



OPTO ENGINEERING

LEGAL PROCEDURE SYSTEM

OPERATING PROCEDURE

**P.027.00.A – WHISTLEBLOWING
“REPORTING OFFENSES”**

of 25 October 2023

Revision	Date	Change description
A	10 Oct. 2023	First release

Prepared by	PQA	Privacy Consultant
Verified by	OPTO ENGINEERING S.p.A.	Legal Department
Approved by	CEO	Claudio Sedazzari

General sectional table of contents	
Whistleblowing Procedure: “Reporting suspicious activity”	
0	Introduction
1	Purpose
2	Breaches
3	Parties entitled to report breaches
4	Concept and type of report
5	Reporting channels
6	Internal reporting channels <ul style="list-style-type: none"> - Activation - Sharing - Management - Reporting methods - Manager’s duties
7	External reporting channels <ul style="list-style-type: none"> - Conditions for making an external report - Activation - Management and duties - Reporting methods - Notes on ANAC (the Italian National Anti-Corruption Authority) activities - Information published on ANAC’s institutional site
8	Public disclosure <ul style="list-style-type: none"> - Conditions for making a public disclosure
9	Summary table <ul style="list-style-type: none"> - Public or private sector - Subject and reporting channel
10	Confidentiality obligations
11	Processing personal data
12	Documentation storage
13	Protective measures
14	Prohibition on acts of retaliation
15	Safeguarding people
16	Support measures
17	Protection from retaliation
18	Limitations of liability
19	Sanctions
20	Repeals of regulations
21	Transitional and coordination provisions
22	Indications and information flows to Management
23	Instructions for managing reports

1 PURPOSE

These instructions define how to manage reports of offenses through the Whistleblowing PRO platform

2 SCOPE OF APPLICATION

This applies to Opto Engineering S.p.A. (HQ).

3 LEGISLATIVE REFERENCES

Italian Legislative Decree no. 24 of March 10, 2023

4 TERMS AND DEFINITIONS

In the corporate Quality Management System, the reference glossary of the legislation listed in the previous paragraph has been adopted.

In addition, in this procedure, the following abbreviations will be used.

Abbreviation	Description
ANAC	the Italian National Anti-Corruption Authority

0 Introduction

With Italian Legislative Decree no. 24 of March 10, 2023, the Whistleblowing process, created to prevent predicate-type crimes from being committed and for reporting any breaches of the Model 231, has undergone significant changes which mainly affect the subject of breaches, the audience of reporting parties, the activation of reporting channels and methods of use, the involvement of ANAC and the extension of the measures to protect people who and entities which support the whistleblower.

This procedure, then, has been prepared by following the indications laid out in the articles contained in the aforementioned Decree. To better acquaint readers with the articles of Italian Legislative Decree no. 24 of March 10, 2023, all the articles, with their titles, are given below.

- Art.1 Objective scope of application
- Art.2 Definitions
- Art.3 Subjective scope of application
- Art.4 Internal reporting channels
- Art.5 Managing the internal reporting channel
- Art.6 Conditions for making an external report
- Art.7 External reporting channels
- Art.8 Activities carried out by ANAC
- Art.9 Information published on ANAC's institutional site
- Art.10 Adoption of guidelines
- Art.11 Provisions relating to ANAC personnel and to the IT platform
- Art.12 Confidentiality obligations
- Art.13 Processing personal data
- Art.14 Documentation storage regarding reports
- Art.15 Public disclosures
- Art.16 Conditions for protecting the party making the report
- Art.17 Prohibition on acts of retaliation
- Art.18 Support measures
- Art.19 Protection from retaliation
- Art.20 Limitations of liability
- Art.21 Sanctions
- Art.22 Waivers and settlements
- Art.23 Repeals of regulations
- Art.24 Transitional and coordination provisions
- Art.25 Financial provisions

WHISTLEBLOWING “REPORTING OFFENSES”

1 Purpose

Article 1, “Objective scope of application”, illustrates the purpose of Italian Legislative Decree no. 24 which is to regulate the protection of those parties who report breaches of domestic or EU regulatory provisions that harm the public interest or the integrity of the public administration or the private entity, of which they became aware in a public or private working context.

The same article lays out the cases to which this decree may not apply such as, for example:

- a) Disputes, claims or requests linked to something of a personal interest to the person making the report or the person who made a complaint to a judicial authority or an accounting authority and which relate exclusively to individual work relationships or public commitments, or which are inherent to work relationships or public commitments with hierarchically superior figures;
- b) Reports of breaches which are already regulated on a mandatory basis by domestic or EU provisions;
- c) Reports of breaches relating to national security, as well as contracts relating to defense aspects or national security aspects, unless such aspects fall under relevant secondary EU legislation.

2 Breaches

The concept of a “breach”, as defined by article 2 of Italian Legislative Decree no. 24, is understood as “conduct, acts or omissions that harm the public interest or the integrity of the public administration or the private entity” and consist of:

- 1) Administrative, accounting, civil or criminal offenses that are not covered by the offenses or acts referred to in points 3, 4, 5 and 6;
- 2) Relevant illicit conduct pursuant to Italian Legislative Decree no. 231 of June 8, 2001, or breaches of the Organization and Management Models, where applicable, that are not covered in points 3, 4, 5 and 6;
- 3) Offenses that fall within the scope of application of the domestic or EU provisions indicated in the attachment to this decree or the domestic provisions that constitute implementation of the EU provisions indicated in the attachment to Directive (EU) 2019/1937, even if not indicated in the attachment to this decree, relating to the following sectors:
 - a. Public contracts-financial services, products and markets and the prevention of money laundering and the financing of terrorism-security and product conformity-transport safety, safeguarding the environment, protection from radiation and nuclear safety, food and feed safety and the health and well-being of animals, public health and consumer protection, safeguarding privacy and the protection of personal data and the security of electronic networks and systems;
- 4) Acts or omissions that harm the financial interests of the European Union as referred to in article 325 of the Treaty on the Functioning of the European Union, specified in relevant secondary EU legislation;

WHISTLEBLOWING “REPORTING OFFENSES”

- 5) Acts of omissions regarding the internal market, as referred to in article 26(2) of the Treaty on the Functioning of the European Union, including breaches of EU rules concerning competition and State aid, as well as breaches regarding the internal market related to acts that infringe corporate tax rules or mechanisms, the purpose of which is to obtain a tax advantage that contrasts with the subject or the purpose of the applicable corporate tax law;
- 6) Conduct or acts which jeopardize the subject or the purpose of the provisions referred to in EU acts in the sectors indicated in points 3, 4 and 5.

