



## **ANNEX 1** **TYPES OF OFFENCES**

The types of Offences – based on the Decree – that could give rise to Administrative Liability on the part of the Entity are only those **expressly listed** by the Legislator.

The list of Offences under Legislative Decree 231/2001 has been extended over time, also as a result of subsequent regulatory measures, to include:

**(A) Offences against the Public Administration** (referred to by Art. 24 and 25 of the Decree):

- Misappropriation of funds to the detriment of the State or other public body (Art. 316-*bis* of the Criminal Code) Undue receipt of funds to the detriment of the State or other public body (Art. 316-*ter* of the Criminal Code)
- Fraud against the State or a Public Body (Art. 640, para. 2(1), of the Criminal Code)
- Aggravated fraud to obtain public funds (Art. 640-*bis* of the Criminal Code)
- Computer fraud against the State or other public body (Art. 640-*ter* of the Criminal Code) Extortion (Art. 317 of the Criminal Code)
- Corruption (Art. 318, 319, 320 and 322-*bis* of the Criminal Code)
- Incitement to corruption (Art. 322 of the Criminal Code)
- Corruption in judicial proceedings (Art. 319-*ter* of the Criminal Code)
- Undue incitement to give or promise benefits (Art. 319-*quater* of the Criminal Code)
- Embezzlement, extortion, undue incitement to give or promise benefits, corruption and incitement to corruption of members of international courts or bodies of the European Communities or of international parliamentary assemblies or international organizations and functionaries of the European Communities (Art. 322-*bis* of the Criminal Code)
- Trafficking in unlawful influences (Art. 346-*bis* of the Criminal Code)

**(B) Computer crimes and unlawful data processing** (referred to by Art. 24-*bis* of the Decree):

- Falsification of electronic documents (Art. 491-*bis* of the Criminal Code)
- Unauthorized access to a computer or communication system (Art. 615-*ter* of the Criminal Code)
- Unauthorized possession and distribution of access codes to computer or communication systems (Art. 615-*quater* of the Criminal Code)
- Distribution of computer programs designed to damage or interrupt a computer system (Art. 615-*quinquies* of the Criminal Code)
- Illegal interception, obstruction or interruption of computer or network communications (Art. 617-*quater* of the Criminal Code)
- Installation of equipment designed to intercept, obstruct or interrupt computer or network communications (Art. 617-*quinquies* of the Criminal Code)

- Damage to computer and communication systems, data and computer programs (Art. 635-*bis* of the Criminal Code)
- Damage to information, data and computer programs used by the State or other public body or in any case used for public utility (Art. 635-*ter* of the Criminal Code)
- Damage to computer and communication systems (Art. 635-*quater* of the Criminal Code)
- Damage to computer or communication systems of public utility (Art. 635-*quinquies* of the Criminal Code)
- Fraud by the person certifying digital signatures (Art. 640-*quinquies* of the Criminal Code)

**(C) Crimes relating to counterfeiting currency, legal tender and duty stamps** (referred to by Art. 25-*bis* of the Decree):

- Counterfeiting currency, spending and introduction into the State, with complicity, of counterfeit currency (Art. 453 of the Criminal Code)
- Currency tampering (Art. 454 of the Criminal Code)
- Spending and introduction into the State, without complicity, of counterfeit currency (Art. 455 of the Criminal Code)
- Spending of counterfeit currency received in good faith (Art. 457 of the Criminal Code)
- Counterfeiting duty stamps, introduction into the State, purchase, possession or circulation of counterfeit duty stamps (Art. 459 of the Criminal Code)
- Counterfeiting watermarked paper used for the manufacture of legal tender or duty stamps (Art. 460 of the Criminal Code)
- Manufacture or possession of watermarks or instruments intended for counterfeiting currency, duty stamps or watermarked paper (Art. 461 of the Criminal Code)
- Use of counterfeit or altered duty stamps (Art. 464, para. 1 and 2, of the Criminal Code)

**(D) Corporate offences** (referred to by Art. 25-*ter* of the Decree):

- False corporate communications (Art. 2621 of the Civil Code)
- Obstruction of control activities (Art. 2625, para. 2, of the Civil Code)
- Undue restitution of capital contributions (Art. 2626 of the Civil Code)
- Illegal distribution of profits and reserves (Art. 2627 of the Civil Code)
- Illegal operations on company or parent company shares or quotas (Art. 2628 of the Civil Code)
- Transactions to the detriment of creditors (Art. 2629 of the Civil Code)
- Fictitious capital formation (Art. 2632 of the Civil Code)
- Undue distribution of company assets by liquidators (Art. 2633 of the Civil Code)
- Unlawful influence on the shareholders' meeting (Art. 2636 of the Civil Code)



- Stock manipulation (Art. 2637 of the Civil Code)
- Failure to disclose a conflict of interest (Art. 2629-*bis* of the Civil Code)
- Hindering public supervisory authorities' exercise of their functions (Art. 2638, para. 1 and 2, of the Civil Code)
- Corruption between private individuals (Art. 2635 of the Civil Code)
- Incitement to corruption between private individuals (Art. 2635-*bis* of the Civil Code)

**(E) Crimes of terrorism or subversion of the democratic order** (Art. 25-*quater* of the Decree). The provision refers both to the cases identified by the Criminal Code<sup>1</sup> and by special laws on the subject, and to the provisions of Art. 2 of the “*International Convention for the Suppression of the Financing of Terrorism, New York, 9 December 1999*”, which also covers female genital mutilation (Art. 583-*bis* of the Criminal Code)

**(F) Crimes against the individual** (art. 25-*quinquies*, inserted by Law 228/2003):

- Enslavement or keeping people enslaved (Art. 600 of the Criminal Code)
- Trafficking and trading in slaves (Art. 601 of the Criminal Code)
- Sale and acquisition of slaves (Art. 602 of the Criminal Code)
- Illegal intermediation and exploitation of labour (Art. 603-*bis* of the Criminal Code)
- Prostitution of minors (Art. 600-*bis*, para. 1 and 2, of the Criminal Code)
- Pornography involving minors (Art. 600-*ter* of the Criminal Code)
- Tourist activities aimed at exploiting prostitution of minors (Art. 600-*quinquies* of the Criminal Code)
- Possession of pornographic material (Art. 600-*quater* of the Criminal Code)

**(G) Offences of insider dealing and market manipulation** (referred to by Art. 25-*sexies*), so-called “market abuse” offences and, more specifically, the offences of:

- Insider dealing (Art. 184 of the Consolidated Law on Finance)
- Market manipulation (Art. 185 of the Consolidated Law on Finance)

**(H) Crimes of manslaughter and serious or very serious negligent injury, committed in violation of the accident regulations and the protection of health and safety at work** (Art. 25-*septies*, Legislative Decree 231/2001 - added by Law no. 123 of 3 August 2007, Art. 9):

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<sup>1</sup> In particular, Art. 270-*sexies* of the Criminal Code (conduct for the purposes of terrorism); Art. 280 of the Criminal Code (attack for the purposes of terrorism or subversion); Art. 280-*bis* of the Criminal Code (act of terrorism with deadly or explosive devices); Art. 289-*bis* of the Criminal Code (kidnapping for the purposes of terrorism or subversion); Art. 302 of the Criminal Code (incitement to commit some of the crimes referred to in the first and second items).

- Manslaughter (Art. 589 of the Criminal Code), with violation of the regulations on accident prevention and the protection of health and safety at work
- Negligent personal injury (Art. 590, para. 3, of the Criminal Code), with violation of the regulations on accident prevention and the protection of health and safety at work

(I) **Transnational offences** (referred to by Art. 10 of Law 146/2006 on “*Ratification and implementation of the United Nations Convention and Protocols against transnational organized crime, adopted by the General Assembly on 15 November 2000 and 31 May 2001*”), namely the offences of:

- Criminal association (Art. 416 of the Criminal Code)
- Mafia-type criminal association (Art. 416-*bis* of the Criminal Code)
- Incitement not to make statements or to make false statements to the judicial authorities (Art. 377-*bis* of the Criminal Code)
- Aiding and abetting of another person (Art. 378 of the Criminal Code)
- Criminal association for the purposes of smuggling foreign-manufactured tobacco (Art. 291-*quater* of Presidential Decree no. 43 of 23.1.1973)
- Criminal association for the purposes of illicit trafficking of narcotic or psychotropic substances (Art. 74 of Presidential Decree no. 309 of 9.10.1990);
- Provisions against illegal immigration (Art. 12, para. 3, 3-*bis*, 3-*ter* and 5 of Legislative Decree No. 286 of 25.7.1998)

With reference to such offences, the Decree is applied only if they are transnational in nature.

Art. 3 of Law no. 146 of 16.3.2006 defines **transnational crime** making it clear that this offence is punishable by a maximum term of imprisonment of not less than four years where an organized criminal group is involved, where the offence:

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

(L) **Offences of receiving stolen goods, money laundering and self-laundering** (pursuant to Art. 25-*octies* of Legislative Decree 231/2001 - inserted based on Art. 63, para. 3, of Legislative Decree 231/07):

- Receiving of stolen goods (Art. 648 of the Criminal Code)
- Money laundering (Art. 648-*bis* of the Criminal Code)



- Utilization of money, goods or benefits deriving from illegal activity (Art. 648-*ter* of the Criminal Code)
- Self-laundering (Art. 648-*ter* (1) of the Criminal Code)

**(M) Offences relating to counterfeiting of identifying marks, offences against industry and trade, offences relating to copyright infringement** (pursuant to Art. 25-*bis*, 25-*bis* (1), 25-*novies* Legislative Decree 231/2001 - introduced by Art. 15 of Law no. 99 of 23 July 2009)

- Counterfeiting, alteration or use of trademarks or distinctive signs or patents, models and designs (Art. 473 of the Criminal Code)
- Introduction into the State and trading of products with false signs (Art. 474 of the Criminal Code)
- Disruption of freedom of industry or trade (Art. 513 of the Criminal Code)
- Fraud in the exercise of trade (Art. 515 of the Criminal Code)
- Sale of non-genuine food substances as genuine (Art. 516 of the Criminal Code)
- Sale of industrial products with misleading signs (Art. 517 of the Criminal Code)
- Manufacture and sale of goods produced by usurping industrial property rights (Art. 517-*ter* of the Criminal Code)
- Counterfeiting of geographical indications or designations of origin of agricultural and food products (Art. 517-*quater* of the Criminal Code)
- Unlawful competition involving threats or violence (Art. 513-*bis* of the Criminal Code)
- Fraud against national industries (Art. 514 of the Criminal Code)
- Articles 171, first paragraph, letter a-*bis*), and third paragraph, 171-*bis*, 171-*ter*, 171-*septies* and 171-*octies* of Law no. 633 of 22 April 1941 on copyright protection

**(N) Organized crime offences** (pursuant to Art. 24-*ter*, Legislative Decree no. 231/01 - introduced by Law no. 94, Art. 2, para. 29, of 15 July 2009)

- Criminal association (Art. 416 of the Criminal Code)
- Enslavement or keeping people enslaved or in servitude (Art. 600 of the Criminal Code)
- Human trafficking (Art. 601 of the Criminal Code)
- Purchase and sale of slaves (Art. 602 of the Criminal Code)
- Mafia-type criminal associations, including foreign ones (Art. 416-*bis* of the Criminal Code)
- Mafia-related vote exchange in elections (Art. 416-*ter* of the Criminal Code)
- Kidnapping for the purposes of robbery or extortion (Art. 630 of the Criminal Code)
- Criminal association for the purposes of illicit trafficking of narcotic or psychotropic substances (Art. 74 of Presidential Decree no. 309 of 9.11.1990)
- Illegal production, trafficking and possession of narcotic or psychotropic substances (Art. 73 of Presidential Decree No. 309 of 9.11.1990)

**(O) Incitement not to make statements or to make false statements to the judicial authorities** (pursuant to Art. 25-*novies* of Legislative Decree 231/01 - introduced by Art. 4 of Law No. 116 of 3 August 2009)

**(P) Environmental offences** (pursuant to Art. 25-*undecies*, Legislative Decree 231/01)

- Illegal discharges of industrial waste water (Art. 137 of the Environmental Code)
- Waste management, unauthorized landfills, mixing of waste, medical waste (Art. 256 of the Environmental Code)
- Illegal combustion of waste (Art. 256-*bis* of the Environmental Code)
- Falsification of waste analysis certificates (Art. 258, para. 4, 2nd sentence, of the Environmental Code)
- Illegal waste trafficking (Art. 259, para. 1, of the Environmental Code)
- Activities organized for the purposes of illegal waste trafficking (Art. 452-*quaterdecies* of the Criminal Code)
- Computer system for controlling waste traceability (Art. 260-*bis* of the Environmental Code)
- Pollution and decontamination of polluted sites (Art. 257 of the Environmental Code)
- Use of ozone-depleting substances (Art. 3, para. 6, of Law 549/1993)
- Spillage of polluting substances into the sea by ships (Art. 8 and 9 of Legislative Decree 202/2007)
- Exceeding limits for emissions into the air (Art. 279, para. 5, of the Environmental Code)
- Offences against animals, plants, protected habitats (Art. 727-*bis*, 733-*bis* of the Criminal Code)
- Offences relating to the trade/introduction of protected animal/plant species (Law 150/1992)
- Environmental pollution (Art. 452-*bis* of the Criminal Code)
- Environmental disaster (Art. 452-*quater*)
- Unintentional environmental offences (Art. 452-*quinquies*)
- Trafficking and abandonment of highly radioactive material (Art. 452-*sexies*)
- Aggravating circumstances (Art. 452-*octies*)

**(Q) Offences concerning illegal employment** (pursuant to Art. 25-*duodecies*)

- Offences concerning the “smuggling of migrants” and “Provisions against illegal immigration” referred to in Art. 12, para. 3, 3-*bis*, 3-*ter* and 5, of Legislative Decree no. 286 of 25 July 1998 were introduced by Law 146/2006 and Law 161/2017.
- Fixed term and permanent employment pursuant to Art. 22, para. 12-*bis* of Legislative Decree no. 286 of 25 July 1998



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Child Health Research

**(R) Offences concerning Racism and Xenophobia** (pursuant to Art. 25-*terdecies*)

- Propaganda and incitement to commit crimes on the grounds of racial, ethnic and religious discrimination (Art. 604-*bis* of the Criminal Code)