



# Italian Legislative Decree 231/2001

A compliance program to prevent crimes against Environment, Bribery, Data Protection and Health & Safety.



BREAKOUT  
SESSION  
standards for  
**CLIMATE  
ACTION**

## What is Italian Legislative Decree 231/2001 ?

It is a regulatory framework for corporate accountability, according to which companies may be held liable, fined, subject to restraining orders to prohibit the exercise of the company's activity and confiscation orders, if expressly provided for by the Decree, in relation to certain offences committed, or attempted, by officers, managers or their subordinates as well as by third parties (suppliers, partners, consultants, etc.)

The company's liability is in addition to the liability of the actual offender.

# Which are the certain offences recalled by the Decree, that can put this responsibility on a company?

- **environmental disaster and pollution**
- *crimes against public bodies*
- *offences to the detriment of public confidence such as falsification of currency*
- *corporate crimes*
- *criminal offences related to terrorism and subversion of democratic order*
- *market abuses*
- *criminal offences against individuals*
- *criminal offences against life and personal safety*
- *criminal against protection of health and safety in the workplace*
- *money-laundering*
- *IT offences and unlawful management of IT data*
- *Others...*

# How to avoid sanctions? With a certification!

The entity may be able to rely on a defence and be exempted from liability if it can prove that:

- 1) it has adopted, and effectively implemented, an **Organizational Model (that can be proved with a certifications)** prior to the commission of the offence of the kind actually committed
- 2) it has appointed an internal control committee, known as “organismo di vigilanza”, with independent powers of action and control proof is given that the officer, manager or their subordinates that committed or attempted to commit the offence fraudulently eluded the Organizational Model
- 3) the internal control committee has conducted adequate monitoring.



## How does it works?

A voluntary application of certification standards (eg. ISO 45001 / **ISO 14001**, **EMAS** / ISO 37001 / ISO 27001) is a proof the demonstrate that the Organizational Model is actual and real.

So, for example, if a company is certified ISO 14001 under accreditation, in case of an environmental disaster the Company is not convicted, but the liability is limited to the person that violated the relevant company procedure.

The top management remain free of responsibility, if a good procedure was in place, and the violation of the procedure is due to fraudulent behaviour of an employee.



## List of crimes focused by Italian Legislative Decree 231/2001

- Environmental pollution (water, air, land, biodiversity...)
- Environmental disaster (ecosystem)
- Traffic and abandonment of material to high radioactivity

Note: the responsibility is applicable also if the disaster/pollution has not been done on purpose

*Moreover, according to Symbola Foundation research and Banca Intesa research, it is proven that environmental certified companies increased their revenues by 3.5% (around 1.5 percentage points more than non-certified ones) and the number employees grew by 4%, compared to 0.2% for non-certified. It is mainly the smaller companies that gain the most advantages: the SMEs (up to 50 employees) with environmental certification recorded a spread, as compared to the non-certified, of +4 points in turnover and 1.2 points in employment.*

## And now?

It is possible to duplicate this experience (seen Spain - Ley Orgánica 1/2015)

Another opportunity is to use ISO 19600 as a framework for corporate compliance

