

**THREE-YEAR CORRUPTION PREVENTION  
PLAN**

**2023-2025**



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## **PREMISE**

Following the note DG/2014/0010438 of 22 December 2014 received by Rai, as part of the Group's management and coordination activities, Rai Com was asked, among the activities implementing the Anti-Corruption law, "to provide, promptly, following the requirements of the National Anti-Corruption Plan:

- the appointment of the person responsible for implementing the Plan and the Transparency Officer;
- the preparation of the Corruption Prevention Plan;
- the integration of the Organization, Management and Control Model under Legislative Decree 8 June 2001, no. 231 (from now on MOGC) with the Plan provided for in the Anti-Corruption law".

In the meeting held on 29 January 2015, Rai's Board of Directors adopted the Three-Year Corruption Prevention Plan, which also contains, among other things, within the scope of the management and coordination activity, the reference principles for the subsidiaries, for the purpose of the adoption by the latter of a Corruption Prevention Plan that in any case takes into account the legal nature, specificity and operational and statutory characteristics of the same.

Rai Com's Board of Directors, in implementation of Rai's note DG/2014/0010438 of 22 December 2014, by resolution of 4 March 2015, adopted the Three-Year Corruption Prevention Plan (PTPC).

Furthermore, the Board of Directors of Rai Com, by resolution of 23 January 2015, appointed the Head of Legal Affairs, Marco Fioretti Esq., Head of corruption Prevention and Transparency (RPC), entrusting him with the task of complying with the provisions of law no. 190 of 2012, the National Anti-Corruption Plan and the most recent agreements between ANAC and the Ministero dell'Economia e delle Finanze.

Taking into account the nature and the activities carried out by Rai Com, as better specified in paragraph 1.1 below, the application of the offences indicated in Book II "Crimes in particular", Title II "Crimes against the Public Administration", chapter I "Crimes of public officials against the Public Administration" of the Criminal Code, which presuppose the qualification of public official and of person in charge of a public service and for which the adoption of the Three-Year Corruption Prevention Plan is required, can be considered abstractly configurable but not concretely verifiable.

However, it was considered appropriate to proceed with the adoption of the PTPC, considering:

- The fact that the concept of corruption, within the meaning of the Anti-Corruption law, must be understood in a broad sense and include situations in which -

irrespective of criminal relevance - various possible situations of malfunctioning of the Company's activity due to the use of the functions assigned for private purposes are highlighted (so-called atypical corruption or maladministration);

- The circumstance that certain social activities are carried out by Rai Com on behalf of and in the interest of Rai concerning the tasks that Rai itself derives from the National Service Contract stipulated with the Ministero dello Sviluppo Economico, in compliance with Art. 45<sup>1</sup> of the Consolidation Act.

It should also be noted that the Board of Directors of Rai S.p.A.:

- by resolution of 26 January 2016, adopted the 2016-2018 Three-Year Corruption Prevention Plan (PTPC);
- by resolution of 25 January 2017, adopted the 2017-2019 Three-Year Corruption Prevention Plan (PTPC);
- by resolution of 30 January 2018, adopted the 2018-2020 Three-Year Corruption Prevention Plan (PTPC);
- by resolution of 24 January 2019, adopted the 2019-2021 Three-Year Corruption Prevention Plan (PTPC);
- by resolution of 30 January 2020, adopted the 2020-2022 Three-Year Corruption Prevention Plan (PTPC);
- by resolution of 25 March 2021, adopted the 2021-2023 Three-Year Corruption Prevention Plan (PTPC);
- by resolution of 09 February 2022, adopted the 2022-2024 Three-Year Corruption Prevention Plan (PTPC).

which represent an update of the previous PTPCs and contain, to management and coordination, reference principles and implementation criteria for the Subsidiaries to adopt the specific rules.

Therefore, Rai Com continued the process of implementing law 190/2012 by adopting:

- by resolution of 22 March 2016, the 2016-2018 Three-Year Corruption Prevention Plan (PTPC) of Rai Com;
- by resolution of 13 December 2016, the 2017-2019 Three-Year Corruption Prevention Plan (PTPC) of Rai Com;
- by resolution of 18 December 2017, the 2018-2020 Three-year Corruption Prevention Plan (PTPC) of Rai Com;
- by resolution of 24 October 2018, the 2019-2021 Three-Year Corruption Prevention Plan (PTPC) of Rai Com;
- by resolution of 13 January 2020, the 2020-2022 Three-Year Corruption Prevention Plan (PTPC) of Rai Com;
- by resolution of 10 March 2021, the 2021-2023 Three-Year Corruption Prevention Plan (PTPC) of Rai Com;
- by resolution of 26 January 2022, the 2021-2023 Three-Year Corruption Prevention Plan (PTPC) of Rai Com.

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<sup>1</sup> Art.45 of Legislative Decree 177/2005, as amended and supplemented, states: "The Company entrusted with the general public service broadcasting concession is allowed to carry out, directly or through affiliated companies, commercial and editorial activities related to the broadcasting of images, sounds and data and other related activities, provided that they are not detrimental to the better performance of the public services granted and that they contribute to the balanced management of the Company".

The Plan is monitored and updated annually, taking into account the progressive State of implementation of the initiatives envisaged, highlighting the actions to be taken, the objectives and priorities set by the Top Management Bodies, the Parent Company, the indications provided by the Department of Public Administration and ANAC, any regulatory and organizational changes made to the organizational structure of the Company and any indications provided by the Responsible for the Prevention of Corruption and Transparency.

The PTPC is part of a gradual process involving successive additions and implementations. The Plan is a dynamic document and is developed according to a logic of gradual adaptation to the evolving context, which is being significantly enriched, from one update to the next, with the information acquired through the anti-corruption Control Risk Self Assessment (CRSA).

The results of the anti-corruption CRSA, which identify the business processes exposed to the risk of corruption and the relevant sensitive areas, make it possible to devise a prevention system in line with the reality and peculiarities of the Company, with a positive impact on the effectiveness of risk management measures within the process of continuous improvement of the Plan itself.

An integral part of the Plan is the timetable of actions aimed at integrating, specifying, implementing and contextualising the Plan.

The Board of Directors of Rai Com S.p.A., by resolution of 31 January 2023, adopted this Three-Year Corruption Prevention Plan (PTPC) 2023-2025, which represents an update of the previous PTPC, in light of the following verifications and integrations:

1. verification of compliance of Rai Com's documentary framework with Rai policies, circulars and procedures on anti-corruption;
2. checking and adapting, where necessary, the PTPC and the Company's anticorruption documentation to regulatory developments;
3. analysis of information flows;
4. integration and/or adjustment of Rai Com's processes present in the mapping of risk areas, in the light of the organizational provisions issued by the Company. In the PTPC, the Table representing the aggregated risk areas was consequently updated;
5. update of the 2023-2025 Timeline.

## **DEFINITIONS**

The following definitions shall apply to this document. It is understood that those in the plural shall also apply to the relevant term in the singular and vice versa:

**ANAC:** indicates the National Authority Anti-bribery established under Art. 13 of Legislative Decree 27 October 2009, no. 150 and reorganized following the provisions of Art. 19 of law no. 114 of 11 August 2014.

**Risk Area:** an area/process identified by the Risk Assessment to which are linked one or more Directorates/Structures in respect of which there is a possibility of offences occurring.

**Authorities:** refers to national and foreign public administrations, including the Autorità per le Garanzie nelle Comunicazioni (also "AGCOM") and the Autorità Garante della Concorrenza e del Mercato (also "AGCM").

**Judicial Authority:** means all courts in matters within their jurisdiction.

**Improvement and implementation actions:** the activities of risk adjustment, prevention and minimization, and of integration, specification and implementation which are necessary, and which must be adopted by the Departments and Structures concerned to strengthen over time the effectiveness of the prevention of management and process macro criticalities/anomalies identified following the analysis of the so-called Information flows.

**Group leader:** Rai - Radiotelevisione Italiana S.p.A.

**CCNL:** indicates the National Collective Labor Agreement for managers, employees and workers.

**CCNL Dirigenti:** indicates the National Collective Labor Agreement for managers of companies producing goods and services.

**Code of Ethics of the Rai Group:** it indicates the document containing the rights, the duties - also moral - and the internal and external responsibilities of all the subjects and the bodies that operate with and in Rai, aimed at affirming the principles and the recognized and shared behaviors, also to prevent and contrast possible offences.

**Collaborators:** indicates all physical persons who collaborate with Rai Com under a relationship of autonomous, coordinated and continuous collaboration or other similar forms of collaboration of a non-subordinate nature.

**Consultants:** indicates the natural persons who - due to their proven experience and specialization and/or their enrolment in professional registers - collaborate with Rai Com under consultancy/self-employed contracts for the performance of highly qualified professional services, in compliance with the provisions of Art. 69 bis of Legislative Decree. 10 September 2003 no. 276 introduced by Art. 1(26) of law no. 92 of 28 June 2012 and of paragraph 27 thereof.

**Service Provision Contract:** a contract stipulated between Rai and Rai Com concerning the regulation of Rai's services in favor of Rai Com.

**Contract of Mandate:** contract stipulated between Rai and Rai Com concerning regulating relations between Rai Com and Rai.

**Service Contract:** national service contract stipulated between Rai and the Ministry of Economic Development in compliance with the Art. 45 of the Consolidation Act mentioned above.

**Corruption:** the definition contained in the SB is not only broader than the specific offence of corruption and the set of offences against the public administration but coincides with "maladministration", understood as the taking of decisions (of interests after proceedings, of determinations of internal phases of individual proceedings, of management of public resources) deviating from the care of the general interest due to improper conditioning by particular interests. In other words, it is necessary to take into account acts and behavior which, even if they do not consist of specific offences, conflict with the necessary care of the public interest and undermine the citizens' trust in the impartiality of the Company and of the persons carrying out activities in the public interest.

**Delegation:** means the act whereby a party (delegator) substitutes another party (delegate) for itself in the exercise of activities falling within its competence.

**Recipients:** indicates the Board of Directors, the Board of Auditors, the Supervisory Body (SB) and their members, the General Management and the Employees, who are bound to observe the prescriptions contained in the PTPC and, for the relevant parts, also the collaborators, the consultants, the Suppliers, the companies of the Rai Group and any other subject who may have relations with the Company.

**Employees:** means all those who have an employment relationship with the Company.

**Event:** the occurrence or change of a set of circumstances that stand in the way of or oppose the objective pursued by the entity (e.g. financial, environmental, etc.).

**Information flow:** any acquisition of documents, data and information agreed and shared with the Directorates and Structures concerned to monitor the activities of the Directorates/Structures operating in the so-called 'risk areas' identified in the PTPC.

**Suppliers:** means the natural and legal persons who perform work, supply goods and provide services for the Company and their collaborators.

**Group:** Rai - Radiotelevisione Italiana S.p.A. and its subsidiaries under Art. 2359, first and second paragraph, of the Italian Civil Code.

**Anti-Corruption law:** Law no. 190 of 6 November 2012.

**Whistleblowing law:** Law no. 179 of 30 November 2017 "Provisions for the protection of authors of reports of crimes or irregularities of which they have become aware in the context of a public or private employment relationship".

**Corporate bodies:** indicates the Board of Directors (also "**BoD**"), Chairman, Chief Executive Officer and the Board of Statutory Auditors of Rai Com.

**Supervisory Board or SB:** indicates the body provided for in Art. 6 of Legislative Decree no. 231 of 2001, with the task of supervising the operation of and compliance with the Company's organizational Model and its updating.

**National Anti-Corruption Plan (PNA):** indicates the Plan prepared and approved by ANAC, whose main function is to ensure the coordinated implementation of corruption prevention strategies in the public administration, developed at the national and international level.

**Three-Year Corruption Prevention Plan (PTPC) or Plan:** indicates this Plan which - based on the principles and criteria of the PNA - carries out the analysis and assessment of specific corruption risks and, consequently, indicates the organizational measures aimed at preventing them.

**Rai:** Means Rai Radiotelevisione italiana S.p.A.

**Contact persons:** Indicates the heads of the organizational units, given the significant management and decision-making prerogatives they assume above all within their respective processes.

**Head of Corruption Prevention and Transparency (RPC)** The person the Company has identified, bearing in mind the role played by him/her according to the criteria set out in Art. 1(7) of the Anti-Bribery Act for the parts applicable to the Company.

**Risk:** The effect of uncertainty as to the proper pursuit of objectives due to the occurrence of a given event. There are different risk categories: Market, reputational, strategic, organizational, operational, financial, criminal<sup>2</sup>.

**Company:** Indicates Rai Com S.p.A. (also Rai Com).

**SCIGR:** Means the Company's Internal Control and Risk Management System, i.e. the set of tools, organizational structures, standards and corporate rules aimed at enabling the Rai Com Company to be run in a healthy, correct and coherent manner with the corporate objectives defined by the Board of Directors, through an adequate process of identification, measurement, management and monitoring of the main risks, and through the structuring of adequate supervision and information flows aimed at ensuring the circulation of information.

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<sup>2</sup> See UNI ISO 31000, p. 4, elaborated by the ISO/TMB technical committee "risk management"; in particular, for the reference to this regulation, see PNA 2013, all. 1, p. 12, which states that "[...] ' Risk' means the effect of uncertainty on the proper pursuit of the public interest and, therefore, on the institutional objective of the entity, due to the possibility of a given event occurring. An "event" is defined as the occurrence or change in a set of circumstances preventing or opposing the pursuit of the institution's institutional objective [...]".

**TUSMAR:** Means the Consolidated Law on Audiovisual and Radio Media Services under Legislative Decree no. 31 July 2005, no. 177, as amended, repealed by Art. 70 of the TUSMAV "Consolidated text of audiovisual media services" starting from 25 December 2021.

# CHAPTER 1

## CONTEXT

Analyzing the context in which the Company operates is the starting point for the complex process of preventing and managing corporate risks. This phase coincides with identifying the object of analysis from both an objective and subjective point of view.

### 1.1 Rai Com activities

With effect from 30 June 2014, to improve the control of the opportunities deriving from the market (also at the level of the commercialization of Est/Tvod, Avod and Svod rights), Rai established Rai Com employing the transfer of the Company branch called "Commercial area", consisting of assets, active and passive contracts, debts, credits and other legal relations, also with personnel, related to: the commercialization of Rai's and third parties' intellectual property rights, music and literary music and prose publishing, book publishing, agreements with bodies and institutions, Sport and Library, cultural assets, Italian and European calls for tenders in the technological and communication sector, festivals and events.

Following the assignment mentioned above, Rai has decided to entrust Rai Com - as a Company belonging to the same corporate Group as Rai, under Art. 2359 of the Italian Civil Code and 100% controlled by Rai - with a Mandate Agreement, in consideration of both the consolidated know-how in the marketing of Rai's goods/products developed by the personnel included in the assignment mentioned above and the strictly fiduciary nature of the assignment itself, for the correct execution of which Rai Com, as mandatary, must adopt a strategy that is not in contrast with Rai's, and must have complete knowledge of both Rai's production, editorial and/or strategic plans and Rai's obligations as concessionaire of the public radio and television service.

Rai Com is obliged to carry out the activity covered by the Mandate contract in such a way as to:

- following Art. 45 of the Consolidation Act, ensure strict compliance with all the obligations incumbent on the public service broadcaster under the law and under the Service Contract;
- guarantee that the activities carried out by Rai Com, as resulting from its bylaws, will not be detrimental to the better performance of the public services granted to Rai and will contribute to the balanced management of the Company, in compliance with the provisions of Art. 45 of the Consolidated Act, fifth paragraph.

As provided for in Art. 4 of the Articles of Association, the object of the Company is:

- the distribution, commercialization and transfer, primarily according to the editorial needs of Rai and its associated companies, also in collaboration with or by entrusting to third parties, in Italy and abroad, of radio and television channels and rights, even partial, on audiovisual, cinematographic, television, book and multimedia works, with no limits on the means of transmission, distribution, mechanical support or platform, and of all the relative derivative rights, acquired, either originally or derivatively, primarily by Rai and/or by companies of the Rai Group and, as regards rights, also by third parties;
- the production and marketing, also in collaboration with or by entrusting to third parties, of commercial audiovisual products intended for the Italian and foreign markets, without any limitation in terms of transmission, distribution, mechanical support or platform, within the limits and constraints set annually by the Parent Company and in compliance with the prerogatives of the other Rai affiliates;
- the acquisition and marketing, in Italy and abroad, of rights, including partial rights, for the economic exploitation of audiovisual, cinematographic, television and multimedia works, with no limits on the means of transmission, distribution, mechanical support or platform, within the limits and constraints set annually by the Parent Company and in compliance with the prerogatives of the other Rai affiliates;
- the publishing and production of musical, theatrical, book and magazine work and the opening of publishing titles for the distribution of commercial products within the newsstand and bookstore channel;
- the opening of commercial establishments dedicated to the sale of derived products (related to the corporate purpose) and merchandising and any goods related to the corporate purpose;
- the marketing of sports rights, the acquisition and sale of sports libraries, the creation and management of thematic sports channels for marketing purposes;
- the management of functional interaction services, of any kind and by any means, with the programs and/or editorial offerings of Rai and of third parties not in competition with Rai;
- the negotiation management (including the negotiation, definition and/or formalization) of framework contracts and agreements (of an active and/or passive nature) with central and local, national and international, public and private bodies and institutions, concerning the implementation of institutional communication initiatives or other forms of cooperation of various kinds;
- the design, development and management of projects (such as communication, technological, etc.) aimed at participating in Italian and European calls for tenders;
- the conception, organization, management and participation in events, festivals, markets and other events, both national and non-national, of relevance to commercial activities and the exercise of all complementary and related activities;

- the conception, organization, management and participation in prizes, sporting and other competitions, exhibitions of any kind, of commercial importance, in Italy and abroad, and the exercise of all complementary and related activities;
- the establishment and operation, in Italy and abroad, of publishing, printing, journalistic (except for daily newspapers in compliance with and within the limits of the provisions of Articles 18 and 19 of Law no. 416 of 5 August 1981 and subsequent additions and amendments), book, music, audiovisual, cinematographic, multimedia and recording industries and in any case producers of goods and services with any other technologies that the development of the "media" may propose with the exploitation of the relevant copyrights;
- the commercialization of patents owned and/or otherwise available to Rai;
- the making available, in favor of third parties, of studies and/or technical facilities available to Rai and/or the conclusion of commercial agreements aimed at the exploitation of non-productive spaces available to Rai, in compliance with the prerogatives of Rai's other affiliates;
- entrusting activities (to be understood as including negotiation, formalization and/or management) of the so-called "contractual agreements". "Contratti Titoli di Coda", i.e. those atypical contracts concerning the provision of services/goods ancillary to production (e.g. clothes, furnishing accessories, etc.) in exchange for thanks in the credits of Rai programs for the services/goods provided to make the programs themselves.

In a strictly instrumental and non-prevalent manner, for the achievement of the purposes mentioned above, the Company, which is not a contracting station, may also, in Italy and abroad, carry out and promote any operation, in the form of an association or collaboration with third parties, of an industrial, commercial, movable, real estate nature, which is necessary, complementary and in any case connected to the activities mentioned above, and acquire shareholdings in other companies or enterprises having a similar corporate purpose.

The Company's activities are carried out primarily according to Rai's editorial requirements; the Company's activities with third parties cannot be carried out in competition with Rai and Rai's other subsidiaries.

## **1.2 The evolution of the corruptive phenomenon: contextualization in Rai Com**

Over the years, the phenomenon of corruption has undergone a criminological metamorphosis that affects the subjects and content of the unlawful agreement.

Bribery is characterized by the involvement of additional actors intended to act as intermediaries and filters. The forms, dynamics and relationships of corruption have undergone numerous changes compared to the past. More complex systems are

spreading, actors are appearing who seek useful contacts to subjugate public activity in the interests of private individuals.

