SPECIAL SECTION “C”

CRIMES OF TERRORISM AND SUBVERSION OF DEMOCRATIC ORDER
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C.1 TYPES OF CRIMES OF TERRORISM AND SUBVERSION OF DEMOCRATIC ORDER

This Special Section “C” refers to crimes related to terrorism or subversion of democratic order.

Art. 3 of Law dated January 14th 2003, n. 7, has ratified and enforced in Italy the International Convention for the repression of terrorism financing, signed in New York on December 9th 1999, introducing art. 25-quater into the Decree.

1. CRIMES PROVIDED IN THE PENAL CODE

- *Subversive associations (art. 270 penal code)*

This crime occurs with regard to anyone who, within the boundaries of the state, promotes, establishes, organizes or is at the head of associations aimed at violently imposing a dictatorship of one social class over the others, or violently eliminating a social class, or anyway violently subverting the economic and social orders established in the state, or finally with the aim of violently suppressing every political and legal organisation of the society.

- *Associations aimed at terrorism, also international, or at the subversion of democratic order (art. 270-bis penal code)*

This crime occurs with regard to anyone promoting, establishing, organizing, being at the head of, or financing associations who perform violent deeds with the aim of terrorism or subversion of democratic order.

According to penal law, the aim of terrorism occurs even when the violent acts are performed against a foreign State, an international institution or organisation.

- *Help to the members (art. 270-ter penal code)*

This crime occurs with regard to anyone who, apart from complicity in a crime or aiding and abetting, gives shelter or supplies food, lodgings, means of transport, means of communication to people participating in the associations mentioned in art. 270 and 270-bis, penal code. Relatives helping their relations are not punishable.

- *Enlistment with the aim of terrorism, also international (art. 270-quater penal code)*

This crime occurs with regard to anyone, apart from the cases mentioned in art. 270-bis, enlisting one or more individuals with a view to performing violent acts, finalized to terrorism, even against a foreign State, an international institution or organisation.

- *Training to activities aimed at terrorism also international (art. 270-quinquies penal code)*

This crime occurs with regard to anyone, apart from the cases mentioned in art. 270-bis, training or in any case supplying instruction as to the preparation or use of explosives, firearms or other arms/weapons, of dangerous or noxious chemical or bacteriological substances, as well as of any other method or technique for the accomplishment of violent deeds finalized at terrorism, even against a foreign State, an international institution or organisation.

- *Behaviours aimed at terrorism (art. 270-sexies penal code)*
Behaviours which, either for their nature or their contest, may cause a damage to a country or an international organisation or are performed with a view to intimidating people, compelling public authorities or an international organisation to perform or refrain from performing any deed destroying fundamental, constitutional, economic and social public structures of a country/international organization, are considered aimed at terrorism. The same happens with other behaviours that are considered terroristic or aimed at terrorism by conventions and international laws binding for Italy.

- **Attacks aimed at terrorism or subversion (art. 280 penal code)**

This crime occurs with regard to anyone making an attempt on somebody's life or safety for the purpose of terrorism or subversion of democratic order. This crime is increased in case of very serious injury or death of the person attacked, or in case the deed concerns people in their exercise of judiciary, penitentiary, public safety functions.

- **Kidnapping with the purpose of terrorism or subversion (art. 289-bis penal code)**

This crime occurs with regard to anyone kidnapping an individual with the purpose of terrorism or subversion of democratic order. The crime is increased in the case of death, even involuntary, of the kidnapped.

- **Instigation to commit a crime against the State (art. 302 penal code)**

This crime occurs with regard to anyone instigating someone else to commit non-culpable crimes of the kind listed in the penal code, section about “crimes against the State”, punished with a life sentence or imprisonment. Extenuating circumstances are:

  - the instigation is not accepted
  - though the instigation is accepted, the crime is not committed.

- **Political conspiracy through agreement or through association (articles 304 and 305 penal code)**

These crimes respectively occur with regard to anyone who agrees or associates in order to commit one of the crimes mentioned above (art. 302 penal code).

- **Bands of armed men, formation and participation; assistance to members (articles 306 and 307 penal code)**

These crimes occur with regard to either (i) anyone promoting, setting up, organising a band of armed men with the purpose of committing one of the crimes listed in article 302 of the penal code, or (ii) anyone, except in case of complicity in a crime or aiding and abetting, giving shelter, supplying food, lodgings, means of transport, means of communication to people participating in the band or association, in conformity with articles 305 and 306 of the penal code.

2. **CRIMES AIMED AT TERRORISM OR SUBVERSION OF DEMOCRATIC ORDER PROVIDED IN SPECIAL LAWS**

Besides the cases regulated by the penal code, we must take into consideration other crimes listed in special laws with the purpose to cope with the Legislative Decree 231/2001.

Among the provisions of the Decree, we must mention art. 1 of Law dated February 6th 1980, n. 15, which considers as an aggravation applicable to any crime the fact that the crime is “committed with the aim of terrorism or subversion of democratic order”. Therefore any crime listed either in the penal code or in special laws, even different
from those explicitly punished as terrorism, may become an assumption of guilt for the Body responsibility according to article 25-quater, provided it has been committed with said aims.

Other provisions specifically preventing crimes committed with the aim of terrorism are to be found in Law n. 342 dated May 10th 1976, about crimes against safety in air navigation, and in Law n. 422 dated December 28th 1989, about crimes against safety in maritime navigation and against safety of fixed installation on the intercontinental platform.

3. **CRIMES AIMED AT TERRORISM IN BREACH OF ART. 2, CONVENTION OF NEW YORK OF DECEMBER 9TH 1999**

According to said article, anyone commits a crime on supplying or raising funds through any means, directly or indirectly, illegally and purposely, either to use them or knowing they will be used, totally or partially, to:

a) commit a crime as specified in one of the treaties listed in the enclosure; or rather

b) perform any deed causing the death or serious injures to a civilian, or to any other individual not actively involved in armed conflicts, provided said deed is aimed at intimidating the people, or compelling a government or international organization either to perform or to refrain from performing something.

