

Whistleblowing Procedure of offences and irregularities

Annex 231 Sisam Agenti Srl - Whistleblowing
Adopted by the Board of Directors on 23/02/23
Revised 06/12/23

1 of 06.12.23	General revision for regulatory update	Compliance	OdV	CFO
0 of 23.02.23	First draft	Compliance	Compliance	CFO
Rev.	Object	Preparation	Verification	Approval


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A. GENERAL PART

1. Object

The purpose of this procedure is to protect those who report crimes or irregularities of which they have become aware in the context of an employment relationship.

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The purpose of these reports is to bring to the attention of the identified parties the possible risks of irregularities of which they have become aware. Reporting, therefore, is an important prevention tool.

2. Definitions

ANAC	National Anti-Corruption Authority
Privacy Code	Legislative Decree 196/2006 and subsequent amendments Modification. and integr.
Confindustria	General Confederation of Italian Industry.
Decree 231	Legislative Decree 231/2001 and subsequent amendments Modification. and integr.
GDPR	EU Reg. 2016/679 and subsequent amendments Modification. and integr.
Supervisory Body or SB	Supervisory body established pursuant to Decree 231.
Whistleblower	Employee, collaborator, shareholder, person who exercises (even in fact) functions of administration, management, control, supervision or representation of the company and other third parties who interact with the company (including suppliers, consultants, intermediaries, etc.) as well as trainees or probationary workers, candidates for employment relationships and former employees who report violations or irregularities committed to the detriment of the public interest to the bodies entitled to intervene.
Whistleblowing	Reporting. In the intentions of the legislator, it is a manifestation of civic sense through which the whistleblower contributes to the emergence and prevention of risks and situations detrimental to the body to which he belongs. Revelations or complaints can be of various kinds: violation of a law or regulation, threat of a public interest such as in the case of corruption and fraud, serious and specific situations of danger to public health and safety, etc.

3. Regulations and references

a. Legislative Decree 165/2001

Art. 54 bis of Legislative Decree 165/2001 regulates the matter for public administrations and equivalent bodies as well as companies supplying goods or services and carrying out works in favour of the public administration.

b. Law 179/2017


Law 179/2017, in force since 29 December 2017, amended Article 6 of Legislative Decree 231/2001, which establishes that the organisational models must provide for top management (persons who "hold functions of representation, administration or management of the entity or of one of its organisational units with financial and functional autonomy", or who exercise, even de facto, the management and control of the same) and to subordinates (subjects subject to the management or supervision of the top management) the obligation to submit, in order to protect the integrity of the Entity, "*detailed reports of unlawful conduct*" relevant pursuant to the legislation referred to in the aforementioned Legislative Decree 231/2001, "*based on precise and consistent factual elements*", or "*violations of the Entity's organization and management model*" of which they have become aware due to the functions performed.

In order to protect the complainants, the law in question establishes the following.

i. Art. 2 L. 179/2017

Art. Article 2 of Law 179/2017 provides as follows:

- ⇒ the adoption, in the organisational models, of one or more reporting channels suitable for guaranteeing the confidentiality of the whistleblower's identity;

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- ⇒ the prohibition of retaliatory or discriminatory acts, direct or indirect, against the whistleblower for reasons related to the report, except in cases of false reporting;
- ⇒ the adoption of disciplinary sanctions against those who violate the whistleblower's protection measures;
- ⇒ the adoption of disciplinary sanctions against those who make reports with intent or gross negligence that turn out to be unfounded.

In the event of the adoption of discriminatory measures against the persons who make the reports referred to in paragraph 2-bis, a complaint may be filed with the National Labour Inspectorate, for the measures within its competence, not only by the whistleblower, but also by the trade union organisation indicated by the same. The following are null and void when they are adopted by the reporting party:

- ⇒ retaliatory or discriminatory dismissal,
- ⇒ change of duties pursuant to Article 2103 of the Civil Code,
- ⇒ any other retaliatory or discriminatory measures.

