 2 and 3 shall be reduced by half in the event of non-compliance with the requirements contained or referred to in the authorisations, as well as in the event of failure to meet the requirements and conditions required for registrations or communications.
5. Any person who, in breach of the prohibition laid down in Article 187 ("Prohibition of the mixing of hazardous waste"), carries out unauthorised waste mixing activities shall be punished with the penalty referred to in paragraph 1(b).
6. Any person who carries out temporary storage at the place of production of hazardous medical waste, in violation of the provisions of Article 227(1)(b), [25]shall be punished with imprisonment from three months to one year or with a fine of between two thousand six hundred and twenty-six thousand euros. omissis.
7. -9. omitted

Art. 257: "Remediation of sites"
1. Any person who causes pollution of the soil, subsoil, surface water or groundwater by exceeding the risk threshold concentrations shall be punished with imprisonment for a period of six months to one year or a fine of between two thousand and six hundred euros and twenty-six thousand euros, if he or she does not carry out the remediation in accordance with the project approved by the competent authority as part of the procedure referred to in Articles 242 ("Operational and administrative procedures" for the remediation of contaminated sites) and

[25] Art. 227 "Electrical and electronic waste, medical waste, end-of-life vehicles and products containing asbestos" This is without prejudice to the special national and EU provisions relating to other types of waste, and in particular those concerning:
a) omitted
b) medical waste: Presidential Decree no. 254 of 15 July 2003;

following. In the event of failure to make the communication referred to in Article 242[26], the offender shall be punished with imprisonment from three months to one year or with a fine of between one thousand euros and twenty-six thousand euros.

2. The penalty of imprisonment from one year to two years and the penalty of a fine of between five thousand two hundred euros and fifty-two thousand euros shall be applied if the pollution is caused by dangerous substances.

3. - 4. omitted

Art. 258: "Violation of the obligations of communication, of keeping compulsory registers and forms"

1. - 3. omitted

4. omissis. The penalty referred to in Article 483 of the Criminal Code applies[27] to those who, in the preparation of a certificate of analysis of waste, provide false information on the nature, composition and chemical-physical characteristics of the waste and to those who use a false certificate during transport.

Art. 259: "Illegal trafficking of waste"

1. Any person who carries out a shipment of waste constituting illicit traffic within the meaning of Article 26[28] of Regulation (EEC) No 259/1993 of 1 February 1993 ("on the supervision and control of shipments of waste within, into and out of" the European Community), or carries out a shipment of waste listed in Annex II ("GREEN LIST OF WASTE") to that Regulation in breach of Article 1, paragraph 3, letters a), b), e) and d) of the same regulation is punished with a fine from one thousand five hundred and fifty euros to twenty-six thousand euros and with

[26] "The operator must precede the interventions referred to in paragraph 1 by a specific communication to the municipality, province, region, or autonomous province in whose territory the harmful event is expected, as well as to the Prefect of the province who within the following twenty-four hours informs the Minister of the Environment and Protection of Land and Sea. This communication must cover all the relevant aspects of the situation, and in particular the details of the operator, the characteristics of the site concerned, the environmental matrices presumably involved and the description of the interventions to be carried out. The communication, as soon as it is received by the municipality, immediately enables the operator to carry out the interventions referred to in paragraph 1"

[27] Article 483 of the Code of Civil Procedure "Ideological falsehood committed by a private individual in a public act" 1. Anyone who falsely attests to the public official, in a public document, facts of which the act is intended to prove the truth, shall be punished with imprisonment of up to two years 2. If it is a question of false attestations in civil status documents, imprisonment cannot be less than three months.

[28] Illicit trafficking shall mean any shipment of waste: (a) carried out without notification having been sent to all the competent authorities concerned in accordance with this Regulation, or; (b) carried out without the consent of the competent authorities concerned, in accordance with this Regulation, or; (c) carried out with the consent of the competent authorities concerned obtained by falsification, misrepresentation or fraud, or; (d) not specifically specified in the accompanying document, or; (e) which involves disposal or recovery in breach of Community or international rules, or; f) contrary to the provisions of Articles 14, 16, 19 and 21.

imprisonment for up to two years. The penalty is increased in the case of shipment of hazardous waste.
2. omitted

Article 452-quaterdecies of the Criminal Code: "Organised activities for the illegal trafficking of waste"[29]
1. Anyone who, in order to obtain an unfair profit, with several operations and through the setting up of means and continuous organized activities, transfers, receives, transports, exports, imports, or otherwise illegally manages large quantities of waste shall be punished with imprisonment from one to six years.
2. In the case of highly radioactive waste, the penalty shall be imprisonment of between three and eight years.
3. – 4 - 5. omitted

Article 260-bis: "Computer system for the control of waste traceability"
1. -5. omitted
6. The penalty referred to in Article 483 of the Criminal Code shall apply.[30] to those who, in the preparation of a certificate of analysis of waste, used as part of the waste traceability control system, provide false information on the nature, composition and chemical-physical characteristics of the waste and to those who enter a false certificate in the data to be provided for the purposes of waste traceability.
7. omissis. The penalty referred to in art. 483 of the Criminal Code in the case of transport of hazardous waste. The latter penalty also applies to the person who, during transport, makes use of a certificate of analysis of waste containing false information on the nature, composition and chemical-physical characteristics of the waste transported.
8. A transporter who accompanies the transport of waste with a paper copy of the fraudulently altered SISTRI - AREA Handling form shall be punished with the penalty provided for in the combined provisions of Articles 477 ("Material falsehood committed by a public official in certificates or administrative authorisations") and 482 ("Material falsehood committed by a private individual")[31] of the Criminal Code. The penalty is increased by up to one third in the case of hazardous waste.

[29] Article replaced by Legislative Decree 21/18 "Provisions for the implementation of the principle of delegation of the reservation of the code in criminal matters pursuant to Article 1, paragraph 85, letter q), of Law no. 103 of 23 June 2017" which provided for the repeal of the previous Article 260 of Legislative Decree 152/06 by transferring its content to a new article of the Criminal Code.
[30] see note 25
[31] Article 477 of the Criminal Code "A public official who, in the exercise of his functions, forges or alters certificates or administrative authorizations, or, by means of forgery or alteration, makes the conditions

9. - 9-ter. omitted

Art. 279: "Sanctions" (with regard to Part Five of the Consolidated Law on the Environment "Regulations on air protection and reduction of emissions into the atmosphere")

1. omitted

2. Any person who, in the course of operating an establishment, infringes the emission limit values or requirements laid down in the permit, Annexes I, II, III or V[32] to Part Five of this Decree, the plans and programmes or the legislation referred to in Article 271 ('Emission limit values and requirements for installations and activities') or the requirements otherwise imposed by the competent authority pursuant to this Title shall be punished by imprisonment for up to one year or with a fine of up to 1,032 euros. If the limit values or requirements violated are contained in the integrated environmental permit, the penalties provided for by the legislation governing that permit shall apply.

3. - 4. omitted

5. In the cases provided for in paragraph 2, the penalty of imprisonment of up to one year shall always be applied if the exceeding of the emission limit values also results in the air quality limit values provided for by current legislation being exceeded

6. - 7. omitted

17.4 Offences relating to international trade in endangered animals (Law no. 150 of 7 February 1992)

Art. 1.

1. Unless the act constitutes a more serious offence, any person who, in breach of the provisions of Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, for specimens belonging to the species listed in Annex A to the same Regulation, as subsequently amended, shall be punished with imprisonment from three months to one year and a fine of between fifteen million and one hundred and fifty million lire in respect of specimens belonging to the species listed in Annex A to the same Regulation, as subsequently amended:

(a) imports, exports or re-exports specimens, under any customs procedure, without the required certificate or licence, or with an invalid certificate or licence within the meaning of Article

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required for their validity appear to have been fulfilled, shall be punished with imprisonment from six months to three years."
Article 482 of the Criminal Code "If any of the acts provided for in Articles 476, 477 and 478 is committed by a private individual, or by a public official outside the exercise of his functions, the penalties established in the said articles shall be applied respectively, reduced by one third"

[32] Annexes to Part Five:
- ANNEX I - Emission values and requirements
- ANNEX II - Large combustion plants
- ANNEX III - Emissions of volatile organic compounds
- ANNEX V - Dusts and liquid organic substances

11(2a) of Council Regulation (EC) No 338/97 of 9 December 1996, as subsequently implemented and amended;
b) fails to comply with the requirements for the safety of the specimens, specified in a licence or certificate issued in accordance with Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, and Commission Regulation (EC) No. 939/97 of 26 May 1997 and subsequent amendments;
c) uses the aforementioned specimens in a manner that does not comply with the requirements contained in the authorisation or certification measures issued together with the import licence or subsequently certified;
(d) transports or causes to be transited, including on behalf of third parties, specimens without the required licence or certificate, issued in accordance with Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, and Commission Regulation (EC) No 939/97 of 26 May 1997, as amended, and, in the case of export or re-export from a third country which is a contracting party to the Washington Convention, issued in accordance with it, i.e. without sufficient proof of their existence;
e) trades artificially reproduced plants contrary to the requirements established on the basis of Article 7, paragraph 1, letter b) of Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, and Commission Regulation (EC) No. 939/97 of 26 May 1997 and subsequent amendments;
f) holds, uses for profit, purchases, sells, exhibits or holds for sale or for commercial purposes, offers for sale or otherwise transfers copies without the required documentation.
2. In the event of recidivism, the sanction of imprisonment from three months to two years and a fine of between twenty million and two hundred million lire shall be applied. If the aforementioned crime is committed in the exercise of business activities, the conviction is followed by the suspension of the license from a minimum of six months to a maximum of eighteen months.
3. omitted

