

# CARLO GAVAZZI AUTOMATION S.p.A.

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### SUMMARY



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#### 1.1. The Legislative Decree 231/2001

To enforce the delegated law as per Article 11 of Italian Act No. 300 of 29 September 2000, on 8 June 2001 the Legislative decree No. 231 (hereunder the “Decree”) was passed, and became effective by 4 July 2001. The Decree aims at bringing in line the Italian regulations in the area of corporate-liability with several international agreements, that Italy has signed, such as the Brussels Convention of 26 July 1995 on the protection of European Community financial interests, the Brussels Convention of 26 May 1997 on corruption involving officials of the EU or of Member States of the EU, the OECD Convention of 17 December 1997 on combating bribery of foreign public officials in international business transactions.

The Decree, entitled “*Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica*” (Discipline of the administrative liability of legal persons, companies and associations also of those not having a legal status) introduced into the Italian law a regime of administrative liability (which is broadly related to the criminal liability of physical persons) of the Italian companies as a result of certain offences committed, in Italy or abroad, (and of the foreign companies acting in Italy, only with reference to the activity made in Italy) on behalf or for the benefit of such entities, (i) by individual persons having a representative, administrative or managerial position within the bodies or within a business unit linked to them, even if independent from a financial and functional viewpoint, as well as by individual persons who, also de facto, manage and control the bodies, as well as (ii) by individual persons subject to the management or supervision by one of the subjects mentioned above. Liability of legal persons doesn't exclude that of individuals who materially committed the offence.

The broadening of the liability aims at punishing - for certain criminal offences - also those entities that have benefited from the offence. The more serious of the sanctions provided for include various types of disqualification such as the suspension or withdrawal of licences and permissions, the prohibition from signing agreements with the Italian Public Administration, the debarment from performing certain activities, the barring from or withdrawal of financings and contributions, and the prohibition from advertising goods and services.

As per art. 4 of the Decree, when a principal offender commits an offence abroad, the Italian judges may exercise nationality jurisdiction. In these circumstances, a company can be prosecuted only if it has a head office in Italy and if the country in which the offence was committed does not initiate any proceedings.

The following types of offenses are currently covered by the Decree: (i) crimes against the Public Administration, (ii) corporate crimes (iii) crimes of money laundering, receiving stolen goods and utilization of illicit profits (iv) crimes concerning the forgery of coinages, banknotes and duty stamps, (v) crimes committed with purposes of terrorism and subversion of democratic order, (vi) crimes against the fundamental rights of freedom (in Italian “reati contro la personalità individuale”) (vii) crimes of insider trading and market abuse, (viii) the so called “transnational offence”, (ix) manslaughter and serious injuries caused by a non-fulfillment of the legislation providing for health and safety of the workers in the workplace (x) cybercrimes and unlawful data processing, (xi) crimes against the environments, (xii) crimes against the industry and trade, (xiii) crimes related to the racketeering, (xiv) crimes concerning the employment of irregular citizen and (xv) crimes of private corruption.

By introducing the above mentioned administrative responsibility regime, Article 6 of the Decree makes provision, however, for a specific form of exemption from said responsibility if the body proves that:

- a) prior to the offence being committed, **the Board of Directors of the body approved - and effectively implemented - compliance programs** that were suitable for preventing offences of the same type as that/those perpetrated;

- b) the task of supervising the operations and ascertaining that the compliance programs were complied with - as well as of taking care of their updating - was entrusted to **a compliance officer having independent powers of initiative and control**;
- c) the persons who committed the offence have acted by **fraudulently** avoiding the above mentioned compliance programs;
- d) the body indicated under letter b) above performed its supervisory task and did so in a non-insufficient manner.

The Decree furthermore makes provision that - with regard to the extension of the delegated powers and the risk of committing the offences - the compliance programs as per letter a), must meet the following requirements:

1. identify the activities wherein it is possible that the offences dealt with by the Decree are committed;
2. make provision for specific protocols aimed at planning decision making and related implementation by the body with regard to the offences to prevent;
3. identify management procedures of the financial resources suitable for stopping these offences from being committed;
4. make provision for information obligations for the committee delegated to supervise the operations and the compliance with the compliance programs;
5. introduce an internal disciplinary system to punish non-compliance with the measures indicated in the compliance programs.