II. Art. 3 L. 179/2017

In the event of disputes related to the imposition of disciplinary sanctions, or to demotion, dismissal, transfer, or subjection of the whistleblower to other organizational measures having direct or indirect negative effects on working conditions, subsequent to the submission of the report, the employer is responsible for proving that such measures are based on reasons unrelated to the report itself.

Art. Article 3 of Law 179/2017 provides as follows.

The report made in order to pursue the integrity of the public or private body allows the disclosure of information covered by the obligation of professional secrecy (Article 326 of the Criminal Code), professional (Article 622 of the Criminal Code), scientific and industrial (Article 623 of the Criminal Code) and attributable to the obligation of loyalty of workers (Article 2105 of the Italian Civil Code), in derogation from the obligations of the Law.

The criminal sanction, therefore, does not apply, since the interest in the emergence of offences is considered to prevail over that of the protection of secrecy.

This waiver of confidentiality obligations does not apply to consultants. In this case, the eventual disclosure of the secret still constitutes the crime.


c. Legislative Decree 24/2023

Legislative Decree no. 24 of 10 March 2023 introduced some important innovations:

- ⇒ extended the scope of the whistleblowing rules to additional recipients required to comply with the legislation on the protection of whistleblowers;
- ⇒ expanded the number of violations that can be reported;
- ⇒ extended the relevant protection also to "facilitators" (those who assist "a reporting person in the reporting process in a work context and whose assistance must be confidential") and to all third parties connected with the reporting persons (e.g. colleagues or family members), as well as to legal entities connected to the whistleblower;
- ⇒ provided for the establishment of several channels that, for the purpose of protecting the entity, allow detailed reporting in relation to the provisions of Model 231: these reporting channels must also guarantee confidentiality on the identity of the whistleblower.

d. Confindustria Guidelines

After the implementation of the new European regulations on whistleblowing, Confindustria has drawn up an "Operational Guide" with useful information for Associations and companies.

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The document offers guidelines for defining internal procedures such as the choice and establishment of the internal reporting channel, the identification of the entity called upon to manage the report and the activities that must be carried out to follow it up, etc.

The document also takes into account the indications provided by ANAC, which is the competent authority in this matter and with which Confindustria has set up a fruitful collaboration from the beginning, in its Guidelines and is available at the following address: <https://www.confindustria.it/home/policy/position-paper/dettaglio/guida-operativa-whistleblowing>.

4. Purpose of the whistleblowing procedure

The purpose of the procedure in question is to prevent and protect the whistleblower from failing to report it for fear of suffering prejudicial consequences.

The aim is to provide the whistleblower with the tools so that he or she is put in a position to independently report offences of which he or she has become aware due to his or her relationship with the entity.

Therefore, operational indications are provided regarding the methods with which to proceed with the report, in particular on the subject, contents, recipients and documents to be used for the transmission of reports as well as the forms of protection recognized to the whistleblower by our legal system.

The adoption of this procedure is intended to:

- ⇒ clarify the principles underlying this institution;
- ⇒ specify the methods for managing reports, through a well-defined procedural process;
- ⇒ represent the methods adopted by the Company to protect the confidentiality of the identity of the whistleblower, the content of the report and the identity of any other parties involved in this disciplinary process, any applicable sanctions.

5. Recipients


This document applies to employees of SISAM Agenti Srl, meaning not only employees linked to SISAM Agenti Srl by an open-ended employment contract, but also employees with a fixed-term contract or those who have an apprenticeship, internship or internship contract. Administered and seconded subjects are also included. In addition, it also applies to persons linked by a relationship of collaboration (e.g. coordinated and continuous collaborations) and also to all shareholders, persons who exercise (even on a purely de facto basis) functions of administration, management, control, supervision or representation of the company and other third parties who interact with the company (including suppliers, consultants, intermediaries, etc.) as well as trainees or probationary workers, applicants for employment and former employees.

