

APPENDIX NO. 1
CRIMES

Only the crimes **expressly listed** in the legislation qualify as Crimes that can result in Corporate Liability under the Decree.

The list of Crimes pursuant to the Decree (D.Lgs. 231/2001) has been added to over time, partly as subsequent regulations have been introduced, so that it now includes:

- A. **Wrongful obtainment of funds, fraud against the state or a public entity or the European Union, or fraud to obtain public funding and fraud using electronic means against the state or a public entity (Decree d.lgs. 231/2001, art. 24):** Misuse of public funds (criminal code, art. 316-bis); Wrongful obtainment of funds to the detriment of the state (criminal code, art. 316-ter); Obstructing the exercise of competitive tenders (criminal code, art. 353); Obstructing the choice of contractor procedure (criminal code, art. 353-bis); Fraud in public contracting (criminal code, art. 356), Fraud against the state or any other public entity or European Communities (criminal code, art. 640, section 2, no.1); Aggravated fraud to obtain public funding (criminal code, art. 640-bis); Fraud using electronic means against the state or a public entity (criminal code, art. 640-ter);
- B. **Computer crimes and unlawful processing of data (Decree d.lgs. 231/2001, art. 24-bis):** Forgery of a public computer document or a document having evidentiary effect (criminal code, art. 491-bis); Unlawful access to an IT or online system (criminal code, art. 615-ter); Unlawful possession and disclosure of IT or online system access codes (criminal code, art. 615-quater); Distribution of equipment, devices or computer programs aimed at damaging or interrupting an IT or online system (criminal code, art. 615-quinquies); Interception, obstruction or unlawful interruption of IT or online communications (criminal code, art. 617-quater); Installation of equipment aimed at intercepting, impeding or interrupting IT or online communications (criminal code, art. 617-quinquies); Damage to information, data and computer programs (criminal code, art. 635-bis); Damage to information, data and computer programs used by the state or by other public entity or other public information, data and computer programs (criminal code, art. 635-ter); Damage to IT or online systems (criminal code, art. 635-quater); Damage to public IT or online systems (criminal code, art. 635-quinquies); Computer fraud by the electronic signature certifier (criminal code, art. 640-quinquies); Crimes as set out in article 1, section 11, of Italian law decree d.l. 105/2019;
- C. **Organized crime offences (Decree d.lgs. 231/2001, art. 24-ter):** Criminal association (code of criminal procedure, art. 416); Mafia-type criminal association (criminal code, art. 416-bis); Exchange of political favours with mafia-type organizations (criminal code, art. 416-ter); Kidnapping for the purpose of extortion (criminal code, art. 630); Association for



the purpose of illegal trafficking of narcotic or psychotropic substances (Italian decree DPR 9 October 1990, no. 309, art. 74); All crimes where committed by taking advantage of the conditions set forth in art. 416-bis to facilitate the activity of associations set out in said article (Italian law L. 203/91); Illegal manufacture, smuggling, offering for sale, transfer, possession and carrying in a public place or place open to the public of military or military-style weapons or parts thereof, explosives, or illegal weapons, as well as multiple regular firearms (code of criminal procedure, art. 407, sect. 2, lett. a), number 5));