## **2. Carlo Gavazzi Automation organization, management and control model**

CGA - in order to guarantee adequate standards of transparency in conducting its business, in order to protect CGA's positions, as well as the expectations of its shareholders and employees - has decided to implement the Organization, Management and Control Model (hereinafter the "Model") provided for by the Decree.

CGA's Model is composed of a General Section and five Special Sections, which are connected to the offences that the Company may theoretically commit.

### **2.1. The General Section**

The Model aims at building a structured and organic system for both procedures and control activities, to be carried out also pre-emptively (ex ante control), to prevent the different types of offences envisaged by the Decree.

In particular the General Section:

1. describes analytically the provisions of the Decree, the relevant offences and punishments;
2. map the Company's "at-risk activity areas", i.e. those activities within which offences are more likely to be committed;
3. describes the methodology adopted by the Company for the drafting of the Model (i.e. as is analysis, gap analysis and management's interview)
4. makes provisions for specific protocols aimed at planning decision making and related implementation by the Company with regard to the offences to be prevented;
5. describes the tasks, powers and composition of the Compliance Officer;
6. make provision for information obligations for the Compliance Officer to supervise the operations and the compliance with the Model;
7. makes provisions for the circulation of the Model inside the Company and towards third parties;
8. introduces an internal disciplinary system to punish non-compliance with the measures indicated in the Model.

## **2.2. The Special Sections**

### **2.2.1 Introduction**

The Special Sections included in CGA's Model refer to the offences that could be theoretically committed in the frame of CGA's activity.

The Special Section concerns the conduct of CGA's Employees, Corporate Officers and External Collaborators (Consultants, Partners and Suppliers), as defined in the General Section.

The purpose of all the Special Sections is to see that all the Addressees, as identified above, comply with all the conduct standards and provisions described in the Section itself, in order to prevent that the related crimes occur.

In particular, all the Special Sections aim at:

- 1) identifying all the procedures that CGA's Employees, Corporate Offices and External Collaborators (Consultants, Partners and Suppliers) must respect in order to comply properly with the Model;
- 2) submitting to the Compliance Officer and to the Corporate organizational managers the executive instruments to control, monitor and verify the corporate activities.

Each Special Section is divided into five sub-sections:

- 1) Description of the types of offences;
- 2) Description of the "at-risk areas";
- 3) Description of the general principles and rules of conduct;
- 4) Description of the specific procedures to be adopted in order to prevent that the related crimes occur;
- 5) Description of the monitoring powers assigned to the Compliance Officer.

### **2.2.2. The Special Section 1**

The **Special Section 1** describes the offences that the Company may theoretically commit in relation to the **crimes against the Public Administration**:

- 1) fraud against the State or other public body or the European Union (art. 640 c.p.),
- 2) serious fraud to receive public funds (art. 640 bis c.p.),
- 3) embezzlement against the State (art. 316 bis c.p.),
- 4) undue cashment of contributions, financings or other financial disbursements from the State or other public bodies (art. 316 ter c.p.),
- 5) IT fraud against the State or other public bodies (art. 640 ter c.p.),
- 6) bribery (art.317 c.p.),
- 7) corruption for official acts (art. 318 c.p.),
- 8) corruption in acts against official duties (art. 319 c.p.)<sup>1</sup>,
- 9) corruption in judicial acts (art. 319 ter c.p.),
- 10) instigation to corruption (art. 322 c.p.),

The most "**at-risk activity areas**" have been identified and delimited in the following activities:

1. Relationships with Public Officers who are involved in Company's legislative, regulatory or administrative

<sup>1</sup> For the concept of public officer, please see art. 320 c.p.

procedures;

2. Procedures for the achievement of public grants, contributions or fundings issued by Italian or European Public Entities and practical employment of the money;
3. Procedures and ordinary relationships with public entities in order to achieve public authorizations or licences to carry out the Company business;
4. Inspections management (administrative, tax, social security etc.);
5. Participation to public tenders announced by Italian or Foreign public entities.

