

FONDAZIONE BRUNO KESSLER – FBK

**Organization, Management and Control
Model pursuant to Legislative Decree no.
231/2001
– General Section –**

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1. Legislative Decree no. 231/2001 and Relevant Provisions of Law.

On June 8, 2001, Legislative Decree no. 231/2001 (annex 1) was issued in execution of the mandate as of Art. 11 of Law no. 300 dated September 29, 2000, and entered into force on July 4, 2000, with the purpose of adapting internal regulations concerning the liability of legal persons to a number of international treaties already subscribed to in Italy.

Legislative Decree no. 231/2001 regarding "Regulations governing the administrative responsibility of legal persons, companies and associations, including those without legal status" has introduced a form of liability of legal entities regarding specific offences committed in the **interest** or to the **advantage** of such legal entities by individuals acting as their representatives, administrators, or managers, including organisational units with financial and functional autonomy, as well as by individuals who de facto manage and control such legal entities and individuals under the direction or supervision of one of the aforementioned individuals. This liability is in addition to that of the individual who actually committed the offence.

The application of such provisions is deferred to the **Criminal Court**, with direct involvement of the **Public Prosecution Office** for all prosecution related matters.

The nature of the **penalties** varies depending on the nature and severity of the offence. Penalties specifically applicable to legal entities are the following (Art. 9):

- fines;
- interdictive penalties;
- confiscation;
- publication of the judgement.
- Interdictive penalties are the following:
 - interdiction from work;
 - suspension or revocation of permits, licenses or concessions functional to committing the offence;
 - prohibition to negotiate with the public administration, except to obtain a public service;
 - exclusion from incentives, loans, grants or subsidies and potential revocation of those previously granted;
 - prohibition to advertise goods or services.

Interdictive penalties may be applied as precautionary measures when (Art. 45, paragraph 1) "*there is strong evidence to suggest the existence of the entity's liability for an administrative offence arising from a criminal offence and there are reasonable and specific elements suggesting that there is a real danger that offences of the same nature as the one concerning the proceedings are being committed.*" In this case, "*the prosecutor, as a precautionary measure, may request the application of one of the interdictive penalties provided in Article 9, paragraph 2.*"

The last paragraph of the aforementioned provision provides that, "*in lieu of a precautionary interdictive measure, the court may appoint a judicial commissioner in accordance with Article 15 for a period equal to the duration of the measure that would have been applied.*"

Art. 1 of Legislative Decree no. 231/2001 provides for the legislation to be applied to entities with legal status as well to companies and associations without legal status.

The central government, local authorities, other non-economic public bodies and entities that perform constitutional functions (political parties and unions) are excluded from the scope of the Legislative Decree.

The BRUNO KESSLER FOUNDATION does not fall within any of the exemptions provided for by Legislative Decree no. 231/2001, and therefore is subject to application.

Pursuant to art. 5 of Provincial Law no. 14/2005, "*the legal status of the foundation under private law is acknowledged.*" For this reason, the BRUNO KESSLER FOUNDATION is also subject to the special regulations concerning administrative liability arising from an offence may be applied.

More specifically, according to the **general indictment criteria** set out in Art. 5 of Legislative

Decree no. 231/2001, the BRUNO KESSLER FOUNDATION may be held accountable for crimes "*committed in its interest or for its benefit*":

- by individuals acting as representatives, administrators, or managers of the entity or of its organisational units with financial and functional autonomy, as well as by individuals de facto managing and controlling the entity (individuals who hold - de jure or de facto - a top position);
- by individuals under the direction or supervision of one of the individuals referred to in letter a).

According to the second paragraph of the aforementioned art. 5, the Foundation shall not be responsible for any wrongdoing if it can prove that the above-mentioned individuals acted exclusively in their own interest or on behalf of third parties.

These general indictment criteria, based on the existence of an "interest" or "advantage" for the Foundation deriving from the offence committed by the individual relevant from time to time, represent an extremely sensitive and complex aspect, as it is believed they can and should be considered in a strictly objective way; meaning that the interest (to be evaluated *ex ante*) or advantage (to be assessed *ex post*) will be deemed to exist even when the decision to commit the offence was taken by an individual (officer or mere employee) based on personal reasons (for example, to show personal capabilities to bring forth work results) but the actual offence leads to an advantage for the Foundation (in the example, the actual size of certain results in terms of economic return or image).

The Foundation's liability is also characterized by absolute **autonomy**, as it is expressly recognized (Art. 8) that such liability may be considered to exist and be configurable even when the offender is not identified or cannot be charged, or when the offence is extinguished for reasons other than amnesty.

Therefore, this aspect contributes to make the scope of applicability of this form of liability particularly trenchant, since the entity may be subject to proceedings not only in all cases in which the person named as the perpetrator of the offence have opted for plea bargaining, but also when, for whatever reason, this individual was not even actually involved in the trial or was not deemed punishable.

Moreover, all of the above is true also in the case the offence was committed **abroad**, given that, pursuant to the provisions of Art. 4 of Legislative Decree no. 231/2001, in this case the entity will be called to account for this offence in Italy, unless the government of the country where the offence was committed proceeds directly against it.