Art. 2.
1. Unless the act constitutes a more serious offence, any person who, in breach of the provisions of Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, for specimens belonging to the species listed in Annexes B and C of the same Regulation shall be punished with a fine of between twenty million and two hundred million lire or imprisonment for a period of three months to one year:
(a) imports, exports or re-exports specimens, under any customs procedure, without the required certificate or licence, or with an invalid certificate or licence within the meaning of Article

11(2a) of Council Regulation (EC) No 338/97 of 9 December 1996, as subsequently implemented and amended;
b) fails to comply with the requirements for the safety of the specimens, specified in a licence or certificate issued in accordance with Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, and Commission Regulation (EC) No. 939/97 of 26 May 1997 and subsequent amendments;
c) uses the aforementioned specimens in a manner that does not comply with the requirements contained in the authorisation or certification measures issued together with the import licence or subsequently certified;
(d) transports or makes transit, including on behalf of third parties, specimens without a licence or the required certificate, issued in accordance with Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, and Commission Regulation (EC) No 939/97 of 26 May 1997, as amended, and, in the case of export or re-export from a third country party to the Washington Convention, issued in accordance with it, i.e. without sufficient proof of their existence;
e) trades artificially reproduced plants contrary to the requirements established on the basis of Article 7, paragraph 1, letter b) of Council Regulation (EC) 338/97 of 9 December 1996, as subsequently implemented and amended, and Commission Regulation (EC) No. 939/97 of 26 May 1997 and subsequent amendments;
f) holds, uses for profit, buys, sells, exhibits or holds for sale or for commercial purposes, offers for sale or otherwise transfers specimens without the required documentation, limited to the species listed in Annex B of the Regulations
2. In the event of recidivism, the penalty shall be imprisonment for a period of three months to one year and a fine of between twenty million and two hundred million lire. If the aforementioned crime is committed in the exercise of business activities, the conviction is followed by the suspension of the license from a minimum of four months to a maximum of twelve months.
3. - 5. omitted

Article 3a.
1. In the cases referred to in Article 16(1)(a), (c), (d), (e) and (l) of Council Regulation (EC) No 338/97 of 9 December 1996, as amended, concerning the falsification or alteration of certificates, licences, import notifications, declarations and communications of information for the purpose of acquiring a licence or certificate, the penalties referred to in Book II, Title VII, Chapter III ("Of falsity in deeds") of the Criminal Code shall apply.
2. omitted

Art. 6.

1. Without prejudice to the provisions of Law no. 157 of 11 February 1992 (2), it is forbidden for anyone to keep live specimens of mammals and reptiles of wild species and live specimens of mammals and reptiles from captive reproductions that constitute a danger to public health and safety.

2. - 3. omitted

4. Anyone who contravenes the provisions referred to in paragraph 1 shall be punished with imprisonment for up to three months or with a fine of between fifteen million and two hundred million lire

5. - 6. omitted

17.5 Crimes relating to the protection of stratospheric ozone and the environment (Law no. 549 of 28 December 1993)

Art.3: "Cessation and reduction of the use of harmful substances"

1. The production, consumption, import, export, possession and marketing of the harmful substances referred to in Table A ("Stratospheric ozone depleting substances")[33] annexed to this Law shall be governed by the provisions of Regulation (EC) No 3093/94.

2. From the date of entry into force of this Law, the authorisation of installations involving the use of the substances listed in Table A annexed to this Law shall be prohibited, without prejudice to the provisions of Regulation (EC) No 3093/94.

3. By decree of the Minister for the Environment, in agreement with the Minister for Industry, Commerce and Crafts, the date until which the use of substances referred to in Table A, annexed to this law, is permitted shall be established by decree of the Minister for the Environment, in agreement with the Minister for Industry, Commerce and Crafts, in accordance with the provisions and timetables of the phase-out programme referred to in Regulation (EC) No 3093/94. for the maintenance and recharging of appliances and systems already sold and installed on the date of entry into force of this law, and the times and procedures for the cessation of the use of the substances referred to in table B ("Substances subject to the special control regime provided for by law")[34]), annexed to this law, and the essential uses of the substances referred to in table B are also identified, in relation to which exceptions to the provisions of this paragraph may be granted. The production, use, marketing, import and export of the substances

[33] Stratospheric ozone depleting substances.
- Group I: Fully halogenated hydrocarbons containing fluorine and chlorine (clofluorocarbons, CFCs);
- Group II: Fully halogenated hydrocarbons also containing bromine (halons);
- Group III: trichloroethane;
- Group IV: carbon tetrachloride.

[34] Substances subject to the special control regime provided for by law.
- methyl chloride;
- methyl bromide;
- partially halogenated hydrocarbons of the HCFC and HBFC series.

listed in Tables A and B annexed to this Law shall cease on 31 December 2008, with the exception of substances, processing and production not included in the scope of Regulation (EC) No 3093/94, as defined therein.

4. The adoption of deadlines other than those referred to in paragraph 3, derived from the ongoing revision of Regulation (EC) No 3093/94, entails the replacement of the deadlines indicated in this Law and the simultaneous adaptation to the new deadlines.

5. Companies that intend to cease the production and use of the substances referred to in Table B, annexed to this law, before the prescribed deadlines may conclude specific programme agreements with the Ministries of Industry, Commerce and Crafts and the Environment, in order to take advantage of the incentives referred to in Article 10, with priority related to the anticipation of the decommissioning times, in accordance with the procedures to be established by decree of the Minister of Industry, Commerce and Crafts, in agreement with the Minister of the Environment.

6. Anyone who violates the provisions of this article shall be punished with imprisonment for up to two years and a fine of up to three times the value of the substances used for production, imported or marketed purposes. In the most serious cases, the conviction is followed by the revocation of the authorization or license on the basis of which the illegal activity is carried out.

17.6 Crimes relating to pollution caused by ships (Legislative Decree no. 202 of 6 November 2007)

Art.8: "Malicious pollution"

1. Unless the act constitutes a more serious offence, the Master of a ship, flying any flag, as well as the members of the crew, the owner and the shipowner, in the event that the violation has occurred with their concurrence, who intentionally violate the provisions of art. 4[35] shall be punished with imprisonment from six months to two years and with a fine from 10,000 to 50,000 euros.

2. If the violation referred to in paragraph 1 causes permanent damage or, in any case, of particular seriousness, to the quality of the water, to animal or plant species or parts thereof, imprisonment from one to three years and a fine of between €10,000 and €80,000 shall be imposed.

3. Damage shall be considered to be particularly serious when the elimination of its consequences is of particular complexity from a technical point of view, or particularly onerous or achievable only by exceptional measures.

[35] Art. 4. Prohibitions - 1. Without prejudice to the provisions of Article 5, in the areas referred to in Article 3(1), it shall be prohibited for ships, without any discrimination on grounds of nationality, to spill into the sea the pollutants referred to in Article 2(1)(b) or to cause the spillage of such substances.

Art.9: "Culpable pollution"
1. Unless the act constitutes a more serious offence, the Master of a ship, flying any flag, as well as the members of the crew, the owner and the shipowner, in the event that the violation has occurred with their cooperation, who negligently violate the provisions of art. 4, shall be punished with a fine of between €10,000 and €30,000.
2. If the violation referred to in paragraph 1 causes permanent damage or, in any case, of particular seriousness, to the quality of the water, to animal or plant species or parts thereof, imprisonment from six months to two years and a fine of between €10,000 and €30,000 shall be imposed.
3. omissis.

18 OFFENCES RELATING TO THE EMPLOYMENT OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS [art. 25-duodecies of Legislative Decree 231/2001]

Article 22, paragraph 12-bis of Legislative Decree no. 286 of 25 July 1998 ("Consolidated text of the provisions concerning the regulation of immigration and rules on the condition of foreigners"):
The penalties for the offence provided for in paragraph 12[36] are increased from one third to one-half:
a) if the number of workers employed is greater than three;
b) if the workers employed are minors of non-working age;
c) if the workers employed are subject to the other particularly exploitative working conditions referred to in the third paragraph of Article 603-bis[37] of the Criminal Code.

The offence can occur in the aggravated cases of the offence involving the employer who employs foreign workers without a residence permit, or with an expired permit – and whose renewal has not been requested within the terms of the law – revoked or annulled, and, in detail, when the exploitation of irregular labour exceeds certain established limits, in terms of the number of workers, age and working conditions, established in Legislative Decree 286/98, the so-called "Consolidated Law on Immigration".
Law no. 161/2017 expanded the cases already provided for by art. 25-duodecies, also introducing those relating to the provisions against illegal immigration (art. 12, paragraph 3, 3 bis, 3 ter and paragraph 5, Legislative Decree no. 286/1998):

[36] Article 22, paragraph 12: An employer who employs foreign workers who do not have a residence permit provided for in this article, or whose permit has expired and whose renewal has not been requested, revoked or cancelled within the terms of the law, shall be punished with imprisonment from six months to three years and with a fine of 5000 euros for each worker employed.
[37] "illegal intermediation and exploitation of labour", aimed at repressing the phenomena of exploitation of irregular labour (so-called "caporalato")

3. Unless the act constitutes a more serious offence, any person who, in breach of the provisions of this consolidated text, promotes, directs, organises, finances or carries out the transport of foreign nationals into the territory of the State or carries out other acts aimed at illegally procuring their entry into the territory of the State, or of another State of which the person is not a national or does not have a permanent residence permit, shall be punished with imprisonment from five to fifteen years and a fine of 15,000 euros for each person in the event that: a) the act concerns the illegal entry or stay in the territory of the State of five or more persons; b) the transported person has been exposed to danger to his life or safety in order to procure his or her illegal entry or stay; c) the transported person has been subjected to inhuman or degrading treatment in order to procure his or her illegal entry or stay; d) the act is committed by three or more persons in conjunction with each other or using international transport services or forged or altered documents or in any case illegally obtained; e) the perpetrators of the act have the availability of weapons or explosive materials.