It should also be noted that this procedure is not limited to regulating reports from the subjects referred to in art. 5 letters a) and b) of Legislative Decree 231/2001 ("persons who hold functions of representation, administration or management of the entity or of one of its organizational units with financial and functional autonomy as well as persons who exercise, even de facto, the management and control of the same" and "persons subject to the direction or supervision of one of the subjects referred to in letter a"), but all reports of unlawful conduct, including from collaborators or other external parties.

6. Scope of application

As required by law, the procedures will apply to reports of "unlawful conduct" of which the whistleblower has become aware due to his or her employment relationship. Especially:

- ⇒ administrative, accounting, civil or criminal offences;
- ⇒ relevant unlawful conduct pursuant to Legislative Decree 231/2001, for which reference is made to the Organizational Model adopted by the company, or violations of the organization and management models provided for therein;

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- ⇒ offences falling within the scope of EU or national acts, relating to the following areas: public procurement; financial services, products and markets and the prevention of money laundering and terrorist financing; product safety and compliance; transport safety; environmental protection; radiation protection and nuclear safety; food and feed safety and animal health and welfare; public health; consumer protection; protection of privacy and protection of personal data and security of networks and information systems;
- ⇒ situations in which there is an abuse by a subject of the power entrusted to him in order to obtain private advantages;
- ⇒ acts or omissions affecting the financial interests of the Union;
- ⇒ acts or omissions relating to the internal market;
- ⇒ acts or conduct which frustrates the object or purpose of the provisions referred to in Union acts;
- ⇒ facts in which – regardless of the criminal relevance – a malfunctioning of the Entity due to the use of the assigned functions for private purposes is highlighted.

B. SPECIAL SECTION – PROCEDURES: WHISTLEBLOWING PROCESS

1. Content of the report

The whistleblower must provide all the elements necessary for the recipient or persons to proceed with checks and investigations to verify the validity of the facts covered by the report.

The whistleblower must include the following information in the report:

- ⇒ Description of the unlawful conduct
- ⇒ clear and complete description of the facts reported
- ⇒ if known, the circumstances of the time and place in which the acts were committed
- ⇒ if known, the personal details or other elements that allow the identification of the person who carried out the reported facts
- ⇒ any other parties who may report on the facts reported
- ⇒ any other documents that may confirm the validity of these facts
- ⇒ any further information that may provide useful feedback on the existence of the reported facts.

2. Subject of the report


The subject of the report is the unlawful conduct of which the whistleblower has become aware by reason of the employment or collaboration relationship, i.e. due to or on the occasion of the same. Therefore, these must be facts that occurred within the Entity or company or in any case related to it. Reports based on mere suspicions or rumours are not taken into consideration. The unlawful conduct covered by the reports deserving of protection includes not only the entire range of predicate offences referred to in Legislative Decree 231/2001, but also unlawful conduct that may have repercussions on the business, regardless of the criminal relevance, and for which a malfunction of the company's activities is highlighted.

3. Who is the recipient of the report and how to report it

The company has implemented a whistleblowing portal (EQS Integrity Line).

Through this portal, the whistleblower can send a report in writing or via voicemail (in any case anonymized). As required by the relevant legislation, the portal guarantees the anonymity of the whistleblower even if, it should be remembered, the identity of the whistleblower is in any case protected by the utmost confidentiality on the part of the Supervisory Body that receives the report. The whistleblower can then decide to provide their personal information.

The whistleblower must take care to verify the progress of his/her report using the methods provided by the portal and to provide any additional information requested by the Supervisory Body. In fact, we inform you that,

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through the use of the chosen portal, it is possible for the SB to send requests to the whistleblower even if you do not know his or her identity.

Please also note that it is always possible to contact the Supervisory Body at the following email address: goretta@gestaconsulenza.it.