The offences covered by Legislative Decree no. 231/2001 are the following (articles from 24 to 25-doudecies of Legislative Decree no. 231/2001 – annex 2):

- undue receipt of disbursements, fraud against the Government or a public body or for obtaining public funds and cyber-fraud to the detriment of the Government or a public body (Article 24 of Legislative Decree No. 231/2001);
- cyber-crime and illicit data processing (Article 24-bis of Legislative Decree No. 231/2001);
- organized crime offenses (Article 24-ter of Legislative Decree No. 231/2001);
- bribery, undue inducement to give or promise utility and corruption (Article 25 of Legislative Decree No. 231/2001);
- crimes involving the forgery of money, credit cards, and revenue stamps as well as identification instruments or signs (art. 25-bis of Legislative Decree 231/2001);
- crimes against industry and commerce (art. 25-bis of Legislative Decree 231/2001);
- corporate crimes (art. 25-ter of Legislative Decree No. 231/2001);
- crimes committed with the purpose of terrorism or subversion (art. 25-quater of Legislative Decree No. 231/2001);
- Female genital mutilation (art. 25-quater of Legislative Decree No. 231/2001);

- crimes against the person (art. 25-quinquies of Legislative Decree No. 231/2001);
- crimes of market abuse (art. 25-sexies of Legislative Decree No. 231/2001);
- manslaughter and serious or grievous bodily harm caused by the violation of health and safety regulations (art. 25-septies of Legislative Decree No. 231/2001);
- handling, laundering, illicit use of stolen goods and self-laundering (art. 25-octies of Legislative Decree No. 231/2001);
- copyright violations (art. 25-novies of Legislative Decree No. 231/2001);
- forcing or persuading someone not to make statements or to make false statements to judicial authorities (art. 25-decies of Legislative Decree No. 231/2001);
- crimes against the environment (art. 25-undecies of Legislative Decree No. 231/2001);
- use of third-country nationals with no valid residence permit (Article 25-duodecies of Legislative Decree No. 231/2001);
- racism and xenophobia (article 25-terdecies of Legislative Decree No. 231/2001);
- transnational crimes (article 3 of Law no. 146/2006).

Art. 6 and 7 of Legislative Decree no. 231/2001 provides a form of **exemption** from liability if the entity demonstrates that it has adopted and effectively implemented organizational, management and control measures to prevent the offences in question prior to the offence being committed. The Model considered herein is a set of behavioral rules calibrated to the crime risk that characterizes the Foundation and/or its functions, and should include appropriate measures that promptly identify and eliminate risk situations to ensure that activities are carried out in compliance with the law.

Legislative Decree no. 231/2001 also provides for the appointment of an internal monitoring body (Supervisory Board) with the task of ensuring that this Model is operative, observed, and duly updated.

This Model shall meet the following needs:

- to identify the activities where crimes can actually be committed;
- to prescribe specific behavioral protocols with the aim of preventing offences;
- to provide for obligations of information to the Supervisory Board monitoring the application and observance of this Model;
- to introduce a disciplinary system adequate to punish failures to comply with this Model.

The legislator does not provide any indication on body that shall resolve the adoption of the Model. However, it is deemed that the administrative body may resolve such adoption.

Finally, it is worth mentioning that the decision of the administrative body of a legal entity or company to implement the provisions of Legislative Decree no. 231/2001 is considered to represent a form of good management practice¹.

2. Organizational Structure of the BRUNO KESSLER FOUNDATION.

2.1 Incorporation of FONDAZIONE BRUNO KESSLER.

The BRUNO KESSLER FOUNDATION was established pursuant to Provincial Law no. 14/2005² with the aim to further pursue the goals and activities of the Trentino Cultural Institute.

Subsequently, the establishment of the Foundation was resolved by the local provincial government on July 14, 2006 (Resolution no. 1449/2006³) and the Foundation was incorporated with notary deed of the Public Notary Mr. Paolo Piccoli of Trento on November 24, 2006⁴.

The Founding Law and the deed of incorporation are published on the "Transparent Administration" webpage.

2.2 Purpose of FONDAZIONE BRUNO KESSLER

As provided in the By-Laws⁵, the Foundation, which is a non-profit entity, pursues the following objectives:

- cultural activities, scientific research, technological development to advance knowledge and serve the local community;
- exploring new frontiers of knowledge with particular emphasis on interdisciplinary approaches and practical applications, thus defining the profile of the Foundation in terms of originality and complementarity compared to the organization of scientific activities proper of universities;
- increased internationalization of Trentino, promoting collaborations and exchange activities with national and international research organizations, thereby increasing competitiveness and the ability of the provincial research system to attract human and material resources, promoting the involvement of the University of Trento and other interested public and private organizations in the area;
- promoting a widespread capacity for innovation, in the broadest sense of new cultural, civil, and instrumental developments and dynamics, involving the community and the local economy in order to facilitate the exchange of knowledge and technology and the growth of Trentino, where the Bruno Kessler Foundation is rooted;
- transferring research results, supporting new kinds of entrepreneurship and professional skills, as well the qualification of government facilities, in the awareness of the Foundation's role and responsibility in local development dynamics;
- respecting personal dignity and the environment, as safeguarded and promoted by Trentino's history, tradition, and identity, in all the activities which the Foundation freely and independently decides to perform in order to pursue the aims and objectives outlined herein.