Article 2, “Definitions”, in addition to defining the concept of a “breach”, also states that parties in the private sector are those parties other than those covered in the definition of parties in the public sector, with a further distinction, useful, later, to define the subject and the means of reporting, regarding the number of workers, the adoption or otherwise of the Model 231 and the sector in which they operate:

- Private sector entity that employed an average of at least fifty permanent or temporary workers
- Private sector entity that employed fewer than 50 permanent or temporary workers in which a Model 231 has been adopted
- Private sector entity operating in financial services, products and markets, the prevention of money laundering and the financing of terrorism, safeguarding privacy and the protection of personal data and the security of electronic networks and systems that employed, in the last year, permanent or temporary workers, even fewer than 50.

3 Parties entitled to report breaches

With article 2, the legislator has defined the concept of a “Breach”, with article 3, “Subjective scope of application”, they indicate the parties who operate in the working context of a public or private sector entity and who are entitled to report breaches. They are:

- Public employees (i.e. people employed by the public administration, as referred to in article 1(2) of Italian Legislative Decree no. 165/01, including:
 - Employees, as referred to in article 3 of the same Decree, as well as employees of independent administrative authorities, be they watchdog, supervisory or regulatory;
 - employees of public economic bodies, entities established under private law but subject to public control, in-house companies, entities established under public law or public service operators);
- Employees of private sector entities;
- Self-employed (freelance) workers who work with public sector or private sector entities;
- Contractors, freelance professionals and consultants who work with public sector or private sector entities;
- Volunteers and interns, paid and unpaid;
- Shareholders and parties with administrative, executive, control, supervisory or representative functions, even if these functions are exercised on a purely de facto basis, at public sector or private sector entities.

WHISTLEBLOWING “REPORTING OFFENSES”

4 Concept and type of report

Article 2, “Definitions”, in addition to defining the concept of a breach and indicating which parties are entitled to report any breaches, defines the meaning of reporting as well as the various types:

- Report: the written or oral communication of the information regarding a breach;
- Internal report: the communication, written or oral, of the information regarding a breach, submitted through the internal reporting channel;
- External report: the communication, written or oral, of the information regarding a breach, submitted through the external reporting channel;
- Public disclosure: to release information regarding a breach into the public domain through the press or electronic means or, in any case, through a means of disclosure which is able to reach a large number of people;
- Person making the report (whistleblower): the natural person who makes a report or who publicly discloses information regarding a breach which was acquired as part of their job;
- Facilitator: a natural person who assists the person making the report in the process of doing the same.

5 Reporting channels

Given the various types of report (internal, external, public disclosure), it is perhaps easy to understand the need for channels/conditions which are suited to each one.

We have, then:

- Internal reporting channels
- External reporting channels
- Conditions for public disclosure

Articles 4 and 5 of Italian Legislative Decree no. 24 cover internal reporting channels and, more precisely, article 4 covers the activation of the internal reporting channel whilst article 5 covers its management.

Articles 7 and 8 of Italian Legislative Decree no. 24 cover external reporting channels and, more precisely, article 7 covers the activation of the external reporting channel whilst article 8 covers the management of it by ANAC.

Article 15 defines the conditions for making a public disclosure.

WHISTLEBLOWING “REPORTING OFFENSES”

6 Internal reporting channels

As explained in the previous point, article 4 covers the activation of the internal reporting channel whilst article 5 covers its management.

Activation

Public sector entities and private sector entities must activate their reporting channels with the following characteristics:

- A guarantee that the whistleblower's identity will be kept confidential;
- A guarantee that the identity of any person involved and any person mentioned in the report will be kept confidential;
- A guarantee that the report's contents will be kept confidential;
- A guarantee that any relative documentation will be kept confidential.

The above guarantee may be achieved through the use of encryption tools. The contents of the encrypted documents (for which encryption tools have been used) are rendered incomprehensible to anyone who accesses them without the required authorization.

The activation of the internal reporting channel is envisaged for those entities that adopt a Model 231.

Sharing

Sharing and managing the reporting channel is possible between:

- Municipalities other than provincial capitals;
- Private sector entities which employed, in the last year, an average number of workers, operating under a permanent or temporary contract, no greater than two hundred forty-nine.

Management

Management of the reporting channel may be entrusted to:

- One individual person or one internal, autonomous and dedicated department with personnel who have been specifically trained to manage the reporting channel;
- One autonomous external party with personnel who have been specifically trained;
- The person responsible for preventing corruption in the public sector, where such a role is provided for, just as in the case of sharing the channel and its management between municipalities other than provincial capitals.

Reporting methods

The permitted reporting methods are:

- In writing;
- Orally;
 - Through telephone lines or voice messaging systems.
 - Through a direct meeting, arranged within a reasonable amount of time, at the request of the whistleblower;

Note. In the case of a report submitted to a party other than that indicated in the section, “Management”, the report must be transmitted, within seven days from it being received, to the competent person, with a simultaneous notice of this transmission sent to the whistleblower.

Manager's duties

The duties of the manager of the internal reporting channel are regulated by article 5 of Italian Legislative Decree no. 24.