3-bis. If the acts referred to in paragraph 3 are committed in two or more of the cases referred to in letters a), b), c), d) and e) of the same paragraph, the penalty provided for therein shall be increased. 3-ter. The prison sentence shall be increased from one third to one half and a fine of €25,000 shall be applied to each person if the acts referred to in paragraphs 1 and 3: a) are committed in order to recruit persons to be used for prostitution or in any case for sexual or labour exploitation, or concern the entry of minors to be used in illegal activities in order to facilitate their exploitation; b) they are committed with the aim of making profit, even indirectly.

5. Except in the cases provided for in the preceding paragraphs, and unless the act constitutes a more serious offence, any person who, in order to derive an unfair profit from the illegal status of the foreign national or in the context of the activities punished under this article, encourages the foreigner to remain in the territory of the State in violation of the provisions of this consolidated text, He is punished with imprisonment of up to four years and a fine of up to € 15,493.71. When the act is committed in conjunction with two or more persons, or concerns the permanence of five or more persons, the penalty is increased from one third to one-half.

19 CRIMES OF RACISM AND XENOPHOBIA [ART. 25-TERDECIES LEGISLATIVE DECREE 231/2001]

The 2017 European law on "Provisions for the fulfilment of obligations arising from Italy's membership of the European Union" introduced the crimes of racism and xenophobia:

1.In relation to the commission of the crimes referred to in Article 3, paragraph 3-bis, of Law No. 654 of 13 October 1975, a fine of between two hundred and eight hundred shares shall be applied to the entity.

2. In cases of conviction for the offences referred to in paragraph 1, the disqualification sanctions provided for in Article 9, paragraph 2, shall apply to the entity for a period of not less than one year.
3. If the entity or one of its organisational units is permanently used for the sole or predominant purpose of enabling or facilitating the commission of the offences referred to in paragraph 1, the sanction of permanent disqualification from carrying out the activity pursuant to Article 16, paragraph 3 shall apply.
The crimes referred to in Article 3, paragraph 3-bis, of Law 654/1975, subsequently replaced by Article 604 bis "Propaganda and incitement to commit crimes for reasons of racial, ethnic and religious discrimination", paragraph 3, of the Criminal Code,[38] punish propaganda or incitement and incitement, committed in such a way that there is a real danger of dissemination, based in whole or in part on serious minimization, on the denial or apology of the Holocaust or crimes of genocide, crimes against humanity and war crimes, as defined by Articles 6, 7 and 8 of the Statute of the International Criminal Court (ratified pursuant to Law 232/1999).

20 FRAUD IN SPORTS COMPETITIONS, ABUSIVE EXERCISE OF GAMING OR BETTING AND GAMES OF CHANCE EXERCISED BY MEANS OF PROHIBITED MACHINES [art. 25-quaterdecies of Legislative Decree 231/2001]

Article 25-quaterdecies of Legislative Decree 231/2001 on the offences of fraud in sports competitions and the abusive exercise of gaming or betting activities was introduced by Law no. 39 of 3 January 2019, concerning the "Ratification and execution of the Council of Europe Convention on Sports Manipulation, done in Magglingen on 18 September 2014".

art. 1 L. 401/1989 – "Fraud in sports competitions"
1. Any person who offers or promises money or other benefits or advantages to any of the participants in a sports competition organised by federations recognised by the Italian National Olympic Committee (CONI), the Italian Union for the Enhancement of Equine Breeds (UNIRE) or other sports bodies recognised by the State and its member associations, in order to achieve a result other than that resulting from the correct and fair conduct of the competition, or commits other fraudulent acts aimed at the same purpose, shall be punished with imprisonment from one month to one year and with a fine from five hundred thousand to two million lire. In minor cases, only the penalty of a fine is applied.

[38] Article replaced by Legislative Decree 21/18 "Provisions for the implementation of the principle of delegation of the reservation of the code in criminal matters pursuant to Article 1, paragraph 85, letter q), of Law No. 103 of 23 June 2017" which provided for the repeal of the previous Article 3 of Law 654/1975 by transferring its content to a new article of the Criminal Code.

2. The same penalties apply to the participant in the competition who accepts the money or other benefit or advantage, or accepts the promise thereof.
3. If the result of the competition is influential for the purposes of regularly exercised prediction and betting competitions, the acts referred to in paragraphs 1 and 2 shall be punished with imprisonment from three months to two years and with a fine of between five million and fifty million lire.

art. 4 L. 401/1989 – "Abusive exercise of gaming or betting"
1. Any person who illegally carries out the organisation of the game of the lottery, betting or prediction competitions which the law reserves to the State or to another concessionaire shall be punished with imprisonment of between three and six years and a fine of between EUR 20,000 and EUR 50,000. The same penalty applies to those who, in any case, organize bets or prediction competitions on sports activities managed by the Italian National Olympic Committee (CONI), by the organizations dependent on it or by the Italian Union for the Increase of Equine Breeds (UNIRE). Anyone who illegally carries out the organisation of public bets on other competitions of persons or animals and games of skill shall be punished with imprisonment from three months to one year and with a fine of not less than one million lire. The same penalties shall apply to anyone who sells on the national territory, without the authorisation of the Customs and Monopolies Agency, tickets for lotteries or similar events of fate from foreign countries, as well as to anyone who participates in such operations by collecting reserved bets and crediting the related winnings and promoting and advertising carried out by any means of dissemination. Anyone who organizes, exercises and collects at a distance, without the prescribed license, any game established or regulated by the Customs and Monopolies Agency shall also be punished with imprisonment from three to six years and a fine from 20,000 to 50,000 euros. Whoever, even if the holder of the prescribed concession, organizes, exercises and collects remotely any game established or regulated by the Customs and Monopolies Agency with methods and techniques other than those provided for by law shall be punished with imprisonment from three months to one year or with a fine from 500 to 5,000 euros.
2. In the case of competitions, games or bets managed in the manner referred to in paragraph 1, and except in cases of complicity in one of the offences provided for therein, anyone who in any way advertises their exercise shall be punished with imprisonment for up to three months and a fine of between one hundred thousand and one million lire. The same penalty applies to anyone who, in any way, advertises games, bets and lotteries in Italy, accepted by anyone abroad.
3. Anyone who participates in competitions, games or bets managed in the manner referred to in paragraph 1, except in cases of complicity in one of the offences provided for therein, shall

be punished with imprisonment for up to three months or with a fine of between one hundred thousand and one million lire.

4. The provisions of paragraphs 1 and 2 shall also apply to games of chance played by means of machines prohibited by Article 110 of Royal Decree No 773 of 18 June 1931, as amended by Law No 507 of 20 May 1965, and as last amended by Article 1 of Law No 904 of 17 December 1986.

4-bis. The penalties referred to in this article shall be applied to anyone who, without a concession, authorisation or licence pursuant to Article 88 of the Consolidated Law on Public Security, approved by Royal Decree No. 773 of 18 June 1931, as amended, carries out in Italy any organised activity in order to accept or collect or in any way encourage the acceptance, also by telephone or telematics, of bets of any kind accepted by anyone in Italy or abroad.

4-ter. Without prejudice to the powers conferred on the Ministry of Finance by Article 11 of Decree-Law No 557 of 30 December 1993, converted, with amendments, by Law No 133 of 26 February 1994, and pursuant to Article 3, paragraph 228, of Law No 549 of 28 December 1995, the penalties referred to in this article shall apply to anyone who collects or books lottery entries, prediction competitions or betting by telephone or telematics, where without specific authorisation from the Ministry of Economy and Finance - Customs and Monopolies Agency to use these means for the aforementioned collection or booking.

4-quarter. The Customs and Monopolies Agency is required to implement, in collaboration with the Guardia di Finanza and the other police forces, an extraordinary plan to control and combat the illegal activity referred to in the previous paragraphs with the aim of determining the emergence of the collection of illegal gaming.

21 TAX CRIMES [art.25 quinquiesdecies Legislative Decree 231/01]

Law no. 157 of 19 December 2019 converted with amendments Legislative Decree no. 124 of 26 October 2019, containing "Urgent provisions on tax matters and for non-deferrable needs", providing for the administrative liability of legal persons also with reference to tax crimes, introduced in art. 25-quinquiesdecies of Legislative Decree 231/01.

The number of offences thus introduced was further amplified by Legislative Decree no. 75/2020, implementing Directive (EU) 2017/1371, on the fight against fraud to the Union's financial interests by means of criminal law (the so-called PIF Directive), which introduced, with regard to tax crimes, new offences applicable only if committed in the context of cross-border fraudulent schemes and in order to evade value added tax for a total amount of not less than ten million euros.

Finally, the recent Legislative Decree 156/2022 containing "Corrective and supplementary provisions of Legislative Decree no. 75 of 14 July 2020, implementing Directive (EU) 2017/1371,

has extended the punishability of the crimes of unfaithful declaration and fraudulent declaration through false invoices and other artifices even by way of mere attempt.
The same Legislative Decree amended paragraph 1-bis of art. 25 quinquiesdecies of Legislative Decree 231/01 by noting the cross-border profile and the connection of the facts to the territory of at least one Member State, and also redefining the concept of "serious VAT fraud", previously introduced by Legislative Decree 75/2000, with the clarification that the liability of the entity implies VAT evasion equal to or greater than € 10 million.
The tax crimes thus referred to in Article 25-quinquiedecies of Legislative Decree 231/2001 are the following:

- Art. 2. – *Fraudulent declaration through the use of invoices or other documents for non-existent transactions;*
- art. 3 – *Fraudulent declaration by means of other artifices;*
- art. 4 – Unfaithful declaration;
- art. 5 – Failure to declare;
- Article 8 – *Issuance of invoices or other documents for non-existent transactions;*
- Article 10 – *Concealment or destruction of accounting documents;*
- Article 10-quarter – Undue compensation.
- Article 11 – *Fraudulent evasion of the payment of taxes*.

