

COMPLIANCE MODEL  
UNDER LEGISLATIVE DECREE 231/01  
OF  
ASSOCIATION ROBERT F. KENNEDY FOUNDATION OF ITALY ONLUS

**PROCEDURE FOR REPORTING OFFENCES AND/OR VIOLATIONS**

**"WHISTLEBLOWING POLICY" – Law No. 179/ 30.11.2017**



Approved by the Board of Directors on 24<sup>th</sup> March 2021

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## 1. Aim and purpose of the procedure

The purpose of this procedure is to remove the factors that may hinder or discourage any whistleblowing of violations relating to the Compliance Model (the "MODEL") pursuant to the Legislative Decree 231/2001 (the "DECREE") adopted by the Robert F. Kennedy Foundation of Italy Onlus (the 'ASSOCIATION').

Particularly, the purpose of this procedure is to provide the whistleblower with accurate operational indications regarding the content, addressee and transmission methods of the reports, as well as the protection offered by the new legislation.

## 2. Legal background

**Law no. 179 of 30 November 2017** *"Provisions for the protection of the authors of reports of crimes or irregularities of which they have become aware in the context of a public or private employment relationship"*, published in the "Gazzetta Ufficiale" no. 291 of 14 December 2017, extended also to the private sector the protection of the employee or associate who reports offences or violations relating to the MODEL pursuant to the DECREE, of which he/she became aware for reasons of his office / functions (in particular, Article 6 of the DECREE was modified, with the introduction of the new paragraphs 2 bis, 2 ter and 2 quater).

Protection is based on the following pillars: Workplace reinstatement, sanctions for discriminatory conducts, identity protection of the whistleblower, protection block (always in accordance with Article 1 of the above law, the employee who reports discriminatory acts will not have the right to protection in case of conviction of the whistleblower in criminal proceedings (even in the first instance) for slander, defamation or other crimes committed in filing the reports or when its liability for willful misconduct or gross negligence is established), justified professional secrecy disclosure (Article 3 introduces, in relation to the hypothesis of report or complaint made in the public or private sector, as just cause of disclosure of professional, scientific and industrial secrecy, as well as violation of the duty of loyalty to the employer, the prosecution, by the employee who reports wrongdoing, of the interest to integrity of the organization to prevent and punish frauds).

### **3. Eligible conducts and contents of reports**

Every individual is required to make only **detailed reports of unlawful conducts, which are relevant pursuant to the DECREE and based on precise and consistent facts, or of violations of the MODEL**, of which the whistleblowers have become aware as a result of their duties.

The misconduct reported must therefore relate to situations of which the individual has become directly aware as a result of the employment relationship.

It is recommended that each report contains the following elements:

- a) General information of the reporting entity, with an indication of the function/role he/she covers in the organization;
- b) A clear and detailed description of the reported facts;
- c) Circumstances of time and place, if known, in which the facts were committed;
- d) The details – if known – that allow to identify the person(s) who has/have implemented the reported facts or other elements that allow to identify the person (e.g.: qualification or area in which the activity takes place);
- e) The indication of any other persons who may confirm the facts being reported or the indication of any documents proving evidence of such facts.

Reports based on mere suspicions or rumors are not worthy of protection.

In any case, it is not necessary for the employee/reporter to be certain of the actual occurrence of the reported facts and of the author of the same, it being instead sufficient that the employee, based on his or her own knowledge, considers it highly probable that an illegal event in the above sense has occurred.

In this perspective it is recommended that the reports are as detailed as possible, and offer as many elements as possible, in order to allow the recipient to make the necessary investigations.

### **4. Channels to submit reports and ensure the confidentiality of the whistleblower**

The channels for sending reports guarantee the confidentiality of the identity of the whistleblower in the handling of the report (from the receipt of the report and at each subsequent phase).

The report can be addressed directly to the Chairman of the ASSOCIATION, to the members of the BOARD OF DIRECTORS, to the SUPERVISORY BODY, or directly to the Attorney-General's Office.