The act of corruption is no longer central. Still, relations of mutual favor between the political-administrative sphere and the private business sphere take on greater weight. Bribery is no longer just about payment in cash, but also includes, for example: Gifts; attention expenses to third parties, meals and transport; contributions in kind; business, job or investment opportunities; personal discounts or credits; assistance or support to family members; other advantages or other benefits, when the purpose is to obtain improper advantages.

The concept of an administrative act is extremely rarefied and almost unconceivable in companies carrying out commercial activities relating to the provision of public services, even if indirectly. It is replaced by a complex activity (even of an exclusively private nature) that may be functionalized to pursue public interest objectives in certain cases and concerning certain performance methods.

However, it is precisely concerning realities such as these that the recent legislative and judicial developments can be traced, which tend to dissociate corruption from the individual administrative act, allocating the phenomenon within the so-called flow of activities (otherwise defined as "public management").

## CHAPTER 2

### Rai COM'S ORGANIZATIONAL STRUCTURE AND GOVERNANCE TOOLS

#### 2.1 Rai Com's organizational structure

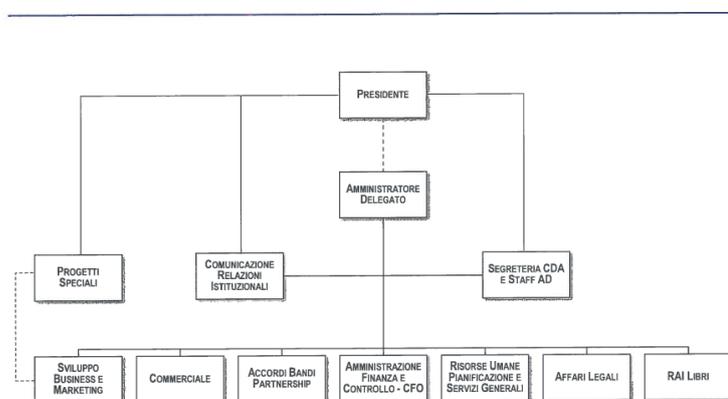
The company's organizational structure is of fundamental importance for preparing and implementing the Three-Year Corruption Prevention Plan.

The following is a breakdown of the primary lines of Rai Com's structure:

- President;
- Managing Director;
- BoD Secretariat/Director's staff;
- Communication and Institutional Relations Directorate;
- Special Projects Structure;
- Business Development and Marketing Directorate;
- Commercial Directorate;
- Contract Agreement and Partnership Directorate;
- Administration, Finance and Control Directorate;
- Human Resource, Planning and General Services Structure;
- Legal Affairs Structure;
- Rai Books Directorate.

The primary lines report directly to the Managing Director. They are linked together in a scheme that maximizes the circularity of information and increases awareness of mutual actions between the various sectors.

The corporate organization chart is published on the Company's institutional website in the specific section.



## 2.2 Rai Com's governance instruments

The Company has developed a set of organizational governance tools that ensure the functioning of the Company and which can be summarized as follows:

- *Articles of Association*: compliant to the provisions of the law in force, it contains various provisions relating to corporate governance aimed at ensuring the proper conduct of management activities;
- *Organizational structure, Mission and Responsibilities*: in addition to the macrostructural structure representing the reports to top management, this document illustrates the mission (i.e. a general summary of the main responsibilities) and the structure divided into first- and second level structures for each Directorate/Structure;
- *Regulation of the management and coordination activities carried out by Rai towards subsidiaries, listed and non-listed companies*: defines the scope and the procedures for the Parent Company to exercise the management and coordination activities with regard to the Subsidiaries, aligning the organizational and procedural rules within the group.
- *Service Provision Contract between Rai and Rai Com*: concerning the regulation of Rai's provision of services in favor of Rai Com;
- *Mandate Contract between Rai and Rai Com*: concerning the regulation of relations between Rai Com and Rai;
- *Structure of powers and delegations*: establishes, through the granting of specific powers of attorney, the powers to represent or commit the Company;
- *Code of Ethics*: it expresses the ethical and deontological principles that the Group recognizes as its own and which it calls for compliance with by all those who work to achieve the Company's objectives. The Code of Ethics expresses, among other things, lines and principles of conduct aimed at preventing the offences referred to in Legislative Decree no. 231/2001 and expressly refers to the Model as a useful tool for operating in compliance with the regulations;
- *Internal Control and Risk Management System (SCIGR)*: This is the set of tools, organizational structures, standards and corporate rules aimed at enabling a healthy, correct and consistent management of the Company in line with the corporate objectives defined by the Board of Directors, through an adequate process of identification, measurement, management and monitoring of the main risks, and through the structuring of adequate information flows aimed at ensuring the circulation of information.

## CHAPTER 3

### Rai COM'S INTERNAL CONTROL AND RISK MANAGEMENT SYSTEM

The Company is setting up an Internal Control and Risk Management System (from now on SCIGR) to monitor the typical risks of the Company's activity over time.

The SCIGR is a set of rules, procedures and organizational structures aimed at monitoring compliance with the strategies and the achievement of the following goals:

- effectiveness and efficiency of business processes and operations;
- quality and reliability of economic and financial information;
- compliance with laws and regulations, Company rules and procedures;
- safeguarding the value of the Company's assets and protecting against losses.

The Rai Group uses the Committee of Sponsoring Organizations (CoSO) Report<sup>3</sup> as an internationally recognized reference framework for implementing, analyzing, and evaluating the Internal Control System.

The internal control activities of Rai Com's SCIGR are divided into 3 levels: i) **Level I** (Management and Referents); ii) **Level II** (Management with monitoring functions - e.g. Planning and Control); iii) **Level III** (carried out by independent units other than operational units, including Internal Audit).

#### 3.1 The players of Rai Com's SCIGR

Consistent with the adoption of the traditional administration and control system, the main people currently responsible for the control, monitoring and supervisory processes in the Company are:

- **Board of Directors:** defines the guidelines of the Internal Control System so that the main corporate risks are correctly identified, adequately measured, managed and monitored and assesses the adequacy and effectiveness of the Internal Control System, also taking into account the guidelines of the Internal

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<sup>3</sup> CoSO, Internal Controls: Integrate Framework, 1992. The Treadway Commission's initiative led to the development of an innovative and internationally recognised Internal Control System model. This model identifies internal control as a process established by the Board of Directors, Management and other employees of an entity and designed to provide reasonable assurance regarding the effectiveness and efficiency of operations, the reliability of financial reporting and compliance with applicable regulations. To achieve these objectives, the structure of the Internal Control System is divided into five components: control environment, risk assessment, control activities, information and communication, and monitoring. In 2004, the Committee presented a second report (CoSO Report II -CoSO, Enterprise risk management - Integrated Framework, 2004), which incorporates the notion of internal control into the broader notion of risk management, which is understood as a process of identifying events that may affect the enterprise and managing the associated risks, providing assurance about the achievement of business objectives. These objectives are grouped into four categories: In addition to those of a strategic nature, there are objectives concerning business operations (effective and efficient use of Company resources), reliable periodic reporting and compliance with laws and regulations. The Internal Control System is part of this more general risk management process.

Control System provided by the Parent Company, as part of its management and coordination activities.

- Chairman of the Board of Directors: supervises the activities of the Internal Control System with the help of Internal Audit.
- Managing Director: responsible for implementing the guidelines formulated by the Board of Directors.
- Board of Statutory Auditors: supervises compliance with the law, the Articles of Association and respect for the principles of proper administration, the adequacy of the Company's organizational structure for the aspects under its responsibility, the Internal Control System and the administrative and accounting system, and the reliability of the latter in correctly representing management events.
- Supervisory Board: carries out the task of monitoring the operation and compliance with the Organization and Management Models adopted for prevent the offences referred to in Legislative Decree no. 231 of 8 June 2001, and for updating them.
- Management: guarantees the adequacy of the Internal Control System, actively participating in its proper functioning, also by setting up specific verification activities and monitoring processes suitable for ensuring its effectiveness and efficiency over time.
- Stable Commission for the Code of Ethics: the Stable Commission for the Code of Ethics is the reference body for the implementation and control of the provisions of the Rai Group's Code of Ethics. It is composed of the Heads of the Rai Directorates/Structures responsible for Internal Audit, Legal and Corporate Affairs, Human Resources and Organization and Distribution.
- Chief Financial Officer (CFO): the person in charge of planning and management control activities and administrative and financial activities, and the role of the Executive in charge.
- Head of Corruption Prevention: carries out the tasks indicated in the circular of the Department of Public Administration no. 1 of 2013 and the tasks of monitoring compliance with the rules on incompatibility and incompatibility, referred to in Art. 1 of law 190/2012 as amended and Art. 15 as amended of Legislative Decree 39/2013, it draws up the report on its activities and ensures its publication, under Art. 1 (14) of Law 190/2012.
- Internal Audit: this is the structure entrusted with the task of verifying the operation and correct application of the Internal Control System and providing assessments and recommendations to promote its efficiency and effectiveness. The internal auditing activities falling within the competence of the Group's subsidiaries, following the provisions of the Guidelines on internal auditing activities (issued by the Parent Company), may be performed by personnel from

Rai's Internal Audit Department under specific agreements entered into between the Parent Company and the individual subsidiaries. Each agreement identifies by name the staff of the Internal Audit Department entrusted with the task of carrying out the specific activities, it being understood that such activities shall, in any event, fall within the scope of the prerogatives of the reference subsidiaries and of the relevant control/supervision bodies, which shall be exclusively responsible for defining, implementing and monitoring the consequent improvement initiatives. For subsidiaries, these activities are carried out as part of the analysis of the functionality of the Group's Internal Control System. Where the Parent Company's Internal Audit activities concern processes and/or sub-processes of the Company, such interventions may be considered by the subsidiary as supplementing, but not replacing, the activities falling within the competence of the top management or the supervisory activities which the Board of Statutory Auditors or the Supervisory Board of the Company itself must carry out under the law and/or the 231 Model.

Rai Com is entrusted with the decision to intervene in the functionality of its Internal Control System.

The main tasks of Internal Audit are:

- to assess, within the limits of the available investigative tools, the operation and adequacy of the SCIGR, both on an ongoing basis and concerning specific needs, and to provide assessments and recommendations to promote its efficiency and effectiveness;
  - provide specialist support to Management on SCIGR to foster the effectiveness, efficiency and integration of controls into business processes and promote the continuous improvement of governance and risk management.
- Auditing Company: As part of the control system, an external Company is also entrusted with the auditing of the financial statements.

### **3.2 Rai Com's SCIGR regulatory framework and arrangements**

The main references in the Company's regulatory framework and arrangements for SCIGR are:

#### ***Articles of Association***

The Articles of Association represent the system of rules relating to the company's organization, operation, and dissolution. In particular, the Articles of Association define the administration and control model adopted by the Company and lay down the basic guidelines for the composition and division of powers of the corporate bodies and their relationships. More specifically, the Articles of Association, supplementing the provisions of the law, establish the criteria and procedures for identifying the persons who, at the highest level, contribute in various ways to the management and control of the Company.

### ***Regulation of the management and coordination activities carried out by Rai towards subsidiaries, listed and non-listed companies***

This document defines the organizational and procedural rules in the relationship between Rai Com and the Parent Company. In particular, it regulates the management and coordination activities carried out by Rai Radiotelevisione Italiana S.p.A. towards its subsidiaries.

### ***Service provision contract between Rai and Rai Com***

The contract has as its object the regulation of RAI's services in favor of Rai Com.

### ***Rai Com organization, management and control model under Legislative Decree 231/01***

The Organizational, Management and Control Model of Rai Com under Legislative Decree no. 231/2001 contains a description of the methods and responsibilities for approving, implementing and updating the Model itself, and provides for standards and control measures concerning all the types of offences currently included in the list of Legislative Decree no. 231/01.

The control standards are drawn up not only based on the principles and indications contained in the Confindustria Guidelines but also based on international "best practices".

The Board of Directors decides on updates to the Model and its adaptation, on a proposal from the Chairman. The initiative for updating and/or adjustment can be launched by the Supervisory Board, the Heads of Directorates/Structures and the 231 Team itself.

To prepare the proposal, the Chairman makes use of a special "Team 231" as identified in the Rai Com Organization, Management and Control Model under Legislative Decree 231/01. Rai Com's 231 Team consists of the Heads of Business Development and Marketing, Legal Affairs, Administration Finance and Control and Human Resources, Planning and General Services. Team 231 will, from time to time, identify the functions that will integrate the composition of the Team.

### ***Code of Ethics***

Rai's Code of Ethics (applicable to all Group companies) regulates the set of rights, duties and responsibilities that the Company expressly assumes towards the stakeholders it interacts with in carrying out its activities<sup>4</sup>.

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<sup>4</sup> In particular, the Code of Ethics identifies as fundamental values:

- diligence, fairness and good faith, respectively, in the performance of assigned tasks and in the fulfilment of contractual obligations at any organisational level;
- transparency and correctness in the management of activities and in the information, registration and verifiability of operations. All actions, operations, negotiations and, in general, behaviour carried out in the performance of work must be based on the utmost managerial correctness, completeness and transparency of information and legitimacy in both form and substance;
- fairness in the event of conflicts of interest, which means avoiding situations, in the performance of activities, in which the persons involved in any business transaction are in conflict of interest;
- honesty, i.e. refraining from committing illegal or unlawful acts not following the common sense of rectitude and the common sense of honour and dignity;

All those who work in the Group, without distinction or exception, undertake within the scope of their functions and responsibilities to observe and ensure observance of the principles set out in the Code of Ethics.

Concerning corruption prevention, the Code of Ethics reminds the Intended Users that it is forbidden to engage in corrupt practices, illegitimate favors, collusive behavior, solicitation, directly and/or through third parties of personal and career advantages for themselves or others. Similarly, it is not permitted to pay or offer, directly or indirectly, payments, material benefits or other advantages of any kind to third parties, representatives of governments, public officials and public or private employees to influence them to compensate them for an act of their office.

### ***The Three-Year Corruption Prevention Plan***

The PTPC, as defined in this document, is an integral part of Rai Com's SCIGR.

*Rai Com's regulatory, organizational and power system*

Rai Com defines its activities' organizational structure and functioning through service orders, organizational communications, circulars and internal communications, procedures and provisions.

The management powers are governed by a system of powers of attorney and proxies, which are allocated according to the responsibilities assigned.

### ***Reporting model***

To progressively strengthen the SCIGR, given the importance that the phenomenon of reports is increasingly assuming in this context, the "Procedure on the management and processing of reports (including anonymous ones)<sup>5</sup>" was approved by resolution of Rai's Board of Directors on 24 January 2019, prepared by the Parent Company to regulate the process of managing and processing reports (including anonymous ones) on potentially unlawful, irregular or reprehensible facts concerning operational and organizational events of Rai and its subsidiaries<sup>6</sup>.

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- observance of the law and therefore compliance with all the primary and secondary regulations in force, including the provisions concerning the fee due on the possession of radio and television equipment, and the laws and regulations in force in the countries in which Rai operates, Company procedures and internal regulations, the Code of Ethics and other Company policies;
  - the confidentiality of all information learnt in the framework of the activities carried out for Rai must be considered reserved and cannot be disclosed to third parties, nor used to obtain personal advantages, whether direct or indirect;
  - fair competition by protecting the value of fair competition refraining from deceptive, collusive or abusive conduct.

<sup>5</sup> This model, in short, defines the modalities for:

- the analysis of the reports received to ascertain the possible existence of elements illustrated with a sufficient degree of detail to allow, at least in abstract terms, the verification of their merits;
- the preliminary investigation activity aimed at verifying the reasonable grounds of the facts reported; - the monitoring of consequent corrective actions and reporting; and also ensures:
- the traceability of reports through an ad hoc protocol;
- the confidentiality of the reporter and of the facts reported, without prejudice to legal obligations;
- the protection of the Company's rights (Rai S.p.A. or its subsidiary) or of persons wrongly accused and/or in bad faith.

<sup>6</sup> Following the guidelines issued by ANAC on whistleblowers, an e-mail box has been set up for the Rai Group [whistleblowing@rai.it](mailto:whistleblowing@rai.it). In addition, the Company has activated the following communication channel verified by the RPCT [segnalazioniraicom@rai.it](mailto:segnalazioniraicom@rai.it).

This procedure is formally referred to by Rai Com's Board of Directors at the same time as the adoption of this Plan.

### ***Disciplinary system***

All Rai Com personnel - of any category and professional profile - shall comply with the disciplinary system provided for by the Code of Ethics and by the CCNL in force.

### ***Guidelines on internal auditing activities***

The document, approved by the Rai Board of Directors on 1 August 2013<sup>7</sup> and subsequent updates, defines the Guidelines on internal auditing activities and integrates the Guidelines on the Internal Control and Risk Management System (SCIGR) falling within the competence of Rai's Board of Directors, also in its capacity as Parent Company, identifying tasks, responsibilities, the scope of activities, operating macro-methods and information flows to and from Top Management and the Internal Audit control/supervisory bodies.

### **Regulation of the management and coordination activities carried out by Rai in respect of its subsidiaries**

This regulation defines the object and modalities of Rai's exercise of management and coordination activities towards its subsidiaries.

In particular, the regulation states:

- that, to guarantee a constant overall vision at the Group level of the management policies, the subsidiaries for the key processes concerning planning, budget/control, selection/management/development of resources, procurement and legal-legal architecture of the operations are required to make functional reference to the respective competent corporate structures;
- that Rai's competence to approve the Group's strategic, industrial and financial plans, including multi-year plans, remains unchanged, and to approve the annual budgets and related revisions of the subsidiaries for the purposes of Group consolidation;
- concerning personnel planning, selection, management and development policies, the subsidiaries shall adopt procedures consistent with those adopted by the Parent Company to comply with the criteria of transparency and non-discrimination that must characterize personnel appointment and recruitment procedures. Concerning personnel recruitment and assignment, subsidiaries are required to comply with the Parent Company's corporate provisions;
- each Controlled Company is required to assign internally structured responsibilities and adopt internal operating procedures to ensure the effective implementation of the Regulation each Controlled Company ensures constant and comprehensive information flows towards Rai.

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<sup>7</sup> The Guidelines on Internal Audit activities were subsequently updated by resolution of the Board of Directors. Rai of 18 December 2014.

## CHAPTER 4

### Rai COM'S THREE-YEAR CORRUPTION PREVENTION PLAN (PTPC)

#### 4.1. The PTPC within Rai Com's SCIGR

The PTPC is a constituent element of Rai Com's SCIGR and defines an organizational model functional to the integration of corruption prevention measures in the broader context of the corporate SCIGR and Rai Com's more general organizational, administrative and corporate governance structures.

The components of the SCIGR are coordinated and interdependent. Therefore, as a whole, the System involves different roles, according to a logic of collaboration and coordination, the administrative bodies, the supervisory bodies, the control bodies, the Management and all the personnel inside and outside Rai Com.

As better indicated in paragraph 6.2 below, the internal control activities on Rai Com's SCIGR are divided into the following 3 levels, characterized by a different degree of operational involvement in risk management:

- **Level I** (Management / Contact persons): Responsible, as far as it is concerned, for the identification, assessment, management and monitoring of risks, and for the definition, implementation and monitoring over time of the adequacy and effectiveness of the controls put in place to protect against them.  
In particular, the Anti-Corruption Contact Persons assist the RPC to ensure compliance with the Plan by carrying out the following activities:
  - actively participate in the "Control Risk Self Assessment" with the methodological support of the RPC;
  - enhance knowledge of the process of competence for the definition of controls;
  - enhance hierarchical-functional relationships, especially in critical process phases;
  - include controls that are not 'divorced' from process operations, i.e. controls embedded in operational activities;
  - transmit periodic flows to the RPC.
  