The person, department, external party or the person responsible for preventing corruption to whom the management of the reporting channel is entrusted, must:

- Provide the whistleblower with a receipt for their report within seven days from it being received
- Maintain contact with the whistleblower in order to request, if necessary, supplementary information
- Diligently follow-up on the reports received
- Provide feedback on the report within three months from the date on which notification of it being received was sent or, failing this, within three months from the expiry of the seven-day period starting from the day on which the report was submitted
- Make clear information available on the channel regarding the procedures and requirements needed to make an internal or external report. The above information is displayed and easily visible in the workplace, as well as being accessible to those parties who are entitled to make a report but who do not enter or access the workplace
- Publish the information referred to in the previous point in a dedicated section of their website, if active

7 External reporting channels

It should be noted that Italian Legislative Decree no. 24/2023 provides for, in addition to internal ones, external channels managed by ANAC, the use of which is, however, only envisaged if certain conditions - expressly provided for by the legislator - are met.

By going to ANAC's institutional website and clicking on the link to the dedicated page, you can access the dedicated whistleblowing service, where the methods of using and accessing these channels are explained. Italian Legislative Decree no. 24/2023 also provides for, in the event of certain circumstances, the use of a public disclosure and a complaint to a Judicial Authority (see Italian Legislative Decree no. 24/2023 for more information).

Conditions for making an external report

Article 6 of Italian Legislative Decree no. 24, if the whistleblower wishes to use the external reporting channel, defines the following conditions:

- The whistleblower may make an external report if, at the time of its submission, one of the following conditions applies:
 - Within the whistleblower's work context, no mandatory activation of the internal reporting channel is provided for or this channel, even if mandatory, is not active or, even if enabled, does not comply with that provided for by article 4 of Italian Legislative Decree no. 24;
 - The whistleblower has already made an internal report pursuant to article 4 of Italian Legislative Decree no. 24 and the same was not followed up;
 - The person has reasonable grounds to believe that, if they had made an internal report, it would not have been followed-up effectively or that the report itself might have resulted in the risk of retaliation.
 - The whistleblower has reasonable grounds to believe that the breach might constitute imminent or clear danger to the public interest.

Activation

Article 7 of Italian Legislative Decree no. 24 delegates, to the Italian National Anti-Corruption Authority (ANAC), the activation of the external reporting channel (to which a party, unable to use the internal reporting channel, may refer should one of the conditions mentioned above apply) with the same characteristics that are required of internal reporting channels:

- A guarantee that the whistleblower's identity will be kept confidential;
- A guarantee that the identity of any person involved and any person mentioned in the report will be kept confidential;
- A guarantee that the report's contents will be kept confidential;
- A guarantee that any relative documentation will be kept confidential.

The above guarantee may be achieved through the use of encryption tools.

The contents of the encrypted documents (for which encryption tools have been used) are rendered incomprehensible to anyone who accesses them without the required authorization.

The same confidentiality is also guaranteed when the report is made through channels other than the external reporting one, or when it reaches someone other than the party responsible for handling reports, to whom, in any case, the report is to be transmitted without delay.

Management and duties

The methods by which the external reporting channel is managed by ANAC are governed by article 8 of Italian Legislative Decree no. 24.

The party designed and specifically trained to manage the external reporting channel performs the following activities. They:

- Provide any interested party information on how to use the external reporting channel and the internal reporting channel, as well as information on the measures in place to protect whistleblowers
- Inform the whistleblower of the receipt of the external report within seven days of it being received, unless the whistleblower explicitly requests otherwise or unless ANAC believes that such a notification might jeopardize the confidentiality of the whistleblower's identity
- Maintain contact with the whistleblower and request from them, if necessary, supplementary information
- Diligently follow-up on the reports received
- Carry out the investigations necessary in order to follow-up on the report, including through interviews and acquiring documents
- Provide feedback to the whistleblower within three months or, if there are justified, motivated reasons, within six months from the date on which notice was sent of the external report being received or, failing this, from the expiry of seven days from the report being received
- Notify the whistleblower of the final outcome, which may also consist of archiving or transmitting the outcome to a competent authority (for breaches that do not fall within their area of competence) or a recommendation or an administrative sanction

Reporting methods

The permitted reporting methods are:

- In writing, via the IT platform
- Orally, via telephone lines or voice messaging systems
- Through a direct meeting, arranged within a reasonable amount of time, at the request of the whistleblower

Note. In the case of a report submitted to a party other than ANAC, the report must be transmitted to this body, within seven days from it being received, with a simultaneous notice of this transmission sent to the whistleblower.

Notes on ANAC (the Italian National Anti-Corruption Authority) activities

For breaches that do not fall within its specific area of competence, ANAC arranges for the report to be forwarded to the competent administrative or judicial authority, including EU institutions, bodies or agencies, with a simultaneous notice of this referral sent to the whistleblower.

The competent administrative authority performs that same activities that we have described for the party appointed to manage the external reporting channel, guaranteeing the same confidentiality, including through the use of encryption tools, of the whistleblower's identity, as well as that of the person involved and any person mentioned in the report, including the contents of the report and any related documentation.

WHISTLEBLOWING “REPORTING OFFENSES”

On an annual basis, ANAC sends the following information to the European Commission:

- The number of external reports received;
- The number and types of actions taken as a result of the external reports received and the relative outcome;
- If ascertained, the financial damage resulting from the breach described in the external report, as well as the amounts recovered following the outcome of the action taken.

In the event that a significant number of external reports are received, ANAC may treat as a priority those external reports which contain information regarding a serious breach of the public interest or a breach of the constitutional or legal principles of EU law.

ANAC may decide not to follow-up on reports of minor breaches but will archive them.

