

PRINCIPLES OF THE ORGANIZATION, MANAGEMENT AND CONTROL MODEL OF UNIVERSITÀ COMMERCIALE L. BOCCONI

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1. Introduction

Italian Law 231 of 8 June 2001 ¹(hereinafter referred to as "Law 231/2001"), created the "liability of organizations for the unlawful administrative acts of their employees" which applies to bodies with legal personality and thus to Università Bocconi.

Law 231/2001 provides that organizations may be held "liable" for certain crimes of fraud, committed or attempted, in the interests or to the advantage of the organization, by members of senior management and by those working under the direction or supervision of members of senior management. The sanctions that can be applied to organizations, in a direct and autonomous fashion, are of a monetary and prohibitive nature.

Administrative liability may not apply to organizations if they have, before the commission of the crimes, among other things, adopted and effectively implemented organization, management and control models appropriate for the prevention of those crimes.

¹ Italian law 231 of 8 June 2001 was passed in implementation of a range of international conventions, including:

- Convention on Protection of the European Union's Financial Interests (Brussels, 26 July 1995)
- Convention on the Fight against Corruption Involving Officials of the European Union and Member States (Brussels, 26 May 1997);
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Paris, 17 December 1997).

2. General defining principles of the University's Model 231

The creation by the University of its own Model 231 involved adjustment to the existing organizational structure. The University's objective was to create a model that takes account of Bocconi's particular features.

Model 231, therefore, **represents a coherent combination of principles, procedures and measures** that:

- i) impact on the internal functioning of the University and the ways in which it relates to the outside, and
- ii) regulate the diligent management of a sensitive activity control system so as to prevent the commission, or attempted commission, of the crimes set out in Law 231/2001.

Model 231, which comprises a range of documents, was approved by the University Board and, compliant with Law 231/2001, comprises the following **elements**:

- "Organization, management and control model pursuant to Law 231/2001", divided into a General Part and a Special Part
- Statute
- Regulations
- Code of conduct
- Procedures
- Manuals
- Forms, etc

The **Description of the "University's organization, management and control model pursuant to Law 231/2001"** is divided into two parts, as follows:

- i) **GENERAL PART** - a description of:
 - the current legislative framework;
 - the University's system of governance and organizational structure;
 - methodology used in the analysis of sensitive activity and gap analysis;
 - identification of the University's regulatory body, specifying its powers, duties and information flows;
 - the function of the disciplinary system and related sanctions apparatus;
 - the training and communication plan to be adopted to ensure awareness of the measures and provisions of the model;
 - the criteria for updating and adjusting the model;
- ii) **SPECIAL PART** - a description of:
 - the specific crimes referred to in Law 231/2001 which the University had decided it would take into consideration by virtue of the kind of activities it carried out;
 - the sensitive processes/activities and the associated control standards, as well as the ways in which financial resources were managed so as to impede the commission of crimes.

The fundamental principles of the functioning of the University's organizational model pursuant to Law 231/2001 can be expressed as follows:

- 1) **Clear definition of roles and responsibilities:**
 - a) organizational structure that clearly defines the powers, functions, responsibilities and reporting lines of each body and its components;

- b) system of delegations and attribution of powers and authorities that clearly define which persons have decision-making and thus authorizing powers;
 - c) clear separation of roles between those who are responsible for a task, those who carry it out and those who check it.
- 2) **Resource management methods** that ensure compliance with the University’s objectives and the law.
 - 3) **Traceability mechanisms for all work undertaken and all persons involved** through appropriate documentation systems (including IT systems) of operations and conservation of information produced for at least 10 years.
 - 4) **Definition and application of procedures** that include:
 - a) consistency between conducted adopted, on the one hand, and the mission, value systems and objectives of the University, on the other;
 - b) compliance with the law;
 - c) the need to avoid, where possible, excessive “red tape” and maximum efficiency in work done;
 - d) consistency with the disciplinary and penalty system by those involved;
 - e) integration of the documentation produced with the information systems, taking the needs of the accounting area and management control into consideration.
 - 5) **Bodies and resources dedicated to monitoring the adequacy of the controls and procedures:** Regulatory Body 231 and Internal Audit.
 - 6) Need for **ongoing updating and improvement** of what is set out in the above points. This should also take account of what is reported to the University’s governing bodies on an ongoing basis through the reporting system, and to the Regulatory Body, about any breaches of the procedures pursuant to Law 231/2001.