The Founding Law and the deed of incorporation are published on the "Transparent Administration" webpage.

2.3. FONDAZIONE BRUNO KESSLER as a Legal Entity

FONDAZIONE BRUNO KESSLER FOUNDATION is a private legal entity, albeit with quite peculiar characteristics due to its founder, which is the Autonomous Province of Trento, and its actual operational modalities, whose guidelines are included in Provincial Law no. 14/2005, which also places the Foundation on an equal status with regional research institutions.

Therefore, the purpose of the BRUNO KESSLER FOUNDATION coincides with a general interest of the local community as defined in the above provincial law, but at the same time, the Foundation may freely organize itself based on independent evaluations of its bodies.

With regard to the relationship with the Autonomous Province of Trento, the BRUNO KESSLER FOUNDATION plays a dual role: on one hand, the Autonomous Province of Trento is its founder, therefore the subject who has devolved its assets for the entity's purposes; on the other hand, the Foundation is considered a private instrumental entity of the Province Government (Art. 33 paragraph 1 letter b) of Provincial Law no. 3/2006 and Annex A of Province Law no. 3/2006).

The BRUNO KESSLER FOUNDATION's legal context is therefore quite specific. The Foundation takes on different roles depending on the activities to be performed and the parties with which it interacts.

The Autonomous Province of Trento has control over the Foundation based on its founding law, statutory instruments, bodies, and binding directives. In this capacity, the BRUNO KESSLER FOUNDATION enjoys a privileged and close relationship with the Autonomous Province of Trento.

At the same time, the BRUNO KESSLER FOUNDATION is a "body governed by public law" in

that it was not created for industrial or commercial purposes and is governed by officials who are publicly nominated. This means that the Foundation is required to deal with the suppliers market (whether for works, goods, or services) as a public buyer setting up tendering procedures that are transparent, impartial and directed at generating the maximum competition in the market.

FBK is also a public administration included in the consolidated income statement, as such included in the annual ISTAT list pursuant to art. 1, paragraph 3 of Law 196/2009 as amended.

It is an entity governed by private law in public control pursuant to the provisions of art. 1, comma 2, lett. c) of Legislative Decree no. 39/2013.

It falls within the scope of the "discipline concerning the right of civic access and the obligations of publicity, transparency and dissemination of information by public administrations" - art. 2-bis, paragraph 3, second sentence of Legislative Decree no. 33/2013 as amended. In this regard, taking into account ANAC 1134 resolution of 27.11.2017 containing the "*Guidelines for the implementation of legislation on the prevention of corruption and transparency by companies and bodies governed by private law and controlled by public administrations and of public economic entities*" issued in light of the changes introduced by Legislative Decree no. 97/2016 to Legislative Decree n. 33/2013, the Foundation prudently and voluntarily intended to classify itself under public administrations pursuant to art. 2-bis, paragraph 2, letter b) of Legislative Decree no. 33/2013, pending the pronouncement of the Province as the controlling body regarding the classification of FBK.

Also, FONDAZIONE BRUNO KESSLER may be qualified as an "economic operator," i.e. someone who places its goods and services on the market. This means that the Foundation may also participate in tender offers of third parties as well as enter into agreements and partnerships with public or private parties.

The BRUNO KESSLER FOUNDATION is also a stakeholder in several spinoffs incorporated or participated by the latter in order to help and support businesses that rely on ideas and projects developed within the Foundation (so called spin-offs).

Finally, the BRUNO KESSLER FOUNDATION finances private start-up businesses, thereby involving government aid laws.

All of the above makes the BRUNO KESSLER FOUNDATION's organization, management, and control Model a totally atypical tool, created to reconcile and amalgamate the Foundation's different "natures" and with the intent to both fulfill the exceptional tasks referred to in Legislative Decree no. 231/2001 and not to limit the organizational freedom afforded to the Foundation by law.

2.4. The Administrative Organisation of FONDAZIONE BRUNO KESSLER

The Foundation is registered at the Trento Chamber of Commerce with Economic Administrative Index number 194804 and VAT number 02003000227 and its currently registered office is in Via Santa Croce no. 77, Trento. Other local offices are located in Via Sommarive no. 18, in Povo, Trento, and Via della Cascata no. 56/D, in Povo, Trento. In particular, the Humanities and Social Sciences Department is located at the registered office in Trento as well as in Vicolo della Piccola, while the Scientific and Technological Department is located at the Povo offices (Via Sommarive and Via Alla Cascata) and at Villa Tambosi in Villazzano.