Please also note that, in the following cases:

- ⇒ if the mandatory activation of the internal reporting channel is not provided for in the work context or this, even if mandatory, is not active or, even if activated, does not comply with the requirements of the law;
- ⇒ if the reporting person has already made an internal report and the same has not been followed up;
- ⇒ if the reporting person has reasonable grounds to believe that if the reporting person were to make an internal report, it would not be effectively followed up or that the report could lead to a risk of retaliation;
- ⇒ if the reporting person has reasonable grounds to believe that the breach may constitute an imminent or obvious danger to the public interest

whistleblowers can use the external channel (ANAC) at the following address: <https://whistleblowing.anticorruzione.it/#/>.

In addition, whistleblowers may directly make a public disclosure when:

- ⇒ the reporting person has previously made an internal and external report or has directly made an external report and has not been responded to within the established deadlines regarding the measures envisaged or adopted to follow up on the reports;
- ⇒ the reporting person has reasonable grounds to believe that the breach may constitute an imminent or obvious danger to the public interest;
- ⇒ The reporting person has reasonable grounds to believe that the external report may entail a risk of retaliation or may not be effectively followed up due to the specific circumstances of the case, such as those where evidence may be concealed or destroyed or where there is a well-founded fear that the person receiving the report may be colluding with or involved in the violator.

4. Verification of the validity of the report

The SB has the task of carrying out a complete assessment of the merits of the circumstances represented by the whistleblower in the report in compliance with the principles of impartiality and confidentiality. To this end, it may request the personal hearing of the whistleblower and any other persons who may report on the facts reported.


If, from the outcome of the verification, the report is not manifestly unfounded, the SB shall:

- ⇒ forward the report to the competent judicial authority in the event of criminal relevance of the facts
- ⇒ transmit the report to the company departments concerned, for the acquisition of investigative elements (only for reports whose facts do not constitute hypotheses of crime)
- ⇒ transmit the report to the Board of Directors and the Board of Statutory Auditors
- ⇒ forward the report to the competent functions for disciplinary liability profiles, if they exist

The SB transmits the report to the subjects, as indicated above, without all the information/data from which it is possible to deduce the identity of the whistleblower.

All persons who become aware of the report are bound by confidentiality and the obligation not to disclose what has come to their knowledge, except in the context of judicial investigations.

The SB will highlight, if the report is transmitted to external parties, that it is a report received from a person to whom the legal system recognizes a strengthened protection of confidentiality as provided for by current legislation

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Where a report that is not anonymous or contains serious, precise and consistent elements concerns a member of the SB, the inspection and decision-making activities will be taken over by the Board of Auditors or by the Sole Auditor, in the person of Dr. Ilaria Tinucci – email: ilaria.tinucci@studio-paoletti.eu – Tel. 050.87.87.34.

5. Timing and methods of response

Once the report has been received, the SB sends, through the EQS Integrity Line application, an acknowledgement of receipt of the report to the whistleblower (within 7 days).

In addition, during the investigation, the SB may request additions from the whistleblower regarding the report sent and, at the same time, follows up on the report itself.

The procedure arising from the notification must be concluded, with a response, within 3 months from the date of the acknowledgement of receipt.

In the case of reporting through ANAC's external channel, this must be

- ⇒ give notice to the reporting person of the receipt of the report within 7 days from the date of its receipt, unless explicitly requested otherwise by the reporting person or unless ANAC considers that the notice would jeopardize the protection of the confidentiality of the identity of the reporting person;
- ⇒ maintain dialogue with the reporting person and request additions from the latter, if necessary;
- ⇒ diligently follow up on reports received;
- ⇒ carry out the investigation necessary to follow up on the report, including through hearings and the acquisition of documents;
- ⇒ give feedback to the reporting person within 3 months or, if there are justified and justified reasons, 6 months from the date of acknowledgment of receipt of the external report or, in the absence of such notice, from the expiry of 7 days from receipt;
- ⇒ communicate the final outcome of the report to the reporting person.