- **Level II** (Management with monitoring/RPC functions): Monitors the effective management of the main risks by Management, and the adequacy and effective operation of the controls put in place to monitor them.  
It also provides support to the first level in the definition and implementation of adequate management systems for the main risks and related controls;

- **Level III** (Internal Audit): Provides independent and objective assurance on the adequacy and effectiveness of Level I and Level II control activities.

The articulation of the first and second level of control is consistent with the size, complexity, specific risk profile and the regulatory context in which the Company operates and is declined according to the specific processes present in the Company.

The activities falling within the remit of the Head of corruption Prevention and Transparency and of the relevant organizational structure fall within the second level of control, since by nature and content, they can be configured as risk management activities aimed at identifying, assessing, managing and monitoring the relevant risks.

## **4.2. The purpose of the PTPC**

The implementation of the PTPC meets the objective of preventing conduct potentially exposed to corruption offences or highlighting malfunctions in the Company's activities and strengthening the principles of legality, correctness, and transparency in the management of the Company activities.

The PTPC promotes the correct functioning of corporate structures and protects the reputation and credibility of Rai Com's actions. In this context, the PTPC aims to:

- a) determine a full awareness that the occurrence of corruption exposes the Company to serious risks, especially in terms of image, and may produce criminal consequences for the person committing the violation;
- b) sensitise all recipients to commit themselves actively and constantly to complying with internal procedures and rules, to implement all useful measures to prevent and contain the risk of corruption and to adapt and improve over time the Company's control systems to guard against such risks;
- c) ensure the correctness of relations between Rai Com and the subjects that have relations of any kind with the same, also by verifying and reporting any situations that could give rise to conflicts of interest or corrupt phenomena;
- d) coordinate corruption prevention measures with the controls to be implemented under the Company's Internal Control System.

## **4.3 Recipients of the PTPC**

The recipients of the PTPC are the directors, the management, the members of the control/supervision bodies, the collaborators, for any reason, even occasional and/or only temporary, the employees of Rai Com, the auditors and, for the relevant parts, the consultants and the holders of contracts for works, services and supplies of Rai Com.

The PTPC is published in the relevant section on Rai Com's institutional website.

Newly recruited staff are informed of the validity of this Plan when they start work entry into the Company, for the purpose of acknowledgement and acceptance of its contents.

#### **4.4 Documentary coordination**

Given the principle of documental coordination and the specificity of the various documents provided for by law, this PTPC, in addition to being an integral part of the corporate SCIGR, is coordinated with the Company's budget (to ensure the financial sustainability of the measures provided for), with the transparency measures and with the training Plan.

#### **4.5 Entry into force, validity and updates**

The PTPC comes into force upon its adoption by the Board of Directors of Rai Com. It is valid for three years and will be reviewed annually and, in any case, whenever significant organizational changes determine the need for it, taking into account the provisions of Art. 1(8) of the Anti-Corruption law. The PTPC is updated annually as required by law. This PTPC may be supplemented and/or adapted to the prevention needs that may emerge during the Plan's implementation.

The RPC may propose amendments to the PTPC if it considers that circumstances external or internal to the Company may reduce the Plan's suitability to prevent the risk of corruption or limit its effective implementation.

Formal adjustments not relating to the principles or other substantial elements of the PTPC may be made directly by the RPC; the RPC will inform the Chairman and the Managing Director of such adjustments in the periodic reports.

## **CHAPTER 5**

### **THE PROCESS OF DEFINING AND UPDATING THE PTC**

Annex A to this Plan describes the offences which refer to the specific case of corruption and which could be relevant concerning the nature and activity of Rai Com.

The offences have been divided into two sections: The first covers the offences also mapped out in Model 231; the second covers the additional offences considered in the PTPC.

The list of sensitive activities in which there is a potential risk of an offence occurring is currently envisaged and is subject to evolution, also depending on the progressive implementation of the measures of the PTPC and on the results of the Risk Assessment activities.

## **5.1 Reference principles of the PTPC**

The complex process of defining the PTPC, the adoption of the prevention measures contained therein and the related operational tools are inspired by the following principles:

### ***Integrated model:***

The PTPC and the other components of the Internal Control System are coordinated and interdependent. As a result, the System, as a whole, is integrated into Rai Com's general governance, organizational and management structure.

### ***Subordination to Rai's direction and coordination and corporate autonomy:***

Rai Com is subject to Rai's direction and coordination and implements the guidelines and the relative implementation model contained in the Three-Year Corruption Prevention Plan adopted by Rai's Board of Directors, without prejudice to its responsibility for maintaining an adequate and functioning PTPC, in compliance with Rai's direction and coordination guidelines. Rai Com is also responsible for adopting, implementing, and maintaining its own PTPC.

### ***Consistency with best practices:***

The PTPC is defined following national and international best practices on SCIGR.

### ***Process approach:***

The PTPC, in general, is inspired by a logic of processes, regardless of the location of the relevant activities in the organizational and corporate structure of Rai Com.

### ***Risk-based approach:***

The PTPC is based on the identification, assessment, management and monitoring of the main corruption risks and is defined and implemented according to the cases and relevance of the relevant risks, which also guide the priorities for action.

### ***Prevention through a culture of control:***

It is fundamental that all Rai Com's people feel involved and contribute directly to developing and strengthening the culture of ethics and control and protecting the Company's assets.

### ***Management empowerment:***

Within the scope of the functions covered and in achieving the related objectives, management establishes specific control activities and monitoring processes suitable for ensuring the effectiveness and efficiency of corruption prevention measures over time. The general principle that all Rai Com personnel must behave consistently with Company rules and procedures remains unchanged.

### ***Reliability of controls:***

The final assessment of the adequacy of the Plan presupposes the reliability and adequacy over time of the control activities carried out by each actor of the SCIGR at each level of responsibility, except in the event of an express indication of deficiencies in the design and/or operation. Independent monitoring activities are regularly planned on a sample of them.

### ***Importance of information flows:***

Information flows are essential to fulfil responsibilities in PTPC and thus the pursuit of related objectives. The Company makes available to each recipient of the PTPC the information necessary to fulfil their responsibilities.

### ***Maximizing effectiveness and efficiency:***

The PTPC is defined to maximize effectiveness and efficiency, including reducing any duplication of activities and coordination between the main roles provided for by the SCIGR and between the different elements that constitute it.

### ***Continuous improvement and the practice of excellence:***

Rai Com pursues the continuous improvement of the PTPC according to the evolution of the reference context and to ensure that it is constantly updated concerning best practices. The PTPC seeks synergic integration in the corporate processes. Together with them, with the contribution of all the functions concerned, it must be subject to continuous improvement following the evolution of corporate operations, the regulatory framework and the economic and social context.

## **5.2 The definition and updating methodology used**

### **Definition**

The PTPC is the measure through which Rai Com implements its own strategy for the prevention of corruptive phenomena. The essential prerequisite of the Plan - and an inseparable essential element of the Plan - is the analysis of the level of exposure of the Company's activities to the risk of corruption.

The entire framework of Law no. 190/2012 and of the National Anti-Corruption Plan base their implementation effectiveness on the proper adoption of risk prevention measures and are therefore substantially inspired by the corporate risk management models.

Given the above, the PTPC has been developed in adherence to the best operational practices in risk management, and in coherence with the provisions of the new PNA 2019,

which suggests the introduction of a quali-quantitative approach in the context of corruption risk assessment activities<sup>8</sup>.

In this regard, the areas potentially exposed to the risk of corruption were identified, also taking into account the risk mapping carried out to adopt the Organization and Management Model under Legislative Decree no. 231/01.

The Control Risk Self Assessment activity provides a more precise and complete representation of the corporate activities at risk and the existence or non-existence of control measures and their degree of effectiveness in preventing the risk of corruption in individual corporate processes. This has made it possible to assess the so-called "gross" and "residual" risks, which are essential to Management and the Company for proper risk management and monitoring, for identifying the most appropriate control measures to be implemented and ensuring an informed and responsible decision-making process.

Based on this evidence, the PTPC will gradually be able, in the framework of the implementation of the programmatic measures already envisaged and to be envisaged, to focus in a targeted and punctual manner on the areas most exposed to risk, and thus further strengthen the process of minimizing the risks of corruption.

Based on these findings and of the operational experience gained through the implementation of the Plan, the safeguards and measures for strengthening prevention may be progressively enriched with further control protocols on the risk areas identified by the PTPC and with initiatives for adapting existing protocols to contribute to increasingly virtuous management of corporate activities.

## **Update**

The PTPC is constantly monitored to ensure that it is adequately updated over time. The update of the PTPC takes into account:

- a) any changes or additions to the legislation on the prevention of corruption (e.g. PNA update, Guidelines, ANAC determinations and penal provisions);
- b) changes in laws and regulations that modify Rai Com's institutional aims, attributions, activities or organization;
- c) changes in the organizational structure
- d) specific requests from Top Management, Administrative Body, Control and Supervisory Bodies, Management;
- e) the emergence of new risk factors which were not taken into account when drawing up the PTPC, changes in the measures already in place to prevent the risk of corruption, and the detection of significant breaches of the provisions contained therein;
- f) the evolution of reference best practices.

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<sup>8</sup> PNA 2019, Annex 1, pp. 33, "Given the nature of the object of assessment (corruption risk), for which we do not have, to date, particularly robust time series for quantitative analyses, which would require expertise that is not present in many administrations, and for the purposes of greater organisational sustainability, we suggest adopting a qualitative approach, giving ample space to the motivation of the assessment and ensuring maximum transparency. This does not mean, however, that administrations may not also choose to accompany the measurement resulting from qualitative choices with quantitative data whose indicators are clearly and autonomously identified by the individual administrations."

The PTPC may also be subject to adjustments in the light of the results of i) reconnaissance carried out on possible breaches of the PTPC; ii) documentary analysis carried out on information flows and internal verification and monitoring activities (Audits, Reports and Contact Person Cards); iii) Control Risk Self Assessment activities; iv) analysis of legal cases.

Based on these findings and of the operational experience gained through the operation of the Plan, the safeguards and measures for strengthening prevention may be progressively enriched with further control protocols on the risk areas identified by the PTPC and with initiatives for adapting existing protocols to contribute to increasingly virtuous management of corporate activities.

All actors involved in the definition process promote and update the PTPC over time.

## **CHAPTER 6**

### **THE PTPC GOVERNANCE MODEL**

#### **6.1 The Players**

As stated above, the PTPC is a component of the corporate SCIQR. As such, all SCIQR actors contribute to the corruption prevention process.

The methodology identified for the described process of defining the PTPC and the related analysis and verification activities have seen the involvement and direct contribution, in addition to the Board of Directors and the top management, of the following main actors, each for their respective areas of competence:

#### **The Board of Directors**

Concerning this Plan, the Board of Directors performs the tasks prescribed by law and, in particular, those set out below:

- a) appoints the RPC and the Transparency Officer;
- b) adopts the PTPC and its updates, notifying the competent bodies following the provisions of the law and this Plan;
- c) adopts general guidelines directly or indirectly aimed at preventing corruption;
- d) supervises the activities of the RPC concerning its responsibilities through regular meetings and information.

#### **Head of Corruption Prevention and Transparency (RPC)**

The RPC performs the following tasks in particular:

- a) prepares the Plan proposal to be adopted by the Board of Directors and its updates;
- b) supervise the implementation of the Plan.

Furthermore, the RPC's obligations also include the duty to report to the Chairman, the Chairman of the Board of Auditors and Rai Com's Supervisory Body any fact of which he/she has become aware that could constitute an offence or a violation of this Plan, to be able to assess the case and determine whether the conditions for reporting to the competent Judicial Authorities exist, making use of the specialized Company structures for the relevant assessment profiles.

### **Employees (referents, managers and non-managers) and collaborators of Rai Com**

All employees (managers and non-managers) and, for the relevant and applicable parts, Rai Com's collaborators are responsible, within the scope of their respective activities, tasks and responsibilities, for the occurrence of corruptive phenomena deriving from ineffective supervision of their activities and/or from elusive behavior and/or behavior, not in line with Company prescriptions.

Therefore, to fully carry out its mandate and represent effective anti-corruption protection, the activity of the RPC must be constantly and concretely supported and coordinated with that of all the persons operating in the corporate organization.

Together with the RPC, the following are a fundamental and indispensable part of the governance and implementation of this PTPC and, more generally, of the corruption prevention process in Rai Com: i) managers and heads of organizational units; ii) persons with power of attorney; iv) employees; v) collaborators.

In fact, with this Plan, these subjects are assigned the task of full and continuous cooperation in the prevention of corruption and illegality in Rai Com, which is expressed, among other things, in:

- transparency obligations;
- supervision of compliance with the Code of Ethics and the PTPC by employees and collaborators;
- abstention in cases of conflict of interest;
- full compliance with the provisions of this PTPC and of law 190/2012.

In this context, an essential role is played by the department heads of the various organizational and/or top management Directorates/Structures (reporting to the Chairman and the Managing Director) who, given the significant management and decision-making prerogatives that they assume above all in the context of their respective processes and because of the particular sensitivity that their activities have concerning the risk of corruption, are assigned the role of "Referents" for the prevention of corruption under this CPT.

In particular, the "Referents", for the Directorates/Structures of their competence, coordinate with the RPC so that the latter has elements and feedback on the implementation of the PTPC within the structures and processes of reference. On the adjustment measures deemed necessary for effective preventive action. The Contact Persons' tasks concerning the implementation of the PTPC are detailed in the following paragraph. The responsibilities of the Contact Persons remain with them even if they use the operational support of their own structures.

Rai Com's personnel and collaborators in any capacity are required to be aware of the PTPC, as well as to comply with it and also to ensure, to the extent of their competence, its implementation and continuous improvement.

### **Rai Com's internal control**

In its capacity as Rai Com's Control Body, the Board of Statutory Auditors monitors the effectiveness of the PTPC and its functioning. Specific coordination and information exchange flows are defined between the Controlling Body and the RPC.

## **6.2 The "Control Governance" Model of the PTPC**

Rai Com has defined a structured process for the governance and control of the PTPC and of the measures provided for therein, structured on the following 3 levels:

**Level I:** line monitoring and operational management of corruption risk (Contact Persons, other employees and collaborators);

**Level II:** Continuous monitoring (RPC);

**Level III:** Independent monitoring (Internal Audit).

Within the scope of the **first level of control**, employees and collaborators carrying out operational activities in areas at risk of corruption (so-called Risk owners) are responsible for identifying, assessing, operational management, and monitoring risks and related controls (line monitoring).

These persons are required to inform the manager at a higher level of responsibility of any changes in the risks for which they are responsible and to promote the continuous improvement of the relevant control measures (in terms of design and operation), favoring, where possible, the integration and rationalization of controls in the respective operational activities, with equal preventive effectiveness.

Monitoring shall be carried out at a frequency appropriate to the level of risk exposure and how the controls are performed. The results are communicated to the manager at a higher level, together with any risk situations/weaknesses detected and possible corrective solutions adopted/to be adopted to strengthen prevention action.

In this context, the Contact Persons:

- assist the RPC in monitoring compliance with the provisions of the PTPC by the structures and managers under their process/structures of reference;
- promptly inform the RPC, employing the defined communication channels, of any anomalies found during their monitoring, also proposing the solutions to be adopted for the purposes of proper risk control, monitoring their actual implementation;
- facilitate information flows from/to the Directorates/Structures involved in the processes for which they are responsible;
- report promptly the emergence of new risks identified in the context of the activities being supervised;
- report to the RPC any need to update/modify existing control systems, for instance, in the event of changes in the operation of the relevant structures (so called organizational changes);
- work in coordination with the RPC for training and awareness-raising needs within the relevant structures.

The **Second level of control** is represented by the activities carried out by the RPC and consists in coordinating the corruption prevention process as a whole, contributing - with the support of the "Referents", to the definition of the methodologies for identifying, assessing, managing and monitoring risks and controls and the implementation of the action plans provided, also according to the different degree of exposure to risk (risk-based approach).

The RPC, in coordination with the other actors of the PTPC, is required to:

- prepare and update a proposal for a PTPC to be submitted to the BoD for adoption;
- define appropriate "anti-corruption" training protocols for staff and verify their effective implementation;
- identify professional profiles/qualifications to be included in training programmes;
- define appropriate channels of communication for reporting suspicious behavior and/or behavior, not in line with the Code of Ethics and the defined control protocols, including those of Model 231;
- supervise and monitor, in liaison with the Contact Persons, the effective implementation of the Plan, the Code of Ethics and their current suitability, and propose the necessary adjustments in the event of violations of the relevant provisions or changes in the organization;
- monitor the implementation and observance by the Contact Persons of the protocols and measures laid down by the PTPC in the areas for which they are

responsible; for this purpose, the RPC also makes use of periodic certifications by the Contact Persons;

- manage the reports received through the institutional channels activated, where necessary, also through the activation of specific checks;
- oversee periodic external reporting in line with the transparency requirements of the relevant legislation.

The **Third level of control** is ensured - in line with the best practices for evaluating the Internal Control System - by the independent monitoring activities (separate evaluations) carried out by Internal Audit. The internal Audit, through specific interventions, verifies the operativeness and the suitability of the SCIGR of the process of prevention of corruption or of its substantial parts, also analyzing the operativeness of the first and second level of control.

Audits aimed at monitoring the implementation of and compliance with the PTPC will also be included in the Annual Audit Plan. In addition, the RPC may request additional verification actions not foreseen in the Annual Audit Plan.

## **CHAPTER 7**

### **THE IMPLEMENTATION PROCESS OF THE PTPC: IDENTIFICATION, ASSESSMENT AND MANAGEMENT OF CORRUPTION RISK**

#### **7.1 The methodological approach**

The risk treatment is carried out according to the following logical application process: i) definition of risk areas; ii) definition of protocols; iii) articulation of protocols within the procedural framework of reference; iv) structuring of information flows; v) identification of mechanisms for updating the PTPC; vi) definition, adoption and monitoring of the actual implementation actions; ix) activation of the disciplinary system in case of non-compliance with the provisions of the Plan.

Risk management, an integral part of the Internal Control System, is the set of activities put in place to monitor and deal with the exposure to corruption risk of certain business conducts assessed as sensitive<sup>9</sup>. The adoption of the PTPC and its implementation are tools to

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<sup>9</sup> UNI ISO 31000:2010, p. 8 prepared by the ISO/TMB Technical Committee "risk management". It states that "for risk management to be effective, an organisation should, at all levels, follow the principles below. a) Risk management creates and protects value. It makes a demonstrable contribution to achieving objectives and improving performance, for example, in terms of personal health and safety, security, compliance with statutory requirements, public acceptance, environmental protection, product quality, project management, the efficiency of operations, governance and reputation. b) Risk management is an integral part of all processes in the organisation. It is not an independent activity, separate from the main activities and processes of the organisation. It is part of management's responsibilities and an integral part of all processes in the organisation, including strategic planning and all project and change management processes. c) Risk management is part of the decision-making process. It helps decision-makers to make informed choices, determine the priority scale of actions and distinguish between alternative courses of action. d) Risk management explicitly deals with uncertainty. It explicitly takes into account uncertainty, the nature of that uncertainty and how it can be addressed. e) Risk management is systematic, structured and timely. A systematic, timely and structured approach to risk management contributes to efficiency and consistent, comparable and

implement risk management by establishing appropriate principles and protocols to be respected.