The **components of the preventive control system** adopted by the University to ensure the effectiveness of the model, in compliance with current practice, are:

Code of ethics or conduct with reference to the crimes in question, which describes all the rights, duties and responsibilities of the organization in relation to the “stakeholders” (employees, suppliers, clients, public agencies, etc). The code recommends, promotes or prohibits certain conduct, and may provide for penalties in proportion to the seriousness of any breaches.

Sufficiently formalized and clear **organizational system**, especially with regard to the attribution of responsibility, reporting lines and job descriptions, with specific assessment of control principles such as the overlapping of functions. Within the organizational system, attention should be given to systems for awarding employees.

Manual and IT procedures (information systems) that regulate the carrying out of work, providing for appropriate control points. A specific effective preventive measure is the control tool represented by the separation of duties among those who undertake crucial stages (activities) of a process at risk.

Authorizing and signatory powers, such as to enable regulation and tracing of how and by whom decisions to carry out activities are made and to ensure that the activities are always carried out in conformity with defined authorizations.

Control and management system capable of providing prompt notification of the existence and the arising of general and/or specific critical situations. This requires the setting of appropriate indicators for individual types of risks and internal risk assessment processes for the individual corporate functions.

Communication with staff and staff training that ensures that staff have full knowledge of how the control system works and of the liabilities in the event of a malfunctioning or breach of the system.

The **components of preventive control** described above must be organically integrated into the system in such a way that a series of **key control principles** are observed:

- ***“Every operation, transaction and action must be verifiable, documented, consistent and appropriate”.***

Every operation must have appropriate documentary support so that at any time it will be possible to carry out controls that will show the characteristics of and reasons for the operation, as well as who authorized, carried out, recorded, and verified it.

- ***“No-one may independently manage an entire process”.***

The system must guarantee the application of the principle of separation of functions; this means that the authorization to carry out an operation must be the responsibility of someone other than the person who enters, operationally executes or controls the operation.

It is also necessary that:

- no-one is attributed unlimited powers;
- powers and responsibilities are clearly defined and known within the organization;
- authorizing and signatory powers are consistent with the organizational responsibilities assigned.

- ***“Documentation of controls”.***

The control system must document (possibly through written reports) the carrying out of the controls, including supervisory controls.

3. The University’s governance model

Università Commerciale “Luigi Bocconi” of Milan is a legally-recognized University with legal personality, and teaching, research, administrative, organizational and disciplinary autonomy pursuant to Article 33 of the Constitution, and in accordance with Article 1 of the Consolidated Law on Tertiary Education, approved by Royal Decree 1592 of 31 August 1933 as amended.

The University is **non-profit** and is predominantly funded by income from the work it carries out. It is run by a Board whose appointed members are largely private individuals (Article 1.1 of the Statute).

The University was set up with the **mission** of operating in the areas of education, qualification and dissemination of culture, adapting its work on an ongoing basis in keeping with social and economic change (Article 2.1).

Professors, researchers, faculty, non-academic staff and students contribute, within their respective functions and responsibilities, to the achievement of the University's objectives (Article 2.3).

The University undertakes **university education** at all levels of the teaching structures provided for by law, operates in the field of **cultural and professional training**, through specialist schools, specialization courses, refresher and cultural courses and seminars, along with activity preparatory to tertiary teaching and working in the professions.

It also **trains and updates its staff** and can undertake publishing initiatives (Article 2.4).

The University can confer the following qualifications: Degree Diploma; Bachelor Degree; Master of Science, Combined Bachelor and Master of Science, Postgraduate Diploma and Doctor of Philosophy. Pursuant to Article 3 of Law 270 of 22 October 2004, the University also issues first and second level Specialized Masters. The University may also issue specific certificates in relation to high specialization courses and other programs it may run.