- D. **Embezzlement, extortion, unlawful inducement to give or promise benefits, bribery and abuse of office (Decree d.lgs. 231/2001, art. 25):** Extortion (criminal code, art. 317); Bribery for the performance of a public function (criminal code, art. 318); Bribery for an act contrary to public duties (criminal code, art. 319); Aggravating circumstances (criminal code, art. 319-bis); Bribery in judicial proceedings (criminal code, art. 319-ter); Unlawful inducement to give or promise anything of value (criminal code, art. 319-quater); Bribery of a person in charge of a public service (criminal code, art. 320); Active bribery (criminal code, art. 321); Instigation to bribery (criminal code, art. 322); Embezzlement, extortion, unlawful inducement to give or promise anything of value, bribery and instigation to bribery of members of European Community bodies and of foreign public officials (criminal code, art. 322 bis); Influence peddling (criminal code, art. 346 bis); Embezzlement (criminal code, art. 314), Embezzlement by taking advantage of the mistake of others (criminal code, art. 316); Abuse of office (criminal code, art. 323);
- E. **Counterfeiting of currency, instruments of public credit, stamps, revenue stamps and stamped paper and instruments or means of identification (Decree d.lgs. 231/2001, art. 25-bis):** Counterfeiting, complicit spending and smuggling of counterfeit money (criminal code, art. 453); Alteration of money (criminal code, art. 454); Non-complicit spending and introduction into the country of counterfeit money (criminal code, art. 455); Spending of counterfeit money received in good faith (criminal code, art. 457); Counterfeiting of stamps, revenue stamps and stamped paper, smuggling, purchase, possession or circulation of counterfeit stamps, revenue stamps and stamped paper (criminal code, art. 459); Counterfeiting of watermarked paper used in the fabrication of instruments of public credit or stamps, revenue stamps and stamped paper (criminal code, art. 460); Fabrication or possession of watermarks or instruments for the counterfeiting of money, stamps, revenue stamps and stamped paper, or watermarked paper (criminal code, art. 461); Use of counterfeit or altered stamps, revenue stamps and stamped paper (criminal code, art. 464); Counterfeiting, alteration or use of trademarks or logos or patents, models and designs (criminal code, art. 473); Smuggling and sale of fake goods (criminal code, art. 474);
- F. **Felonies against industry and commerce (Decree d.lgs. 231/2001, art. 25-bis.1):** Harming the freedom of industry and trade (criminal code, art. 513); Unlawful competition involving threats or violence (criminal code, art. 513-bis); Fraud against domestic industry



(criminal code, art. 514); Commercial fraud (criminal code, art. 515); Sale of non-genuine food products as genuine food products (criminal code, art. 516); Sale of industrial products with misleading marking (criminal code, art. 517); Manufacture and sale of goods made through appropriation of patent rights (criminal code, art. 517-ter); Falsifying geographical indications or designations of origin of agricultural and food products (criminal code, art. 517-quater);

- G. **Corporate crimes (Decree d.lgs. 231/2001, art. 25-ter):** False company statements (civil code, art. 2621); Minor offences (civil code, art. 2621-bis); False statements in corporate records to the detriment of shareholders (art. 2622); Obstruction of control (civil code, art. 2625, section 2,); Unlawful return of capital (civil code, art. 2626); Unlawful sharing out of profits and reserves (civil code, art. 2627); Unlawful transactions regarding the shares of the company or its controlling company (civil code, art. 2628); Transactions to the detriment of creditors (civil code, art. 2629); Failure to disclose a conflict of interest (civil code, art. 2629-bis); False creation of share capital (civil code, art. 2632); Improper allocation of company assets by liquidators (civil code, art. 2633); Private-to-private corruption (civil code, art. 2635, section 3); Incitement of private-to-private corruption (civil code, art. 2635 bis); Unlawful influence on shareholders' meetings (civil code, art. 2636); Stock price manipulation (civil code, art. 2637); Hindering public supervisory authorities from performing their functions (civil code, art. 2638, sections 1 and 2);
- H. **Crimes committed for purposes of terrorism or subversion of the democratic system as set forth in the Italian criminal code and special laws (Decree d.lgs. 231/2001, art. 25-quater):** Subversive associations (criminal code, art. 270); Associations for purposes of terrorism, including international terrorism, or subversion of the democratic system (criminal code, art. 270 bis); Assistance to members of associations (criminal code, art. 270 ter); Recruitment for purposes of terrorism, including international terrorism (criminal code, art. 270 quater); Training in activities for purposes of terrorism, including international terrorism (criminal code, art. 270 quinquies); Conduct for purposes of terrorism (criminal code, art. 270 sexies); Attack for purposes of terrorism or subversion (criminal code, art. 280); Act of terrorism with explosives or other lethal weapons or devices (criminal code, art. 280 bis); Kidnapping for purposes of terrorism or subversion (criminal code, art. 289 bis); Incitement to commit any of the crimes under items one and two (criminal code, art. 302); Political conspiracy through agreement (criminal code, art. 304); Political conspiracy through association (criminal code, art. 305); Armed association: creating and participating (criminal code, art. 306); Assistance to members of conspiracy or armed association (criminal code, art. 307); Hijacking, diversion and destruction of an aeroplane (law no. 342/1976, art. 1); Damage to installations on the ground (Law no. 342/1976, art. 2); Sanctions (Law no. 422/1989, art. 3); Active repentance (decree d.lgs. no. 625/1979, art. 5); New York Convention of 9 December 1999 (art. 2);