To this end, the implementation actions through which this Plan will be gradually updated, integrated and specified are a determining and essential aspect. To be effective, risk management is:

- a) an integral part of all processes in the organization;
- b) carried out by management in the context of their decision-making process and functional to take informed action also in the light of possible alternatives and priorities in treatment;
- c) referring to risks that cannot be avoided by preventive measures;
- d) systematic, structured and timely;
- e) based on the best available information;
- f) "tailored";
- g) oriented to human and cultural factors, within the complex context of the Rai Group;
- h) transparent and inclusive;
- i) dynamic, interactive and responsive to change;
- j) aimed at fostering the continuous improvement of the organization.

The anti-corruption risk assessment methodology, used in the context of anti-corruption risk management activities, includes a "mixed" assessment approach, aimed at integrating quantitative analysis methodologies ( $R=P*I$  - Risk as the result of multiplying Probability and Impact, understood as numerical values) with qualitative ones (risk indicators to be considered on a qualitative, discretionary basis, by the RPC and the Managers of the mapped sensitive activities).

Rai Com<sup>10</sup> provides, in any case, that risk management is based at least on the following factors: i) the level of exposure to corruption risk; ii) the compulsoriness of the risk prevention measure; ii) the organizational and economic impact related to the implementation of the measure.

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reliable results. f) Risk management is based on the best available information. The input to the risk management process is based on information sources such as historical data, experience, feedback from stakeholders, observations, forecasts and expert opinion. However, decision-makers should inform themselves of, and take into account, any limitations on the data or model used or the possibility of divergence of opinion between specialists. Risk management is 'tailor-made'. It is in line with the external and internal context and the organisation's risk profile. h) Risk management takes into account human and cultural factors. It identifies capabilities, perceptions and expectations of external and internal people that may facilitate or impede the achievement of the organisation's objectives. i) Risk management is transparent and inclusive. Appropriate and timely involvement of stakeholders and, in particular, decision-makers at all levels of the organisation ensures that risk management remains relevant and up-to-date. Involvement also ensures that stakeholders are properly represented and that their views are taken into account when defining risk criteria. Risk management is dynamic, iterative and responsive to change. Risk management is sensitive and responds to change continuously. Whenever external and internal events occur, the context and knowledge change, monitoring and review are implemented, new risks emerge, some risks change, and others disappear. k) Risk management promotes continuous improvement of the organisation. Organisations should develop and implement strategies to improve the maturity of their risk management along with all other aspects of their organisation'.

<sup>10</sup> All the activities and phases implemented by Rai Com are also carried out following the contents of the old Annex 1 of the 2013 PNA and aligned with the subsequent indications in the field provided by ANAC (c.f.r. PNA 2019).

Rai Com's corruption risk management model is divided into the following 4 phases.

### **1. Risk Governance**

At this stage of the process, the rules for governing corruption risks and the methodology for analysis are first defined. The RPC defines the methodologies for detecting and assessing risks and controls and amends/supplements them where deemed necessary.

### **2. Control & Risk Self Assessment (mapping and risk evaluation)**

The Control Risk Self Assessment activity is carried out to have a complete mapping of sensitive activities, identifying and describing those process activities in the context of which conduct contrary to the provisions of law no. 190/2012 (so-called "corruption risk") may be implemented.

The risk assessment aims to analyse the extent of the identified risks and provides useful information to determine whether and how strategies/methods need to be implemented.

The RPC coordinates the Control & Risk Self Assessment process on Rai Com's activities, providing methodological support to the Referents in identifying and assessing risks within the Company processes/Directorates/Structures of competence.

The Contact Persons are responsible for properly identifying and assessing risks and related controls.

The mapping is generally updated according to evolutions of the legal/regulatory framework and relevant organizational changes.

Following this activity, the RPC aggregates the risks based on priority and relevance of the latter in terms of product between the probability of occurrence and impact and starts the process of defining the risk response strategy, activating the Contact Persons for the respective processes of competence.

### **3. Risk Treatment (risk response strategy)**

Concerning the risk assessments expressed by the Contact Persons in the Directorates/Structures of their competence, the RPC provides them with methodological support in identifying the related treatment actions.

This phase also includes the definition of training plans, structuring the necessary information flows, and assessing any reinforcement and/or control interventions to be activated on the reference processes.

### **4. Monitoring & Reporting**

This phase aims to monitor the level of corruption risks and take corrective action in the event of deviations from the planned measures.

In particular, the RPC is responsible for monitoring the degree of implementation by the Referents/Management of the treatment actions foreseen in the framework of their action plan to ensure that they are adequately implemented within the foreseen timeframe. This

monitoring activity is carried out based on special reports by the Contact Persons at least every six months.

If significant deviations from the Plan are detected and/or in the event of a justified need by the Contact Persons to provide for alternative corrective actions, the RPC supports the identification and analysis of the causes that generated such deviations and the definition of any alternative corrective actions.

## **7.2 The implementation lines in the 2023-2025 PTPC**

The PTPC 2023-2025 reports the results of the risk management activity carried out by adopting the methodology mentioned above and takes the form of risk identification, assessment, management and monitoring activities.

### **7.2.1 Risk identification, assessment and management**

An analysis of the external and internal context is essential for identifying and assessing corruption risk. At this stage, the Company has acquired the information necessary to identify the corruption risk concerning the characteristics of the environment in which it operates (external context) and to its own organization (internal context).

The purpose of the analysis of the external context is to examine the environment in which the Company operates, highlighting the characteristics and relative criticalities that may favor the occurrence of corrupt phenomena within the Company. The analysis has the dual objective of:

- highlight the structural and economic characteristics of the environment in which the Company operates;
- conditioning the assessment of corruption risk and monitoring the suitability of prevention measures.

From an operational point of view, the analysis of the external context can be basically attributed to two types of activities:

- 1) the acquisition of relevant data;
- 2) the interpretation of the same to detect corruption risk.

The analysis of the context also benefited from collaborative activities with Rai.

The broadcasting activity of the Parent Company's channels throughout the world places Rai Com S.p.A. in a worldwide context; specifically, the Company handles the distribution, commercialization and transfer, in Italy and abroad, of rights to the economic exploitation of audiovisual, cinema, television, book and multimedia works owned by or otherwise available to Rai and/or the Rai Group companies.

In addition, the Company:

- maintains relations with organizations and institutions for the negotiated management of framework contracts and agreements for the implementation of institutional communication initiatives;

- manages and takes part in events, festivals, markets, and other national and non-national events of relevance to commercial activities and the exercise of all complementary and related activities.

To draw up the PTPC, Rai Com conducted a preliminary reconnaissance of corporate processes and identified the areas potentially exposed to corruption risks.

These areas were subsequently analyzed and assessed as part of the Risk Assessment activities, with the involvement of the managers<sup>11</sup> of the main organizational structures as per the new corporate organization.

Through the sharing of the Risk Assessment, a risk analysis was carried out to understand the system of controls implemented by the Company to prevent it.

The SCIGR has been carefully examined to prevent what the 2019 PNA continues to identify as "enabling factors" for corruption<sup>12</sup>, i.e. contextual factors that facilitate the occurrence of corrupt conduct or acts.

Moreover, as reported in the previous paragraphs, an assessment methodology in line with the new indications contained in the PNA 2019, Annex 1 was observed; in particular, in continuity with the 2022-2024 PTPC, a qualitative assessment was added to the classic quantitative risk assessment approach, to implement a mixed qualitative-quantitative assessment system, which allows the value resulting from the ordinary Risk Assessment to be mitigated with the weightings of qualitative KRIs (Key Risk Indicators), referred to the analyses of the individual Key Officers.

### 7.3 Rai Com's main risk areas

In the light of the activities carried out by Rai Com and of the results of the reconnaissance above carried out on corporate activities, in this PTPC, the corporate areas and the relative areas at risk have been highlighted, with annexed Scoring has been calculated for each risk area (in line with the evaluation methodology illustrated in the CRSA, referred to for details) and for each Directorate/Structure, calculated as the arithmetic average of the Scoring of each risk area associated with the Directorate/Structure in question.

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<sup>11</sup> In particular, managers provide the information requested by the competent person for the identification of the activities within which the risk of corruption is highest and formulate specific proposals aimed at preventing such risk, and all employees cooperate with the Head of Corruption Prevention.

<sup>12</sup> PNA 2019, Annex 1, pp. 31, 'Box 8 - Examples of enabling factors for corruption risk:

- *lack of risk management measures and/or controls: During the analysis phase, a check should be made to see whether the administration has already put in place - and, above all, effectively implemented - control tools for risk events;*
- lack of transparency;
- over-regulation, complexity and lack of clarity of the relevant legislation;
- prolonged and exclusive exercise of responsibility for a process by a few or a single person;
- lack of internal accountability;
- inadequacy or lack of skills of the staff in charge of the processes;
- inadequate dissemination of the culture of legality;
- failure to implement the principle of distinction between politics and administration."

The table below shows the results of the risk assessment activity carried out:

Directorate/Structure	Risk Area	Scoring
Contract Agreement and Partnership	Negotiation management of contracts and agreements (of an active nature) with central and local, national and international, public and private bodies and institutions	5
Contract Agreement and Partnership Total	Average scoring of risk areas related to this Directorate	5
Legal Affairs	Management of judicial, extrajudicial or arbitration proceedings	4
Legal Affairs Total	Average scoring of risk areas related to this Structure	4
Administration, Finance and Control	Management of financial transactions, including intra-Group transactions	5
	Managing the application/acquisition and/or management of contributions, grants, financing, insurance or guarantees granted by public/private entities	4
Administration, Finance and Control Total	Average scoring of risk areas related to this Directorate	5
Commercial	Publishing activities (editions and co-editions)	6
	Management of commercial partnerships in the world	6
	Revenues from the use of Rai Com music in Rai programmes	3
	Sales of goods and services in Italy and abroad	6
Commercial Total	Average scoring of risk areas related to this Directorate	5
Communication and Institutional Relations	Content's publication on Company website/other channels	4
	Gifts, presents and benefits	6
	Organization and management of events	6
Communication and Institutional Relations Total	Average scoring of risk areas related to this Directorate	5
Special Projects	Warehouse management	6

Special Projects Total	Average scoring of risk areas related to this Structure	6
Rai Books	Publishing activities (editions and co-editions)	5
	Recruitment, management and development of employees	5
Rai Books Total	Average scoring of risk areas related to this Directorate	5
Human Resources, Planning and General Services	Purchase of works, goods and services	7
	Recruitment, management and development of employees	5
	Acquisition of rights of use and economic and commercial exploitation of intellectual works from a natural person	3
	Contractualisation and management of agents	5
Human Resources, Planning and General Services Total	Average scoring of risk areas related to this Structure	5
Business Development and Marketing	Purchase of works, goods and services	7
	Management of commercial partnerships in the world	6
	Distribution Rai's Channel abroad	7
	Contractualisation and management of agents	5
Business Development and Marketing Total	Average scoring of risk areas related to this Directorate	6
Transversal	Management of relations with public bodies and Supervisory Authorities	4
	Gifts, presents and benefits	4
Transversal Total	Average scoring of risk areas related to these Directorate/Structure	4

Below is a summary table indicating the ranges of values based on which risks are identified as high, Medium or Low:

<b>Ladder</b>	<b>Risk Evaluation</b>	<b>Priorities of action</b>
$R \geq 15$	High	High
$7 \leq R < 15$	Medium	Medium
$0 < R < 7$	Low	Low

## CHAPTER 8

# THE IMPLEMENTATION PROCESS OF THE PTPC: MEASURES TO PREVENT THE RISK OF CORRUPTION

### 8.1 The scope of application

The implementation of appropriate prevention measures is based on correctly identifying the Company's risk areas and related sensitive activities.

In continuity with previous editions, the present edition of the PTPC has also provided for the gradual refinement of risk prevention intervention and support tools.

Therefore, the current PTPC 2023-2025, continuing the logic of constant updating, is consistent with what has already been done in the PTPC 2022-2024.

The PTPC adopts the following intervention tools to support risk prevention:

- "transversal" control principles that apply to all company processes and Directorate/Structure;
- protocols: consisting in the formalization of a sequence of behaviors aimed at standardizing and guiding the performance of certain sensitive activities, especially in terms of anti-corruption;
- anomaly indicators: which are "clues" to the occurrence of corruption risk. In the event of such indications, the Management activates any useful initiative to verify the possible existence of current corrupt phenomena, informing the Contact Person and the RPC of the actions taken/to be taken for better control of the risk.

In addition, further control measures have been included in the PTPC concerning sensitive activities (see, in this regard, paragraph 7.3).

The measures introduced in this PTPC, in addition to being complementary to each other, supplement the internal framework in force and prevail in the event of any discrepancy.

Finally, it should be noted that in addition to the above measures, the PTPC requires the systematic adoption of the **following transversal control principles** in all corporate activities:

- **segregation of duties and responsibilities:** Segregation of duties (sometimes requiring separation of functions) among the actors involved in each sensitive business process can be implemented, among other measures, through organizational tools. This principle requires that different parties with the appropriate skills are involved in the implementation, management, and

- authorization phases in carrying out any activity. The overall function of this control is to mitigate managerial discretion in activities and individual processes;
- **traceability of processes and activities:** This principle requires that, in carrying out its activities, the Management adopts all the necessary precautions to ensure the effective traceability over time of the substantial aspects of the decision-making and control process that inspired the subsequent management and authorization phase. The purpose of this control is to ensure the transparency of activities and the traceability of the management correctness of each process;
  - **respect for process roles and responsibilities:** This principle, which is also implemented through the identification of suitable organizational tools, is of primary importance since through the clear and formal identification of the responsibilities entrusted to staff in the operational management of activities, internal authorization powers and powers of representation towards the outside, it is possible to ensure that individual activities are carried out following competence and in compliance with the delegations and powers assigned;
  - **the provision of process rules:** This principle coincides with the codification of the operating and management methods considered appropriate to be followed in carrying out the processes themselves. Moreover, this principle is functional to normalize behavior concerning the guidelines and management defined by the Company;
  - **conflict of interest:** The subjects involved in Rai Com's processes act towards their counterparts according to relations marked by the highest levels of ethical behavior, as also provided for by Rai's Code of Ethics (Art. 4, "General Principles of Conduct"). Therefore, all Rai Com's subjects are required to avoid any situation and activity in which a conflict of interest of the Company may arise, which may tend to interfere (or appear to have the potential to interfere), with the ability of the employee or collaborator to act following his/her duties and responsibilities which summarize the primary interest to be achieved in full compliance with the principles and contents of the Code of Ethics, Model 231 and the PTPC;
  - **confidentiality:** without prejudice to compliance with the principle of transparency and the information obligations imposed by the provisions in force, it is the obligation of all employees and of all subjects having contractual relations with Rai Com to ensure the confidentiality required by the circumstances for each piece of news/information learnt because of their function;
  - **relations with Authorities/bodies:** Rai Com cooperates actively and fully with the Authorities/Bodies. The management of relations with Authorities/Bodies shall be inspired by the strictest observance of the principles of correctness, transparency and traceability, and by the observance of the applicable laws and regulations, as also provided for by Rai's Code of Ethics (Articles 7 and 10) in order not to compromise, in any way, the reputation and integrity of the Company.

The Training Plan must guarantee suitable support to make all actors responsible for the prevention measures in the protocols and control principles above.

## **8.2 Rai Com's Protocols**

A central element of risk management is the provision of protocols and the incorporation of these into the Company's regulatory framework.

In particular, the protocols:

- a) are aimed at regulating in the most effective way possible the activities potentially most exposed to the risk of corruption, by providing useful measures and safeguards to mitigate the probability of the risk occurring in each risk area;
- b) are subject to effective and constant monitoring of their preventive effectiveness;
- c) are associated with specific sanctions.

Protocols are drawn up and implemented by Management to promote and/or provide for prevention measures in the process/activity in question or, more generally, in the Company as a whole.

Some of the main protocols adopted by Rai Com for the corruption risk management are described below. To view the complete list of all protocols and the relative detail of the Directions/Structures and Risk Areas associated, is recommended to refer to the CRSA matrix, which is to be considered an integral part of this Plan.

### **8.2.1. General measures provided for by the PNA**

#### **1. Protocol on the procurement of works, goods and services**

**Objectives:** To set up a system aimed at ensuring the use of objective criteria for the acquisition of goods, services and works that meet the Company's objective needs and are based not only on the principles of efficiency and cost-effectiveness but also on those of equality and transparency.

**Obligation:** The Directorates/Structures in charge are obliged to formalize supply requests, which must contain: i) the subject of the request and the relevant quality and quantity; ii) the description of the service requested; iii) the presumed amount; iv) the product category of the good, service or work to be procured; v) the place, time and conditions of execution; vi) the reason, which justifies the possible need to resort to direct negotiation with a single economic operator.

The aim is to ensure compliance with rules and criteria that make it possible to verify and monitor a supplier's technical and managerial capacity, ethical, economic and financial reliability based on objective, predetermined elements and compliance with the principles of transparency and fair treatment.

There is also an obligation to: i) formalize the process starting from the definition of the need to authorization and the issuance of a purchase order, with an indication of the management methods and authorization levels; ii) identify the contents of the purchase order, check that it coincides with the authorized purchase order, the methods for authorization and enforceability; iii) make use of the provision of a suppliers' register/list; iv) formalize and approve the results of supplier's assessment through a note forwarded to the competent prosecutor; v) draw up the contract in writing following the principles and guidelines defined by the competent functions; vi) that contracts contain specific clauses for compliance with Model 231, the Code of Ethics and the Anti-Corruption Law; vii) that the management of the Supply contract is assigned to a contract manager with an indication of the role and tasks assigned to him.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## **2. Protocol on consultations, collaborations and professional assignments**

**Objectives:** To prevent the management of consultancy and professional services from encouraging the conclusion of unlawful agreements of a corrupt nature.

The aim is to ensure that the selection procedures for the award of consultancy, professional or fiduciary assignments to persons outside the Company are carried out correctly so that the purpose for which they are intended is achieved and their results are not distorted. In any case, the transparency of relations between the client and the consultant/professional involved in the procedure the preference for formal and transparent channels, instead of unofficial and not perfectly monitorable communication channels, are useful procedural expedients for reducing risks.

**Obligation:** Rai Com may confer external assignments through autonomous work contracts, of an occasional or coordinated and continuous nature, to experts of particular and proven specialization, concerning objective, ascertained and traced needs of the Company, formalized and motivated by the Managers of the requesting Directorates/Structures.

The object of the service must relate to specific and clear objectives and projects. It must be consistent with the Company's needs and be of a temporary, specialized and qualified nature.

Before formalizing the request for assignment, the Head of the requesting Directorates/Structures shall first ascertain the objective impossibility of using resources

from his own sector or from the Company through the collaboration of the offices in charge. In the event of unavailability or absence of internal profiles, of lower availability compared to the needs or of only partial correspondence to the profile sought, at the end of a traceable process, the Head of the requesting Directorates/Structures proposes the conferment of the assignment, being able to indicate a name in this regard, justifying the criteria underlying the choice, regarding skills, professionalism, the experience of the person identified in a given area or subject.

To entrust external assignments, Rai Com, through the corporate structures involved, may compare several curricula in its possession, capable of highlighting the professional profile required for the assignment to be conferred. To acquire curricula, the Company may also make specific requests to the competent professional associations or research bodies and institutes by way of example. When choosing the names of the candidates, the requesting Company structures shall comply with segregation of duties, avoid entrusting the same person with more than one functionally connected assignment (so-called tying), and avoid artificially splitting up assignments that are objectively unitary concerning their subject. The choice of the selected candidate must be well justified by the applicant farm structures.

Assignments are formalized employing contracts signed by persons with a valid power of attorney, ensuring adequate traceability and segregation of responsibilities.