In addition to pure **research**, the University also contributes to the development of applied research and technological and organizational innovation (Article 2.5).

To achieve its aims, the University maintains relations with public and private organizations. It may enter into contracts and agreements on teaching and research, professional consultancy and services to third parties.

It may set up, have holdings in and/or control companies and set up interdepartmental and interuniversity centers and services, maintain collaborative arrangements for research, teaching and culture. It may also support and participate in consortia with other universities and organizations, and public and private bodies (Article 2.6).

The University maintains relations with its graduates and participates in training programs through one or more associations, coordinating their efforts towards achieving the University's goals (Article 2.7).

In addition to its **mission** referred to above, the University undertakes building projects aimed at creating facilities for teaching and the dissemination of culture including facilities to support and assist students.

The central governing bodies of the University's governance model are:

- University Board (Articles 5, 6 and 7 of the Statute)
- Executive Committee (Article 8)
- President (Article 9)
- Vice-President (Article 10)
- Chief Executive (Article 11)
- Rector (Article 12)
- Academic Council (Article 13)
- Academic Senate (Article 14)

For more information, see the University Statute, published in the "Ateneo/Statuto e Regolamenti" section of the website.

4. General organizational structure of the University

The University carries out its work through the coordinated action of the teaching and research areas, and the service and administrative areas.

The following comprise the University's **teaching and research structures**:

- the Faculties (Articles 16-20);

- the Schools (Articles 21-28);
- Departments and/or Institutes (Article 29);
- the Research Centers and Bodies (Article 30);

For more information, see the University Statute, published in the “Ateneo/Statuto e Regolamenti” section of the website, as well as the website pages on the Schools (“Teaching” section of the website).

The **service facilities** include the Library and the other facilities identified and regulated by the University Board for the purpose of supporting and supplementing the work of teaching, training and research (Article 31).

The University’s **administration** includes the general management and the administrative and functional structures identified and regulated by the University Board (Article 32).

The organization of the **administration** is determined by the University Board. The head of the organizational structure is the Managing Director, appointed by the University Board at the proposal of the President.

The functions of the Managing Director may be performed by the Chief Executive, who may also carry out the functions of the Administrative Director. Therefore in the absence of those persons their roles and functions may be carried out by the Chief Executive.

The duties of the **Managing Director** are essentially to:

- set the criteria for organization of the offices (in compliance with the directives of the University Board) and staff management;
- carry out a general role of guidance and management;
- formulate proposals for the University Board for the purposes of developing programs, directives and projects within the authority of the governing bodies, and oversee implementation of those programs;
- ensure the functioning of the administration and be responsible for it to the governing bodies;
- supervise the work of the central structures and check and coordinate the work of senior managers.

The **Board of Statutory Auditors**, along with the auditing company appointed by the University Board, carries out checks to ensure the impartiality and functionality of management in terms of the University’s cost-effectiveness, efficiency and effectiveness as a whole, and of the individual areas, and the proper keeping of the accounts, as well as the true and correct presentation of operations in the annual financial statements.

The Board of Statutory Auditors may, by direct observation, gather information from the managers of the various areas and through coordination with the auditing company, oversee the adequacy of the organizational structure in terms of compliance with the principles of correct administration and accounting practice.

The **Internal Audit** unit supports management. Its specific role is to analyze strategic and operational risks, evaluate the adequacy of risk management and ensure that the University’s control processes work effectively and efficiently.

It checks compliance and functionality, in terms of efficiency and effectiveness, of the internal control regulations and mechanisms in relation to the processes, procedures and organizational structures of the University, the regularity and functionality of the information flows, as well as the adequacy and reliability of the information systems. To this end it intervenes, at the start-up of significant innovative projects, to evaluate the implications for the internal control systems, and develops views and recommendations. In

carrying out its role, the Internal Audit Unit may have access to all documentation in relation to the area that is the subject of its control intervention.

Where there is no Internal Audit Unit the above functions may be undertaken by internal and/or external resources.