The Foundation is governed by a Board of Directors consisting of 9 members⁶, of whom five (designated with partial restrictions) are appointed by the Province, one is appointed by the University of Trento, two are appointed by the Board of Founders and Supporters (one of which is appointed by Confindustria) and one is appointed by the personnel of the Foundation.

As provided in the By-Laws, the legal representative of the Foundation before third parties and in court is the President, or the Vice-President should the President be absent or otherwise impeded.

The Foundation has also appointed a Board of Auditors, a Scientific Committee, and a Board of Founders and Supporters.

Additionally, there are a number of delegates of functions/proxies with powers of representation. The names of the holders of the administration, management, governance and control offices of the Foundation are published on the "Transparent Administration" webpage.

2.5. The Internal Organisation of FONDAZIONE BRUNO KESSLER.

In order to better understand the organization and the organizational structure of FONDAZIONE BRUNO KESSLER, it is necessary to distinguish between the following:

- the Administration and Research Support Services Department (the activities of which are described in the document "Organizational Logics of the Administration and Research Support Services Department");
- the Research Centers.

The organization chart of the Foundation and the document "Organizational Logics of the Administration and Research Support Services Department" are published on the "Transparent Administration" webpage, to which reference is made.

3. The Organizational, Management and Control Model of FONDAZIONE BRUNO KESSLER

3.1. Previous versions of the Organization, Management and Control Model

The Foundation has approved the Organization, Management and Control Model pursuant to Legislative Decree no. 231/2001 on 22 July, 2013. Subsequently, the Organization, Management and Control Model was updated on 15 July, 2016. This therefore represents the third version of the document.

3.2 Principles and Elements Inspiring this Model

Pursuant to art. 6, paragraph 2 of Legislative Decree no. 231/2001, which refers to the predicate offenses committed by the so called top management officers, the Organization, Management and Control Model must meet the following requirements: *«a) identify the activities in which crimes may be committed; b) provide specific protocols aimed at planning the formation and implementation of the entity's decisions in relation to the crimes to be prevented; c) identify methods of management of financial resources suitable for preventing the commission of offenses; d) provide for obligations to provide information to the body responsible for overseeing the functioning and compliance of the models; e) introduce a disciplinary system suitable for sanctioning non-compliance with the measures indicated in the model».*

Pursuant to paragraph 2 bis of the same art. 6, *"the models referred to in letter a) of paragraph 1 provide for: a) one or more channels that allow the persons indicated in article 5, paragraph 1, letters a) and b), to submit, to the end of protecting the integrity of the Entity, detailed reports of illicit conduct, relevant under this decree and based on precise and concordant factual elements, or violations of the organization and management model of the entity, of which they have become aware due to the functions performed by them; these channels guarantee the confidentiality of the identity of the reporting individual in the processing of the report; b) at least one alternative reporting channel suitable for guaranteeing, through electronic means, the confidentiality of the identity of the reporting party; c) the prohibition of retaliation or discriminatory, direct or indirect, acts against the reporting agent for reasons connected directly or indirectly to the report; d) in the disciplinary system adopted pursuant to paragraph 2, letter e), sanctions against those who violate the protection measures of the reporting party, as well as those who carry out with malice or gross negligence reports that prove to be groundless».*

Similarly, paragraphs 3 and 4 of art. 7, which refer to the predicate offenses committed by the individuals directed or supervised by others, provide that: *«the model provides, in relation to the nature and size of the organization as well as the type of activity carried out, suitable measures to*

guarantee the performance of the activities in compliance with the law and to promptly detect and eliminate risk situations. || 4. The effective implementation of the model requires: a) periodic verification and any amendment of the same when significant violations of the provisions are detected or when changes occur in the organization or activity; b) a disciplinary system suitable to sanction failure to comply with the measures indicated in the model ».

The Organization, Management and Control Model adopted by the Foundation complies with such provisions of law and the principles on which it is based are the following:

- the definition of authorization powers coherent with assigned responsibilities;
- compliance with the principle of separation of functions;
- traceability and documentation of every transaction relevant for the purposes of Legislative Decree no. 231/2001;
- awareness and dissemination of the rules of conduct and established procedures at all levels
- assignment to the Supervisory Board (SB) of the task of promoting the effective implementation of the Organization, Management and Control Model;
- availability of adequate resources to the Supervisory Board;
- verification of the Organization, Management and Control Model's functioning and subsequent periodical update.

3.3 Structure of the Organization, Management and Control Model

The Organization, Management and Control Model is comprised of the following documents:

- this General Section;
- the Summary document for risks analysis;
- the Special Sections (from No. 1 to No. 10) dedicated to the prevention of homogeneous groups of offences;
- the Code of Conduct;
- the regulations, procedures and executive resolutions adopted by the Foundation and published on the "Transparent Administration" webpage.
- The Organization, Management and Control Model and shall be regarded in coordination with the Three-year Plan for Corruption Prevention and Transparency.

3.4. Relationship between the Organizational, Management and Control Model and the Three-year Plan for Corruption Prevention and Transparency

The Foundation complies with laws regarding anticorruption, transparency and incompatibility of assignments (Law no. 190/2012, Legislative Decree no. 33/2013; Legislative Decree no. 39/2013, Law no. 90/2014, Legislative Decree no. 97/2016, Provincial Law no. 4/2014 among others).