Art. 2 Legislative Decree 74/2000 – "Fraudulent declaration through the use of invoices or other documents for non-existent transactions"
1. Any person who, in order to evade income or value added tax, by means of invoices or other documents for non-existent transactions, indicates fictitious liabilities in one of the declarations relating to such taxes, shall be punished by imprisonment of between four and eight years. 2. The act shall be deemed to have been committed by means of invoices or other documents for non-existent transactions when such invoices or documents are recorded in the compulsory accounting records, or are held as evidence before the tax authorities. 2-bis. If the amount of the fictitious liabilities is less than one hundred thousand euros, imprisonment from one year and six months to six years is applied.

Art. 3 of Legislative Decree 74/2000 – "Fraudulent declaration by means of other artifices"
1. Except in the cases provided for in Article 2, any person who, in order to evade income or value added tax, by carrying out objectively or subjectively simulated transactions or by using false documents or other fraudulent means capable of hindering the assessment and misleading the tax authorities, shall be punished with imprisonment of between three and eight years. indicates in one of the declarations relating to such taxes assets for an amount lower than the actual amount or fictitious liabilities or fictitious receivables and withholdings, when, together: a)

the evaded tax is higher, with reference to some of the individual taxes, than thirty thousand euros; b) the total amount of assets evaded from taxation, including by means of the indication of fictitious liabilities, is greater than five per cent of the total amount of the assets indicated in the tax return, or in any case, is greater than one million five hundred thousand euros, or if the total amount of fictitious credits and withholdings decreasing the tax is greater than five per cent of the amount of the tax itself or in any case thirty thousand. 2. The act shall be deemed to have been committed using false documents when those documents are recorded in the compulsory accounting records or are held for the purposes of evidence against the tax authorities. 3. For the purposes of applying the provision of paragraph 1, the mere violation of the obligations to invoice and record assets in the accounting records or the mere indication in invoices or entries of assets lower than the actual ones shall not constitute fraudulent means.

Art. 4 of Legislative Decree 74/2000 – "Unfaithful declaration"

1. Except in the cases provided for in Articles 2 and 3, any person who, for the purpose of evading income or value added tax, indicates in one of the annual returns relating to such taxes assets for an amount lower than the actual amount or non-existent liabilities, shall be punished with imprisonment of between two years and four years and six months. when, jointly: a) the tax evaded is higher, with reference to some of the individual taxes, than one hundred thousand euros; b) the total amount of assets evaded from taxation, including through the indication of non-existent liabilities, is greater than ten per cent of the total amount of the assets indicated in the tax return, or, in any case, is greater than two million euros. 1-bis. For the purposes of applying the provision of paragraph 1, the incorrect classification, the valuation of objectively existing assets or liabilities, with respect to which the criteria actually applied have in any case been indicated in the financial statements or in other documentation relevant for tax purposes, the violation of the criteria for determining the year of competence, the non-inherence, of the non-deductibility of real liabilities. 1-ter. Except in the cases referred to in paragraph 1-bis, assessments which, taken as a whole, differ by less than 10 per cent from the correct ones shall not give rise to punishable acts. The amounts included in this percentage shall not be taken into account in verifying whether the thresholds of punishability provided for in paragraph 1, letters a) and b) have been exceeded (1).

Art. 5 of Legislative Decree 74/2000 – "Omitted declaration"

1. Any person who, in order to evade income or value added taxes, fails to submit one of the declarations relating to such taxes, when the tax evaded is higher, with reference to any of the individual taxes, shall be punished with imprisonment of between two and five years, when the tax evaded is higher, with reference to any of the individual taxes, than fifty thousand euros. 1-bis. Anyone who does not submit, being obliged to do so, the withholding tax declaration is *punished with imprisonment from two to five years, when the amount of unpaid withholding taxes is greater than fifty thousand euros. 2. For the purposes of the provision provided for in paragraphs 1 and 1-bis, a declaration submitted within ninety days of the expiry of the deadline or not signed or not drawn up on a printed document conforming to the prescribed model shall not be considered omitted (1).*

Art.8 Legislative Decree 74/2000 – "Issuance of invoices or other documents for non-existent transactions"

1. Any person who, in order to allow third parties to evade income or value added tax, issues or issues invoices or other documents for non-existent transactions shall be punished with imprisonment of between four and eight years. 2. For the purposes of applying the provision provided for in paragraph 1, the issuance or issuance of several invoices or documents for non-existent transactions during the same tax period shall be considered as a single offence. 2-bis. If the untrue amount indicated in the invoices or documents, per tax period, is less than one hundred thousand euros, imprisonment from one year and six months to six years is applied.

Art. 10 of Legislative Decree 74/2000 – "Concealment or destruction of accounting documents"

1. Unless the act constitutes a more serious offence, any person who, in order to evade income or value added tax or to allow third parties to evade it, conceals or destroys all or part of the accounting records or documents whose retention is compulsory shall be punished with imprisonment of between three and seven years. so as not to allow the reconstruction of income or turnover.

Article 10-quarter of Legislative Decree 74/2000 – "Undue compensation"

1. Any person who fails to pay the sums due shall be punished with imprisonment from six months to two years, using as compensation, pursuant to Article 17 of Legislative Decree no. 241 of 9 July 1997, undue credits, for an annual amount exceeding fifty thousand euros. 2. Any person who fails to pay the sums due, using as compensation, pursuant to Article 17 of Legislative Decree No 241 of 9 July 1997, non-existent credits for an annual amount exceeding fifty thousand euros, shall be punished with imprisonment from one year and six months to six years (1).

Art. 11 of Legislative Decree 74/2000 – "Fraudulent evasion of the payment of taxes"

1. Any person who, in order to avoid payment of income or value added taxes or interest or administrative penalties relating to such taxes for a total amount exceeding fifty thousand euros, simulates or carries out other fraudulent acts on his own or on the assets of others capable of rendering the compulsory collection procedure wholly or partially ineffective shall be punished with imprisonment from six months to four years. If the amount of taxes, penalties and interest *is greater than two hundred thousand euros, imprisonment from one year to six years is applied. 2. Any person who, in order to obtain for himself or for others a partial payment of taxes and related accessories, indicates in the documentation submitted for the purposes of the tax settlement procedure assets for an amount lower than the actual amount or fictitious liabilities for a total amount exceeding fifty thousand euros, shall be punished with imprisonment from six months to four years. If the amount referred to in the previous period is greater than two hundred thousand euros, imprisonment from one year to six years is applied.*

22 OFFENCES RELATING TO SMUGGLING [25 SEXIESDECIES OF LEGISLATIVE DECREE 231/01]

The PIF Directive, i.e. the Directive on the fight against fraud affecting the financial interests of the Union through criminal law, was transposed through the legislative decree implementing Directive (EU) 2017/1371, with a consequent expansion of the range of predicate offences provided for in Legislative Decree 231/01.

In particular, the offences referred to in Presidential Decree no. 43 of 23 January 1973 - Consolidated text of the legislative provisions on customs have been added to the aforementioned catalogue.

Specifically, the administrative liability of legal persons has also been introduced in the event of smuggling offences, providing for modulated penalties depending on whether or not the offence exceeds the threshold, identified at 100,000 euros, beyond which the damage to the financial interests of the European Union must be considered considerable.

Smuggling offences are divided into:

- Article 282 – Smuggling in the movement of goods across land borders and customs areas;
- Article 283 – *Smuggling in the movement of goods in border lakes;*
- Article 284 – *Smuggling in the maritime movement of goods;*
- Article 285 – *Smuggling in the movement of goods by air;*
- Article 286 – *Smuggling in non-customs areas;*
- Article 287 – *Smuggling for undue use of goods imported with customs facilities;*
- Article 288 – *Smuggling into customs warehouses;*
- Article 289 – *Smuggling in cabotage and circulation;*
- Article 290 – *Smuggling in the export of goods eligible for the refund of duties;*
- Article 291 – *Smuggling in temporary import or export;*
- Article 291 - bis – *Smuggling of foreign manufactured tobacco;*
- Article 291 - ter - *Aggravating circumstances of the crime of smuggling foreign manufactured tobacco;*
- Article 291 - quarter - *Criminal conspiracy to smuggle foreign manufactured tobacco;*

- Article 292 - *Other cases of smuggling.*

23 CRIMES AGAINST CULTURAL HERITAGE [art. 25-septiesdecies Legislative Decree 231/01]

Law No. 22 of 9 March 2022 introduced Title VIII-bis entitled "Crimes against cultural heritage" into the Criminal Code.

Following this introduction, and with reference to the administrative liability of the entity, the legislator has provided for two new families of predicate crimes, located respectively in art. 25-septiesdecies ("Crimes against cultural heritage") and 25-duodevicies ("Laundering of cultural property and devastation and looting of cultural and landscape property").

Specifically, the "crimes against cultural heritage" pursuant to Article 25 septiesdecies of Legislative Decree 231/01 are:

- Theft of cultural property (art. 518-bis);
- Embezzlement of cultural property (art. 518-ter);
- Receiving cultural goods (art. 518-quarter);
- Forgery in private deeds relating to cultural property (art. 518-octies);
- Violations regarding the alienation of cultural property (art. 518-novies);
- Illicit importation of cultural goods (art. 518-decies);
- Illicit exit or export of cultural property (art. 518-undecies);
- Destruction, dispersion, deterioration, disfigurement, soiling and illegal use of cultural or landscape property (art. 518-duodecies);
- Counterfeiting of works of art (art. 518-quaterdecies).

The crimes of "laundering of cultural property and devastation and looting of cultural and landscape property" pursuant to Article 25-duodevicies of Legislative Decree 231/01 are:

- Laundering of cultural property (art. 518-sexies);
- Devastation and looting of cultural and landscape property (art. 518-terdecies).