In particular, the ASSOCIATION has provided the following channels:

- **Dedicated email address (segnalazionirfkitalia@gmail.com) external to the Association's servers:** in that case, the identity of the whistleblower can only be known by the Supervisory Body, which will guarantee confidentiality.
- **Physical mailing address of the SUPERVISORY BOARD at the ASSOCIATION'S headquarter:** (in that case, in order to take advantage of the guarantee of confidentiality, it is necessary that the report is inserted in a sealed envelope with the following word written on it: "strictly confidential for the SUPERVISORY BODY, the Chairman of the ASSOCIATION, to the members of the BOARD OF DIRECTORS").

The rationale of this system is to ensure the protection of the employee, keeping his or her identity confidential.

The report sent to the Chairman or to a member of the BOARD OF DIRECTORS must be promptly forwarded, by the recipient and according to the guarantees of confidentiality, to the SUPERVISORY BOARD that will provide for the relevant investigation.

The ASSOCIATION will take all appropriate precautionary measures to ensure the confidentiality of the whistleblower's data, adopting appropriate IT security measures, both organizational and technical.

Moreover, since the data reported may also be sensitive data, they will be processed by the ASSOCIATION according to the current legislation regarding the protection of personal data (Legislative Decree 196/2003 and European Regulation no. 2016/679).

## 5. WHISTLEBLOWER'S PROTECTION

### A. Confidentiality obligations regarding the whistleblower's identity

The identity of the whistleblower is protected in every context following the report. All those who receive or are involved in the management of the report are required to protect the confidentiality of this information.

### B. Prohibition of retaliatory acts and invalidity of retaliatory dismissal/ retaliatory downgrade

- The MODEL provides for the prohibition of retaliatory acts or discriminatory acts, direct or indirect, against the whistleblower for reasons related, directly or indirectly, to the report.

The aforementioned protection of the whistleblower finds a limit only in cases of liability for slander or defamation.

- It is provided for the invalidity of the retaliatory or discriminatory dismissal of the whistleblower; the invalidity of the change of duties pursuant to Article 2103 of the Italian Civil Code, as well as any other retaliatory or discriminatory measure implemented against the whistleblower.

In the event of disputes related to the imposition of disciplinary sanctions, downgrading, dismissals, transfers or submission of the whistleblower to another organizational measure having negative effects, direct or indirect, on his working conditions, after the submission of the report – it will be up to the employer to prove that these measures are based on reasons unrelated to the report.

### 6. Qualified parties: Top and junior managers , under article 5, paragraph 1, of the DECREE

The report may be made by **top managers** (if they find, for example, that a particular report was made by an employee with intent or serious misconduct) and by **junior managers** (if, for example, they believe that they have suffered discrimination or retaliation from executives as a result of their report).

### 7. The Disciplinary System

The disciplinary system adopted pursuant to Article 6 of the DECREE provides for specific sanctions against those who violate the measures of protection of the

whistleblower, as well as those who file unfounded reports willfully or under gross negligence.

In particular, the following system of sanctions/penalties is established:

- In the case of false reports, made under intent or serious misconduct, by an employee, executive or junior manager, or by a third party, the following disciplinary sanctions will be applied to them:
  - In case of a report made with gross negligence , the sanction of **suspension from work and/or pay** will be applied for the maximum period provided for by the National Collective Labor Agreement applied;
  - In case of false reporting made with willful misconduct, the penalty of **disciplinary dismissal** will be applied.
- In the event that the false report, made with willful misconduct or gross negligence, is filed by members of the BOARD OF DIRECTORS, or by a member of the SUPERVISORY BODY, the disciplinary sanction of **dismissal from office** will be applied.
- In the case of retaliation or discrimination, direct or indirect, against the whistleblower for reasons related, directly or indirectly, to the report, the members of the abovementioned bodies (or other responsible persons) will be subject to the disciplinary sanction of **suspension from office** and, in the most serious cases, of **dismissal from office**.