Information published on ANAC’s institutional site

Article 9 of Italian Legislative Decree no. 24 contains information which is also available on the ANAC website and which whistleblowers will find useful

- An explanation of the measures in place to protect whistleblowers
- Their contact details including, in particular, their telephone number, indicating whether the telephone conversation will be recorded or not, the mailing address and the email address and whether it is an ordinary or a certified email address
- Instructions on how to use the external reporting channel and the internal reporting channels
- An explanation of the confidentiality regime applicable to external reports and internal reports as provided for by this Decree, by articles 5 and 13 of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016, by article 10 of Italian Legislative Decree no. 51 of May 18, 2018, and by article 15 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of October 23, 2018
- The methods with which ANAC can ask the whistleblower to provide supplementary information, the deadlines for responding to an external report, as well as the types of feedback that can be expected and the follow-up action that ANAC might take to an external report
- The list of the third sector entities that have signed, pursuant to article 18(1), agreements with ANAC, as well as their contact details

8 Public disclosure

Conditions for making a public disclosure

Article 15 of Italian Legislative Decree no. 24 states that the whistleblower who makes a public disclosure shall benefit from the protection provided for by this Decree if, at the time of the public disclosure, one of the following conditions applies:

- The whistleblower has previously made an internal and an external report or has directly made an external report, under the conditions and with the methods described above in relation to the internal and external reporting channels, to which no feedback has been given within the prescribed deadlines by the party managing the internal reporting channel or by ANAC and with regard to the measures envisaged or adopted in order to follow-up on reports
- The whistleblower has reasonable grounds to believe that the breach might constitute imminent or clear danger to the public
- The whistleblower has reasonable grounds to believe that an external report might involve the risk of retaliation or might not be followed up effectively due to the specific circumstances of the case in question, such as those in which there is evidence which may be hidden or destroyed or in which there is a well-founded concern that the person receiving the report might be colluding with the perpetrator of the breach or indeed involved in the breach itself

The rules on professional secrecy involving professional journalists, with reference to their sources, remain unaffected.

Note. A public disclosure is a situation in which information that was previously not known to the general public is willingly made available or disclosed to them.

A public disclosure may be managed through the use of print media, television, radio, the use of the Internet.

9 Summary table - Public sector and private sector - Subject and reporting channel

In light of what has been stated so far, we provide a summary table broken down by reporting sectors

Public sector	
Subject of the reports: Breaches of domestic law (as listed under point 2) Breaches of EU law (as listed under point 2)	Reporting method: Internal channel External channel Public disclosure

Private sector - Entity with Model 231/01 adopted and fewer than 50 workers	
Subject of the reports: Breaches of Italian Legislative Decree no. 231/01	Reporting method: Internal channel

Private sector - Entity with Model 231/01 adopted and an average of at least 50 workers	
Subject of the reports: Breaches of Italian Legislative Decree no. 231/01 Reporting method: Internal channel	Subject of the reports: Breaches of EU law Reporting method: Internal channel, External channel, Public disclosure

Private sector - Entity with an average of at least 50 workers or which operates in sensitive sectors	
Subject of the reports: Breaches of EU law Reporting method: Internal channel, External channel, Public disclosure <i>Note. For sensitive sectors, such as financial products and markets, safeguarding the environment, transport, etc., the number of employees is not a decisive factor</i>	

Content of the reports
<p>The whistleblower must provide every element which is useful to allow the Manager of the Department appointed to proceed with the necessary and appropriate verifications and investigations to confirm the validity of the facts or events being reported. The content of the reports must be detailed, accurate and consistent.</p> <p>To this end, the report must contain the following:</p> <ul style="list-style-type: none"> ▪ As an option, the personal details of the party making the report, with an indication of their position and role in the context of the organization ▪ A clear and complete description of the facts or events being reported ▪ The circumstances of time and place in which the facts or events happened ▪ Other elements which might allow the party or parties who carried out the facts being reported to be identified ▪ An indication of any other parties who might be able to confirm the facts or events being reported ▪ An indication of the documents which might be able to confirm the validity of these facts or events ▪ Any other information that might provide useful feedback regarding the existence of the facts or the occurrence of the events being reported

WHISTLEBLOWING “REPORTING OFFENSES”

10 Confidentiality obligations

In encouraging Recipients to promptly report any Breach, the Company guarantees the confidentiality of each Report and the information contained therein, including the Whistleblower's identity and that of the Person or Persons being reported, Facilitators and any other person or persons involved. Their identities shall not be communicated to anyone other than the Recipient of the report, except:

- a) where they provide their explicit consent, or they have intentionally disclosed their identity in other areas;***

where such a communication is a necessary and proportionate obligation within the context of an investigation by a competent authority or by judicial proceedings, pursuant to locally applicable legislation.

The information contained in a Report, which constitutes commercial secrets, may not be used or disclosed for any purpose other than those needed to resolve the Report.

Article 12 of Italian Legislative Decree no. 24, “Confidentiality obligations”, imposes very precise rules on those parties who receive and

manage reports and in the various area of their management, which are:

- Reports may not be used beyond what is necessary in order to adequately follow-up on them
- The whistleblower's identity and any other information from which their identity might be deduced, directly or indirectly, may not be revealed, without the same whistleblower's express consent, to any person other than those appointed to receive or to follow-up on reports, expressly authorized to process this data, pursuant to articles 29 and 32(4) of Regulation (EU) 2016/679 and article 2-quaterdecies of the Italian Personal Data Protection Code as referred to in Italian Legislative Decree no. 196 of June 30, 2003
- In the context of criminal proceedings, the whistleblower's identity is covered by confidentiality clauses in the manner and within the limits established by article 329 of the Italian Code of Criminal Procedure
- In the context of proceedings before the Italian Supreme Audit Institution [*Corte dei Conti*], the whistleblower's identity may not be revealed until the closure of the preliminary investigation phase
- In the context of disciplinary proceedings, the whistleblower's identity may not be revealed where the rebuttal of the disciplinary charge is based on investigations which are distinct and further to the report, even if consequent thereto. If the rebuttal is based, in whole or in part, on the report and knowing the whistleblower's identity is essential for the accused party's defense, the report may only be used for the purposes of the disciplinary proceedings with the whistleblower's express consent to having their identity revealed
- Notice is provided to the whistleblower by written communication of the reasons to reveal confidential data, in the case referred to in subsection 5, second clause, as well as in the internal and external reporting procedures as referred to in this chapter when revealing the identity of the whistleblower and the information referred to in subsection 2 is indispensable, including for the purposes of the defense of the person involved
- Public sector and private sector entities, ANAC, as well as the administrative authorities to which ANAC transmits external reports which fall within their areas of competence, safeguard the identities of the people involved and the people mentioned in reports until the closure of the proceedings initiated as a result of the report, in compliance with the same guarantees envisaged in favor of the person making the report (the whistleblower)
- Reports are excluded from the access envisaged by articles 22 *et seq.* of Italian Law no. 241 of August 7, 1990, as well as by articles 5 *et seq.* of Italian Legislative Decree no. 33 of March 14, 2013
- Without prejudice to the preceding points, in the internal and external reporting procedures referred to in this chapter, the person involved may be heard or, upon their request, is heard, including through a paper procedure through which written observations and documents may be acquired

WHISTLEBLOWING “REPORTING OFFENSES”

11 Processing personal data

The whistleblower's personal data (including any data belonging to particular categories of data), as well as that of any other party who may be involved, that is acquired through the management of the Report, shall be processed in order to fulfill the obligations imposed by applicable legislation on Whistleblowing, within the limits and with the guarantees provided for by such legislation, in full compliance with that established by applicable legislation and regulations on the protection of personal data.