While carrying out the relevant activities in the at-risk areas, the Company Officers, the Employees, directly, and the Consultants and Partners, through appropriate contractual clauses, must comply with the following **general principles of conduct**, according to the specific kind of relationship established with the Company:

1. Refrain from performing, cooperating or implementing any kind of conduct which may be suitable to integrate, directly or indirectly, the criminal offences considered above.
2. Refrain from performing any kind of conduct that, even though it is not to be considered itself as one of the criminal offences considered above, it may potentially become.
3. Conduct correctly and clearly, in order to guarantee a full compliance of the law provisions and the respect of the internal corporate compliance procedures.

The Company must comply with the following **specific procedures** both while operating in Italy and abroad:

1. All the Employees, Corporate Officers and External Collaborators who establish a business relationship with a Public Administration on behalf of the Company, must be provided with a specific POA or a contractual deed with the same meaning.
2. Should any conflict arise, the Compliance Officer must be informed promptly.
3. The External Collaborators must be selected according to the organizational procedures and the consequent contract must be in written form. The External Collaborators must sign an appropriate declaration in which they confirm to be aware of the Decree regulations and they undertake to comply with the provisions of the Decree itself. Should any violation occur, the contracts must provide for an express termination clause or a penalty clause.
4. Any declaration made to a national public entity in order to get a grant, an authorization or a license must be complete and truthful.

### **2.2.3 The Special Section 2**

The **Special Section 2** describes the offences that the Company may theoretically commit in relation to the **Corporate Crimes**:

- 1) Misleading Corporate Communications (art. 2621 c.c.);
- 2) Misleading Corporate Communications to the detriment of Corporate, Shareholders or Creditors (art. 2622 c.c.);
- 3) Misleading Reports or Communications by the Auditors (art. 2624 c.c.);
- 4) Undue Capital Contributions Return (art. 2626 c.c.);
- 5) Unlawful distribution of gains and reserves (art. 2627 c.c.);
- 6) Unlawful operations over shares or quotas of the Company or over a Company's subsidiary (art. 2628 c.c.);
- 7) Operations in detriment of creditors (art. 2629 c.c.);
- 8) Misleading capital formation (art. 2632 c.c.);
- 9) Unlawful distribution of Corporate property by liquidators (art. 2633 c.c.);
- 10) Control obstacle (art. 2625 c.c.);
- 11) Undue influence over shareholders meeting (art. 2636 c.c.);
- 12) Obstacle over Public Regulatory Authorities functions (art. 2638 c.c.);

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

- 1) Drafting and corporate book-keeping, drafting of notices to shareholders and/or third parties relating to the Company economic, property and financial situation (i.e. balance sheet, reports and other notices).
- 2) Management of relationships with the Board of Statutory Auditors, the External Auditors and shareholders.
- 3) Management of the joint stock and capital contributions, of shares, of gains destination and of extra-ordinary financial operations.
- 4) Management of activities connected to shareholders meetings preparation, discussion and record.
- 5) Notices to Public Regulatory Authorities and management of relationships with them.

While carrying out the relevant activities in the at-risk areas, the Company Officers, the Employees, directly, and the Consultants and Partners, through appropriate contractual clauses, must comply with the following **general principles of conduct**, according to the specific kind of relationship established with the Company:

1. Comply with all the applicable rules in terms of balance sheet drafting and Company data processing. To this purpose, CGA's Administrative Officer has been appointed with specific monitoring powers.
2. Refrain from acting in a way that may theoretically result in a conflict of interest (i.e. by giving the External Auditors the task of book-keeping)
3. Conduct correctly and clearly while carrying out operations over the joint stock and promptly inform the COO and the CEO.
4. Comply severely with the applicable law in terms of notices to the Public Regulatory Authority.

#### **2.2.4. The Special Section 3**

The **Special Section 3** describes the offences that the Company may theoretically commit in relation to the **Money Laundering crimes**:

- 1) Fencing (art. 648 c.p.)
- 2) Money Laundering (art. 648-bis c.p.)
- 3) Use of unlawful originated money, goods or other utilities (art. 648-ter c.p.)

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

1. Relationships with National and Foreign Suppliers
2. Relationships with third counterparties, different from Suppliers, with whom the Company carries out business activities
3. Incoming financial cash flows
4. Relationships with subsidiaries

While carrying out the relevant activities in the at-risk areas, the Company Officers, the Employees, directly, and the Consultants and Partners, through appropriate contractual clauses, must comply with:

1. the Company's corporate governance rules
2. the existing organizational procedures related to the purchase process
3. the existing organizational procedures related to the Suppliers selection process
4. any other internal applicable rule.