Both of the aforementioned regulatory provisions have as their object the protection of landscape assets through the prosecution and sanction of the conducts of destruction, dispersion, deterioration, disfigurement, soiling and illegal use, including culpable use, of landscape assets, as well as that of appropriation, importation and illegal alienation, devastation and looting of cultural and landscape assets.

Article 518-duodecies of the Criminal Code - "Destruction, dispersion, deterioration, disfigurement, soiling and illegal use of cultural or landscape property"

Anyone who destroys, disperses, deteriorates or renders, in whole or in part, their own or others' cultural or landscape assets useless or unusable shall be punished with imprisonment from two to five years and a fine of between €2,500 and €15,000.

Anyone who, outside the cases referred to in the first paragraph, defaces or defaces his own or others' cultural landscape property or uses cultural property that is incompatible with its historical or artistic character or detrimental to its conservation or integrity shall be punished with imprisonment from six months to three years and a fine of between €1,500 and €10,000.
The conditional suspension of the sentence is subject to the restoration of the state of the places or to the elimination of the harmful or dangerous consequences of the crime or to the provision of unpaid activity in favor of the community for a fixed period of time not exceeding the duration of the suspended sentence in accordance with the procedures indicated by the judge in the sentence.

The first paragraph extends to own property the hypothesis of common damage, in which the damage caused is characterized by non-usability.
The second paragraph of Article 518-duodecies, on the other hand, criminalises conduct without reference to the offender's own property.
In order to be considered a defaced or soiled asset, it must not be in a condition of destruction, dispersion, deterioration or unusability, with the consequent possibility of restoring the asset, as well as its original appearance and value.
Finally, with regard to the illicit use of cultural property, unlawful use is understood as conduct that changes the destination of the aforementioned goods "to a use incompatible with their historical or artistic character or detrimental to their conservation or integrity".
Incompatible use means the use of the asset that hinders the public interest function represented by the asset itself and for which the asset is intended.
Therefore, the use of the asset through conduct suitable for modifying the purpose of enjoyment that is proper to it – i.e. study, research or aesthetic pleasure – through actions incompatible with the nature of the asset itself constitutes the crime in question.

24 TRANSNATIONAL CRIMES [art. 10 L. 146/2006]

With Law 146/2006, on the "Ratification and execution of the United Nations Convention and Protocols against Transnational Organized Crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001", the legislator has transposed into Italian law a series of instruments of international law against transnational organized crime[39].

[39] Law 146/2006 Art. 10 - Administrative liability of entities
1. In relation to the administrative liability of entities for the offences referred to in Article 3, the provisions of the following paragraphs shall apply.
2. In the event of the commission of the offences provided for in Articles 416 and 416-bis of the Criminal Code, in Article 291-quarter of the consolidated text referred to in Presidential Decree No. 43 of 23 January 1973, and in Article 74 of the consolidated text referred to in Presidential Decree No. 309 of 9 October 1990, an administrative fine of between four hundred and one thousand shares shall be imposed on the entity.

A transnational offence is considered to be a crime, punishable by imprisonment of not less than four years, if an organised criminal group is involved, as well as:

- is committed in more than one State;
- or it is committed in one State, but a substantial part of its preparation, planning, direction or control takes place in another State; or it is committed in one State, but an organized criminal group engaged in criminal activities in more than one State is involved in it;
- or it is committed in one State but has substantial effects in another State.

The law expands the liability of entities in relation to the following types of crime:

- criminal conspiracy, of a simple nature (Article 416 of the Criminal Code) or mafia (Article 416-bis of the Criminal Code), aimed at smuggling manufactured tobacco (Article 291-quarter of Presidential Decree No. 43 of 23 January 1973) or illicit trafficking in narcotic or psychotropic substances (Article 74 of Presidential Decree No. 309 of 9 October 1990);
- trafficking of migrants (Article 12, paragraphs 3, 3-bis, 3-ter and 5 of Legislative Decree No. 286 of 25 July 1998);
- inducement not to make statements or to make false statements to the judicial authority (Article 377-bis of the Criminal Code);
- personal aiding and abetting (Article 378 of the Criminal Code).

The main types of offences mentioned above are described below.

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3. In the event of conviction for one of the offences referred to in paragraph 2, the disqualification sanctions provided for in Article 9(2) of Legislative Decree No 231 of 8 June 2001 shall apply to the entity for a period of not less than one year.
4. If the entity or one of its organisational units is used on a permanent basis for the sole or predominant purpose of enabling or facilitating the commission of the offences referred to in paragraph 2, the administrative sanction of permanent disqualification from carrying out the activity pursuant to Article 16(3) of Legislative Decree No 231 of 8 June 2001 shall apply to the entity.
5. and 6. Repealed
7. In the case of offences relating to migrant smuggling, for the offences referred to in Article 12(3), (3-bis), (3-ter) and (5) of the consolidated text referred to in Legislative Decree No 286 of 25 July 1998, as amended, the entity shall be subject to an administrative fine of between two hundred and one thousand shares.
8. In the event of conviction for the offences referred to in paragraph 7 of this article, the disqualification sanctions provided for in Article 9, paragraph 2, of Legislative Decree no. 231 of 8 June 2001 shall apply to the entity, for a period not exceeding two years.
9. In the case of offences involving obstruction of justice, for the offences referred to in Articles 377-bis and 378 of the Criminal Code, an administrative fine of up to five hundred shares shall be imposed on the entity.
10. The provisions of Legislative Decree No. 231 of 8 June 2001 shall apply to the administrative offences provided for in this article.

24.1 Criminal association

For the description of the crime, see what has been previously outlined in chapter 3 "Organized crime crimes".

24.2 Mafia-type association

For the description of the crime, see what has been previously outlined in chapter 3 "Organized crime crimes".

24.3 Criminal conspiracy to smuggle foreign manufactured tobacco

Article 291-quarter of Presidential Decree no. 43 of 23 January 1973: "Criminal conspiracy aimed at smuggling foreign manufactured tobacco". *When three or more persons join together for the purpose of committing more than one of the crimes provided for in Article 291-bis* [*i.e.* smuggling of foreign manufactured tobacco], *those who promote, constitute, direct, organize or finance the association shall be punished, for that reason alone, with imprisonment from three to eight years.*

Those who participate in the association are punished with imprisonment from one year to six years.

The penalty is increased if the number of members is ten or more.

If the association is armed or if the circumstances provided for in letters d) or e) of paragraph 2 of Article 291-ter occur, the penalty of imprisonment from five to fifteen years shall be applied in the cases provided for in paragraph 1 of this article, and from four to ten years in the cases provided for in paragraph 2. The association is considered armed when the participants have the availability, for the achievement of the purposes of the association, of weapons or explosive materials, even if concealed or kept in a place of storage.

The penalties provided for in Articles 291-bis, 291-ter and this article shall be reduced from one third to one half in the case of the accused who, dissociating himself from the others, shall endeavour to prevent the criminal activity from being brought to further consequences, also by concretely assisting the police or judicial authorities in the collection of decisive elements for the reconstruction of the facts and for the identification or capture of the perpetrators of the crime or for the identification of resources relevant to the commission of crimes.

24.4 Association aimed at the illicit trafficking of narcotic or psychotropic substances

For the description of the crime, see what has been previously outlined in chapter 3 "Organized crime crimes".

24.5 Provisions against illegal immigration

Article 12, paragraphs 3, 3-bis, 3-ter and 5 of Legislative Decree no. 286 of 25 July 1998.

3. Unless the act constitutes a more serious offence, any person who, in order to gain even indirect profit, carries out acts aimed at procuring the entry of someone into the territory of the State in violation of the provisions of this consolidated text, or at procuring illegal entry into another State of which the person is not a national or does not have a permanent residence title, is punished with imprisonment from four to fifteen years and a fine of 15,000 euros for each person.

3-bis. The penalties referred to in paragraphs 1 and 3 shall be increased if:

(a) the act relates to the illegal entry or stay in the territory of the State of five or more persons;

b) in order to procure illegal entry or stay, the person has been exposed to danger to his life or safety;

(c) in order to procure illegal entry or stay, the person has been subjected to inhuman or degrading treatment.

c-bis) the act is committed by three or more persons in conjunction with each other or using international transport services or forged or altered documents or in any case illegally obtained.

3-ter. If the acts referred to in paragraph 3 are carried out in order to recruit persons to be used for prostitution or in any case for sexual exploitation or concern the entry of minors to be used in illegal activities in order to facilitate their exploitation, the prison sentence is increased from one third to one half and a fine of 25,000 euros is applied for each person.

5. Except in the cases provided for in the preceding paragraphs, and unless the act constitutes a more serious offence, any person who, in order to derive an unfair profit from the illegal status of the foreign national or in the context of the activities punished under this article, encourages the foreigner to remain in the territory of the State in violation of the provisions of this consolidated text, he is punished with imprisonment of up to four years and a fine of up to 15,493 euros (thirty million lire).

24.6 Inducement not to make statements or to make false statements to the judicial authority

For the description of the crime, see what was previously outlined in chapter 14 "offences relating to statements to the judicial authority".

24.7 Personal aiding and abetting

Article 378 of the Criminal Code: "Personal aiding"

Whoever, after a crime has been committed for which the law establishes life imprisonment or imprisonment, and except in cases of complicity in the same, helps someone to evade the investigations of the Authority, or to evade the latter's investigations, shall be punished with imprisonment of up to four years.

The rule punishes the conduct of those who, after a crime has been committed for which the law establishes the penalty of life imprisonment or imprisonment – and except in cases of complicity in the same – help someone to evade the investigations of the Authority, or to evade the latter's searches. The crime of aiding and abetting exists even when the person being helped is not attributable or it turns out that he or she did not commit the crime.