- I. **Female genital mutilation practices (Decree d.lgs. 231/2001, art. 25-quater.1)** (criminal code, art. 583-bis);
- J. **Crimes against the person (Decree d.lgs. 231/2001, art. 25-quinquies):** Placing or holding individuals in a condition of slavery or servitude (criminal code, art. 600); Child prostitution (criminal code, art. 600-bis); Child pornography (criminal code, art. 600-ter); Possession of pornographic material (art. 600-quater); Virtual pornography (criminal code, art. 600-quater.1) [added by art. 10, Law no. 38 6 February 2006]; Tourism initiatives for the purposes of exploiting child prostitution (criminal code, art. 600-quinquies); Human trafficking (criminal code, art. 601); Purchase and sale of slaves (criminal code, art. 602); Illegal labour intermediation and labour exploitation (criminal code, art. 603 bis), Solicitation of minors (art. 609-undecies);
- K. **Market manipulation crimes (Decree d.lgs. 231/2001, art. 25-sexies):** Abuse of privileged information (art. 184 of decree d.lgs. no. 58/1998); Market manipulation (art. 185 of decree d.lgs. no. 58/1998);
- L. **Manslaughter and serious or grievous bodily harm committed through breach of occupational health and safety regulations (Decree d.lgs. 231/2001, art. 25-septies):** Manslaughter (criminal code, art. 589); Unintentional bodily harm (criminal code, art. 590);
- M. **Handling of stolen goods, money laundering and investment of the proceeds of crime, as well as self-laundering (Decree d.lgs. 231/2001, art. 25-octies):** Handling of stolen goods (criminal code, art. 648); Money laundering (criminal code, art. 648-bis); Investment of the proceeds of crime (criminal code, art. 648-ter); Self-laundering (criminal code, art. 648-ter.1);
- N. **Offences relating to non-cash means of payment and fraudulent transfer of valuables and assets (Decree d.lgs. 231/01, art. 25 octies 1):** Improper use and falsification of credit and debit cards (criminal code, art. 493 ter), Possession and distribution of equipment, devices or computer programs aimed at committing crimes concerning non-cash means of payment (criminal code, art. 493 quater), Fraudulent transfer of valuables and assets (criminal code, art. 512 bis) as well as any other offence against public trust, against assets or that otherwise harms assets as provided for under the Italian criminal code, where it concerns non-cash means of payment;
- O. **Offences related to copyright infringement (Decree d.lgs. 231/2001, art. 25-novies):** Communication to the public, through a digital network, by means of connections of any kind, of an original work, or part thereof, protected under IP law (law no. 633/1941 section 1 lett. a) bis, art. 171); Offences as set out in the above point committed against the works of other people not intended to be published where they are prejudicial to the honour or reputation of the author (law no. 633/1941 section 3, art. 171); Unlawful duplication of computer programs for profit; importation, distribution, sale or possession of programs stored on media not bearing the SIAE sticker, for commercial or business or rental



purposes; provision of means to remove or circumvent the devices in place to protect computer programs (law no. 633/1941 section 1, art. 171-bis); Reproduction, transfer to another medium, distribution, communication, presentation or public showing of the contents of a database; extraction or reuse of the database; distribution, sale or rental of databases (law no. 633/1941 section 2, art. 171-bis); Unlawful duplication, reproduction, transmission or broadcasting by any means of all or part of original works intended for cinema or television distribution, for the sale or rental of discs, tapes or similar media or any other media containing phonograms or videograms of musical, cinematographic or associated audiovisual works or sequences of moving images; literary, dramatic, scientific or educational, musical, or multimedia works, even where they are part of collective works or compilations or databases; reproduction, duplication, transmission or unlawful showing, sale or trade, transfer for any reason or unlawful importation of more than fifty copies of works protected by copyright and related rights; inserting any copyrighted original work, or part thereof, into a digital network, by means of connections of any kind (law no. 633/1941, art. 171-ter); Failure to advise SIAE of the identification data of media not subject to application of the sticker, or false statement (law no. 633/1941, art. 171-septies); Fraudulent production, sale, importation, promotion, installation, modification, public and private use of equipment or parts of equipment designed to decode audiovisual transmissions with restricted access over the air, via satellite, via cable, in either analogue or digital form (law no. 633/1941, art. 171-octies).