The Organization, Management and Control Model pursuant to Legislative Decree no. 231/2001, therefore, needs to be considered together with all other documents drawn up according to such provisions of law.

3.5 Relationship between the Organizational, Management and Control Model and the "Transparent administration" webpage

The Foundation has adopted several regulations, procedures and executive resolutions that are published in the "Transparent Administration" web page or in other web pages.

Such documents shall be considered as mandatory and included in the Organization, Management and Control Model.

Therefore, with a view to rationalizing documents, the Organization, Management and Control Model shall refer to the regulations, procedures and directives published on this webpage whenever possible.

3.6 The addressees of the Organization, Management and Control Model

The Organization, Management and Control Model is binding for:

- the members of the statutory bodies and other corporate bodies;
- all the employees of the Foundation, including the Province employees seconded to the Foundation;
- all collaborators or consultants, regardless of the type of contract or appointment
- The Code of Conduct is also binding for:
 - The companies supplying goods, services and works that work with the Foundation, regardless of the underlying legal relationship, and their employees or collaborators;
 - the personnel present in the Foundation for secondment or commando agreements;
 - the personnel of other entities present in the Foundation under agreements or inter-institutional accords.

4. The Supervisory Board (SB)

4.1. Requirements of the Supervisory Board

In order to benefit from the adoption and implementation of the Organization, Management and Control Model, Legislative Decree no. 231/2001 requires to assign to a supervisory board the task of monitoring the functioning of and compliance with the Organization, Management and Control Model as well as of updating it, granting such board independent powers of initiative and control.

The Confindustria guidelines identify the autonomy, independence, professionalism and continued action as the main requirements for the Supervisory Board as a whole and for its individual members.

Autonomy and independence requirements are met when control initiatives are free from any interference and/or influence by any member of the Foundation; to this end, it is essential that a hierarchical position as high as possible be assigned to the Supervisory Board as a staff unit, reporting to top administration officials or the Board of Directors as a whole or a representative selected by the Board of Directors.

It is also essential that the Supervisory Board not take part in operations requiring decisions and actions that would undermine its objective judgment when assessing conduct and the Organization, Management and Control Model.

With regard to professionalism, it must be intended as the overall wealth of tools and techniques necessary to effectively carry out an assigned task.

With special reference to workplace health and safety, the Supervisory Board shall make use of all resources that the Foundation has set up for prevention, namely: the Safety and Prevention Manager (RSPP), the Workers' Safety Representative (RLS), the Medical Officer and other specific figures.

With regard to continued action ensuring effective and sustained implementation of the Organization, Management and Control Model, it is ensured by a monitoring system already in place.

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4.2 Causes for Ineligibility and Forfeiture

All members of the Supervisory Board shall possess, in addition to adequate professional competence, subjective requirements that ensure the autonomy, independence and integrity required for the task. Specifically, those meeting the criteria listed below cannot be appointed as members of the Supervisory Board and shall be divested of authority if appointed:

- anyone who meets one of the causes of ineligibility under Art. 2382 of the Civil Code, meaning interdicts, those who are disqualified or bankrupt or those who have been banned, even temporarily, from public or executive office;
- anyone who is accused or have been convicted, even if the judgment is not final, or have agreed to plea bargain, even if the judgment is not irrevocable, for any of the offences referred to in Legislative Decree no. 231/2001 and subsequent amendments;
- anyone who has been sentenced to imprisonment, even if the judgment is not final, or who have plea bargained the penalty of imprisonment, even if the judgment is not irrevocable, for having committed an intentional crime;
- the spouse, relatives and next of kin within the second degree of the Foundation's directors and executive directors of subsidiaries and/or affiliates.

4.3 Appointment, Term, Replacement and Removal of Members of the Supervisory Board

The Board of Directors is responsible for **appointing** the members of the Supervisory Board.

In compliance with the provisions of Art. 6, first paragraph, point b) of Legislative Decree no. 231/2001 and in light of the Confindustria guidelines, the Foundation has opted to adopt a Supervisory Board.

Members shall serve for a three-year term and may be re-elected.

The Board is automatically dissolved, should the majority of its members no longer be in office.

Should the Supervisory Board no longer be in office, the Board of Directors shall deliberate its replacement.

In order to guarantee the necessary stability of the Supervisory Board, the withdrawal by one of its members, which shall be approved by the Board of Directors and previously notified to the Board of Auditors, may take place for the following reasons:

- serious and verified reasons of incompatibility that undermine the independence and autonomy of the Supervisory Board member;
- the occurrence of a cause of ineligibility;
- gross negligence in performing duties related to the appointment;
- breach of confidentiality borne by the Supervisory Board;
- unexcused absence for more than three consecutive meetings of the Supervisory Board.

In the event of termination of any member of the Supervisory Board internal to the Foundation (e.g. due to relocation to another appointment, dismissal, disciplinary action), the Board of Directors shall take action regarding confirming or not confirming them as members of the Supervisory Board.