The offence consists in engaging in conduct aimed at hindering or misleading the activity aimed at ascertaining the offences and identifying the relevant perpetrators. The typical action of the crime of aiding and abetting can also consist of an omission, i.e. silence, reticence, refusal to provide information.

MAIN PENALTIES

Crime	Reference Arts. Legislative Decree 231/01	Sanction Pecuniary[1] Quote		Disqualification sanction[2]					Publication of the judgment in newspapers indicated by the judge at the expense of the entity[3]	Confiscation of Price, Profit of the Crime or Equivalent Sums[4]
		Min	Max	Prohibition from exercising the activity[5]	Suspension or revocation of authorisations, licences or concessions	Prohibition of contracting with the PA	Exclusion from subsidies, loans, contributions or their revocation	Prohibition of advertising goods or services		
Computer fraud (Art. 640-ter SCC)	Art. 24	100	600	▪	▪	✓	✓	✓	✓	✓
Undue receipt of public funds (Art. 316-ter SCC)	Art. 24	100	600	▪	▪	✓	✓	✓	✓	✓
Embezzlement of public funds (Art. 316-bis SCC)	Art. 24	100	600	▪	▪	✓	✓	✓	✓	✓
Fraud against the State or another Public Administration or the European Union (Art. 640(2)(1) SCC)	Art. 24	100	600	▪	▪	✓	✓	✓	✓	✓
Aggravated fraud to obtain public funds (Art. 640 bis SCC)	Art. 24	100	600	▪	▪	✓	✓	✓	✓	✓

Fraud in public procurement (Article 356 of the Criminal Code)	Art. 24	100	500	▪	▪	✓	✓	✓	▪	▪
Fraud against the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development (art. 2 L. 898/1986)	Art. 24	100	500	▪	▪	✓	✓	✓	▪	▪
Bid rigging (Art. 353 SCC)	Art. 24	100	500	▪	▪	✓	✓	✓	▪	▪
Disturbance of the procedure for selecting the contractor (Art. 353 bis SCC)	Art. 24	100	500	▪	▪	✓	✓	✓	▪	▪
Electronic documents (Art. 491-bis SCC)	Art. 24-a	100	400	▪	▪	✓	✓	✓	✓	✓
Abusive access to a computer or telematic system (Article 615-ter of the Swiss Criminal Code)	Art. 24-a	100	500	✓	✓	▪	▪	✓	✓	✓
Unlawful possession, dissemination and installation of equipment, codes and other means of access to computer or telematic systems (Article	Art. 24-a	100	300	▪	✓	▪	▪	✓	✓	✓

615-quarter of the Italian Criminal Code)										
Unlawful possession, dissemination and installation of equipment, devices or computer programs aimed at damaging or interrupting an IT or telematic system (Article 615-quinquies of the Italian Criminal Code)	Art. 24-a	100	300	▪	✓	▪	▪	✓	✓	✓
Unlawful interception, impediment or interruption of computer or telematic communications (Art. 617-quarter SCC)	Art. 24-a	100	500	✓	✓	▪	▪	✓	✓	✓
Unlawful possession, dissemination and installation of equipment and other means to intercept, prevent or interrupt computer or telematic communications (Article 617 quinquies of the Swiss Criminal Code)	Art. 24-a	100	500	✓	✓	▪	▪	✓	✓	✓
Damage to information, data and computer programs (Art. 635 bis SCC)	Art. 24-a	100	500	✓	✓	▪	▪	✓	✓	✓

Damage to information, data and computer programs used by the State or by another Public Administration or in any case of public utility (art. 635 ter SCC)	Art. 24-a	100	500	✓	✓	▪	▪	✓	✓	✓
Damage to computer or telematic systems (Art. 635-quarter SCC)	Art. 24-a	100	500	✓	✓	▪	▪	✓	✓	✓
Computer fraud of the entity providing electronic signature certification services (art. e 640-quinquies CP)	Art. 24-a	100	400	▪	▪	✓	✓	✓	✓	✓
Criminal association (Art. 416 para. 6 SCC)	Art. 24-ter	400	100 0	✓	✓	✓	✓	✓	✓	✓
Criminal conspiracy (Art. 416 excluding para. 6 SCC)	Art. 24-ter	300	800	✓	✓	✓	✓	✓	✓	✓
Mafia-type associations, including foreign ones (Art. 416 bis SCC)	Art. 24-ter	400	100 0	✓	✓	✓	✓	✓	✓	✓
Political-mafia electoral exchange (art. 416-ter SCC)	Art. 24-ter	400	100 0	✓	✓	✓	✓	✓	✓	✓
Kidnapping for the purpose of robbery or extortion (Art. 630 SCC)	Art. 24-ter	400	100 0	✓	✓	✓	✓	✓	✓	✓

Association aimed at the illicit trafficking of narcotic or psychotropic substances (crimes provided for by Article 74 of Presidential Decree 309/90)	Art. 24-ter	400	100 0	✓	✓	✓	✓	✓	✓	✓
Offences of illegal manufacture, introduction into the State, offering for sale, transfer, possession and carrying in a public place or open to the public of weapons of war or war-type weapons (Article 407, paragraph 2 letter a), number 5 of the Code of Criminal Code)	Art. 24-ter	300	800	✓	✓	✓	✓	✓	✓	✓
Bribery (Art. 317 SCC)	Art. 25	300	800	✓	✓	✓	✓	✓	✓	✓
Bribery in the performance of the office (Art. 318 SCC)	Art. 25	100	200	▪	▪	▪	▪	▪	▪	✓
Bribery for an act contrary to official duties (Art. 319 SCC)	Art. 25	200	600	✓	✓	✓	✓	✓	✓	✓
Aggravating circumstances (pursuant to Article 319-bis of the Italian Criminal Code)	Art. 25	300	800	✓	✓	✓	✓	✓	✓	✓

Corruption in judicial documents (Articles 319-ter, para. 1 and para. 2, SCC)	Art. 25	200	800	✓	✓	✓	✓	✓	✓	✓
Inducement to give or promise benefits (Art. 319 quarter SCC)	Art. 25	300	800	✓	✓	✓	✓	✓	✓	✓
Bribery of a person entrusted with a public service (Art. 320 SCC)	Art. 25	200	800	✓	✓	✓	✓	✓	✓	✓
Penalties for the corruptor (art. 321 SCC in relation to articles 317, 318, 319, 319 bis, 319 ter, 319 ter c.2)	Art. 25	200	800	▪	▪	▪	▪	▪	▪	▪
Incitement to corruption (Art. 322 para. 1 -3 SCC)	Art. 25	100	200	▪	▪	▪	▪	▪	▪	✓
Incitement to corruption (Art. 322 para. 2 -4 SCC)	Art. 25	200	600	✓	✓	✓	✓	✓	✓	✓
Embezzlement, extortion, undue inducement, corruption and incitement to corruption of members of EU institutions, EU officials and officials of foreign States (Art. 322a SCC)	Art. 25	300	800	✓	✓	✓	✓	✓	✓	✓
Influence peddling(Article 346 bis of the Criminal Code)	Art. 25	100	200	▪	▪	▪	▪	▪	▪	✓

Embezzlement (Article 314, paragraph 1, of the Criminal Code)	Art. 25	100	200	▪	▪	▪	▪	▪	▪	✓
Embezzlement by profiting from the error of others (316 of the Criminal Code)	Art. 25	100	200	▪	▪	▪	▪	▪	▪	✓
Abuse of office (323 of the Criminal Code)	Art. 25	100	200	▪	▪	▪	▪	▪	▪	✓
Counterfeiting, spending and introduction of counterfeit coins into the state by consultation (Art. 453 SCC)	Art. 25-a	300	800	✓	✓	✓	✓	✓	✓	✓
Alteration of coins (Art. 454 SCC)	Art. 25-a	100	500	✓	✓	✓	✓	✓	✓	✓
Spending and introduction into the state, without concert, of counterfeit coins (Art. 455 SCC)	Art. 25-a	100	500	✓	✓	✓	✓	✓	✓	✓
Spending counterfeit coins received in good faith (Art. 457 SCC)	Art. 25-a	100	200	▪	▪	▪	▪	▪	▪	✓
Counterfeiting of revenue stamps, introduction into the	Art. 25-a	100	528	✓	✓	✓	✓	✓	✓	✓

state, acquisition, possession or putting into circulation of falsified revenue stamps (Art. 459 SCC)										
Counterfeiting of watermarked paper used for the manufacture of public credit cards or revenue stamps (Art. 460 SCC)	Art. 25-a	100	500	✓	✓	✓	✓	✓	✓	✓
Manufacture or possession of watermarks or instruments intended for the counterfeiting of coins, revenue stamps or watermarked paper (Art. 461 SCC)	Art. 25-a	100	500	✓	✓	✓	✓	✓	✓	✓
Use of counterfeit or altered revenue stamps (Art. 464 para. 2 SCC)	Art. 25-a	100	200	▪	▪	▪	▪	▪	▪	✓
Use of counterfeit or altered revenue stamps art. (464 c.1 CP)	Art. 25-a	100	300	▪	▪	▪	▪	▪	▪	✓
Counterfeiting, alteration or use of distinctive signs or patents, models and designs (Art. 473 SCC)	Art. 25-a	100	500	✓	✓	✓	✓	✓	✓	✓