- P. **Incitement to not testify or to bear false testimony to the judicial authority (Decree d.lgs. 231/2001, art. 25-decies)** (criminal code, art. 377-bis);
- Q. **Environmental crimes (Decree d.lgs. 231/01, art. 25-undecies)**: Environmental pollution (criminal code, art. 452-bis); Environmental disaster (criminal code, art. 452-quater); Environmental crimes committed with gross negligence (criminal code, art. 452-quinquies); Trade and illegal dumping of highly radioactive material (criminal code, art. 452-sexies); Aggravating circumstances (criminal code, art. 452-octies); Killing, destruction, catching, taking, and possession of protected wild animal and plant species (criminal code, art. 727-bis); Destruction or deterioration of habitats within a protected site (criminal code, art. 733-bis); Importation, exportation, possession, use for profit, purchase, sale, display or possession for sale or for commercial purposes of protected species (Law no.150/92, art. 1, art. 2, art. 3-bis and art. 6); Discharge of industrial wastewater containing hazardous substances; discharge into the ground, subsurface and groundwater; discharge into the sea by ships or aircraft (decree d.lgs. no.152/06, art. 137); Unauthorized waste management (decree d.lgs. no.152/06, art. 256); Pollution of the ground, subsurface or groundwater (decree d.lgs. no. 152/06, art. 257); Illegal waste trafficking (decree d.lgs. no. 152/06, art. 259); Breach of the duties of communication, keeping of mandatory registers and forms (decree d.lgs. no. 152/06, art. 258); Organized activities for illegal waste trafficking (criminal code, art. 452-quaterdecies); Sanctions



(decree d.lgs. no. 152/06, art. 279); Wilful and malicious ship-source pollution (decree d.lgs. no. 202/07, art. 8); Ship-source pollution resulting from negligence (decree d.lgs. no. 202/07, art. 9); Stopping and reducing the use of harmful substances (Law no. 549/93, art. 3)¹;

- R. **Illegal immigration and Employment of foreign citizens without a valid residence permit (Decree d.lgs. 231/2001, art. 25-duodecies)** regarding the commission of crimes under art. 22, section 12 bis² and art. 12, section 3, 3 bis, 3 ter and section 5 of decree d.lgs. no. 286/98;
- S. **Racism and xenophobia (Decree d.lgs. 231/2001, art. 25-terdecies)** regarding the commission of crimes of Propaganda and incitement to commit crimes on the grounds of racial, ethnic and religious discrimination (criminal code, art. 604-bis);
- T. **Fraud in sports competitions, unlawful gaming or betting practices, and gambling carried out using prohibited equipment (Decree d.lgs. 231/2001, art. 25-quaterdecies)** regarding the commission of crimes of Fraud in sports competitions and Unlawful gaming or betting practices (articles 1 and 4 of Law no. 401/1989);
- U. **Tax crimes (Decree d.lgs. 231/2001, art. 25 quinquiesdecies)** regarding the commission of crimes of filing fraudulent tax returns based on invoices or other documents for non-existent transactions (decree d.lgs. 74/2000, art. 2, sect. 1 and 2 bis); filing fraudulent returns using other contrivances (decree d.lgs. 74/2000, art. 3 sect. 1), issuing invoices or other conduct for non-existent transactions (decree d.lgs. 74/2000, art. 8 sect. 1 and 2 bis); concealing or destroying accounting documents (decree d.lgs. 74/2000, art. 10); tax evasion (decree d.lgs. 74/2000, art. 11); filing untrue tax returns (decree d.lgs. 74/2000, art. 4), failure to file a tax return (decree d.lgs. 74/2000, art. 5), undue compensation of tax credits (decree d.lgs. 74/2000, art. 10 quater);
- V. **Smuggling (Decree d.lgs. 231/2001, art. 25 sexesdecies)** regarding the commission of crimes set forth in presidential decree D.P.R. 43/1973;
- W. **Crimes against cultural heritage (Decree d.lgs. 231/2001, art. 25 septiesdecies)** regarding the commission of crimes of theft of cultural assets (criminal code, art. 518 bis); misappropriation of cultural assets (criminal code, art. 518 ter), handling of stolen cultural property (criminal code, art. 518 quater); falsification of private deeds relating to cultural

¹ Italy's waste tracking control system (SISTRi) was repealed by legislative decree (d.l. 135/2018), with effect from 1.1.2019. Consequently, breaches relating to SISTRi matters are deemed to have been removed from the list of corporate criminal liability predicate crimes (False statements regarding the nature, composition and chemical and physical properties of waste in the preparation of a waste analysis certificate; entering a false waste analysis certificate into the SISTRi system; omission or tampering with the hardcopy of the SISTRi form — waste handling and transport area; decree d.lgs. no.152/06, art. 260-bis).