The concept of retaliation or discrimination includes, but is not limited to, the application of disciplinary penalties, mobbing, transfers, etc..

## **8. Phases and timing of the reporting process**

Once the report has been received, the SUPERVISORY BODY is required to evaluate it promptly.

If the report proves to be unfounded or irrelevant, the SUPERVISORY BODY will proceed to dismiss the case. If, on the other hand, the SUPERVISORY BODY verifies that the report is to be substantial, the procedure will be followed, with the subsequent stage of the challenge/dispute.

The following is a summary of the steps of the above procedure:

- a) **Phase of the investigations**, SUPERVISORY BODY'S competence → the SUPERVISORY BODY, once filed with the report, promptly carries out an initial investigation of the reported facts. If the report is found to be substantial, the SUPERVISORY BODY forwards the report (with an investigation report) to the BOARD OF DIRECTORS, with its sanction proposal in the specific case (If the report concerns the members of the BOARD OF DIRECTORS, the SUPERVISORY BODY will address the ASSOCIATION'S General Meeting).
- b) **Phase of challenge/dispute**, competence of the BOARD OF DIRECTORS → that should promptly proceed to contest to the employee concerned the facts constituting the violation, in line with the applicable National Collective Labor Agreement.
- c) **The cross-examination and trial phase** competence of the BOARD OF DIRECTORS (when the accused is a member of the BOARD OF DIRECTORS the General Meeting shall conduct this phase) → prior to any sanction, whether expulsive or conservative, cannot be imposed unless a reasonable period of time has elapsed from the written objection/dispute to the person concerned – which shall specifically indicate the facts in dispute – and in any case within the term provided for by the National Collective Labor Agreement. The concerned party may present pleadings or defensive writs.
- d) **Phase of the decision for which the BOARD OF DIRECTORS is responsible** (when a member of the BOARD OF DIRECTORS is judged, the decision making phase will be the responsibility of the General Meeting).
- e) **Phase of identification of improvements to the MODEL**, competence of the BOARD OF DIRECTORS taking into account the facts established, and recommendations of the SUPERVISORY BODY.

## 9. Adoption and promotion of this procedure

This procedure (Whistleblowing Policy), which has been approved by the BOARD OF DIRECTORS, is an integral and material part of the ASSOCIATION'S MODEL.



This policy/procedure will be brought to the attention of all staff and parties, officers and bodies involved in the reporting management process, and will be included in the training programs related to MODEL.

**10. Anonymous reports**

Anonymous reports, i.e. reports that do not contain elements that allow their author to be identified, even if delivered following all the steps set forth in this procedure, will be treated in the same way as other anonymous reports from the MODEL and considered for further verification only if they relate to relevant and particularly serious facts (with an adequately detailed content).

Attached: "**Form for reporting suspected or patent violations to the SUPERVISORY BODY – for reports pursuant to Article 6, paragraph 2 bis, of the DECREE (Law 179/17 Whistleblowing)**".

This form is also attached to the procedure "Information flows to the SUPERVISORY BODY".

ASSOCIATION ROBERT F. KENNEDY FOUNDATION OF ITALY ONLUS	INFORMATION FLOWS EX LEGISLATIVE DECREE 231/01.	Doc. __
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**DOC. \_\_: Form for reporting suspected or patent violations to the SUPERVISORY BODY**

**For reports pursuant to art. 6 paragraph 2 bis, of the Decree (Law 179/17  
"whistleblowing")**

This Report Form is a tool for communicating to the SUPERVISORY BODY suspected or patent cases of violation of the rules contained in the MODEL and the CODE OF ETHICS of applicable laws, as well as of conducts that constitute an offence under the DECREE.

This report shall be filed according to the steps provided in the Whistleblower Policy.

<b>First name and family name</b>	
<b>Office and department</b>	
<b>Date</b>	

**Reports of Suspicious or Patent Violations**

Describe the known facts: