

ENFORCEMENT OF THE MODEL OF ORGANISATION, MANAGEMENT AND CONTROL UNDER TO ITALIAN LEGISLATIVE DECREE number 231/2001

1. LEGISLATIVE DECREE 231/2001

Legislative Decree n. 231/2001 (hereinafter the “Decree”) introduced in the Italian legal system the administrative liability of legal entities (a category which includes also companies), to be re-conducted, in fact, to criminal liability.

Said administrative liability is applicable – in addition to the personal criminal liability of the person who materially acted in violation of the law – with exclusive reference to some hypothesis of offence, indicated in the Decree.

It’s essential that these crime are committed *in the interest* or *for the benefit* of the same legal entities, by the those who have representative, management and control powers of the same legal entities (so called “top” subjects) or by those submitted to the management and/or control of the formers (so called “submitted” subjects).

The administrative sanctions provided for by the Decree are:

- a) monetary (which affects also the economic interests of the shareholders);
- b) restrictive (such as the suspension or withdrawal of licenses and permits, the prohibition to negotiate with Public Authorities, the temporary or permanent disqualification from the corporate activity, the exclusion or withdrawal of financing and contributions, the prohibition to advertise products and services);
- c) the forfeiture
- d) the publication of the decision.

According to article 4 of the Decree, the liability of the legal entity having its head office in the Italian territory is provided for also for offences committed abroad, if the foreign State where the offence has taken place does not prosecute it.

2. ADOPTION OF THE MODEL BY GIMATIC AND EXONERATION OF LIABILITY

On 24 March 2014 GIMATIC s.r.l. has adopted the Models of Organisation, Management and Control to be relieved from the above mentioned liability provided that our company has adopted a system aiming at preventing the offences and which provides adequate measures apt to prevent illegitimate behaviours and to reduce the risk of their taking place.

In particular, article 6 of the Decree provides that, if the offence is committed by the “Top” subjects, the company is not liable if it demonstrate:

- a) to have adopted and adequately implemented through its managing board, before the offence took place, models of organisation and management suitable to prevent offences of the kind of the one committed;
- b) to have entrusted a body (internal or external), having autonomous powers of initiative and control and specific requirements of independence and professionalism, with the task to control the operation and the compliance of the models as well as to take care of their update;
- c) that the “Top” subjects have committed the offence eluding, with fraud, the above models of organisation and management;
- d) that there has been no lack of or insufficient control by the controlling body above mentioned.

As for as the “Submitted” subjects, article 7 of the Decree provides that the company is liable if the commission of the offence has been rendered possible by the violation of the direction and control duties. Anyway, the non compliance with the above mentioned direction and control duties is excluded if the entity, before the offence is committed, has adopted and adequately implemented a model of organisation, management and control suitable to prevent offences of the kind of the one committed.

To the contrary, lacking the adoption of the model (or if the same is deemed inadequate by the judge) the entity remains subject to the administrative liability and the shareholders, the economic interests of whose can thus be affected, can act against the directors for the non adoption of the model.

The Models of Organisation, Management and Control adopted by GIMATIC s.r.l.:

1. identified the areas where the offences indicated in the Decree are most likely to happen;
2. provided for specific procedures aiming at organising the adoption and implementation of the corporate decisions with respect to the offences to be prevented;
3. provided for methods of identification and management of adequate funds to prevent the commission of the offences under reference;

4. provided for an obligation to inform the body entrusted with the control of the implementation of the Model;
5. organised an internal disciplinary system suitable to sanction the non compliance with the provisions of the Model.

The procedures and measures provided for in the Models of Organisation, Management and Control, aiming at preventing the commission of the offences, must, to be effective, be created and implemented with reference to the specific corporate reality.

3. RECOMENDATION

In the light of the above described regulation, the Board of Directors of GIMATIC s.r.l. recommends to the third party that will have business connection with the company to abide by the rules included in the Model.