Without prejudice to the need for adequate justification and authorization by the competent organizational level, particular cases of exclusion from the criteria indicated concern:

- a) professional profiles of an artistic or cultural nature or in any case those directly or indirectly functional to the implementation of the activity of distribution and commercial nature;
- b) exceptional cases and/or cases of objective urgency, resulting from unforeseeable causes, adequately justified and subsequently authorized by the competent organizational level;
- c) exceptions, adequately motivated and subsequently authorized by the competent organizational level, characterized by a close relationship of professional trust and/or confidentiality and high technical-specialist content, in all Company Directorates/Structures, functional to maintaining or improving the competitive level in the reference market.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

### **3. Protocol on staff recruitment**

**Objectives:** To avoid that the activation, management, the conclusion of recruitment procedures, selection and evaluation of staff, including internal staff, may be aimed at corruptive agreements and, more generally, at cases falling within offences against the

public administration (in such procedures there is a real risk that the recruitment of staff without the necessary requirements constitutes the counter-performance of a corrupt agreement).

Recruitment of personnel is understood as the hiring from the market of employees with an indefinite or fixed-term contract for professional profiles provided for by the employment contracts in force in the Company and in the Group.

**Obligation:** Recruitment processes are carried out consistently with the hiring needs identified by Rai Com, which must be objective, formalized, motivated and ascertained by the Managers of the Directorates/Structures requesting the hiring of personnel, providing a description of the resource profile to be sought and included in the workforce. These processes, duly traced with homogeneity and systematicity, are conducted to acquire personnel with professional and attitudinal characteristics strictly commensurate with the needs of the positions to be filled and guarantee high-quality levels of the services offered.

Staff recruitment is carried out following transparency, publicity, and impartiality principles.

It is Company policy to privilege the instrument of internal recruitment through a preliminary phase of verification - in Rai Com and in the Group, through instruments of a managerial nature (screening of curricula and/or competencies) - of the availability of adequate resources (in qualitative and quantitative terms) to cover the position sought.

If the management tools are not sufficient to identify the resources suitable to the needs, the job posting tool is used, advertised on the Rai corporate intranet, together with the characteristics of the profile sought.

A subsequent search phase will be carried out on the external market in case of unavailability or absence of internal profiles, of lower availability compared to the needs or only partial correspondence to the sought profile. In this regard, advertising tools (web, press advertisements, notices, etc.) may be used for the selection process in progress. Furthermore, in the presence of specific professional profiles, specialized external companies may be appointed, identified in compliance with the regulations and provisions in force.

The selection takes place by evaluating qualifications and/or professional experience and/or administering tests. The tests consist of written papers and/or practical tests and cognitive-motivational interviews appropriate and consistent with the profiles sought. At the end of the selection, the results of the candidates' evaluation must be formalized by the figures involved, moreover, the candidates are required, in the case of external selection, a self-declaration with any relations of kinship with members of the Public Administration or employees of the Company, and relative degree of kinship. All candidates, collaborators and employees, are required at the recruitment stage to sign self-declarations of incompatibility and inconfirability. The company is prohibited from hiring persons indicated in the Reference Lists related to the financial fight against terrorism (published by the Financial Information Unit established at the Bank of Italy) and must carry out checks on anti-terrorism, corruption and immigration.

For the recruitment of managerial and/or specialized profiles, given their peculiarity and the highly competitive nature that characterizes the commercial context, Rai Com may entrust the search for personnel to specialized companies (so-called Headhunting or similar) as an alternative to the selection procedures previously indicated.

For the recruitment of permanent staff with professional profiles do not present in the Company, at a non-managerial level, recourse shall be made to the selection procedures of the Parent Company.

They are identified a priori and excluded from the stated recruitment and selection criteria:

- a) exceptions, adequately justified and subsequently authorized at the competent organizational level, such as the holders of positions characterized by professional trust relationships concerning the position which objectively requires such a nature and/or concerning the specific skills required, such as those reporting directly to the Top Management;
- b) the hiring of workers included in professional recruitment basins in the application of agreements signed by the Company and the trade unions, and workers who have already been employed by Rai Com, with subordinate employment contracts, staff leasing contracts or self-employment contracts;
- c) the recruitment of workers enrolled in the targeted employment lists under law 68/99 and subsequent amendments and additions. In this case, recruitment may be regulated by specific agreements. Applications are received spontaneously and through the competent offices referred to in the law above no. 68/99 in the event of a request by the Company for pre-selection under Art. 7, paragraph 1 of the same law;
- d) exceptional cases and/or objective urgency, adequately justified and subsequently authorized by the competent organizational level, for the performance of distribution and commercial activities.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

#### **4. Protocol on staff rotation**

**Objectives:** The principle of rotation of managers and officials in sectors particularly exposed to the risk of corruption is intended to discourage the consolidation of risky "privileged" positions in the direct management of certain activities, avoiding that the same officials deal personally and for a long time with the same subjects, without prejudice, however, to the need to maintain continuity and consistency of operational activities and management guidelines.

**Obligation:** However, it will always be necessary to ensure that rotation does not undermine professional skills, quality and continuity of service while respecting labor law provisions.

The rotation must be related to the need to ensure an adequate organizational performance and business activities and to ensure the quality of professional skills that within Rai Com require a high technical content.

Rai Com, because of the small size of the Company, as well as the high technical specialization that the Company's activities require, as an alternative to the measure of rotation, implements, primarily, the following compensatory control measures:

- segregation of tasks, functions, and responsibilities with particular attention to risks' areas mostly exposed to corruption;
- the implementation of adequate control and monitoring protocols aimed at verifying the proper performance of the activities and mitigating the risks to which the regulation of staff rotation is responsible.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## 5. Conflict of interest protocol

**Objectives:** To minimize the risk that a secondary interest will interfere, i.e. may tend to interfere (or appear to have the potential to interfere), with the employee's or contractor's ability to act following their duties and responsibilities summarizing the primary interest to be realized.

This situation occurs whenever the person, on the occasion of or because of the performance of a specific function, finds himself/herself in a situation of conflict, even potential, with another person directly affected by the result of the activity or concerning an environmental or instrumental condition (event) on which his action/decision could then be reflected.

**Obligation:** obligation of all persons covered by the PTPC to comply with the specific provision on the subject. The person who, even potentially, may find himself/herself in a situation of conflict of interest is obliged to refrain from participating in the adoption of decisions or activities that may alternatively involve: i) his own interests; ii) the interests of his spouse, cohabitants, relatives, relatives-in-law up to the second degree; iii) the interests of persons with whom he has relations of habitual frequentation. However, the person shall abstain in all other cases where there are serious reasons for expediency. In addition to the obligation to refrain from taking part in decision-making, the person is also obliged to leave the room because his or her mere presence can potentially influence the free expression of the will of the other members. The conflict may concern interests of any kind, including nonfinancial interests, such as those arising from the intention to comply with political, trade union or hierarchical pressure. The recipients of the PTPC are required to immediately notify

in writing their hierarchical superior or the competent corporate body, who will assess, also with the support of the competent corporate structures, the actual existence of the conflict and will declare to the Managing Director and to the RPC the initiatives taken to remove its effects.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## **6. Protocol on specific incompatibilities for management positions**

**Objectives:** The purpose of this protocol is to avoid assigning tasks to persons carrying out activities with a potential conflict of interest. The objective is to verify the situations of incompatibility with the holders of offices provided for in Chapters V and VI of Legislative Decree no. 39 of 2013 for the situations provided for in the same Chapters<sup>13</sup>. The control must be carried out by the competent structure conferring the assignment, which informs the RPC: i) when the assignment is conferred; ii) upon request during the relationship.

If the incompatibility situation emerges at the time of conferral of the appointment, it must, where possible, be removed before conferral. If the situation of incompatibility emerges in the course of the relationship, the competent structure which conferred the assignment contests the circumstance on the person concerned, informs the RPC and ensures that the consequent measures are taken.

**Obligation:** Provision of a system ensuring: i) the adoption of internal directives so that the procedures for the assignment of offices expressly include the causes of incompatibility and the controls to be carried out to verify their effective compliance, identifying roles and responsibilities; ii) the adoption of directives so that the persons concerned make a declaration of the non-existence of the causes of incompatibility at the time of the assignment and during the relationship.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## **7. Protocol for assignment to offices and conferment of tasks in case of a criminal conviction for offences against public administration**

**Objectives:** To avoid assigning tasks to employees who have been guilty of improper conduct, such as a criminal conviction, which is capable of undermining trust in the official's impartiality on the part of the recipients of his action.

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<sup>13</sup> Chapter V of Legislative Decree no. 39 of 2013 governs the incompatibility between positions in public administrations and in private bodies under public control and positions in private law bodies regulated or financed by public administrations, and the pursuit of professional activities. Chapter VI regulates the incompatibilities between offices in public administrations and in private bodies under public control and offices of members of political bodies.

The existence of any criminal record on the part of the employees and/or the persons to whom the appointments are to be made in the following circumstances: i) at the time of the conferral of management appointments and other appointments provided for in Art 3 of Legislative Decree no. 39 of 2013; ii) when assigning employees in the Directorates/Structures to offices with the characteristics indicated in Art. 35 bis of Legislative Decree no. 165 of 2001<sup>14</sup>. The verification is also carried out concerning the tasks already conferred and to the staff already assigned at the time of the entry into force of these rules.

If at the end of the verification by the structure competent to grant the assignment, the person concerned has a criminal record for offences against the public administration, the competent structure: i) shall refrain from granting the assignment or from making the assignment; ii) shall apply the measures provided for in Art. 3 of Legislative Decree no. 39 of 2013<sup>15</sup>; iii) make the appointment or provide the assignment to another person. The competent structure informs the CPC of the initiatives taken.

**Obligation:** Preparation of a model providing for internal directives aimed at: i) providing for a traceable check on the existence of any criminal record on persons to whom it is intended to confer appointments of the kind provided for in this protocol and the consequent decisions to be taken in the event of a positive finding, with an indication of roles and responsibilities; ii) expressly including in the procedures for the conferral of appointments the conditions preventing the conferral.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## **8. Protocol on the protection of whistleblowers<sup>16</sup>**

**Objectives:** Raising awareness and protection of the activities of whistleblowers, whose role is of public interest, by giving knowledge, if possible timely, of problems or dangers to the Company, and by encouraging and protecting such reports.

**Obligation:** establishment of a system for the protection of whistleblowers which provides for the following rules: a) differentiated and confidential channels for receiving reports, the management of which must be entrusted to a very restricted group of persons; b) codes replacing the identification data of the whistleblower, except in cases where such

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<sup>14</sup> Under Art. 35-bis of Legislative Decree no. 165 of 2001, those who have been convicted, even with a sentence which has not yet become final, of the offences referred to in Chapter I of Title II of Book Two of the Criminal Code: a) cannot be a member, even with secretarial duties, of commissions for access to or selection for public employment; b) cannot be assigned, even with management duties, to the offices responsible for the management of financial resources, the acquisition of goods, services and supplies, and the granting or disbursement of subsidies, grants, subsidies, financial aids or the allocation of economic advantages to public and private entities; c) cannot be a member of commissions for the selection of the contractor for the award of works, supplies and services, for the granting or disbursement of subsidies, grants, subsidies, financial aids, and for the allocation of economic advantages of any kind.

<sup>15</sup> Under Art. 3 of Legislative Decree no. 39 of 2013, "the appointment and the effectiveness of the employment contract or selfemployment contract entered into shall be suspended" and "no remuneration shall be due for the entire period of suspension".

<sup>16</sup> The application of the protocol requires a coordinated reading with the procedure on the management of the reports of the RAI Group

identification is necessary for the development of the ensuing investigation activities; c) drafting of specific procedures regulating the investigation activities, the involvement of the corporate structures concerned, the receipt, management and storage of the report and related documentation and the traceability of the investigation activities carried out; d) prohibition of exposing the whistleblower to the physical presence of the receiving office.

In addition, there is an obligation of confidentiality on the part of all those who receive or become aware of the report and those who subsequently become involved in the process of handling the report, without prejudice to the communications required by law. The process is monitored over time and is the subject of periodic reporting by the competent structures according to the procedures adopted, to the top management and to the control/supervision bodies of Rai Com.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## **9. Protocol for disclosure of confidential data, information and business documents**

**Objectives:** without prejudice to the provisions of current legislation on transparency, to reduce the risk of undue external knowledge of confidential/confidential Company data, information and documents.

**Obligation:** Obligation for the Company's directors, top management, employees and collaborators to transmit confidential/confidential data, information, and corporate documents to the outside world only if: i) they fall within those that can be communicated by law; ii) they are transmitted by the appropriate corporate structures institutionally in charge of such communications; iii) they are transmitted - in the case of transmission of information to public authorities - to the body competent to receive such information; iv) they are transmitted according to the specific procedures provided for by law or by the corporate procedural framework and in a manner that allows to trace the transmission (within limits and according to the procedures provided by the legislation in force), the contents, and the recipients.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

### **8.2.2 Specific Protocols**

Considering that the Plan constitutes an initial implementation of the anti-corruption legislation, specific anti-corruption controls are identified below, consisting in the formalization of behaviors aimed at standardizing and guiding the performance of activities. In particular, protocols relating to the negotiated management of framework contracts and

agreements with central and local, national and international, public and private bodies and institutions are analyzed.

## **1. Protocol on the selection of the counterparty to be offered or proposed**

**Objectives:** Since in the context of the choice of the counterparty to which to offer or propose an agreement for the implementation of the initiatives, activities aimed at choosing a specific counterparty may be carried out, a system is set up to ensure the identification of the counterparty based on the objectives of the Company and Rai (Rai's annual publishing Plan or specific needs).

**Obligation:** when selecting the counterpart and defining the object of the offer/proposal of agreement, the competent Directorates/Structures of the Company concerned are obliged to adopt criteria that are as objective as possible, predetermined and in any case linked to Rai's annual publishing Plan or to specific needs, not provided for in the schedule, but documented and duly authorized.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

## **2. Protocol on the preparation of the offer and formalization of contracts and agreements**

**Objectives:** The preparation of the bid must be based on criteria related to the editorial/technical/economic feasibility/congruity of the programmes/services/projects for which funding is requested.

**Obligation:** Rai Com and all relevant Directorates/Structures are obliged:

- to obtain the necessary documentation and approvals to prepare the offer/proposal to the counterparty;
- drawing up the draft contract, with the support of the competent Legal Affairs Structure, which includes contractual provisions aimed at ensuring compliance with control principles/ethical rules in the management of activities by the counterparty;
- to comply with the obligation that a person dealing or negotiating with the public administration may not alone and freely:
  - conclude the contracts it has negotiated;
  - accessing financial resources and/or authorizing payment arrangements;
  - awarding consultancy / professional services;
  - grant any benefit whatsoever;

- recruit staff.

The Directorates/Structures ensure constant monitoring of compliance with the protocol and report situations of potential anomaly to the Managing Director and the RPC, together with the related initiatives taken also with a view to improving prevention measures.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

### **3. Protocol on contract management**

**Objectives:** Management of contract performance aimed at preventing the occurrence of wrongful acts attributable to a failure by the contract manager to properly monitor the counterparty's compliance with contractual obligations.

**Obligation:** Inclusion in all Rai Com's contracts of the name of the party responsible for contract management and provision in the contracts of the obligations of the latter to monitor and verify the execution of the activities covered by the agreement. The contract manager shall be assured of the availability of the contract documentation necessary to properly exercise his responsibilities. The attestation of the supplies/performance execution within the contractual deadlines is the obligation of the party responsible for contract management. Therefore, it is carried out in coordination with the unit using the service. The start of implementation of the activities covered by the agreement is subject to the conclusion of the contract. In exceptional cases of justified urgency by the structures concerned, the commencement of services is subject to the communication of a request for early execution signed by an appropriate authorized hierarchical position.

The corporate Directorates/Structures ensure constant monitoring of compliance with the protocol and report situations of potential anomaly to the Managing Director and the RPC, together with the related initiatives taken also with a view to improving prevention measures.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

### **4. Protocol on the enforcement of the Convention in situations giving rise to unlawful conduct**

**Objectives:** Management of the execution of the contract aimed at preventing the occurrence of wrongful acts attributable to the counterparty.

**Obligation:** obligation to inform the Managing Director and the RPC of abnormal situations and in any case symptomatic of unlawful conduct or criminal events attributable to the counterparty.

**Sanctions:** A proportionate sanction will be imposed on the person violating the protocol in the absence of justification: (i) the seriousness of the breach in relation to the protocol, (ii) the consequences of the breach, (iii) the subjective degree of guilt of the agent, (iv) the position held. The same sanction shall apply to a person who has not imposed the sanction.

### **8.2.3 Anomaly indicators**

The risk areas mapped within the CRSA have identified anomaly indicators concerning the identified corruption risks based on internal and external experience/knowledge.

These indicators do not represent control measures per se but rather an "impulse" for Management to pay greater attention to their activities should such anomaly indicators appear. In the event of such indications, the Management shall responsibly and with the necessary diligence take all useful steps to verify the possible existence of current corrupt phenomena, informing the reference "Contact Person" and the RPC of the actions taken or to be taken to control the risk and monitor their evolution. In particular, annually, the RPC acquires the Information Sheet from the Anticorruption Referents of Rai Com, in which, among others, any anomalies and/or other behaviors found in their Directorate/Structure not in line with the principles, protocols and other prevention measures provided for by the current Three-Year Plan for Prevention of Corruption are reported. These anomaly indicators will be supplemented/improved over time in light of future experience in the field.

### **8.4 Training**

Rai Com plans, from time to time, for its top management, control/supervisory bodies and for its own employees, training activities aimed at the prevention and repression of corruption, legality, ethics, criminal provisions concerning offences against the public administration, and any subject that may be appropriate and useful for the prevention of corruption.

The training event aims to provide participants with the specific methodology for the proper management and implementation of the anti-corruption Plan.

The personnel to be included in the training courses is identified by the RPC, agreeing with the Human Resources, Planning and General Services Structure, bearing in mind the role assigned to each person and the areas at greater risk of corruption.

The training program may be structured as follows: 1) a form for Rai Com's Board of Directors and Control/Vigilance Bodies and the RPC; 2) forms for Referents, managers/proxies, employees and RSA (Company trade union representatives).

The training modules may also be administered "ad hoc" outside the planned training course due to identified deficiencies and/or the need to strengthen the supervision of specific areas. The training modules provide for compulsory attendance and traceability of participation of each recipient. The Human Resources, Planning and General Services Structure ensures the preservation and archiving of this documentation and periodically draws up a summary report for the RPC.

In the event of non-participation not attributable to force majeure (to be produced with formal evidence), the competent body shall impose a disciplinary charge resulting in a breach of the obligations of diligence, fairness and good faith arising from the employment relationship and of the training obligations under law 190/12, the applicable CCNL and the Code of Ethics.

## **8.5 A survey of the main measures already taken by Rai Com**

Rai Com has already adopted a series of activities and specific measures aimed at preventing corruption:

- a) adoption of the organizational model under Legislative Decree no. 231/2001 and subsequent updates;
- b) adoption of the Rai Group's Code of Ethics;
- c) management and processing of reports, including anonymous ones - whistleblowing and subsequent updates;
- d) reference to general principles of the Guidelines for Staff Rotation/alternatives measures from Parent Company;
- e) publication of the standard form on the Company's institutional website;
- f) reconnaissance of the main risk areas to corruption offences.

## **CHAPTER 9**

### **THE IMPLEMENTATION PROCESS OF THE PTPC: ELEMENTS SUPPORTING THE PROPER IMPLEMENTATION OF THE PLAN**

#### **9.1 Information flows to and from the RPC**

To foster the involvement of all stakeholders in the anti-corruption strategy, a system must be set up and implemented to ensure a flow of information to the RPC aimed at: i) preventing corrupt phenomena; ii) improving the PTPC (with a view to better planning of controls on its operation and its possible adaptation).