The Addressees must comply with the general principles set forth above and with the following **specific procedures** in connection with every single “at-risk activity area”.

### **2.2.5. The Special Section 4**

The **Special Section 4** describes the offences that the Company may theoretically commit in relation to the **Crimes in violation of rules that protect workers' health and safety**:

- 1) Manslaughter (art. 589 c.p.)
- 2) Severe and Culpable Personal Injury (art. 648-bis c.p.)

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

1. Management of Emergencies in the various production units
2. Compliance with the security applicable law in every production unit
3. Management and monitor of the execution of general contracts, supply contracts and distribution contracts.
4. Maintenance of facilities, machines, devices and infrastructures
5. Proxies and powers in terms of security

### **2.2.6. The Special Section 5**

The **Special Section 5** describes the offences that the Company may theoretically commit in relation to the **IT Crimes**:

- 1) False IT documents (art. 491 bis c.p.)
- 2) Unlawful access to an IT or telematic system (art. 615 ter c.p.)
- 3) Unlawful possession and diffusion of source codes (art.615 quarter c.p.)
- 4) Diffusion of devices, equipment or IT software which aim at damaging or interrupting an IT System (art. 615 quinquies c.p.)
- 5) Unlawful wiretapping, obstructing or interrupting IT or telematic communications (art. 617 quarter c.p.)
- 6) Operation of devices aimed at the unlawful wiretapping, obstructing or interrupting IT or telematic communications (art. 617 quinquies c.p.)
- 7) Damaging of information, data and IT software (art. 635 bis c.p.)
- 8) Damaging of information, data and IT software used by the State or other Public Entity for public advantage (art. 635 ter c.p.)
- 9) Damaging of IT or telematic systems (art. 635 quarter c.p.)
- 10) Damaging of IT or telematic systems for public advantage (art. 635 quarter c.p.)
- 11) IT fraud (art. 640 quinquies c.p.)

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

- 1 Hardware sources
2. Software sources
3. Data and information
4. Professional sources

### **2.2.7. The Special Section 6**

The **Special Section 6** describes the offences that the Company may theoretically commit in relation to the **Environmental Crimes**:

- 1) killing, destruction, catching, and possession of specimens of protected wild animal or plant species (art. 727- bis c.p.);
- 2) destruction or degradation of habitat within a protected site (Article 733-bis c.p);
- 3) illegal discharge of industrial wastewater containing hazardous substances and/or topping the limits established by



- law and/or by the competent authorities (Article 137 , paragraphs 2 , 3, and 5 Codice Ambiente)
- 4) illegal discharge into the waters of the sea by ships or aircraft of substances or materials for which it is imposed a total ban on spill (Article 137 paragraph 13 Codice Ambiente);
  - 5) unauthorized management of waste (Article 256 paragraph 1 Codice Ambiente), Implementation and management of unauthorized landfills (Article 256 paragraph 3 Codice Ambiente), mixing of hazardous waste (Article 256 paragraph 5 Codice Ambiente) and temporary storage of hazardous medical waste (Article 256, paragraph 6, Codice Ambiente);
  - 6) remediation of sites (Article 257 paragraph 1 and paragraph 2 Cod Amb. );
  - 7) preparation of false certificates in relation to the analysis of waste (Article 258, paragraph 4 Codice Ambiente);
  - 8) illegal waste trafficking (Article 259 paragraph 1 Codice Ambiente);
  - 9) organized activities for the illegal trafficking of waste (Article 260 , paragraph 1 and paragraph 2 Codice Ambiente);
  - 10) indication of false information in the system of traceability of waste (Article 260 bis, paragraph 6 Codice Ambiente); waste transport undocumented (SISTRI) or accompanied by false or altered documentation (Article 260 bis, paragraph 7 Codice Ambiente);
  - 11) violation of the limit values and the requirements established by regulations or by the competent authorities for atmospheric emission (Article 279, paragraph 5 Codice Ambiente);
  - 12) offenses relating to international trade in animal and plant species in danger of extinction, as well as offenses relating to violation of rules for the marketing and possession of live specimens of mammals and reptiles that pose a hazard to the health and public safety (Articles 1, paragraphs 1 and 2, art. 2, paragraphs 1 and 2, art. 6 para 4 and Art. 3 bis, paragraph 1 of Law 150/1992 );
  - 13) violation of the provisions relating to production, consumption, import, export, possession and trade of ozone depleting substances (Article 3 paragraph 6 of Law December 28, 1993 n . 549 “Measures to protect the ozone layer and the environment”);
  - 14) intentional or negligent pollution caused by ships (Article 8 , paragraph 1 and paragraph 2 , art. 9, paragraph 1 and paragraph 2 of Legislative Decree no. 202/2007).

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

1. disposal and transport of CGA wastes by third parties;
2. classification of the waste and deposit the same at the place of production;
3. abandonment of hazardous waste on the premises of CGA;

### **2.2.8. The Special Section 7**

The **Special Section 7** describes the offences that the Company may theoretically commit in relation to the Crimes concerning the racketeering:

1. Article 416 c.p. (“Conspiracy”);
2. Art. 416 bis c.p. (“Mafia Association “);
3. Art. 416 ter c.p. (“political electoral exchange”);
4. Art. 630 c.p. (“Kidnapping for purposes of robbery or extortion”);
5. Art. 74 of Presidential Decree n. 309/1990 (“criminal association aimed at the trafficking of narcotics and psychotropic substances”);
6. Art. 407 paragraph 2, letter. a) no. 5 Code of Criminal Procedure (crimes of illegal manufacture, introduction into the country, offering for sale, sale, possession and carrying in a public place or place open to the public of war or warlike weapons, explosives and illegal weapons).

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

1. HR activities of personnel selection;



2. CGA activities for supplier selection;
3. investment activities and joint venture agreements or other forms of partnerships with counterparts in Italy and abroad;
4. compiling, keeping and retention of records for purposes of taxation;
5. preparation of tax returns and related activities;
6. management of accounting and tax compliance within the Group;

### **2.2.9. The Special Section 8**

The **Special Section 8** describes the offences that the Company may theoretically commit in relation to the Crimes against the industry and trade:

1. Fraudulent trading (Article 515 of the Criminal Code)
2. Obstructing of industry and trade activities (art. 513 cp)
3. Forgery, alteration or use of trademarks or trademarks or patents, models and drawings (Article 473 of the Criminal Code)

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

1. CGA products marketing and advertising (new or existing) and related disclosures to customers;
2. recruitment of new employees;

### **2.2.10. The Special Section 9**

The Special Section 9 describes the offences that the Company may theoretically commit in relation to the crimes concerning the employment of irregular citizen.

Legislative Decree 109/2012 punishes the companies that takes as employees, alternatively, foreign workers:

- without the residence permit;
- whose permit has expired and for which has not been requested, pursuant to the applicable laws, the renewal;
- whose permit as been revoked or cancelled.

The fact involve the responsibility of the Company pursuant to the Decree only if it is committed in aggravated form which is substantiated if the foreign workers employed:

- are more than three;
- are children in non-working age;
- are subject to particularly exploitative working conditions.

The most “**at-risk activity areas**” have been identified and delimited in the following activities:

1. recruitment of new employees;

### **2.2.11. The Special Section 10**

The **Special Section 10** describes the offences that the Company may theoretically commit in relation to the crimes of private corruption (article 2635 of the Italian Civil Code).



Article 2365 of the Italian Civil Code punishes the conduct of directors, general managers, the manager responsible for preparing the company's financial reports, auditors and liquidators, as a result of bestowal or even just the promise of money or other benefits for themselves or for others, perform or omit acts in breach of the obligations inherent their office or duties of loyalty, causing damage to the company.

The same penalty is also provided to the subject called briber, i.e. one who gives or promises money or other benefits.

In terms of administrative liability of entities, in particular, a possible liability may arise for the Company, provided that it has benefit of, or take advantage from, the directors' behaviour.

This offense is, therefore, contemplated in the category of offenses according to the Decree, exclusively with regard to the active conduct.

The most **“at-risk activity areas”** have been identified and delimited in the following activities:

1. Management of the acquisition of new clients;
2. Management of CGA actual clients;
3. Participation to private tenders;
4. CGA activities for supplier selection;
5. Management of the relationships with financial institutions;
6. Management of the requests of private certifications.