Article 13 of Italian Legislative Decree no. 24, “Processing personal data”, establishes that:

- Controllers of the processing of the personal data relating to the receipt and management of reports are parties entrusted with managing the reporting channels.
- In sharing the internal reporting channel's resources, the relative responsibilities need to be determined, pursuant to article 26 of Regulation (EU) 2016/679 concerning:
 - How Data Subjects exercise their rights
 - The roles and relationships of co-Controllers with Data Subjects
- Suitable technical and organizational measures must be applied in order to guarantee a level of security which is appropriate to the specific risks deriving from the processing carried out, such as:
 - Illegal access
 - Unauthorized data entry
 - Unauthorized modification
 - Accidental loss
 - Voluntary destruction
 - Theft for improper purposes

In the specifics of article 13 we find that:

- Any processing of personal data, including the communication of such data between competent authorities, as provided for by this Decree, must be done in accordance with Regulation (EU) 2016/679, with Italian Legislative Decree no. 196 of June 30, 2003, and with Italian Legislative Decree no. 51 of May 18, 2018. Communicating personal data by institutions, bodies and agencies of the EU is done in compliance with Regulation (EU) 2018/1725.
- Personal data which is patently not useful to processing a specific report is not collected or, if collected accidentally, is deleted immediately.
- The rights referred to in articles 15 to 22 of Regulation (EU) 2016/679 may be exercised to the extent of that provided for by article 2-undecies of Italian Legislative Decree no. 196 of June 30, 2003.
- The processing of the personal data relating to receiving and managing reports is done by public sector entities and private sector entities in the capacity of Controllers, in respect of the principles referred to in articles 5 and 25 of Regulation (EU) 2016/679 or articles 3 and 16 of Italian Legislative Decree no. 51 of 2018, providing suitable information to whistleblowers and to the people involved pursuant to articles 13 and 14 of the same Regulation (EU) 2016/679 or article 11 of the aforementioned Italian Legislative Decree no. 51 of 2018, as well as by adopting appropriate measures to safeguard the rights and freedoms of Data Subjects.
- Public sector entities and private sector entities that share resources to receive and manage reports, pursuant to article 4(4) of Italian Legislative Decree no. 24 (channel sharing), determine, in a transparent way, through an internal agreement, their respective responsibilities regarding compliance with the obligations concerning the protection of personal data, pursuant to article 26 of Regulation (EU) 2016/679 or article 23 of Italian Legislative Decree no. 51 of 2018.
- Public sector entities and private sector entities define their own model for receiving and managing internal reports, identifying suitable technical and organizational measures in order to guarantee

WHISTLEBLOWING “REPORTING OFFENSES”

a level of security which is appropriate to the specific risks deriving from the processing carried out, on the basis of a data protection impact assessment, and they regulate the relationships with any external suppliers who process personal data on their behalf pursuant to article 28 of Regulation (EU) 2016/679 or article 18 of Italian Legislative Decree no. 51 of 2018.

12 Documentation storage

Article 14 of Italian Legislative Decree no. 24, “Documentation storage”, lays down the conditions to properly manage documentation relating to reports:

- Reports, internal and external, and the related documentation are stored for the time needed to process the report and, in any case, for no longer than five years from the date of the notification of the final outcome of the reporting procedure, in compliance with the obligations of confidentiality referred to in article 12 of Italian Legislative Decree no. 24 and the principles referred to in article 5(1)(e) of Regulation (EU) 2016/679 and article 3(1)(e) of Italian Legislative Decree no. 51 of 2018
- If, when making a report, a recorded telephone line is used or another recorded voice messaging system is used, the report, with the whistleblower’s consent, is documented by the appointed party by recording it on a device suitable for storing it and listening to it, or by transcribing it in full. In the case of a transcript, the whistleblower can check, rectify and confirm the content of it before signing it
- If, when making a report, a non-recorded telephone line is used or another non-recorded voice messaging system is used, the report is documented in writing with a detailed report of the conversation, prepared by the appointed party. The whistleblower may check, rectify and confirm the content of the transcript before signing it
- When, at the whistleblower’s request, the report is made orally in the course of a meeting with an appointed party, the meeting, with the whistleblower’s consent, is documented by the appointed party by recording it on a device suitable for storing it and listening to it, or by taking minutes. In the event that minutes are taken of the meeting, the whistleblower can check, rectify and confirm the meeting minutes before signing them

13 Protective measures

Conditions for protection

Article 3, “Subjective scope of application”, indicates the parties who, operating in the working context of a public or private sector entity, are entitled to report breaches and who have been dealt with in point 2 of the procedure in question.

Article 16 of Italian Legislative Decree no. 24, “Conditions for protecting the party making the report”, establish that, for these parties, protective measures are provided for when the following conditions apply:

- At the time of making the report, or the complaint to a judicial or accounting authority, or the public disclosure, the person making the report (or the complaint or the public disclosure) had reasonable grounds to believe that the information on the breach being reported, filed with an authority or publicly disclosed was true and fell within the objective scope as referred to in article 1 of Italian Legislative Decree no. 24;
 - The report or public disclosure was carried out on the basis of the provisions set out in the procedures for internal and external reporting
 - The reasons which led the person to make a report or a complaint or a public disclosure were irrelevant for the purposes of their protection
- Except as provided for by article 20 (limitations of liability), when the criminal liability (even at the judgment of the court of first instance) of the person who made the report is ascertained for the offenses of

defamation or libel or, in any case, for the same offenses committed with the complaint made to the judicial or accounting authority, that is, their civil liability, for the same reason, in cases of willful misconduct or gross negligence, the safeguards referred to in this chapter are not guaranteed and the person who made the report or the complaint may have disciplinary sanctions imposed on them

- The provision referred to in this article also applies in the cases of a report or a complaint to a judicial or accounting authority or an anonymous public disclosure, if the person making the report (or complaint or public disclosure) was subsequently identified and suffered retaliation, as well as in the cases of a report submitted to a competent EN institution, body or agency, in compliance with the conditions referred to in article 6 (Conditions for making an external report)

The protective measures consist of:

- Prohibition on acts of retaliation;
- Support measures;
- Protection from retaliation;
- Limitations of liability.

14 Prohibition on acts of retaliation

The Company does not tolerate any form of threat, retaliation or discrimination, attempted or actual, against Whistleblowers, Facilitators, Related Parties, Parties being Reported and anyone who collaborates or who collaborated in the investigations to establish the validity of a Report (including any respective related parties).

The Company aims to eliminate (where possible) or compensate for the effects of any retaliation against the parties mentioned above. The Company reserves the right to take any and every appropriate action against any party that carries out, or threatens to carry out, an act of retaliation against one or more of the parties listed above, without prejudice to the right of those parties involved to legally protect and defend themselves if criminal or civil liability is established in relation to the false nature of anything declared or reported by them.

The Company may take the most appropriate legal and/or disciplinary measures, to the extent permitted by local applicable legislation, to safeguard its rights, its assets and its image, against any party who makes, in bad faith, a false, groundless or opportunistic Report and/or for the sole purpose of libeling, defaming or causing harm to the Party being Reported or any other party involved in the Report.

Article 17, “Prohibition on acts of retaliation”, which is a protective measure, establishes that:

- Those entities and parties entitled to report a breach shall not suffer any retaliation
- In the context of judicial or administrative proceedings or, in any case, out-of-court disputes concerning the ascertainment of conduct, acts or omissions which are prohibited pursuant to this article against any party entitled to make a report, the presumption will be that the same have been done as a result of a report, a public disclosure or a complaint made to a judicial or accounting authority. The burden of proof that such conduct or such an act or omission is justified by reasons unrelated to the report, the public disclosure or the complaint is on the party who carried them out
- In the event of a demand for compensation submitted to a judicial authority by a party entitled to make a report, if this party can demonstrate that they have made, pursuant to this Decree, a report, a public disclosure or a report to a judicial or accounting authority, the presumption will be, unless proven otherwise, that the damage suffered is as a result of the report, the public disclosure or the complaint to a judicial or accounting authority

WHISTLEBLOWING “REPORTING OFFENSES”

Some cases are provided below which, if attributable to a report made, constitute acts of retaliation:

- Dismissal (termination), suspension of equivalent measures
- Demotion or failure to promote
- Change of job functions, change of workplace, reduction in salary, modification to working hours
- Suspension of training or any restriction of access to the same
- Negative personnel file entries or negative references
- Adoption of disciplinary measures or other sanctions including pecuniary ones
- Coercion, intimidation, harassment or ostracism
- Discrimination or, in any case, unfavorable treatment
- Failure to convert a fixed-term contract into a permanent, open-ended contract, where the worker has a legitimate expectation that such a conversion would have been made
- Failure to renew a fixed-term contract or to terminate a fixed-term contract early
- Damage, including to a party's reputation, and in particular on social media, or economic or financial injury, including the loss of economic opportunities or the loss of earnings
- Addition to “improper lists” [*elenchi impropri*] on the basis of a formal or informal sector or industry agreement, which could result in the party being unable to find work in the sector or in the industry in the future
- Early termination or the cancellation of a contract to supply goods or services
- Cancellation of a license or permit
- Request to undergo psychiatric or medical tests

15 Safeguarding people

The protection of the Party being Reported and, by extension, those entities and parties involved in the report, is described in article 3(4) and (5) of Italian Legislative Decree no. 24.

Subsection 4 states that the protection of those parties entitled to make a report also applies if the report, the complaint made to a judicial or accounting authority or the public disclosure of information is done in the following cases:

- when the legal relationship has not yet begun and if the information about the breach has been acquired during the selection process or in another pre-contractual phase;
- during the probationary period;
- following the dissolution of the legal relationship, if the information about the breach has been acquired in the course of the same relationship.

With subsection 5 the legislator clarifies to which parties the protective measures extend, that is:

Without prejudice to article 17 (Prohibition on acts of retaliation), subsections 2 and 3, the protective measures also apply:

- to facilitators
- to parties within the same working context as the whistleblower, or as the party who made a complaint to a judicial or accounting authority or as the party who made a public disclosure and which are connected to the same by a stable emotional or kinship bond up to the fourth degree (of kinship)
- to coworkers of the whistleblower or of the party who made a complaint to a judicial or accounting authority or of the party who made a public disclosure, who work in the same working context as the

WHISTLEBLOWING “REPORTING OFFENSES”

- to entities owned by the whistleblower or by the party who made a complaint to a judicial or accounting authority or by the party who made a public disclosure or for which the same parties work, as well as to entities that operate in the same working context as the aforementioned parties

16 Support measures

Article 18 of Italian Legislative Decree no. 24 lays out the support measures provided by the third sector consisting of free services.

- The list of third sector entities that provide support measures to whistleblowers has been set up at ANAC. The list, published by ANAC on its website, contains those third sector entities which carry out, in accordance with the provisions of their respective articles of association, the activities referred to in article 5(1)(v) and (w), of Italian Legislative Decree no. 117 of July 3, 2017, and which have signed agreements with ANAC
- The support measures provided by these third party entities consist of information, assistance and consultancy, free of charge, on the methods by which a report may be made and the protection from retaliation provided for by domestic legislation as well as by EU legislation, on the rights of the parties involved, as well as on the methods by which and the conditions under which access to legal aid, at the State's expense, might be provided
- The judicial authority or the administrative authority, to which the whistleblower has turned in order to obtain protection from retaliation, may ask ANAC for information and documents regarding any reports that may have been submitted. In proceedings with a judicial authority, the forms referred to in articles 210 *et seq.* of the Italian Code of Civil Procedure are observed, as well as that referred to in article 63(2) of the Italian Code of Administrative Trial, referred to in annex 1 to Italian Legislative Decree no. 104 of July 2, 2010

17 Protection from retaliation

Article 19, “Protection from retaliation”, as listed in point 14 (Prohibition on acts of retaliation).

- Public and private sector entities and parties may inform ANAC of the retaliation they believe they may have suffered. In the event of retaliation committed by a public sector entity in a working context, ANAC informs the Department of the public function at the Presidency of the Italian Council of Ministers [*Presidenza del Consiglio dei Ministri*] immediately, as well as any watchdog or disciplinary bodies, to take any action within their areas of competence. In the event of retaliation committed by a private sector entity in a working context, ANAC informs the Italian National Labor Inspectorate [*Ispettorato Nazionale del Lavoro*] to take any action within its area of competence
- In order to acquire indispensable investigative information to ascertain any retaliation, ANAC may make use of, to the extent of the respective areas of competence, collaboration from the Italian National Inspectorate of Public Service [*Ispettorato della Funzione Pubblica*] and the Italian National Labor Inspectorate, without prejudice to ANAC's exclusive competence over the evaluation of the elements acquired and the potential application of administrative sanctions as referred to in article 21 of Italian Legislative Decree no. 24. In order to regulate this collaboration, ANAC signs specific agreements, pursuant to article 15 of Italian Law no. 241 of August 7, 1990, with the Italian National Inspectorate of Public Service and with the Italian National Labor Inspectorate
- Acts undertaken in breach of article 17 (prohibition on acts of retaliation) are null and void. Public and private sector parties who are dismissed (terminated) as a result of a report, a public disclosure or a complaint made to a judicial or accounting authority have the right to be reinstated at their workplace, pursuant to article 18 of Italian Law no. 300 of May 20, 1970,

WHISTLEBLOWING “REPORTING OFFENSES”

or article 2 of Italian Legislative Decree no. 23 of March 4, 2015, due to the specific regulations applicable to the worker

- The judicial authority in charge adopts every measure, even temporary, that is needed to ensure the protection of the subjective legal situation taken, including compensation for damages, reinstatement at the workplace, the cease and desist order regarding the conduct taken in breach of article 17 (prohibition on acts of retaliation) and the declaration nullifying the acts adopted in breach of the same article

18 Limitations of liability

Article 20, “Limitations of liability”.

- The entity or the party of a public or private body that reveals or discloses information about a breach covered by the obligation of secrecy, other than that referred to in article 1(3) (classified information, legal and medical professional secrecy, secrecy of judicial deliberations), or relating to the protection of copyright or to the protection of personal data, or that reveals or discloses information on a breach that injures the reputation of the party involved or reported, when, at the moment the revelation or the disclosure is made, there were reasonable grounds to believe that the revelation or the disclosure of the same information was necessary in order to bring the breach to the light of day and the report, the public disclosure or the complaint made to the judicial or accounting body was made pursuant to article 16 (Conditions for protecting the party making the report), is not subject to punishment
- When the case in the preceding point applies, any further liability is excluded, including civil and administrative liability.
- Unless the act constitutes an offense, the public or private sector entity or party shall not face any liability, not even civil or administrative liability, for the acquisition of information about a breach or for access to the same
- In any case, criminal liability, and all other liability, including civil and administrative, is not excluded for conduct, acts or omissions not connected to the report, to the complaint made to a judicial or accounting authority or to the public disclosure or that is not strictly necessary to reveal the breach

WHISTLEBLOWING “REPORTING OFFENSES”

19 Sanctions

Article 21, “Sanctions”.

Without prejudice to other aspects of liability, ANAC applies the following pecuniary administrative sanctions to the party responsible:

- From 10,000 to 50,000 euro, when it ascertains that retaliation was taken or when it ascertains that the report was obstructed or that an attempt was made to obstruct it or that the confidentiality obligation, as referred to in article 12, was breached
- From 10,000 to 50,000 euro, when it ascertains that no reporting channels were established, that no procedures were adopted to make or manage reports or that the adoption of these procedures does not comply with those referred to in articles 4 and 5 of Italian Legislative Decree no. 24 (Internal reporting channels and Managing the internal reporting channel), as well as when it ascertains that no verification or analysis activities of the reports received were done
- From 500 to 2,500 euro, in the case referred to in article 16(3) of Italian Legislative Decree no. 24, unless the whistleblower has been convicted, even if only in the first instance, for crimes of defamation or libel or, in any case, for the same crimes committed with the complaint made to the judicial or accounting authority.
- The private sector entities that fall within the application scope of Italian Legislative Decree no. 231/01 and adopt Organization and Management Models, that include in the disciplinary system adopted pursuant to article 6, subsection 2, letter e), of the same Decree 231, sanctions against those parties found to be responsible for the aforementioned offenses

20 Repeals of regulations

With article 23, “Repeals of regulations”, the following provisions are repealed:

- Article 54-bis of Italian Legislative Decree no. 165 of March 30, 2001 (*Protection of public employees who report offenses*).
- Article 6, subsections 2-ter and 2-quater of Italian Legislative Decree no. 231 of June 8, 2001
(*Subsection 2-ter The adoption of discriminatory measures against parties who make a report as referred to in subsection 2-bis may be reported to the Italian National Labor Inspectorate, for the measures within its area of competence, not only by the whistleblower but also by their trade union organization.*
(*Subsection 2-quater The retaliatory or discriminatory dismissal (termination) of the whistleblower is null and void. Also rendered null and void are changes to work duties, pursuant to article 2103 of the Italian Civil Code, as well as any other retaliatory or discriminatory measure taken against the whistleblower. It is the employer's [datore di lavoro] responsibility, in the event of a dispute connected to the application of disciplinary sanctions, or to a demotion or a dismissal (termination), or to submitting the whistleblower to other organizational measures having negative effects, whether direct or indirect, on working conditions, following the submission of the report, to demonstrate that such measures were wholly unrelated to the report itself.*)
- Article 3 of Italian Law no. 179 of November 30, 2017 (*Integrating the regulation of the obligation of official, corporate, professional, scientific and industrial secrecy*)

21 Transitional and coordination provisions

Article 24, “Transitional and coordination provisions”.