The Anti-Corruption Contact Persons assist the RPC to ensure compliance with the Plan by participating in the Risk Assessment with the methodological support of the RPC and filling in the "Annual Information Sheet" received annually from the RPC. In particular, each Antibribery Officer indicates in this form whether:

- anomalies have been identified concerning the prevention principles/protocols/measures provided for by the PTPC;
- received reports of violations of the prevention principles/protocols/measures provided for by the PTPC;
- has suggestions for giving the PTPC/protocols/measures more effective preventive action;
- considers that training/awareness-raising activities are necessary for their organizational Unit.

## **9.2 Information flows with control/supervisory bodies and top management position**

In particular, a flow of information is ensured on a periodical basis by the RPC to the President, the Managing Director and the control/supervision bodies of Rai Com concerning the results of the activities carried out in the reference period any violations of the PTPC.

## **9.3 Information flows with other structures**

In coordination with the Legal Affairs Structure, specific information flows ad hoc are structured concerning legal proceedings. As a result, knowledge is available, initiated against corporate bodies (and their members) and/or Rai Com personnel and referable to the types of offences envisaged by this PTPC.

Information flows are also defined towards the persons mentioned above concerning the results of the control activities carried out by internal Directorates/Structures from which facts, acts, events or omissions with critical profiles concerning the provisions of the PTPC may emerge.

## **9.4 Reporting**

Based on Art. 1 (14) of the Anti-Corruption Law, the RPC prepares the report based on the standard form drawn up by ANAC and publishes it on the institutional website of the Company, by 31 January or by another date that may be communicated by ANAC. The report is also presented to Rai Com's Board of Directors.

If the RPC is temporarily absent from the Company, for any reason whatsoever, the report must, in any case, be prepared and published by the body responsible for adopting the PTPC which, as provided for in Art. 1(8) of the Anti-Corruption law is the BoD.

## 9.5 Transparency

Transparency is in itself a measure to prevent corruption. Moreover, the Company considers transparency and legality as factors for developing its business and its results on the market.

Rai has adopted the PTCA - Plan for Transparency and Corporate Communication (last updated in April 2022) Specifically, the Company has adopted and published on its institutional website the document concerning the "*Criteria and procedures for the assignment of contracts referred to in Art. 49 ter of D.lgs. 177/2005*", as provided for in the Group's PTCA document.

## 9.6 The Code of Ethics

The adoption of the Code of Ethics by the Rai Group also represents one of the main "actions and measures" for implementing corruption prevention strategies and, as such, is an essential and synergic part of the PTPC.

The Code must be observed by the directors, auditors, management and employees, and all those working to achieve the objectives. In particular, compliance with the law, regulations, statutory provisions, ethical integrity and fairness is a constant commitment and duty of all employees and collaborators and characterize the behavior of the entire organization.

Therefore, corrupt practices, illegitimate favors, collusive behavior, solicitation, directly and/or through third parties, of personal and career advantages for oneself or others are prohibited without exception. Similarly, it is never permitted to pay or offer, directly or indirectly, payments, material benefits and other advantages of any kind to third parties, government representatives, public officials and public or private employees to influence or compensate them for an act of their office.

In any case, to ensure the widest possible knowledge and uniform application of the provisions introduced by the Code, the RPC shall, in coordination with the contacts and the relevant corporate structures:

- the promotion of the knowledge of the Code of Ethics by the Employees and consultants of Rai Com and other stakeholders;
- raising staff awareness of the Code of Ethics and of this Plan by publishing them on the Company's website and intranet site, also planning training initiatives;
- provide precise indications for the delivery of the Code of Ethics to new recruits for the purpose of acknowledgement and acceptance of its content;
- to provide precise indications for the extension of the obligations of conduct provided for by the Code of Ethics to all collaborators or consultants with any type of contract or appointment and for any reason, and to companies supplying goods or services and carrying out works in favor of Rai Com. To this end, the Code of Ethics is to be delivered. In addition, the contracts of appointment and contracting are to include specific provisions, termination or forfeiture clauses in the event of a violation of the obligations above.

The Code of Ethics has been updated several times over the years; most recently, in March 2020, the Code was supplemented with the principles of diligence, fairness, good faith and loyalty in the use of digital media by employees and collaborators. In concrete terms, it defines the "digital headmasters" and the conduct to be followed in the use of such headmasters (both private and corporate), without prejudice to respect for the free expression of thought under Art. 21 of the Constitution.

## **9.7 The Disciplinary System**

Rai Com has adopted its own disciplinary system; this disciplinary system shall be adjusted, in line with the indications that will be provided by the Parent Company, to apply also to breaches of the PTPC.

The aforementioned disciplinary system shall therefore provide for the imposition, on any person who violates the provisions of the Plan, of a sanction proportionate to: i) the seriousness of the violation concerning the protocol; ii) the consequences of the violation; iii) the personality of the agent; and iv) the position held.

The same sanction shall be imposed on any person who fails to impose such a sanction.

Compliance with the provisions and rules of conduct laid down constitutes fulfilment by the subordinates of the obligations laid down in Art. 2104 (2) of the Civil Code and breach of the measures indicated constitutes a breach of contract reprehensible from a disciplinary point of view under Art. 7 of the Workers' Statute (law no. 300 of 20 May 1970) and determines the application of the sanctions laid down in the applicable CCNL. The sanctions provided for by the disciplinary system, following the disciplinary procedure under Art. 7 of the Labor Code, shall be applied to any breach of the provisions contained in the Code of Ethics, in the Model and in this Plan, regardless of whether an offence has been committed and regardless of the course and outcome of any criminal proceedings initiated by the judicial authority.

The RPC is promptly informed of the commencement and conclusion of disciplinary proceedings (whether a sanction is imposed or cancelled).

The adequacy of the disciplinary system to the Plan's requirements will be monitored by the RPC.

## CHAPTER 10

### THE TIME SCHEDULE

Together with the approval of this PTPC, the following time schedule is approved, which forms an integral part of it and contains the activities implementing its provisions.

The timetable is updated and/or supplemented by the RPC according to the State of implementing the initiatives contained therein and/or any further initiatives that may emerge during the year.

The RPC provides periodic information to the Board of Directors and to the control/supervisory bodies of Rai Com on the initiatives contained in the timetable and on the relative implementation status, indicating those concluded, those in progress and any needs for rescheduling and/or integration, providing the relative reasons.

Activity	Completion date	State of implementation
Anti-bribery training	December 2022	
Mapping of processes and preparation of risk areas identified by this PTPC	December 2022	
Anti-corruption information flows 2022	January 2023	
Proposal for an annual update of the Plan by the RPC for adoption by the Board of Directors and transmission to the BoD	January 2023	
Submission of the annual report by the RPC to the BoD on anti-corruption activities for 2022	January 2023	
Publication of the PTPC on the corporate institutional website and of the ANAC standard form by the RPC for 2022	January 2023 <sup>17</sup>	
Anti-corruption training	December 2023	

<sup>17</sup> Unless possible term's extensions by Authority.

Mapping of processes and preparation of risk areas identified by this PTPC	December 2023	
Anti-corruption information flows 2023	January 2024	
Proposal for an annual update of the 2023-2025 Plan by the RPC for adoption by the Board of Directors and transmission to the BoD	January 2024	
Submission of the annual report by the RPC to the Board of Directors on anti-corruption activities for 2023	January 2024	
Publication of the PTPC on the corporate institutional website and of the ANAC standard form by the RPC for 2023	January 2024	

## **APPENDIX A**

### **OFFENCES TAKEN INTO ACCOUNT**

Rai Com's PTPC has been drafted to promote the prevention of various offences. As anticipated in the definitions of this PTPC (to which reference should be made), a broad definition of corruption is used in the risk analysis.

Below is a description of the offences that could be relevant concerning the nature and activity of Rai Com.

The offences have been divided into two sections: The first covers the offences also mapped out in Model 231; the second covers the additional offences considered in the PTPC.

#### **A) Offences also present in Model 231**

##### **1) Extortion (Art. 317 of the Italian Criminal Code)<sup>18</sup>**

a) Offending behavior: i) the coercion of an individual, by a public official or a person in charge of a public service, into giving (or causing to be given to a third party) money unduly by abusing his position; ii) the coercion of an individual, by a public official or a person in charge of a public service, into promising money unduly by abusing his position iii) the coercion of an individual, by a public official or a person in charge of a public service, to obtain from him (or from a third party) an undue promise of a benefit other than money by abusing his position; iv) the coercion of an individual, by a public official or a person in charge of a public service, to obtain an undue promise of a benefit other than money by abusing his position; v) coercion of an individual by a public official into giving (or causing others to give) money unduly by abusing his powers; vi) coercion of an individual by a public official or a person in charge of a public service into giving (or causing others to give) a benefit other than money unduly by abusing his powers; vii) coercion of an individual, by a public official or a person in charge of a public service, into receiving an undue promise of money by misuse of his powers; viii) coercion of an individual, by a public official or a person in charge of a public service, into receiving an undue promise of a benefit other than money by misuse of his powers.

b) Assumption of the offence: i) qualification as a public official or as a person in charge of a public service (for example: Members of the Board of Directors of a municipal Company<sup>19</sup>;

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<sup>18</sup> Art. 317 of the Italian Criminal Code: "a public official who, abusing his position or powers, compels someone to give or promise unduly, to him or to a third party, money or other benefits shall be punished by imprisonment from six to twelve years".

<sup>19</sup> These persons are delegated, based on the rules of public law, to the formation and manifestation of the will of the Company itself, which has the character of a public body, under the public nature of the local authority from which it derives its origin, under the rules of administration and supervision thereof, under the public purpose which it pursues and under the form of financial management (Criminal cassation, section VI, 17 February 2003, no. 953).

the director of a municipal Company<sup>20</sup>; members of consortia set up by municipalities or other public bodies for the industrial development nuclei provided for by the laws on Southern Italy<sup>21</sup>); ii) abuse of the position; iii) abuse of powers; iv) psychological subjection induced by the public official in the private individual due to the supremacy of the public official over the private individual.

c) Method of commission of the offence: Abuse of the capacity or power (in the sense of inappropriate conduct) of the person (public official or person in charge of a public service) who performs a public function in breach of the duties of impartiality and good conduct of the public administration and, for purposes other than those provided for by law, compels the private individual to give or promise money or other benefits not due.

d) Case history: i) the private individual is required to behave in a manner prescribed by the official and to suffer the consequences of negative and unfavorable conduct, even if only foreseeable<sup>22</sup>; ii) the private individual is required by the official to hand over valuable assets with the promise of the favorable conclusion of an ongoing inspection<sup>23</sup>.

## **2) Corruption for the exercise of a function (Art. 318 of the Italian Criminal Code)<sup>24</sup>**

Illicit agreement between a private party and a public official who, in a position of equality, agree to pay money or other benefits in return for the public official's favorable measure or conduct.

a) Offending behavior: i) undue receipt, by the public official, of a sum of money, for himself/herself or for a third party, for the exercise of his functions; ii) undue receipt, by the public official, of a sum of money, for himself/herself or for a third party, for the exercise of his powers; iii) undue acceptance, by the public official, of the promise of a sum of money, for himself/herself or for a third party, for the exercise of his functions; iv) undue acceptance, by the public official, of the promise of a sum of money, for himself/herself or for a third party, for the exercise of his powers v) undue receipt, by the public official, of a benefit other than money, for himself/herself or for third parties, to exercise his functions; vi) undue receipt, by the public official, of a benefit other than money, for himself/herself or for third parties, to exercise his powers vii) undue acceptance, by the public official, of the promise of a benefit other than money, for himself/herself or for third parties, for the exercise of his functions; viii) undue acceptance, by the public official, of the promise of a benefit other than money, for himself/herself or for third parties, for the exercise of his powers.

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<sup>20</sup> This person, although not having authoritative powers, contributes to forming the will of the authority and, moreover, has certification powers over expenditure, given that under law no. 142 of 1990 (Articles 22 and 23), he/she is subject to the local authority's supervision, which must receive any profits and make good any losses of the Company (Criminal cassation, section VI, 25 March 1998, no. 5102).

<sup>21</sup> Criminal cassation, section VI, 8 April 1999, no. 6038.

<sup>22</sup> Criminal cassation, section VI, 23 June 2006, no. 32627.

<sup>23</sup> Criminal cassation, section VI, 5 October 2010, no. 38650.

<sup>24</sup> Art. 318 of the Italian Criminal Code: "a public official who, in the exercise of his functions or powers, unduly receives, for himself/herself or for a third party, money or other benefits or accepts the promise thereof shall be punished by imprisonment from one to six years".

b) Assumption of the offence: i) qualification as a public official; ii) undue receipt or acceptance of the promise to receive money or other benefits; iii) act following official duties.

c) Method of commission of the offence: Acceptance by the public official of a sum of money or other benefits (given or merely promised) not due for the exercise of his functions and powers.

d) Case history: i) receipt of gifts to perform an act contrary to official duties<sup>25</sup>; ii) receipt of undue remuneration or acceptance of a promise of such remuneration (it is immaterial whether or not such receipt was followed by the actual performance of the act contrary to official duties given which the remuneration was given or the promise made)<sup>26</sup>; iii) agreement between the directors of a Company providing services and the administration to award the contract and to ensure timely payment of the contract to the Company during the performance of the contract<sup>27</sup>; iv) bribery, including by discretionary act<sup>28</sup>.

### **3) Corruption for an act contrary to official duties** (Art. 319 of the Italian Criminal Code)<sup>29 30</sup>

a) Offending behavior: i) an undertaking by the public officer to omit an official act in exchange for a sum of money for himself/herself or herself or for others; ii) an undertaking by the public officer to delay an official act in exchange for a sum of money for himself/herself or herself or for others; iii) the omission of an official act, by the public officer, in exchange for a sum of money for himself/herself or herself or for others iv) the delay in an official act, by the public officer, in exchange for a sum of money for himself/herself or others; v) the undertaking, by the public officer, to omit an official act in exchange for a benefit other than money for himself/herself or others; vi) the undertaking, by the public officer, to delay an official act in exchange for a benefit other than money for himself/herself or others; vii) the omission of an official act, by the public official, in exchange for a benefit other than money for himself/herself or others; viii) the delay in an official act, by the public official, in exchange for a benefit other than money for himself/herself or others; ix) the undertaking, by the public official, to perform an act contrary to the duties of the office in exchange for money for himself/herself or others x) an undertaking by a public official to perform an act contrary to the duties of his office in

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<sup>25</sup> Criminal cassation, 16 March 1995, no. 1449; Criminal cassation, 17 July 1997, no. 10414.

<sup>26</sup> Criminal cassation, sec. I, 27 October 2003, no. 4177.

<sup>27</sup> Court of Milan, 20 March 2007, (Mychef), in Corr. mer., 2007, p. 1439.

<sup>28</sup> Criminal cassation, sez. IV, 4 June 2014, no. 23354.

<sup>29</sup> Art. 319 of the Italian Criminal Code: "a public official who, to omit or delay or to have omitted or delayed an act of his office, or to perform or to have performed an act contrary to the duties of his office, receives, for himself/herself or for a third party, money or other benefits, or accepts the promise thereof, shall be punished by imprisonment from six to ten years"

<sup>30</sup> Reference is also made to the case provided for in Art. 319-bis of the Italian Criminal Code (aggravating circumstances), according to which 'the penalty is increased if the act referred to in Art. 319 has as its object the conferment of public employment or salaries or pensions or the conclusion of contracts in which the administration to which the public official belongs is concerned.

exchange for a benefit other than money for himself/herself or others; xi) the performance by a public official of an act contrary to the duties of his office in exchange for money for himself/herself or others; xii) the performance by a public official of an act contrary to the duties of his office in exchange for a benefit other than money for himself/herself or others xiii) the undertaking, by the public official, to omit an official act in exchange for the promise of a sum of money for himself/herself or for others; xiv) the undertaking, by the public official, to delay an official act in exchange for the promise of a sum of money for himself/herself or for others; xv) the omission of an official act, by the public official, in exchange for the promise of a sum of money for himself/herself or for others xvi) the delay in an official act, by the public official, in exchange for the promise of a sum of money for himself/herself or others; xvii) the undertaking, by the public official, to omit an official act in exchange for the promise of a benefit other than money for himself/herself or others; xviii) the undertaking, by the public official, to delay an official act in exchange for the promise of another benefit for himself/herself or others xix) the omission of an official act, by the public official, in exchange for the promise of another benefit for himself/herself or for others; xx) the delay in an official act, by the public official, in exchange for the promise of another benefit for himself/herself or for others; xxi) the commitment, by the public official, to perform an act contrary to the duties of the office in exchange for the promise of money for himself/herself or for others xxii) the undertaking by the public official to perform an act contrary to the duties of his/her office in exchange for the promise of another benefit for himself/herself or for others; xxiii) the performance by the public official of an act contrary to the duties of his/her office in exchange for the promise of money for himself/herself or for others; xxiv) the performance by the public official of an act contrary to the duties of his/her office in exchange for the promise of another benefit for himself/herself or others.

b) Assumption of the offence: i) qualification as a public official; ii) receipt or acceptance of the promise of a benefit; iii) the act being contrary to the duties of the office, the object of the bribe.

c) Method of commission of the offence: The offence is committed by delay in performing an official act, by omitting to perform an official act or by performing an act contrary to official duties.

d) Case history: i) receipt of gifts to perform an act contrary to official duties<sup>31</sup>; ii) acceptance of sums of money to secure for a company the award of a competition contract (the nature of the choice as a due act having to be excluded in a procedure where the award is to the most advantageous tender and, therefore, based on a discretionary choice)<sup>32</sup>; iii) receipt of undue remuneration or acceptance of the relevant promise (it is immaterial whether or not this was followed by the actual performance of the act contrary to official duties to which the remuneration was paid or the promise made)<sup>33</sup>; iv) agreement between the directors of a company providing services and the administration to award the contract and to ensure

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<sup>31</sup> Criminal cassation, 16 March 1995, no. 1449; Criminal cassation, 17 July 1997, no. 10414.

<sup>32</sup> Criminal cassation, sec. VI, 12 June 1997.

<sup>33</sup> Criminal cassation, sec. I, 27 October 2003, no. 4177.

that the company is paid the order in good time during the performance of the contract<sup>34</sup>  
v) actual bribery, including with a discretionary act<sup>35</sup>.

#### **4) Undue induction to give or promise benefits** (Art. 319 quater of the Italian Criminal Code)<sup>36</sup>

a) Offending behavior: i) a public official (or a person in charge of a public service) who abuses his position and induces a private person to give him or a third party money unduly; ii) a public official (or a person in charge of a public service) who abuses his powers and induces a private person to give him or a third party money unduly; iii) a public official (or a person in charge of a public service) who abuses his position and induces a private person to promise him or a third party money unduly iv) a public official (or a person in charge of a public service) who abuses his position and induces a private person to give unduly to him or to a third party a benefit other than money; v) a public official (or a person in charge of a public service) who abuses his powers and induces a private person to give unduly to him or to a third party a benefit other than money; vi) a public official (or a person in charge of a public service) who abuses his position and induces a private person to promise unduly to him or to a third party a benefit other than money.

b) Assumption of the offence: i) qualification as a person in charge of a public service in cases where it may apply to employees of the Company; ii) planning of damage following the legal provisions<sup>37</sup>.

c) Method of commission of the offence: Presentation to the private individual of unfavorable consequences resulting from his conduct (e.g. failure to receive a radio or television unless eventually extension from Authority), but in any event following the law.

d) Case history: i) abuse of capacity by a member of the commission delegated to grant concessions to induce certain public operators to hand over money not due, representing that this is the only means of obtaining the concession (repeatedly requested by the interested parties and never obtained)<sup>38</sup>; ii) the threat of exercising a "legitimate" activity also constitutes the offence<sup>39</sup>.