² "12. Any employer who employs foreign workers not in possession of a residence permit as required under this article, or whose permit has expired, or for which renewal has not been applied for, as required by law, or whose permit has been revoked or cancelled, shall be punished by a prison term of between six months and three years, and with a 5,000 euro fine for each employee.

12-bis. The penalties for the offence provided for by section 12 are increased by between one third and one half:

a) where more than three such workers are employed;

b) where such workers employed are under the legal working age;

c) where such workers employed are subjected to other particularly exploitive working conditions as set out in the Italian criminal code under section three, article 603-bis.



assets (criminal code, art. 518 octies); unlawful transfer of cultural assets (criminal code, art. 518 novies); illicit importation of cultural assets (criminal code, art. 518 decies); illicitly transferring abroad or exporting cultural assets (criminal code, art. 518 undecies); destruction, dispersal, deterioration, defacing, soiling, and illegal use of cultural or landscape assets (criminal code, art. 518 duodecies) and counterfeiting of works of art (criminal code, art. 518 quaterdecies)

- X. **Laundering of cultural assets and devastation and looting of cultural and landscape assets (Decree d.lgs. 231/2001, art. 25 octiesdecies)** regarding the commission of crimes of laundering of cultural assets (criminal code, art. 518 sexies) and devastation and looting of cultural and landscape assets (criminal code, art. 518 terdecies);
- Y. **Transnational crimes (Law no. 146/2006), that constitute predicate crimes committed transnationally:** Provisions against unlawful immigration (consolidation act under decree d.lgs. 25 July 1998, no. 286, sections 3, 3-bis, 3-ter and 5, art. 12); Association for the purpose of trafficking of narcotic or psychotropic substances (consolidation act under presidential decree D.P.R. 9 October 1990, no. 309, art. 74); Criminal association for the purpose of smuggling foreign manufactured tobacco (consolidation act under presidential decree D.P.R. 23 January 1973, no. 43, art. 291-quater); Incitement to not testify or to bear false testimony to the judicial authority (criminal code, art. 377-bis); Aiding and abetting (criminal code, art. 378); Criminal association (criminal code, art. 416); Mafia-type criminal association (criminal code, art. 416-bis).

The provisions of the Decree d.lgs. 231/2001 are also referred to by other industry standards, in some cases to identify new predicate crimes, in others to regulate various forms of liability. More specifically:

- **art. 187 quinquies of decree d.lgs. 58/98** has provided for the extension to corporate entities of the administrative crimes set forth in Part V, Heading II, Item III of the above-mentioned decree, in implementation of articles 6, 7, 8, and 12 of the Decree d.lgs. 231/2001;
- **art. 12 of law no. 9/13** has provided for the applicability of liability according to the Decree d.lgs. 231/2001 to "*corporate entities operating within the virgin olive oil supply chain*" for crimes contemplated under articles 440 (adulteration or counterfeiting of foodstuffs), 442 (sale of counterfeit or adulterated foodstuffs), 444 (sale of harmful foodstuffs) of the Italian criminal code, as well as articles 473, 474, 515, 516, 517 and 517-quater of the Italian criminal code (the latter already qualifying as predicate crimes pursuant to art. 25-bis of the Decree d.lgs. 231/2001);
- **art. 192 of decree d.lgs. 152/06** has provided that, in the event of a violation of the regulation on illegal dumping of waste, where "*liability for the unlawful deed can be attributed to directors or persons representing the legal entity*", "*the legal entity and*



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the individuals who have taken on the rights of said entity, according to the provisions of legislative decree 8 June 2001, no. 231" are jointly responsible for removing the waste, for taking the waste to an appropriate facility for recycling or disposal, and for restoring the affected places to their original state.