Introduction into the State and trade in products with false signs (Art. 474 SCC)	Art. 25-a	100	500	✓	✓	✓	✓	✓	✓	✓
Disturbed freedom of industry or commerce (Art. 513 SCC)	Art. 25-bis.1	100	500	▪	▪	▪	▪	▪	▪	✓
Unlawful competition with threat or violence (Art. 513-bis SCC)	Art. 25-bis.1	100	800	✓	✓	✓	✓	✓	✓	✓
Fraud against domestic industries (Art. 514 SCC)	Art. 25-bis.1	100	800	✓	✓	✓	✓	✓	✓	✓
Fraud in the exercise of trade (Art. 515 SCC)	Art. 25-bis.1	100	500	▪	▪	▪	▪	▪	▪	✓
Sale of non-genuine foodstuffs as genuine (Art. 516 SCC)	Art. 25-bis.1	100	500	▪	▪	▪	▪	▪	▪	✓
Sale of industrial products with false signs (Art. 517 SCC)	Art. 25-bis.1	100	500	▪	▪	▪	▪	▪	▪	✓
Manufacture and trade of goods made by usurping industrial property rights (art. 517-ter SCC)	Art. 25-bis.1	100	500	▪	▪	▪	▪	▪	▪	✓
Counterfeiting of geographical indications or designations of origin of agri-food products (art. 517-quarter SCC)	Art. 25-bis.1	100	500	▪	▪	▪	▪	▪	▪	✓

Rigging (Art. 2637 CC)	Art. 25-ter	200	500	▪	▪	▪	▪	▪	▪	✓
Corruption between private individuals (Art. 2635 CC)	Art. 25-ter	400	600	✓	✓	✓	✓	✓	✓	✓
Incitement to corruption between private individuals (Art. 2635 CC)	Art. 25-ter	200	400	✓	✓	✓	✓	✓	✓▪	✓
False corporate communications (Art. 2621 CC)	Art. 25-ter	200	400	▪	▪	▪	▪	▪	▪	✓
Minor offences (Article 2612-bis of the Italian Civil Code)	Art. 25-ter	100	200	▪	▪	▪	▪	▪	▪	✓
False corporate communications of listed companies (pursuant to Article 2622 of the Italian Civil Code, paragraph 1)	Art. 25-ter	400	600	▪	▪	▪	▪	▪	▪	✓
Fictitious capital formation (Art. 2632 CC)	Art. 25-ter	100	180	▪	▪	▪	▪	▪	▪	✓
Unlawful influence on the shareholders' meeting (Art. 2636 CC)	Art. 25-ter	150	330	▪	▪	▪	▪	▪	▪	✓
Unlawful transactions in shares or quotas of the company or of the parent company (Art. 2628 CC)	Art. 25-ter	100	180	▪	▪	▪	▪	▪	▪	✓

Unlawful distribution of profits and reserves (Contravention pursuant to Art. 2627 CC)	Art. 25-ter	100	130	▪	▪	▪	▪	▪	▪	✓
Impeded control (Art. 2625 CC)	Art. 25-ter	100	180	▪	▪	▪	▪	▪	▪	✓
Undue restitution of contributions (Art. 2626 CC)	Art. 25-ter	100	180	▪	▪	▪	▪	▪	▪	✓
Undue distribution of company assets by liquidators (Art. 2633 CC)	Art. 25-ter	150	330	▪	▪	▪	▪	▪	▪	✓
Failure to disclose conflict of interest (Art. 2629-bis CC)	Art. 25-ter	200	500	▪	▪	▪	▪	▪	▪	✓
Transactions to the detriment of creditors (Art. 2629 CC)	Art. 25-ter	150	330	▪	▪	▪	▪	▪	▪	✓
False or omitted declarations for the issuance of the preliminary certificate	Art. 25-ter	150	300	▪	▪	▪	▪	▪	▪	▪
Obstruction of the performance of the functions of public supervisory authorities (Art. 2638 CC)	Art. 25-ter	200	400	▪	▪	▪	▪	▪	▪	✓
Crimes with the purpose of terrorism or subversion of the	Art. 25-quarter	200	700	✓	✓	✓	✓	✓	✓	✓

democratic order (Crime - Imprisonment<10 years)										
Crimes with the purpose of terrorism or subversion of the democratic order (Crime - Imprisonment>=10 years)	Art. 25-quarter	400	1000	✓	✓	✓	✓	✓	✓	✓
Practices of mutilation of the female genital organs (Art. 583-bis SCC)	Art. 25-quarter.1	300	700	✓	✓	✓	✓	✓	✓	✓
Reduction or maintenance in slavery or servitude (Art. 600 SCC)	Art. 25-quinquies	400	1000	✓	✓	✓	✓	✓	✓	✓
Child prostitution (Art. 600 bis para. 1 SCC)	Art. 25-quinquies	300	800	✓	✓	✓	✓	✓	✓	✓
Child prostitution (Art. 600 bis para. 2 SCC)	Art. 25-quinquies	200	700	✓	✓	✓	✓	✓	✓	✓
Child pornography (Article 600 ter c.1 and 2 SCC)	Art. 25-quinquies	300	800	✓	✓	✓	✓	✓	✓	✓
Child pornography (Article 600 ter, paragraphs 3 and 4 of the Swiss Criminal Code)	Art. 25-quinquies	200	700	▪	▪	▪	▪	▪	▪	✓
Possession of pornographic material (Art. 600-quarter SCC)	Art. 25-quinquies	200	700	▪	▪	▪	▪	▪	▪	✓

Virtual pornography (Art. 600-quarter1 SCC)	Art. 25-quinquies	300	800	✓	✓	✓	✓	✓	✓	✓
Tourist initiatives aimed at exploiting child prostitution (art. 600-quinquies SCC)	Art. 25-quinquies	300	800	✓	✓	✓	✓	✓	✓	✓
Trafficking in persons (Art. 601 SCC)	Art. 25-quinquies	400	1000	✓	✓	✓	✓	✓	✓	✓
Acquisition and sale of slaves (Art. 602 SCC)	Art. 25-quinquies	400	1000	✓	✓	✓	✓	✓	✓	✓
Illegal intermediation and labour exploitation (Art. 603-bis SCC)	Art. 25-quinquies	400	1000	✓	✓	✓	✓	✓	✓	✓
Solicitation of minors (Art. 609-undecies SCC)	Art. 25-quinquies	200	700	▪	▪	▪	▪	▪	▪	✓
Market abuse (Abuse or unlawful disclosure of inside information. Recommendation or inducement of others to the commission of insider dealing and market manipulation provided for by Legislative Decree 58/98 - part V, title I-bis, chapter II)	Art. 25-sexies	400	1000	▪	▪	▪	▪	▪	▪	✓

Serious or very serious culpable bodily injury (Art. 590 SCC)	Art. 25-septies	100	250	✓	✓	✓	✓	✓	✓	✓
Manslaughter (Art. 589 SCC)	Art. 25-septies	250	1000	✓	✓	✓	✓	✓	✓	✓
Self-laundering (Art. 648-ter.1 SCC)	Art. 25g	200	1000	✓	✓	✓	✓	✓	✓	✓
Receiving stolen goods, money laundering and use of goods or utilities of illegal origin (Articles 648, 648 bis and 648 ter SCC)	Art. 25g	200	1000	✓	✓	✓	✓	✓	✓	✓
Undue use and falsification of non-cash payment instruments (Article 493-ter of the Criminal Code)	Art. 25g.1	300	800	✓	✓	✓	✓	✓	✓	✓
Computer fraud (Article 640-ter of the Criminal Code)	Art. 25g.1	300	500	✓	✓	✓	✓	✓	✓	✓
Possession and dissemination of equipment, devices or computer programs aimed at committing crimes concerning payment instruments other than cash (Article 493 quarter of the Criminal Code)	Art. 25g.1	300	500	✓	✓	✓	✓	✓	✓	✓

Fraudulent transfer of valuables (Article 512 bis of the Criminal Code)	Art. 25g.1	250	600	✓	✓	✓	✓	✓	✓	✓
Offences relating to copyright infringement (Articles 171, paragraph 1, letter a-bis), and paragraphs 3, 171-bis, 171-ter, 171-septies and 171-octies of Law no. 633/1941)	Art. 25-novies	100	500	✓	✓	✓	✓	✓	✓	✓
Inducement not to make statements or to make false statements to the judicial authority (Art. 377-bis SCC)	Art. 25-decies	100	500	▪	▪	▪	▪	▪	▪	✓
Environmental pollution (Art. 452-bis SCC)	Art. 25-undecies	200	600	✓	▪	▪	▪	▪	✓	✓
Environmental disaster (Art. 452-quarter SCC)	Art. 25-undecies	400	800	✓	▪	▪	▪	▪	✓	✓
Culpable crimes against the environment (art. 452-quinquies SCC)	Art. 25-undecies	200	500	▪	▪	▪	▪	▪	▪	✓
Aggravating associative crimes (art. 452-octies CP)	Art. 25-undecies	300	1000	▪	▪	▪	▪	▪	▪	✓
Crime of trafficking and abandonment of highly	Art. 25-undecies	250	600	▪	▪	▪	▪	▪	▪	✓

radioactive material (art. 452-sexies)										
Killing, destruction, capture, removal, possession of specimens of protected wild animal or plant species (Art. 727-bis SCC)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Destruction or deterioration of habitats within a protected site (Art. 733-bis SCC)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Discharges to the ground (art.103 - Legislative Decree 152/06)	Art. 25-undecies	200	300	▪	▪	▪	▪	▪	▪	✓
Discharges into the subsoil and groundwater (art.104 - Legislative Decree 152/06)	Art. 25-undecies	200	300	▪	▪	▪	▪	▪	▪	✓
Discharges of industrial wastewater containing hazardous substances (art.137 c.2 - Legislative Decree 152/06)	Art. 25-undecies	200	300	✓	✓	✓	✓	✓	✓	✓
Discharges of industrial wastewater containing hazardous substances that do not comply with the	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓

requirements (art.137 c.3 - Legislative Decree 152/06)										
Discharges of industrial wastewater containing hazardous substances beyond the limit values (art.137 c.5 - Legislative Decree 152/06)	Art. 25-undecies	150	300	✓	✓	✓	✓	✓	✓	✓
Discharges on soil, subsoil and groundwater (art.137 c.11 - Legislative Decree 152/06)	Art. 25-undecies	200	300	▪	▪	▪	▪	▪	▪	✓
Discharge from ships or aircraft of prohibited substances (art.137 c.13 - Legislative Decree 152/06)	Art. 25-undecies	150	250	✓	✓	✓	✓	✓	✓	✓
Prohibition of mixing hazardous waste (art. 187 - Legislative Decree 152/06	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Unauthorized waste management activities (art. 256, c.1 - Legislative Decree 152/06)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Unauthorized landfill (art. 256, c.3 - Legislative Decree 152/06)	Art. 25-undecies	150	300	✓	✓	✓	✓	✓	✓	✓