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<sup>34</sup> Court of Milan, 20 March 2007, (Mychef), in Corr. mer., 2007, p. 1439.

<sup>35</sup> Criminal cassation, sez. IV, 4 June 2014, no. 23354.

<sup>36</sup> Art. 319 quater Italian Criminal Code: "Unless the act constitutes a more serious offence, a public official or a public service officer who, abusing his position or powers, induces someone to give or promise unduly, to him or to a third party, money or other benefits shall be punished by imprisonment of from three to eight years. In the cases provided for in the first paragraph, a person who gives or promises money or other benefits shall be punished by imprisonment of up to three years".

<sup>37</sup> Criminal cassation, sez. VI, 23 May 2013, no. 29338.

<sup>38</sup> Criminal cassation, sez. VI, 8 March 2013, no. 28412.

<sup>39</sup> Criminal cassation, sez. VI, 21 March 2013, no. 13047.

## **5) Bribery of a person in charge of a public service** (Art. 320 of the Italian Criminal Code)<sup>40</sup>

a) Offending behavior: The provision extends to the person in charge of a public service the penalty provided for the offences of: i) bribery for the exercise of a function (Art. 318 of the Italian Criminal Code); and ii) bribery for the performance of acts contrary to official duties (Art. 319 of the Italian Criminal Code).

b) Assumption of the offence: i) the corrupt person's status as a person in charge of a public service; ii) the conditions laid down in Articles 318 and 319 of the Italian Criminal Code<sup>41</sup>.

c) Method of commission of the offence: Payment or promise of payment of a sum of money by the private individual to bribe a public official.

d) Case history: i) receipt of sums of money by the person in charge of a public service to "facilitate and speed up" the conclusion of contracts in violation of the principle of impartiality<sup>42</sup>; ii) receipt of sums of money by the President of a public company in charge of a motorway management service<sup>43</sup>.

## **6) Trafficking in unlawful influence** (Art. 346-bis of the Italian Criminal Code)

Unlawful agreement between a public official and another person who exploiting or boasting existing relations with the public official or person in charge of a public service or other persons referred to in Art. 322-bis, gives or promises, to himself/herself or others, money, or other benefits, as the price of his unlawful mediation with the same, or to indemnify him concerning the exercise of his functions or powers.

a) Offending behavior: i) undue receipt, by a public official or another person, of a sum of money, for himself/herself or for third parties, as the price of his/her own unlawful mediation towards a public official or a person in charge of a public service or the other persons referred to in Art. 322-bis; ii) undue receipt, by a public official or another person, of a benefit other than money, for himself/herself or for third parties, as the price of his/her own unlawful mediation towards a public official or a person in charge of a public service or the other persons referred to in Art. 322-bis iii) undue acceptance, by a public official or another person, of the promise of a sum of money, for himself/herself or for third parties, as the price of his/her own unlawful mediation towards a public official or a person in charge of a public service or the other persons referred to in Art. 322-bis.

b) Assumption of the offence: i) existence of relations with the public official or person in charge of a public service or other persons referred to in Art. 322-bis, such as exercising influence over the same; ii) qualification as public official; iii) undue receipt or acceptance of the promise to receive money or other benefits.

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<sup>40</sup> Art. 320 of the Italian Criminal Code: "the provisions of Articles 318 and 319 shall also apply to the person in charge of a public service. In any event, the penalties shall be reduced by not more than one third."

<sup>41</sup> See above.

<sup>42</sup> Criminal cassation, section VI, 16 October 1998, no. 12990, in Criminal cassation, 1999, p. 3130.

<sup>43</sup> Criminal cassation, sez. VI, 24 June 2013, no. 27719.

c) Method of commission of the offence: Receipt by a public official or other person of a sum of money or other benefit (given or only promised), for himself/herself or a third party, as the price of his own unlawful mediation towards a public official or a person in charge of a public service or other persons referred to in Art. 322-bis.

d) Case history: i) receipt, or acceptance of the relevant promise, of money or other goods, following unlawful mediation ii) agreement between the directors of a Company, other persons (private individuals or public officials, having relations with public officials) and a public official, to ensure the suitability of the Company following a planned inspection by the public official.

## **7) Incitement to corruption** (Art. 322(1) and (3) of the Italian Criminal Code)<sup>44</sup> a)

a) Offending behavior:

1) for paragraph 1 (active instigation): i) offer<sup>45</sup> by the private party of a sum of money not due to the public official (or person in charge of a public service) for the exercise of his functions, if the offer is not accepted; ii) offer by the private party of a benefit other than money not due to the public officer (or person in charge of a public service) for the exercise of his functions, if the offer is not accepted; iii) offer by the private party of a sum of money not due to the public officer (or person in charge of a public service) for the exercise of his functions, if the offer is not accepted; iv) offer by the private party of a benefit other than money not due to the public officer (or person in charge of a public service) for the exercise of his powers, if the offer is not accepted v) promise by the private party of a sum of money not due to the public official (or person in charge of a public service) for the exercise of his functions, if the promise is not accepted; vi) promise by the private party of a benefit other than money not due to the public official (or person in charge of a public service) for the exercise of his functions, if the promise is not accepted vii) promise by an individual of a benefit other than money not due to the public official (or person in charge of a public service) for the exercise of his functions, if the promise is not accepted; viii) promise by an individual of a benefit other than money not due to the public official (or person in charge of a public service) for the exercise of his functions, if the promise is not accepted;

2) for subsection 2 (passive incitement): i) solicitation of an individual, by a public official or a person in charge of a public service, of the promise of a sum of money for the exercise of his functions; ii) solicitation of an individual, by a public official or a person in charge of a public service, of the giving of a sum of money for the exercise of his functions; iii) solicitation of an individual, by a public official or a person in charge of a public service, of

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<sup>44</sup> Art. 322 Italian Criminal Code: "Whoever 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, shall be subject, if the offer or promise is not accepted, to the penalty laid down in Art. 318(1), reduced by one third. The penalty referred to in the first paragraph shall apply to a public official or a person in charge of a public service who solicits a promise or the giving of a promise of money or another benefit for the exercise of his functions or powers".

<sup>45</sup> By offer is the initial part of the conduct of giving.

the promise of a benefit other than money for the exercise of his functions; iv) solicitation to a private individual by a public official or a person in charge of a public service, of the giving of a benefit other than money for the performance of his duties; v) solicitation of a private individual, by a public official or a person in charge of a public service, of the promise of a benefit other than money for the exercise of his powers; vi) solicitation of a private individual by a public official or a person in charge of a public service to give him money to exercise his powers; vii) solicitation by a public official or a person in charge of a public service of a promise of money to a private individual for the exercise of his powers; viii) solicitation by a public official or a person in charge of a public service of a benefit other than money to exercise his powers.

b) Assumption of the offence: i) qualification as a public official or person in charge of a public service; ii) offer or promise of undue money or benefits; iii) non-acceptance of the offer or promise.

c) Method of commission of the offence: Offer or promise of money or other benefits which is not followed by acceptance by the public official or the person in charge of a public service; solicitation of the promise or giving of money or other benefits.

d) Case history: cf. case history referred to in Art. 318 of the Italian Criminal Code.

## **8) Incitement to corruption (Art. 322(2) and (4) of the Italian Criminal Code)<sup>46</sup>**

a) Offending behavior: i) offer (of money or other benefit) to the public official (or person in charge of a public service) to omit an act of his/her office; ii) offer (of money or other benefit) to the public official (or person in charge of a public service) to delay an act of his/her office; iii) promise (of money or other benefit) to the public official (or person in charge of a public service) to omit an act of his/her office; iv) promise (of money or other benefit) to the public official (or person in charge of a public service) to delay an act of his/her office v) solicitation by a public official to a private party to promise or give a sum of money or other benefit to perform an act contrary to his official duties in exchange for the promise of money; vi) solicitation by a public official to a private party to perform an act contrary to his official duties in exchange for the promise of a benefit other than money vi) solicitation of an individual, by a public official, to perform an act contrary to his official duties in exchange for money; vii) solicitation of an individual, by a public official, to perform an act contrary to his official duties in exchange for a benefit other than money.

b) Assumption of the offence: i) failure to accept the offer made by the private individual or request made by the public official ii) act contrary to official duties iii) mental disturbance of the public official, such that there is a danger that he will accept the offer or promise<sup>47</sup>.

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<sup>46</sup> Art. 322 Italian Criminal Code "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 perform an act contrary to his duties, the offender shall be subject, if the offer or promise is not accepted, to the penalty laid down in Art. 319, reduced by one third. The punishment referred to in the second paragraph shall apply to a public official or a person in charge of a public service who solicits a promise of money or other benefits from a private individual for the purposes indicated in Art. 319".

<sup>47</sup> Criminal cassation, section VI, no. 2716 of 1996.

c) Method of commission of the offence: Incitement by a private individual to bribe a public official with the promise of money or other benefits to delay an official act or to perform any act contrary to official duties; induction by a public official of a private individual to promise or deliver money or other benefits to omit or delay an official act or to perform any act contrary to official duties.

d) Case history: i) offer of gifts to a public official to avoid making a complaint to the judicial authority<sup>48</sup>; ii) conduct of a public official who solicits a private individual to lend him a sum of money while indicating his willingness to treat him favorably during an inspection<sup>49</sup>.

**9) Embezzlement, extortion, undue induction to give or promise benefits, bribery, and incitement to bribery of members of the International Criminal Court or organs of the European Communities and of officials of the European Communities and of foreign States (Art. 322-bis of the Italian Criminal Code)**<sup>50</sup>

a) Offending behavior: commission of the offences indicated concerning: i) members of the Commission of the European Communities, of the European Parliament, of the Court of Justice and of the Court of Auditors of the European Communities; ii) officials and agents of the European Communities; iii) persons seconded by the Member States or by any public or private body to the European Communities, who carry out functions corresponding to those of officials or agents of the European Communities; iv) members and employees of bodies constituted based on the Treaties establishing the European Communities; v) persons who, within the framework of other Member States of the European Union, carry out functions or activities corresponding to those of public officials and public service officers; vi) judges, prosecutors, assistant prosecutors, officials and agents of the International Criminal Court, persons seconded by the States party to the Treaty establishing the International Criminal Court.

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<sup>48</sup> Criminal cassation, section VI, 9 July 2002, no. 30268.

<sup>49</sup> Criminal cassation, section VI, 14 November 2012, no. 44205.

<sup>50</sup> The provisions of Articles 314, 316, 317 to 320 and 322, third and fourth paragraphs, shall also apply: 1) the members of the Commission of the European Communities, of the European Parliament, of the Court of Justice and of the Court of Auditors of the European Communities; 2) the officials and agents employed under contract following the Staff Regulations of Officials of the European Communities or the Conditions of Employment of agents of the European Communities; 3) the persons seconded by the Member States or by any public or private body to the European Communities, who carry out functions corresponding to those of officials or agents of the European Communities; 4) the members and employees of bodies constituted based on the Treaties establishing the European Communities; 5) those who, within the framework of other Member States of the European Union, carry out functions or activities corresponding to those of public officials and public service officers. 5-bis) Judges, the Prosecutor, Assistant Prosecutors, officers and agents of the International Criminal Court, persons seconded by States Parties to the Treaty establishing the International Criminal Court who perform functions corresponding to those of officers or agents of the International Criminal Court, members and employees of bodies established under the Treaty establishing the International Criminal Court. The provisions of Articles 319-quater, second paragraph, 321 and 322, first and second paragraphs, shall also apply if the money or other benefit is given, offered or promised: 1) persons referred to in the first paragraph of this Art.; 2) persons performing functions or activities corresponding to those of public officials and persons in charge of a public service within other foreign States or international public organizations if the act is committed to procure for oneself or others an undue advantage in international economic transactions or to obtain or maintain an economic or financial activity. In other cases, the persons mentioned in the first paragraph shall be assimilated to public officials if they perform corresponding functions and to persons in charge of a public service.

b) Assumption of the offence: qualification as a public official of the person committing the offence (person belonging to one of the supranational bodies referred to in the provision, i.e. a "public official"). "international official"<sup>51</sup>).

c) Method of commission of the offence: Active conduct of one of the persons referred to in the provision, Art. 322-bis of the Italian Criminal Code incriminates all those who carry out the activities covered by Articles 321 and 322. (i.e. corrupt activities) towards the persons themselves, and not just the passive subjects of the corruption.

In addition, Art. 322-bis of the Italian Criminal Code also incriminates the offer or promise of money or other benefits 'to persons who perform functions or activities corresponding to those of public officials and persons in charge of a public service in other foreign States [other than those of the European Union, ed.] or international public organizations, if the act is committed to procure for oneself or others an undue advantage in international economic transactions".

d) Case history: The offence provided for in Art. 322-bis of the Italian Criminal Code covers giving sums of money to foreign government officials for the award of international contracts (so-called international bribery)<sup>52</sup>.

## **10) Bribery in judicial proceedings** (Art. 319 ter, paragraph 1, of the Italian Criminal Code)<sup>53</sup>

a) Offending behavior: i) commission of the offence of corruption in the exercise of a function for the benefit of a party in a trial (civil, criminal, administrative); ii) commission of the offence of corruption for an act contrary to the duties of office for the benefit of a party in a trial (civil, criminal, administrative); iii) commission of the offence of corruption in the exercise of a function for the benefit of a party in a trial (civil, criminal, administrative); iv) commission of the offence of corruption for an act contrary to the duties of office for the benefit of a party in a trial (civil, criminal, administrative).

b) Assumption of the offence: i) qualification as a public official; ii) presuppositions of Articles 318 and 319 of the Italian Criminal Code.

c) Method of commission of the offence: The offence of bribery (agreement between the bribe-giver and the corruptor) must be perpetrated in favor of or to the detriment of a party to the proceedings.

d) Case history: i) the offence is committed not only when the public official receives a benefit to performing an act contrary to the duties of his office, but also if he accepts

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<sup>51</sup> Criminal cassation, section VI, 30 September 2010, no. 42701, in Foro it., 2011, 6, II, p. 370.

<sup>52</sup> Criminal cassation, sez. VI, 30 September 2010, no. 42701, cit.

<sup>53</sup> Art. 319(1) of the Italian Criminal Code: "If the acts referred to in Articles 318 and 319 are committed to favour or damage a party in civil, criminal or administrative proceedings, the penalty shall be imprisonment for a term of between six and twelve years." <sup>50</sup> Criminal cassation, section VI, 9 November 2005, no. 44971.

remuneration or a financial benefit to perform an act of his office<sup>50</sup>; ii) delivery of money to persons who have given false testimony in the execution of an unlawful agreement aimed at favoring a party in the civil proceedings (it should be borne in mind that the witness, who participates in the formation of the judge's will, has the status of public official from the moment of his summons)<sup>54</sup>; iii) bribery of the prosecutor's technical consultants<sup>55</sup>; iv) bribery of witnesses<sup>56</sup>.

## **11) Corruption in judicial proceedings (Art. 319 ter (2) of the Italian Criminal Code)<sup>57</sup>**

a) Offending behavior: i) commission of the offence referred to in Art. 318 of the Criminal Code resulting in the unjustified imprisonment of someone for a term not exceeding five years; ii) commission of the offence referred to in Art. 319 of the Italian Criminal Code resulting in the unjustified imprisonment of a person for a term not exceeding five years; iii) commission of the offence provided for in Art. 318 of the Italian Criminal Code resulting in the unjust conviction of a person to a term of imprisonment of more than five years or to life imprisonment; iv) commission of the offence provided for in Art. 319 of the Italian

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Criminal Code resulting in the unjust conviction of someone to a term of imprisonment of more than five years or to life imprisonment.

b) Assumption of the offence: i) prerequisites under Articles 318 and 319 of the Italian Criminal Code; ii) wrongful conviction.

c) Method of commission of the offence: The agreement between the corrupt and the corruptor leading to an unjust conviction.

d) Case history: false testimony in criminal proceedings<sup>58</sup>.

## **12) Misappropriation to public grants (Art. 316-bis of the Italian Criminal Code)<sup>59</sup>**

a) Offending behavior: i) diversion from the intended purpose of contributions, subsidies or funding by any person, other than a member of the public administration, who has obtained them from the State or from another public body or from the European Communities, to favor initiatives aimed at carrying out works in the public interest; ii) diversion from the intended purpose of contributions, subsidies or funding by any person, other than a member

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<sup>54</sup> Criminal cassation, section I, 23 January 2003, no. 6274.

<sup>55</sup> Criminal cassation, section VI, 7 January 1999, no. 4062.

<sup>56</sup> Criminal cassation, section I, 23 January 2003, no. 6274.

<sup>57</sup> Art. 319 ter(2) of the Italian Criminal Code: "If the fact leads to the unjustified conviction of a person to imprisonment for a term not exceeding five years, the penalty shall be imprisonment for a term of between six and fourteen years; if the fact leads to the unjustified conviction to imprisonment for a term exceeding five years or to life imprisonment, the penalty shall be imprisonment for a term of between eight and twenty years".

<sup>58</sup> Criminal cassation, Joint chambers, 21 April 2010, no. 15208.

<sup>59</sup> Art. 316-bis: "Whoever, not belonging to the public administration, having obtained from the State or from another public body or from the European Communities grants, subsidies or financing intended to favour initiatives aimed at carrying out works or activities in the public interest, does not use them for the purposes above, shall be punished with imprisonment from six months to four years".

of the public administration, who has obtained them from the State or from another public body or from the European Communities, to favor initiatives aimed at carrying out activities in the public interest.

b) Assumption of the offence: i) qualification as a person not belonging to the public administration; ii) obtaining contributions, subsidies or funding from the State or another public body or from the European Communities; iii) allocation of the sums to initiatives aimed at carrying out works or activities in the public interest; iv) diversion of the sums from the purposes for which they are intended.

c) Method of commission of the offence: Diversionary conduct aimed at retaining the sums or using them for purposes other than those for which they were obtained.

d) Case history: The notion of "works" or "activities in the public interest" is to be understood in a broad sense, excluding only those economic subsidies granted for social welfare purposes without a precise destination<sup>60</sup>.

### **13) Undue receipt of payments to public grants** (Art. 316-ter of the Italian Criminal Code)<sup>61</sup>

a) Offending behavior: i) undue obtaining, for oneself or for others, by anyone, of contributions, financing, subsidised loans or other disbursements of the same type, however they are called, granted or disbursed by the State, by other public bodies or by the European Communities, through the use or presentation of false declarations or documents or those certifying things that are not true; ii) undue obtaining, for oneself or for others, by anyone, of contributions, financing, subsidised loans or other disbursements of the same type, however, they are called, granted or disbursed by the State, by other public bodies or by the European Communities, through the omission of due information.

b) Assumption of the offence: i) use or presentation of false declarations or documents or documents certifying untrue facts or omission of due information; ii) undue receipt of funds.

c) Method of commission of the offence: Submission of false declarations or documents or omission of required information resulting in the receipt of payments by the taxable persons indicated.

d) Case history: The offence is committed when public funds are obtained based on falsely received invoices<sup>62</sup>.

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<sup>60</sup> Criminal cassation, section VI, 13 December 2011, no. 23778.

<sup>61</sup> Art. 316-ter: "unless the act constitutes the offence envisaged by Art. 640-bis, whoever, by using or submitting false declarations or documents or by certifying untrue things, or by omitting due information, unduly obtains, for himself/herself or for others, contributions, financing, subsidised loans or other disbursements of the same type, however, named, granted or disbursed by the State, by other public bodies or by the European Communities, shall be punished with imprisonment from six months to three years. Where 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 ranging from €5,164 to €25,822 shall apply. This penalty may not, however, exceed three times the benefit obtained".

<sup>62</sup> Criminal cassation, sez. VI, 9 May 2013, no. 35220.