Supervisory Board members shall be entitled to remuneration for its activities, as approved by the Board of Directors of the Foundation at the beginning of their mandate.

4.4. Duties of the Supervisory Board

The Supervisory Board has the following **duties**:

- monitor the effectiveness of the Organization, Management and Control Model, verifying consistency between concretely implemented conducts and the Model;
- report to the Board of Directors any violation of the Organization, Management and Control Model that may give rise to the Foundation's liability, in order to take appropriate action;
- analyse the Organization, Management and Control Model's stability and functionality over time;
- examine the adequacy of the Organization, Management and Control Model, i.e., its real capacity to prevent behaviours constituting a predicate offence or otherwise contrary to its principles and those of the Code of Conduct;
- update the Organization, Management and Control Model dynamically, through the formulation of proposals for additions or amendments deemed necessary that shall be submitted to the Board of Directors, especially when: *(i)* substantial violations of the Organization, Management and Control Model occur; *(ii)* there are significant changes to the structure and/or activities of the Foundation; *(iii)* changes occur in regulations;
- propose initiatives to increase knowledge and understanding of the Organization, Management and Control Model, promoting them with the Board of Directors, as well as initiatives for staff training following the Organization, Management and Control Model's principles.

4.5. Powers of the Supervisory Board

In order to perform these duties, the Supervisory Board shall be granted powers of initiative and control as follows:

- access and review all documentation deemed relevant or useful for the fulfilment of its duties;
- conduct reconnaissance within the Foundation;
- conduct internal investigations, obtaining information and first person accounts;
- coordinate with other internal functions, including via special meetings, to monitor risk areas and implement the obligations provided for in the Organization, Management and Control Model (e.g., define standard terms, provide instructions, explanations, updates or check-lists);
- update the information list that supervisors shall communicate to the Supervisory Board;
- promote initiatives to increase everybody's knowledge and understanding of the Organization, Management and Control Model.

In general, the Supervisory Board may obtain, on demand and without need for prior approval, any information or data deemed necessary for the performance of its duties, subject to the prohibition of disclosing and/or disseminating to third parties any information and/or data obtained, except should such disclosure and/or dissemination be requested by the police or the court.

4.6 Operating methods of the Supervisory Board

For the purposes of carrying out its functions, the Supervisory Board adopts its own operating rules (concerning procedures for calling meetings, recording activities, decision-making and similar). The Supervisory Board may use external consultants and delegate limited areas of investigation to them. External consultants are independently appointed by the Supervisory Board without the need for authorization or consent by the Board of Directors. Consultants shall deal directly only with the Supervisory Board. The cost of such consultants shall be borne by the Foundation.

Without prejudice to the duty of supervising the adequacy of operations, activities carried out by the Supervisory Board may not be judged by the Board of Directors or any other internal function of the Foundation.

4.7 Supervisory Board Operating Budget

The Supervisory Board shall have a suitable budget, as approved by the Board of Directors at the beginning of each three-year term. The budget may not be reduced during the mandate.

4.8 Reporting by the Supervisory Board

The Supervisory Board shall record the activities performed at each meeting. The information, notifications and/or reports forwarded to the Supervisory Board shall be stored in a separate computer file or on paper.

4.9 Reporting to the Supervisory Board

The Supervisory Board shall be informed of the following:

- conferral of new proxies or powers of attorney and/or amendment of old ones;
- changes in the organizational chart;
- adoption of new internal regulations, procedures or executive resolutions;
- amendment of existing internal regulations, procedures or executive resolutions.

The Supervisory Board shall be the recipient of information flows more specifically listed in each special sections.

In any case, the Supervisory Board shall be informed of the following:

- any action of the criminal police or any other authority that would indicate investigations are under way, even against unknown persons, for the offences provided for by Legislative Decree no. 231/2001;
- inspections carried out by public bodies;
- critical situations concerning compliance with Legislative Decree no. 231/2001;
- disciplinary proceedings activated for violations of the Organization, Management and Control Model;

4.10 Communication channels to submit reports to the Supervisory Board

Pursuant to art. 6, paragraph 2 bis of Legislative Decree no. 231/2001, the Organization, Management and Control Model must include:

- one or more channels that allow the subjects indicated in art. 5 of Legislative Decree no. 231/2001 (senior management or workers directed and/or supervised by others) to submit reports;
- at least one alternative reporting channel suitable for ensuring, via computer, the confidentiality of the identity of the informant.
- To this end, the Foundation has adopted the following communication channels:
- e-mail: odv@fbk.eu (read exclusively by the members of the Supervisory Body);
- e-mail: anticorruzione@fbk.eu (read only by the Head of the Corruption Prevention and Transparency Office, or RPCT);
- PEC (Certified e-mail) anticorruzione@pec.fbk.eu (read only by the Head of Corruption Prevention and Transparency Office);
- platform dedicated to offense reports: www.whistleblowing.fbk.eu;
- paper mailbox (locked and accessible to the members of the Supervisory Body only);
- on-line form (read exclusively by the members of the Supervisory Body).