It is not necessary that the funds are actually used to perform any of the deeds above described to commit a crime. This is equally committed if someone:

a) takes part in the crime as an accomplice;

b) organizes or leads other people to commit the crime.

To state whether the risk of committing such crimes is recognizable, it is necessary to examine the subjective profile required by the law providing the crime. From the subjective point of view, the crimes of terrorism are fraudulent crimes. Therefore the fraudulent model is accomplished when, considering the psychological representation of the agent, he/she is conscious of the illegal event and is willing to perform it through his/her behaviour. So it is necessary, to figure the crime examined, that the agent is conscious of the terroristic nature of the event and is consequently willing to put it into action. From what has been explained, it also derives that a criminal behaviour connected to terrorism can be figured when the agent is conscious of the fact that the association he/she is financing is aimed at terrorism or subversion and he/she is willing to support its activity. Moreover the criminal activity would also be envisaged in case the subject acts with a prospective malice. In that case he/she should foresee and accept the risk of the prospective event, though he/she is not involved directly in its occurrence, but his/her voluntary determination to perform a criminal behaviour is in any case gathered from univocal objective elements.

C.2 **RISKY AREAS**

With reference to the crimes and criminal behaviours above mentioned, the most risky areas, related to Special Section “C”, are financial or commercial operations with:

- **individuals and personalities resident in risky countries determined by Supervising Committee and/or individuals and personalities mentioned in lists of names (hereafter named “Lists”) of people connected with**
international terrorism, to be found in the Internet site of Ufficio Italiano dei Cambi and of Ministero degli Interni; or

- companies directly or indirectly controlled by the subjects mentioned above.

A roll of said lists and risky countries can be found at the Supervising Committee. We want to particularly emphasize all the operations carried out in international merger & acquisition activities, that can originate financial flows directed to foreign countries. As for the lease of real estate owned by Vitrociset S.p.A., in abstract terms considered risky activities, the normal accomplishments already existing are enough (notification to the Police).

C.3 ADDRESSES OF THE SPECIAL SECTION – GENERAL PRINCIPLES OF BEHAVIOUR AND IMPLEMENTATION

This Special section refers to behaviours of Staff and External Consultants, as already specified in General Section.

The aim of this Special Section is that these subjects might be involved in carrying out activities in risky areas and should therefore follow the rules drawn up to prevent and stop crimes of terrorism, though taking into consideration their different responsibilities in Vitrociset S.p.A. and therefore their different obligations as specified in the Model.

In particular, this Special Section is intended for:

a. supplying a list of general principles and specific procedures which the Addresses must follow according to the type of relation with Vitrociset S.p.A., for a correct enforcement of the Model;

b. supplying the Supervising Committee and the managers cooperating with it with the operational instruments for all control and monitoring activities.

On fulfilling all the tasks related to management, besides the rules above listed, the Staff must know and respect all the principles and rules established in:

✓ the Ethic Code;
✓ any other document related to the control system in Vitrociset S.p.A.

The External Consultants must be informed about the Model and the Ethic Code adopted in Vitrociset S.p.A., since their knowledge and respect will be considered binding contractual clause.

This Special Section forbids the Staff and External Consultants, carrying out risky activities, to:

1. keep, promote, cooperate or cause behaviours that, individually or collectively considered, directly or indirectly, are included in criminal offences as considered in Special Section (art. 25-quater of the Decree);

2. use, even occasionally, either the Company or a branch with the aim to allow or facilitate to commit the Crimes included in this Special Section;

3. promote, set up, organize or lead associations with the purpose of committing violent deeds, particularly aimed at subversion of democratic order;

4. supply, directly or indirectly, funds in favour of subjects planning on Terrorism;

Vitrociset S.p.A.
5. engage or place job orders or carry out any commercial and/or financial operation, both directly or through an intermediary, with either individuals or personalities, whose names are included in the Lists, or are controlled by people included in the same lists when this relation is well known;
6. engage or place job orders or carry out any commercial and/or financial operation, both directly or through an intermediary, with either individuals or personalities, resident in the country mentioned in the Lists, except with the express approval of Supervising Committee and of the Company’s Chief Executive;
7. carry out operations, engage or place job orders that can be figured anomalous either for their kind or their object, start or maintain anomalous relations considering the reliability and reputation of the subjects and the operations;
8. grant services in favour of External Consultants without an adequate justification resulting from the contract with them;
9. grant fees to External Consultants without an adequate justification resulting from the kind of tasks to carry out and the usual local regulations.

C.4 SPECIFIC PROCEDURES

C.4.1 Procedures to be complied with in every risky operation

Hereafter you will find the procedures related to every risky areas (as listed in paragraph C.2), that must be implemented in the specific company’s procedures and that the Staff must follow. They are:

1. every financial transaction has to be done knowing the beneficiary, at least direct;
2. relevant business transactions must be carried out with individuals and personalities previously verified, checked and ascertained as to their reliability (e.g. presence in the Lists; personal references; etc.)
3. the contracts of the External Consultants must contain a special declaration, following the company procedures and/or the Supervising Committee directions, in which the parties mutually engage to shape their behaviours to principles of honesty, transparency and observance of the regulations for the realization of the common initiative;
4. all data concerning customers’ and External Consultants’ relations must be complete and up-to-date, both for a correct and prompt individuation of the same, and for their correct evaluation.

C.4.2 CONTRACTS

All contracts with the External Consultants must contain a special clause regulating the consequences of any violation of theirs to the Decree rules and to the Model principles.