Internal and external reports are kept for the time necessary to process the report and, in any case, no longer than 5 years from the date of communication of the final outcome of the reporting procedure.

6. Whistleblower protection


The identity of the whistleblower is protected both during the acquisition of the report and in any subsequent context, except in cases where the identity must be detected by law (e.g. criminal, tax or administrative investigations, inspections by control bodies, etc.). The identity of the whistleblower may be disclosed to the persons responsible for managing the entire disciplinary proceedings and to the accused only in cases where:

- ⇒ there is the express consent of the whistleblower;
- ⇒ the objection to the disciplinary charge is based, in whole or in part, on the report and knowledge of the identity of the whistleblower is absolutely essential to the defence of the accused.

In the event that the reporting party does not give his/her consent to reveal his/her identity, the report made by the latter cannot be used in the disciplinary proceedings. Consequently, disciplinary proceedings cannot be initiated or continued if there are no further elements on which the complaint can be based. Where the conditions exist, it is in any case the right of the entity to proceed by filing a complaint with the judicial authority.

All parties who receive or are involved in the management of the report are required to protect the confidentiality of the whistleblower's identity. Any form of retaliation or discriminatory measures (e.g. unjustified disciplinary actions, harassment in the workplace and any other form of retaliation that leads to intolerable working conditions) is not allowed or tolerated against the employee who makes a report, directly or indirectly, having effects on working conditions for reasons related to them, directly or indirectly, to the complaint.

The person who believes that he or she has suffered discrimination due to the fact that he or she has made a report of wrongdoing must give detailed notice of the discrimination to the SB, which, having promptly assessed the existence of the elements, may report the hypothesis of discrimination:

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- ⇒ the Head of the office to which the employee who allegedly discriminated belongs, who promptly assesses the opportunity and/or need to take all acts or measures to restore the situation and/or to remedy the negative effects of the discrimination and the existence of the grounds for initiating disciplinary proceedings against the employee who is the perpetrator of the discrimination;
- ⇒ to the Chief Executive Officer, if the perpetrator of the discrimination is an Executive of the Company;
- ⇒ to the Public Prosecutor's Office, in the event of criminal offences.

The report is exempt from the access provided for by articles 22 et seq. of Law no. 241 of 7 August 1990, as amended, as well as from civic access, including generalized access, referred to in art. 5 and 5 bis of Legislative Decree 33/2013 and subsequent amendments.

7. Privacy Policy

The personal data collected in the reporting procedure will be processed in compliance with current legislation (Legislative Decree 196/2003 and subsequent amendments, also in relation to the amendments made by EU Regulation 679/2016).

In particular, the legitimate interest of the data controller is provided by the interest in the proper functioning of the structure and in the reporting of offences, while the legal basis is the specific legislation on whistleblowing.

As far as the storage of data is concerned, they must be kept until the procedure is completely exhausted, without prejudice to the requirements of justice.

8. Liability of the whistleblower and others

This procedure does not protect the whistleblower in the event of a slanderous or defamatory report or in any case of those who make reports with intent or gross negligence that turn out to be unfounded.

Further responsibilities may be ascertained on the part of the whistleblower in all cases in which he or she does not comply with the requirements of this section (e.g. reports made for the sole purpose of harming the complainant, etc.). Equally, subjects who – in any case interested in the procedure – do not comply with the prescriptions provided will be liable to sanctions.

9. Sanctions

In accordance with the provisions of Law 179/2017, the following conducts are sanctionable:

- ⇒ violation of the whistleblower's protection measures, as set out above
- ⇒ carrying out, with intent or gross negligence, reports that prove to be unfounded

The sanctioning discipline and the related procedure are the ones already identified for violations of the model, in the appropriate section of this General Part, to which reference should be made, with reference to the various parties concerned. For the purposes of the application of penalties, the general rules and procedure described therein shall also apply.

10. Privacy

On this subject, reference is made to the document "IP 04 Information on data processing – Whistleblowing".