4.11. Contents of the reports.

Pursuant to art. 6, paragraph 2 bis of Legislative Decree no. 231/2001, the reports submitted to the Supervisory Body must be substantiated and must be based on precise and concordant facts.

These reports must concern unlawful conduct and/or violations of the Organization, Management and Control Model.

Any person inside or otherwise connected with the Foundation may inform the Supervisory Board

regarding any violation of the Organization, Management and Control Model. or relating to behaviors that, while not integrating any crime and not being in contrast with the provisions of the Organization, Management and Control Model, are in any case deemed not to comply with the principles underlying the Organization, Management and Control Model itself. In fact, the Foundation intends to favor communication flows to the control body in every way.

4.12. Investigation by the Supervisory Board.

The Supervisory Board shall evaluate the information received and any subsequent reasonable action shall be taken under its discretion and responsibility, listening to the informant and/or the person allegedly responsible for the violation.

4.13. Duty of Confidentiality of the Supervisory Board. Anonymous reports. Prohibition of retaliation or discriminatory acts.

All the members of the Supervisory Body, as well as all the subjects of which the body can avail itself, for whatever reason, are bound by the obligation of confidentiality on all information of which they have come to know in the exercise of their functions or tasks.

The Supervisory Board is required to act in order to protect informants against any form of retaliation, discrimination and criminalization, ensuring also the confidentiality of their identity, without prejudice to the obligations of law and the protection of the rights of the Foundation and/or the people wrongly accused and/or in bad faith.

Anonymous reports are allowed.

Direct or indirect retaliation or discriminatory acts against the informant for reasons connected directly or indirectly to the report are prohibited.

We remind you that, pursuant to art. 6, paragraph 2 bis of Legislative Decree no. 231/2001:

- the adoption of discriminatory measures against the informants can be reported to the National Labor Inspectorate, for the measures under its jurisdiction, by the informant him/herself as well as by the trade union organization indicated by him/her;
- the retaliation or discriminatory dismissal of the informant is null;
- the change of duties pursuant to Article 2103 of the Civil Code is also null, as well as any other retaliation or discriminatory measure taken against the informant;
- it is the responsibility of the employer, in case of disputes related to the application of disciplinary sanctions, or demotions, layoffs, transfers, or subjection of the informant to another organizational measure having direct or indirect negative effects on his/her working conditions after the submission of the report, to demonstrate that these measures are due to reasons not related to the report itself.

4.14. Reporting of the Supervisory Board to the Board of Directors.

In order to guarantee the autonomy and independence requirements, the Supervisory Board shall report to the top administrative body, meaning the Board of Directors or its delegate.

The Supervisory Board shall report at least once a year on the implementation of the Model and propose changes and additions that it deems necessary or appropriate.

It is understood that the Supervisory Board may also notify the Secretary General and the Board of Auditors with information as deemed appropriate.

5. Spread of the Organization, Management and Control Model

5.1 Publication of the Organization, Management and Control Model

The Organization, Management and Control Model, as defined in point 3.3, will be published on the "Transparent Administration" webpage, except for the risk analysis summary and for the special sections, which will however be available in the internal network (intranet).

5.2. Training and informing employees

In order to effectively implement the Organization, Management and Control Model, the Foundation shall ensure proper disclosure of its contents both inside and outside the Foundation.

Communications and training on the principles and contents of the Organization, Management and Control Model shall be guaranteed in coordination and/or during training activities planned and carried out by the Corruption and Transparency Prevention Chief Officer.

At any rate, each FBK employee or collaborator is required to:

- acquire knowledge of the Organization, Management and Control Model's principles and contents (as defined under point 3.3);
- be familiar with the operating procedures proper to his/her tasks;
- actively contribute, within his/her role and responsibilities, to the successful implementation of the Organization, Management and Control Model, indicating its possible shortcomings.
- In any event, non-employee contract terms shall expressly state that violating the Organization, Management and Control Model's procedures and rules of conduct, including the regulations referred to therein or in the Code of Conduct, shall result in termination of the contract, without prejudice to the Foundation's right to seek compensation for damages.

5.3. Informing external consultants and partners

The Foundation shall inform its business and financial partners, consultants and external collaborators of the Organization, Management and Control Model's existence.

Contracts and agreements with the above subjects shall include provisions as the following: *"By signing this contract agreement, the undersigned agrees to comply with all provisions contained in the Foundation's Code of Conduct in addition to the rules of law. In case of violation of any provision of the Code of Conduct, the Foundation shall be entitled to terminate the contract effective immediately, without prejudice to the Foundation's right to seek compensation"*.

6. Disciplinary System

6.1. Functions and objectives of the disciplinary system.

Legislative Decree no. 231/2001 states that, in order to effectively implement the organization, management and control Model, a disciplinary system shall be introduced to sanction violations. Therefore, setting up an appropriate disciplinary system is an essential requirement of the Organization, Management and Control Model's excuse value with respect to the administrative liability of the institutions.