- The provisions referred to in this Decree take effect from July 15, 2023 (as do the repeals of regulations); The provisions referred to in article 54-bis of Italian Legislative Decree no. 165 of 2001, in article 6, subsections 2-bis, 2-ter and 2-quater of Italian Legislative Decree no. 231 of 2001 and in article 3 of Italian Law no. 179 of 2017 continue to apply to reports submitted and complaints made to a judicial or accounting authority prior to the date on which this Decree came into effect, as well as those made up to July 14, 2023;
- For private sector entities that employed, in the last year, an average number of workers, operating under a permanent or temporary contract, up to two hundred forty-nine, the obligation to establish an internal reporting channel, pursuant to this Decree, takes effect from December 17, 2023 and, until then, article 6, subsection 2-bis, letters a) and b) of Italian Legislative Decree no. 231 of 2001 shall continue to apply, in the form in effect until the date on which this Decree comes into effect;
- Article 4 of Italian Law no. 604 of July 15, 1966, is replaced by the following:
The dismissal (termination) determined for reasons of political belief or religious faith, of membership of a trade union, of participation in trade union activities or by virtue of exercising a right or to making a report, to filing a complaint with a judicial or accounting authority or to making a public disclosure carried out pursuant to the Italian Legislative Decree implementing Directive (EU) 2019/1937 of the European Parliament and of the Council of October 23, 2019, is rendered null and void.
- In article 2-undecies, subsection 1 of Italian Legislative Decree no. 196 of June 30, 2003, letter f) is replaced by the following:
f) to the confidentiality of the identity of the party who reports a breach of which they became aware by virtue of their employment relationship or the tasks carried out by them, pursuant to the Italian Legislative Decree implementing Directive (EU) 2019/1937 of the European Parliament and of the Council of October 23, 2019, concerning the protection of parties who report breaches of EU law, or who report breaches pursuant to articles 52-bis and 52-ter of Italian Legislative Decree no. 385 of September 1, 1993, or to articles 4-undecies and 4-duodecies of Italian Legislative Decree no. 58 of February 24, 1998
- In article 6 of Italian Legislative Decree no. 231 of 2001, subsection 2-bis is replaced by the following:
2-bis. The models referred to in subsection 1, letter a), provide for, pursuant to the Italian Legislative Decree implementing Directive (EU) 2019/1937 of the European Parliament and of the Council of October 23, 2019, the internal reporting channels, the prohibition on acts of retaliation and the disciplinary system, adopted pursuant to subsection 2, letter e)

22 Indications and information flows to Management		
INTERNAL REPORTING CHANNEL MANAGER		
INTERNAL DEPARTMENT <input type="checkbox"/>	EXTERNAL PARTY BODY (the lawyer, Giovanni Gasparini) <input checked="" type="checkbox"/>	AUTONOMOUS SUPERVISORY 231 <input type="checkbox"/>
on an annual basis, sends the following information to the organization's management body:		
Description	Italian Legislative Decree no. 24 of 3/10/23	
Number of internal reports received relating to breaches of domestic law	Art. 2 subsection 1	
Number of internal reports received relating to breaches of EU law	Art. 2 subsections 3, 4, 5, 6	
Number of internal reports received relating to breaches of the Model 231	Art. 2 subsection 2	
Number of instances of non-compliance detected in the management of the Whistleblowing	Procedure	

23 Instructions for managing reports

The organization makes the following available to whistleblowers:

- The report form, **on the Whistleblowing PRO IT platform** available at <https://opto-e.normaprivacy.it>
- The disclosure on the processing of personal data pursuant to article 13 of Regulation EU 2016/679 is made available, in an always updated form, on the Whistleblowing platform. It can also be reviewed at: https://www.opto-e.com/media/docs/Legal/privacy_whistleblowing_en.pdf

Reporting channels and methods

The report, based on precise and consistent factual elements, of which the party who made the report became aware as a result of the functions performed by the same, should be sent:

With internal reporting channels

- In writing through the Whistleblowing_PRO platform, to which only the external Recipient of reports has access.
- In oral form by sending a recorded message through the specific functionality of the Whistleblowing_PRO platform, to which only the external Recipient of reports has access.

The Whistleblower has, in any case, the right to be heard/interviewed in person by the Recipient at their express request, even if the platform has an integrated messaging system available to potentially exchange information between the Whistleblower and the Recipient.

The transmission of a report must be done in compliance with the criteria of the utmost confidentiality and with methods suitable for safeguarding the whistleblower and the identity (or identities) and the good reputation of the party (or parties) being reported, without prejudice to the effectiveness of subsequent verification activities. The Organization, therefore, has arranged for several reporting channels to be made available which guarantee the confidentiality of the whistleblower's identity in the management and processing of the report duly submitted.

Useful elements to be provided in reports

- Personal details of the party making the report, with an indication of their position or role carried out within the organization (although, that said, any reports made anonymously will be taking into consideration if appropriately detailed and reasoned)
- A clear and complete description of the facts or events being reported
- The circumstances of time and place in which the facts or events happened
- An indication of any other parties who might be able to confirm the facts or events being reported
- Any other public companies/entities involved
- The method by which they became aware of the facts or events
- An indication of the documents which might be able to confirm the validity of these facts or events (audio-visual and/or photographic material)
- Any objective circumstances of violence or threats against the whistleblower
- An indication of the category of offense in question
- Any other information that might provide useful feedback regarding the existence of the facts or the occurrence of the events being reported