Mixing of waste (art. 256, c.5 - Legislative Decree 152/06)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Temporary storage of hazardous medical waste (art. 256, c.6 - Legislative Decree 152/06)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Remediation of sites (art. 257, c.1 - Legislative Decree 152/06)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Remediation of sites from hazardous substances (art. 257, c.2 - Legislative Decree 152/06)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Violation of the obligations of communication, keeping of mandatory registers and forms (art. 258, c.4 - Legislative Decree 152/06)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Illegal trafficking of waste (art. 259, c.1 - Legislative Decree 152/06)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Organised activities for the illegal trafficking of waste (Article 260, paragraph 1 - Legislative Decree 152/06)	Art. 25-undecies	300	500	✓	✓	✓	✓	✓	✓	✓

Organized activities for the illegal trafficking of highly radioactive waste (art. 260, c.2 - Legislative Decree 152/06)	Art. 25-undecies	400	800	✓	✓	✓	✓	✓	✓	✓
Exceeding emission and air quality limit values (art. 279, c.5 - Legislative Decree 152/06)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Regulation of offences relating to the application in Italy of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Article 1, paragraph 1 of Law 150/92)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Regulation of offences relating to the application in Italy of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Article 1, paragraph 2 of Law 150/92)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Regulation of offences relating to the application in Italy of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (art. 2, c.1 and 2 of Law 150/92)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓

Regulation of offences relating to the application in Italy of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Article 6, paragraph 4 of Law 150/92)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Regulation of offences relating to the application in Italy of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Article 3bis, paragraph 1 of Law 150/92)	Art. 25-undecies	100	500	▪	▪	▪	▪	▪	▪	✓
Measures to protect stratospheric ozone and the environment) - art. 3, c.6 L. 549/93)	Art. 25-undecies	150	250	▪	▪	▪	▪	▪	▪	✓
Intentional pollution caused by ships (art. 8, c.1 and 2 of Legislative Decree 202/07)	Art. 25-undecies	150	300	✓	✓	✓	✓	✓	✓	✓
Culpable pollution caused by ships (art. 9, c.1 Legislative Decree 202/07)	Art. 25-undecies	100	250	▪	▪	▪	▪	▪	▪	✓
Culpable pollution caused by ships (art. 9, c.2 Legislative Decree 202/07)	Art. 25-undecies	150	250	✓	✓	✓	✓	✓	✓	✓

Employment of illegally staying third-country nationals (Article 22, paragraph 12-bis, Legislative Decree 286/98)	Art. 25-duodecies	100	200	▪	▪	▪	▪	▪	▪	✓
Provisions against illegal immigration (in Article 12, paragraphs 3, 3-bis and 3-ter, of the consolidated text referred to in Legislative Decree no. 286 of 25 July 1998)	Art. 25-duodecies	400	1000	✓	✓	✓	✓	✓	▪	▪
Provisions against illegal immigration (Article 12, paragraph 5 of the consolidated text referred to in Legislative Decree No. 286 of 25 July 1998)	Art. 25-duodecies	100	200	✓	✓	✓	✓	✓	▪	▪
Racism and Xenophobia	Art. 25 terdecies	200	400	✓	✓	✓	✓	✓	▪	▪
Fraud in sports competitions	Art. 25 quaterdecies	100	500	✓	✓	✓	✓	✓	✓	✓
Fraudulent declaration through the use of invoices or other documents for non-existent transactions (art.2 c.1 Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	660	▪	▪	✓	✓	✓	✓	✓

Fraudulent declaration through the use of invoices or other documents for non-existent transactions (art.2 c.2-bis Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	530	▪	▪	✓	✓	✓	✓	✓
Fraudulent declaration by other artifices (art.3 Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	660	▪	▪	✓	✓	✓	✓	✓
Unfaithful declaration (art.4 Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	400	▪	▪	✓	✓	✓	✓	✓
Failure to declare (art.5 Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	530	▪	▪	✓	✓	✓	✓	✓
Issuance of invoices or other documents for non-existent transactions (art.8 c. 1 Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	660	▪	▪	✓	✓	✓	✓	✓
Issuance of invoices or other documents for non-existent transactions (art.8 c. 2-bis Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	530	▪	▪	✓	✓	✓	✓	✓
Concealment or destruction of accounting documents (Article 10 of Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	530	▪	▪	✓	✓	✓	✓	✓

Undue compensation (Article 10-quarter of Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	530	▪	▪	✓	✓	✓	✓	✓
Fraudulent evasion of the payment of taxes (art. 11 of Legislative Decree 74/2000)	Art. 25-quinquiesdecies	100	530	▪	▪	✓	✓	✓	✓	✓
Smuggling offences (Presidential Decree 43/1973)	Art. 25-sexiesdecies	100	400	▪	▪	✓	✓	✓	▪	▪
Destruction, dispersion, deterioration, disfigurement, soiling and illegal use of cultural or landscape property (Article 518-duodecies of the Criminal Code)	Art. 25-septiesdecies	300	700	✓	✓	✓	✓	✓	▪	▪
Recycling of cultural property and devastation and looting of cultural and landscape property	Art. 25-duodevicies	500	1000	✓	▪	▪	▪	▪	▪	▪
Criminal association (Art. 416 SCC)	L. 16.3.2006 n. 146	400	1000	✓	✓	✓	✓	✓	✓	✓
Mafia-type association (art. 416-bis CP)	L. 16.3.2006 n. 146	400	1000	✓	✓	✓	✓	✓	✓	✓
Criminal conspiracy to smuggle foreign manufactured tobacco	L. 16.3.2006 n. 146	400	1000	✓	✓	✓	✓	✓	✓	✓

(Article 291-quarter of the Italian Criminal Code)										
Provisions against illegal immigration (art.12 paragraphs 3, 3bis, 3-ter and 5 SCC)	L. 16.3.2006 n. 146	200	1000	✓	✓	✓	✓	✓	✓	✓
Aiding and abetting (Art. 378 SCC)	L. 16.3.2006 n. 146	100	500	▪	▪	▪	▪	▪	▪	✓

[1] For the administrative offence dependent on a crime, a financial penalty is always applied, in proportion to a number of shares between 100 and 1000 and a pro-rata amount between approximately 250 and 1500 Euros, in order to allow the effectiveness of the sanction. In calculating the financial penalty, the judge determines the number of shares taking into account the seriousness of the fact, the degree of responsibility of the entity, as well as the activity carried out to eliminate or mitigate the consequences of the fact and prevent the commission of further offences.
Pursuant to art. 12, paragraph 1 of the Decree, the penalty is reduced by half, the amount is equal to approximately 100 Euros and the amount imposed cannot in any case exceed approximately 100 thousand Euros if:
(a) the offender committed the act in his or her own interest or in the interest of a third party and the entity did not take advantage of it or derived a minimal advantage from it;
b) the pecuniary damage caused is particularly minor.
The penalty is reduced from one third to one half (or from half to two thirds in the event of the concurrence of both conditions) if, before the declaration of the opening of the first instance hearing:
a) the entity has fully compensated for the damage and has eliminated the harmful or dangerous consequences of the crime or has in any case effectively worked in this direction;
b) an organisational model suitable for preventing crimes of the kind that occurred has been adopted and made operational.
In any case, the financial penalty cannot be less than approximately 10 thousand euros.

[2] Disqualification sanctions are applied in relation to the crimes for which they are expressly provided, when at least one of the following conditions is met:
a) the entity has made a significant profit from the crime and the crime has been committed by persons in a top position or by subjects subject to the direction of others when, in this case, the commission of the crime has been determined or facilitated by serious organizational deficiencies;
b) in the event of repetition of offences.
Disqualification sanctions do not apply in the cases referred to in art. 12, paragraph 1 of the Decree.

Disqualification sanctions can also be applied jointly.
Disqualification sanctions do not apply when, before the declaration of the opening of the first instance hearing, the following conditions are met:
a) the entity has fully compensated for the damage and has eliminated the harmful or dangerous consequences of the crime or has in any case effectively worked in this direction;
b) the entity has eliminated the organisational deficiencies that led to the offence through the adoption and implementation of organisational models suitable for preventing offences of the kind that occurred;
c) the entity has made available the profit obtained for the purposes of confiscation.

[3] The publication of the conviction can be ordered when a disqualification sanction is applied to the entity. The judgment is published only once, in extract or in full, in one or more newspapers indicated by the judge in the judgment as well as by posting in the municipality where the entity has its main office. The publication of the judgment is carried out by the court registry, at the expense of the entity.

[4] The confiscation of the price or profit of the crime is always ordered against the entity, except for the part that can be returned to the injured party. When it is not possible to execute the confiscation of the price or profit, it may relate to sums of money, goods or other utilities equivalent to the price or profit.

[5] The prohibition from carrying out the activity involves the revocation or suspension of the authorizations, licenses or concessions functional to the performance of the activity. This sanction can be applied only when the imposition of the others is inadequate.
A permanent ban from carrying out the activity may be ordered if the entity has made a significant profit from the crime and has already been sentenced, at least three times in the last seven years, to temporary disqualification from exercising the activity, or if the entity or one of its organizational units is permanently used for the sole or predominant purpose of allowing or facilitating the commission of crimes 231.