Disciplinary penalties may be applied regardless of whether of the beginning (or judgement) of criminal proceedings to establish the Foundation's liability concerning Legislative Decree no. 231/2001 violations.

6.2. Disciplinary violations.

The following violations constitute disciplinary offences:

- violation of the Code of Conduct;
 - violation of any provision of the Organization, Management and Control Model, as provided for under section 3.3;
- and thus:
- violation of the Triennial Plan for Corruption Prevention and Transparency;
 - violation of regulations, procedures, and executive resolutions adopted by the Foundation and published in the "Transparent administration" webpage;

Art. 7 of Law no. 300/1970 remains applicable.

6.3. Disciplinary System Structure.

6.3.1. Measures against employees.

Compliance with the provisions and rules of conduct provided in the documents listed under section 6.2 entails compliance with the obligations under Art. 2104, paragraph 2, of the Civil Code. These provisions and rules of conduct therefore constitute a substantial and essential part of any employee obligations according to the law and their employment contract.

An assessment procedure shall follow each notice of violation of the provisions and rules of conduct mentioned above. If a violation has indeed occurred, disciplinary sanctions shall be imposed.

Sanctions shall be proportionate to the seriousness of violations.

The head of Human Resources is in charge of imposing disciplinary sanctions.

The Supervisory Board shall be informed of ongoing disciplinary procedures and their outcomes.

6.3.2. Organization, Management and Control Model violations and penalties.

Without prejudice to the provisions of the Workers' Statute:

- employees who violate any of the documents listed under section 6.2 shall be subject to verbal reprimand;
- employees who, with intentional or gross negligence, submits reports to the Supervisory Body or to the Head of Corruption Prevention and Transparency which prove to be unfounded shall be subject to verbal reprimand\;
- employees who violate a second time any documents listed under section 6.2 shall be subject to written reprimand;
- employees who violate the measures aimed at protecting the confidentiality of the identity of the subject who submits a report to the Supervisory Body or to the Head of the Corruption Prevention and Transparency or in any case reveals his or her identity shall be subject to written reprimand;
- employees who violate any of the documents listed under section 6.2 and in so doing expose other workers' mental and physical safety or their own, or the Foundation assets, to objectively dangerous situations -- shall be subject to a fine in an amount no greater than three hours of total remuneration;
- employees who violate any of the documents listed under section 6.2 for a third time in a five-year period -- and in so doing harm the Foundation -- shall be subject to suspension from duty without pay for a period not exceeding three days;
- employees who violate any of the documents listed under section 6.2-- and in so doing commit a crime such as to cause the actual application against the Foundation of the penalties provided by Legislative Decree no. 231/2001 -- shall be subject to discharge.

The nature and scope of sanctions against employees shall be chosen taking into account the following:

- intention or negligence, imprudence or inexperience level;
- overall conduct and whether previous disciplinary actions exist;
- assigned duties.

The above is without prejudice to the Foundation's right to ask employees for damages resulting from a breach of the internal procedures set out in the Organization, Management and Control Model or the regulations referred to therein or in the Code of Conduct.

6.3.3. Measures Against Other Collaborators.

Failure to comply with the procedures and rules of conduct set out in the documents listed under section 6.2 by collaborators or consultants of the Foundation entails, in conformity with applicable contractual provisions, the termination of relevant contracts, without prejudice for the Foundation to claim compensation for any damage incurred.

6.3.4. Measures Against Executives.

Managers who violate any of the procedures and rules of conduct set out in the documents listed under section 6.2 -- and whose employment is regulated by the National Labor Collective Agreement for Managers of Industrial Enterprises -- shall be sanctioned according to such Collective Agreement, including dismissal in the most serious cases.

The above is without prejudice to the Foundation's right to claim compensation for damages caused by a manager's violation of the procedures and rules of conduct set out in the Organization, Management and Control Model or the regulations referred to therein or in the Code of Conduct.

6.3.5. Measures Against Directors and Auditors.

In the event one or more members of the Board of Directors or the Board of Auditors violate any of the procedures and rules of conduct set out in the documents listed under section 6.2 of the Organization, Management and Control Model, the pertinent Board may take any measure it deems appropriate, including, but not limited to, the following:

- verbal or written reprimand;
- suspension of the right to obtain attendance fees or other emoluments, if any, up to a maximum of three board meetings;
- withdrawal of any mandate;
- reporting to the subject who the Administrator or the Auditor has appointed for appropriate action.

6.3.6. Measures Against Commercial and Financial Partners as well as Consultants and/or External Collaborators.

Business partners, agents, consultants, contractors or other persons having contractual relations with the Foundation shall be subject to the provisions set out under section 5.3.

Notwithstanding anything of the foregoing, the Foundation may seek compensation for any damage suffered.

6.3.7. Measures Against the Supervisory Board.

If notified of violations of procedures and rules of conduct set out in the documents listed under section 6.2 by one or more members of the Supervisory Board, the Board of Directors shall take the initiatives deemed most suitable, including revocation.

Notwithstanding anything of the foregoing, the Foundation may seek compensation for any damage suffered.