#### **14) Penalties for the corruptor** (Art. 321 of the Italian Criminal Code)<sup>63</sup>

- a) Offending behavior: If the offences of corruption in the exercise of a function or corruption for an act contrary to official duties are committed, the other party (the corruptor) is subject to the same penalty as the public official in the following cases: i) giving money to the public official; ii) giving other benefits to the public official; iii) promising money to the public official; iv) promising other benefits to the public official.
- b) Assumption of the offence: i) qualification of the bribed person as a public official; ii) necessary concurrence between the bribe-giver (so-called intraneus) and the corruptor (so called extraneus).
- c) Method of commission of the offence: Payment or promise of payment of a sum of money by the private individual to bribe a public official.
- d) Case history: See case history referred to in Articles 318, 319, 319 bis and 319 ter.

#### **15) Fraud** (Art. 640 of the Italian Criminal Code)<sup>64</sup>

- a) Offending behavior: i) a person who procures for himself/herself an unjust profit to the detriment of others; ii) a person who procures for others an unjust profit to the detriment of others.
- b) Assumption of the offence: i) artifice or deception; ii) inducing error.
- c) Method of commission of the offence: Manipulation of external reality in such a way as to mislead a person into performing an act or omission resulting in a diminution of his or her assets for the unjust profit of the agent or of others
- d) Case history: i) to apply the aggravating circumstance referred to in Art. 640, second paragraph, no. 1, of the Criminal Code, all bodies, including those with a formal private structure, having legal personality, which perform functions instrumental to the pursuit of needs in the general interest and not of an industrial or commercial nature, and which are in situations of strict dependence on the State, territorial public bodies or other bodies governed by public law, must be deemed to fall within the category of public bodies<sup>65</sup>; ii) the offence of fraud to the detriment of the public body is committed by an employee who causes an arbitrary departure from the workplace to be deemed to be due to reasons

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<sup>63</sup> Art. 321 Italian Criminal Code: "the penalties laid down in paragraph 1 of Art. 318, in Art. 319, in Art. 319-bis, in Art. 319-ter and in Art. 320 concerning the hypotheses above of Articles 318 and 319, shall also apply to a person who gives or promises the public official or the person in charge of a public service money or other benefits".

<sup>64</sup> Art. 640 of the Italian Criminal Code: "Whoever, employing artifice or deception, misleads someone, procures for himself/herself or others an unjust profit to the detriment of others, shall be punished by imprisonment from six months to three years and a fine ranging from EUR 51 to EUR 1,032. The penalty is imprisonment for one to five years and a fine ranging from EUR 309 to EUR 1,549: [...] 2) if the act is committed by creating in the offended person the fear of an imaginary danger or the erroneous belief that he or she must carry out an order of the Authority [...]";

<sup>65</sup> Criminal cassation, sec. II, 17 July 2014, no. 38614.

of service, it is irrelevant to the contrary that the hierarchical superior was aware of the lack of authorization to leave the workplace<sup>66</sup>.

## **16) Aggravated fraud for obtaining public funds** (Art. 640-bis of the Italian Criminal Code)<sup>67</sup>

- a) Offending behavior: See Art. 640.
- b) Assumption of the offence: fraud involving grants, loans, subsidised mortgages or other funds of the same type, however, denominated, granted or provided by the State, other public bodies or the European Communities.
- c) Method of commission of the offence: See Art. 640.
- d) Case history: i) the sums deriving from public funding continue to be public property even when they become available to the private entity receiving the funding, the obligation to allocate them to the purpose for which they were granted remaining intact; therefore, the offence of fraud under Art. 640 bis of the Italian Criminal Code may be committed if tricks and deception have been used to obtain an unfair profit concerning such funding<sup>68</sup>;  
ii) it is an offence of fraud to obtain a special rate mortgage for non-existent goods to be purchased even though instalments and interest are regularly repaid<sup>69</sup>.

## **B) Offences not included in Model 231 but included in this PTPC**

### **1) Embezzlement** (Art. 314 of the Italian Criminal Code)<sup>70</sup>

- a) Offending behavior: i) appropriation by a public official or a person in charge of a public service of another person's money or other movable property in his possession or otherwise available to him under his office (paragraph 1); ii) appropriation by a public official or a person in charge of a public service of another person's money or other movable property in his possession or otherwise available to him under his office for temporary use, returning the money or utility immediately after use (paragraph 2).
- b) Assumption of the offence: i) it is sufficient that the "reasons of office or service" provided for in Art. 314 of the Italian Criminal Code also find their source in practice. Therefore, the qualified possession of money or other movable property of others by the public official or

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<sup>66</sup> Criminal cassation, section II, 19 May 2011, no. 23785.

<sup>67</sup> Art. 640-bis of the Italian Criminal Code: "the penalty shall be imprisonment for a term of between one and six years and shall be prosecuted ex officio if the act referred to in Art. 640 concerns contributions, financing, subsidised loans or other disbursements of the same type, however, denominated, granted or disbursed by the State, other public bodies or the European Communities".

<sup>68</sup> Criminal cassation, section III, 27 November 2012, no. 5150.

<sup>69</sup> Criminal cassation, section II, 12 May 2011, no. 35355.

<sup>70</sup> Reference is also made to the case provided for in Art. 316 of the Italian Criminal Code. (embezzlement by taking advantage of the error of others), according to which "a public official or a person in charge of a public service who, in the performance of his duties or service, takes advantage of the error of others, unduly receives or retains, for himself/herself or for a third party, money or other benefits, shall be punished with imprisonment from six months to three years".

the person in charge of a public service doesn't need to fall within his specific functional competence.

Similarly, a de facto official who is not formally in public office is also liable for the offence.

c) Method of commission of the offence: The appropriation by the public prosecutor or the person in charge of a public service of another person's money or other movable property is effected by conduct incompatible with the title by which such property is possessed, which totally removes it from the assets of the person entitled to it. Moreover, the agent reverses his representation of being a possessor on behalf of others of the thing of others into being a possessor of the thing on his own account. "Possession" means not only the physical possession of the thing but also the power to dispose of it.

d) Case history: The conduct of the person in charge of the treasury service of a public body who prepares and signs payment orders in his name for reasons which have no basis whatsoever and then collects them personally from the bank which provided the treasury service<sup>71</sup> constitutes the offence of embezzlement.

## **2) Misuse of office (Art. 323 of the Italian Criminal Code)<sup>72</sup>**

a) Offending behavior: i) intentional obtaining of an unfair financial advantage by the public official or a person in charge of a public service, in the exercise of his/her functions or in the performance of the service, in violation of laws or regulations; ii) intentional obtaining of an unfair financial advantage by the public official or a person in charge of a public service, in the exercise of their functions or in the performance of the service, by failing to abstain in the presence of their own interest or that of a close relative; iii) intentional production of unjust damage by the public prosecutor or the public prosecutor's office, (iv) intentional production of unjust damage by the public official or a person in charge of a public service, in the exercise of his/her functions or in the performance of his/her duties, by failing to abstain in the presence of his/her own interest or that of a close relative.

b) Assumption of the offence: i) the unlawful conduct must be carried out while acting in the capacity of public official or person in charge of a public service. Therefore, conduct which - even if it is in breach of the duty of fairness - is carried out as a private person without making use in any way of the functional activity carried out is excluded; ii) to verify the existence of the requirement of violation of the law (a factual prerequisite for the integration of the offence), it is necessary to ascertain whether at the time when the offence was committed the rule of which the violation is alleged to have been committed was in force or not (therefore, the supervening repeal of the law is not relevant).

c) Method of commission of the offence: i) it is not necessary for specific acts to be committed or measures to be issued by the public official or the person in charge of a public service; ii) the abuse takes place through the exercise by the public official of a power for

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<sup>71</sup> Criminal cassation, sez. VI, 18 September 2013, no. 41093.

<sup>72</sup> Art. 323 Italian Criminal Code "unless the act constitutes a more serious offence, a public official or a public service officer who, in the performance of his functions or service, in breach of the law or regulations, or by failing to abstain in the presence of his own interest or that of a close relative or in the other prescribed cases, intentionally procures for himself/herself or others an unjust financial advantage or causes others unjust damage, shall be punished by imprisonment of from one to four years".

purposes other than those imposed by the nature of the function attributed to him; iii) breach of the law shall be understood to refer only to provisions having a specific prescriptive content, with the exclusion of procedural rules iv) the offence occurs not only when the conduct is in conflict with the literal or systematic meaning of a provision, but also when the conduct of the public official or the person in charge of a public service contradicts the specific purpose pursued by the provision attributing the power exercised, to achieve a personal or selfish purpose, or in any event one extraneous to the public administration, giving rise to a "misuse of power" or "abuse of power". v) the offence also occurs when the public official or the person in charge of a public service acts for retaliatory or vexatious purposes extraneous to the reasons of his/her office; vi) if the aim of obtaining a private advantage is accompanied by a public aim, it is necessary to verify - each time - what the real aim pursued by the agent was, with the consequent exclusion of the offence only if the public aim prevails over the private one.

d) Case history: Award of a contract without prior call for competition to favor the (unduly) advantaged contractor<sup>73</sup>.

### **3) Disclosure and use of official secrets (Art. 326 of the Italian Criminal Code)<sup>74</sup> a)**

#### Offending behavior:

paragraph 1: i) a public officer or a person in charge of a public service who, in breach of the duties inherent in his function or service, discloses office information that ought to remain secret; ii) a public officer or a person in charge of a public service who, in breach of the duties inherent in his function or service, discloses office information that ought to remain secret; iii) a public officer or a person in charge of a public service who, in breach of his duties, in any way facilitates the disclosure of information relating to his office which ought to remain secret; iv) a public officer or a person in charge of a public service who, abusing his position, in any way facilitates the disclosure of information relating to his office which ought to remain secret.

paragraph 2: i) the public official or person in charge of a public service who, in breach of his duties or obligations, culpably facilitates the disclosure of information relating to his office which ought to remain secret; ii) the public official or person in charge of a public service who, in abuse of his office, culpably facilitates the disclosure of information relating to his office which ought to remain secret.

paragraph 3: i) a public official or a person in charge of a public service who takes unlawful advantage of the information of the office which should remain secret to procure for himself/herself or others an undue pecuniary gain; ii) a public official or a person in charge

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<sup>73</sup> Criminal Cassation, Sect. VI, 24 April 2001, no. 20282; Criminal Cassation, sec. IV, 18 November 1997, no. 11520.

<sup>74</sup> Art. 326 Italian Criminal Code "A public official or a person in charge of a public service who, in breach of the duties inherent in his office or service, or in any case abusing his position, discloses official information which must remain secret, or in any way facilitates knowledge thereof, shall be punished by imprisonment of from six months to three years. If the facilitation is only negligent, imprisonment of up to one year shall apply. A public official or a person in charge of a public service who, to procure for himself/herself or others an undue pecuniary gain, unlawfully makes use of official information which must remain secret shall be punished by imprisonment of from two to five years. If the offence is committed to procure for oneself or others an unjust non-pecuniary gain or to cause others unjust damage, the penalty shall be imprisonment for a term not exceeding two years.

of a public service who takes unlawful advantage of the information of the office which should remain secret to procure for himself/herself or others an undue non-pecuniary gain.

b) Assumption of the offence: qualification as a public official or person in charge of a public service

c) Method of commission of the offence: i) disclosure of secret information; ii) facilitation of knowledge of secret information; iii) the public official exploits - for financial or non-financial gain - the economic and moral content of the secret information (paragraph 3).

#### **4) Refusal to perform official acts. Omission (Art. 328 of the Italian Criminal Code)<sup>73</sup>**

a) Offending behavior: i) undue refusal to carry out an official act which, for reasons of justice or public safety, public order or hygiene and health, must be carried out without delay; ii) Failure to carry out an official act and failure to reply to explain the reasons for the delay within thirty days of receipt of the request from the person concerned.

b) Assumption of the offence: The offence must be committed while acting in the capacity of a public official or person in charge of a public service.

c) Method of commission of the offence: Art. 328 governs two distinct types of offence: In the first case, the offence is committed by the mere omission of the measure whose timely adoption is requested, affecting goods of primary value (justice, public safety, public order, hygiene and health); in the second case, however, for the offence to be committed, two omissions are required, namely the failure to adopt the measure within thirty days of the request and the failure to reply on the reasons for the delay.

d) Case history: failure to reply to a request for access by a manager of an ASL, even in the case of silence, since the 'silence-refusal' must be regarded as non-performance and, therefore, as the omissive conduct required for the criminal offence to be established<sup>75</sup>.

## **6)**

#### **5) Disturbing the freedom of the procedure for choosing a contractor (Art. 353-bis of the Italian Criminal Code)<sup>76</sup>**

a) Offending behavior: i) disturbing the administrative procedure for determining the content of the notice or other equivalent act; and ii) affecting how the contracting authority chooses the contractor.

b) Assumption of the offence: use of i) violence or threats; ii) or gifts, promises, collusion or other fraudulent means.

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<sup>75</sup> Criminal cassation, sez. VI, 13 November 2013, no. 45629.

<sup>76</sup> Art. 353-bis Italian Criminal Code "unless the act constitutes a more serious offence, anyone who, employing violence or threats, or by gifts, promises, collusion or other fraudulent means, disturbs the administrative procedure aimed at establishing the content of the call for tenders or of another equivalent act to influence how the public administration chooses the contractor shall be punished with imprisonment from six months to five years and with a fine ranging from EUR 103 to EUR 1,032".

c) Method of commission of the offence: Disturbing the procedure for determining the invitation to tender to influence the choice of contractor.

d) Case history: i) the perpetrator of the offence of obstructing the freedom to choose a contractor may be "anyone", and therefore also the public official representing the administration concerned<sup>77</sup>; ii) the offence of obstructing the freedom to choose a contractor is a danger offence, which is committed irrespective of whether the aim of influencing how the contractor is chosen is realized, and for its completion, therefore, it is necessary that the correctness of the procedure for drawing up the call for competition is concretely endangered, but not that the content of the notice of competition is actually amended in such a way as to interfere with the identification of the successful tenderer<sup>78</sup>.

## **6) Use of inventions or discoveries known for official reasons** (Art. 325 of the Italian Criminal Code)<sup>79</sup>

a) Offending behavior: use, by the public official or the person in charge of a public service, for his own benefit or for the benefit of others, of inventions or scientific discoveries, or new industrial applications, known because of his office or service, and which must remain secret.

b) Assumption of the offence: The offence must be committed while acting in the capacity of a public official or person in charge of a public service.

c) Method of commission of the offence: i) the public official or person in charge of a public service employing industrial inventions or discoveries or applications; ii) the secrecy of the information used.

## **7) Interruption of a public service or of public necessity** (Art. 331 of the Italian Criminal Code)<sup>80</sup>

a) Offending behavior: i) interruption of service or suspension of work in its establishments, offices or companies; ii) disturbance of the regularity of the service.

b) Assumption of the offence: Exercise of a public service or public necessity.

c) Method of commission of the offence: i) interruption of a public service or public necessity; or ii) suspension of work.

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<sup>77</sup> Criminal cassation, sez. VI, 22 October 2013, no. 44896.

<sup>78</sup> Cassation last cited.

<sup>79</sup> Art. 325 Italian Criminal Code:"Art. 325 Italian Criminal Code:"a public official or a person in charge of a public service who uses, for his own benefit or for the benefit of others, inventions or scientific discoveries, or new industrial applications, which he knows because of his office or service, and which must remain secret, shall be punished by imprisonment of from one to five years and a fine of not less than EUR 516".

<sup>80</sup> Art. 331 Italian Criminal Code:"Whoever, in the exercise of public services or of public necessity, interrupts the service, or suspends work in his establishments, offices or companies, in such a way as to disturb the regularity of the service, shall be punished with imprisonment from six months to one year and with a fine of not less than EUR 516. Leaders, promoters or organisers are punished with imprisonment from three to seven years and a fine of not less than EUR 3,098. The provision of the last paragraph of the preceding Art. shall apply".

d) Case history: To constitute the offence of interruption of a public service, it is sufficient that the extent of the disruption of the regularity of the office or the interruption itself, even if it has not actually caused the effect of a real cessation of the activity or a lasting disruption of the operation, has been capable of altering the timely, orderly and efficient development of the service, even in terms of limited duration and involvement of only one sector<sup>81</sup>.

**8) Removal of or damage to items subject to seizure ordered in the course of criminal proceedings or by the administrative Authorities** (Art. 334 of the Italian Criminal Code)<sup>82</sup>

a) Offending behavior: Subtracting, suppressing, destroying, dispersing or deteriorating a seized item.

b) Assumption of the offence: i) seizure of the property in the course of criminal proceedings or ordered by the administrative authority; ii) custody of the property.

c) Method of commission of the offence: Art. 334 of the Italian Criminal Code governs several hypotheses.

That provided for in paragraph 1 may only be committed by a person who has custody of the thing and is carried out employing alternative conducts analytically indicated (removal, suppression, destruction, dispersal, deterioration); it is a hypothesis that requires the existence of specific intent on the part of the agent (the purpose of favoring the owner of the thing). In the hypothesis provided for by Art. 334(2), the owner and the custodian carry out the typical conduct.

d) Case history: The conduct of abduction does not imply taking possession of the property and may be carried out by simply circumventing the constraint to which the property is subject<sup>83</sup>.

**9) Negligent breach of duties relating to the custody of things subject to seizure ordered in the course of criminal proceedings or by the administrative Authorities** (Art. 335 of the Italian Criminal Code)<sup>84</sup>

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<sup>81</sup> Criminal Cassation, sec. VI, 9 June 2004, no. 26077.

<sup>82</sup> Art. 331 Italian Criminal Code: "Whoever removes, suppresses, destroys, scatters or deteriorates a thing seized in the course of criminal proceedings or by the administrative authority and entrusted to his custody, for the sole purpose of favouring its owner, shall be punished with imprisonment from six months to three years and with a fine ranging from EUR 51 to EUR 516. Imprisonment from three months to two years and a fine ranging from EUR 30 to EUR 309 shall apply if the removal, suppression, destruction, dispersal or deterioration is committed by the owner of the object entrusted to his custody. The penalty shall be imprisonment from one month to one year and a fine of up to EUR 309 if the act is committed by the owner of the same thing not entrusted to his custody".

<sup>83</sup> Criminal cassation, 21 January 2011, no. 1963.

<sup>84</sup> Art. 335 Italian Criminal Code "Whoever, having in his custody a thing seized in the course of criminal proceedings or by the administrative authority, culpably causes its destruction or dispersal, or facilitates its removal or suppression, shall be punished with imprisonment of up to six months or with a fine of up to EUR 309".

a) Offending behavior: i) causing the destruction or dispersal; or ii) facilitating the removal or suppression of the object.

b) Assumption of the offence: i) seizure of the property in the course of criminal proceedings or ordered by the administrative authority; ii) custody of the property.

c) Method of commission of the offence: The criminal offence referred to in Art. 335 of the Italian Criminal Code is an offence of its own, involving damage and an event since it is committed when the harmful event occurs. The subjective element of the offence is constituted by the guilt of the agent who has caused the offence (event) by failing to adopt and comply with all the precautionary rules connected with the professional duties inherent in the position of custodian: failure to comply with precautionary rules, capable of causing the destruction or dispersal of the seized item or facilitating its removal or suppression. Therefore, it is necessary that, due to the negligent and careless conduct of the custodian, the property seized in the course of criminal proceedings or by the administrative authority is taken away by the owner or by third parties.

d) Case history: The destruction of one or more components of the impounded car constitutes damage or deterioration, not the destruction of the car unless it is an essential component whose destruction means that the complex thing, which remains after partial destruction, is modified to such an extent that it can no longer be defined as a car<sup>85</sup>.

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<sup>85</sup> Criminal cassation, section VI, judgement of 19 June 2003, no. 26699.

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