5. Identification of “sensitive activity”

The University has defined activity in the following categories as “sensitive activity at risk of crime”:

1. Crimes against the Civil Service
2. Corporate crimes
3. Transnational crimes
4. Crimes committed in breach of the accident prevention and occupational health and safety laws.

6. Procedure approved by the University in compliance with Law 231 and persons involved

The University has adopted specific procedures that define the operational methods for carrying out sensitive activity at risk of crime.

7. Introduction to the sections of the course on the individual procedures

All managers of an organizational unit and/or university service and those with whom they work are continually trained in the specific procedures to be adopted which, depending on the type of work carried out, may require that they ask third parties to carry out the work in a specific way, and to prepare and sign documents including certificates, declarations, etc.

8. The Regulatory Body pursuant to Law 231

In compliance with Article 6, subsection 1b) of Law 231/2001 and in the light of information from the most representative industry associations, the University has, through a resolution of the University Board, established its own Regulatory Body (hereinafter referred to as the “**Regulatory Body**”) **comprising three members from outside the organizational structure of the University with the necessary legal, and organization and control qualifications, as well as specific knowledge of the organization and regulations of the University.**

In carrying out its functions, Regulatory Body may make use – under its direct supervision and responsibility – **of the functions, facilities and skills of the University or external consultants.** This right enables the Regulatory Body to ensure a high level of professionalism and a necessary continuity of action. By way of example only, the Regulatory Body may make use of the Internal Audit Unit; the non-academic staff and academic staff services and the research service; the legal office and the regulatory documents; and the Administration and Finance Service (eg, in relation to the control of financial flows).

The work put in place by the Regulatory Body will not be open to inspection by any other University body. It should be noted however that the University Board will oversee the appropriateness of its operation since the Board is the body with ultimate responsibility for the functioning and effectiveness of the model.

The Regulatory Body has **all powers of initiative and control** to ensure effective and efficient supervision of the functioning of and compliance with the Model.

The Regulatory Body must be promptly informed, through the internal communication system, **of any acts, conduct or events that could result in a breach of the Model or that, in general terms, are significant for the purposes of Law 231/2001.**

The obligation to notify any conduct contrary to the provisions of the Model come under the broader **duty of diligence and obligation of loyalty of non-academic staff employees** (Articles 2104 and 2105 of the Italian Civil Code) **and of academic staff.**

The proper fulfilment by an employee of the obligation to notify cannot give rise to the application of disciplinary sanctions.

The University expects that **consultants and external contract workers**, including faculty, researchers from other universities including those abroad, and external academics and specialists who have teaching or research contracts with the University, as well as its **commercial partners**, will do their best to inform the Regulatory Body immediately in the event that they receive a request to behave in a way that could result in a breach of the Model from an employee or representative of the University, directly or indirectly.

The following are **requirements of a general nature**:

- notifications must be collected that relate to: i) the commission, or the reasonable danger of the commission, of the crimes referred to in Law 231/2001; ii) “practices” not in line with the University’s rules of conduct; iii) conduct which, in any case, could result in a breach of the Model;
- persons notifying the Regulatory Body of a breach (or alleged breach) of the Model must do so in writing, and not anonymously, by email to **organismovigilanza@unibocconi.it**
- the Regulatory Body will, at its discretion and at its own responsibility, evaluate the notifications received and the cases requiring action;
- in the event that notification of possible breaches of the Model is sent to members of the University Board and/or the Board of Statutory Auditors, it is to be sent to the President of the University Board or, if it concerns the President of the University Board, to both the Chief Executive and the Vice-President.

Those providing notifications in good faith are guaranteed that no form of retaliation, discrimination or penalization will result and are assured that their identify will remain confidential, without prejudice to the University’s legal obligations and the protection of its rights and those of persons accused wrongly or in bad faith.

In addition to the notifications of breaches of a general nature described above, the structures and functions operating in the area of sensitive activity must send the Regulatory Body information on:

- i) **the periodic results of the controls put in place by them in implementation of the Model (reports summarizing work done, monitoring, performance indicators, etc);**

ii) anomalies or abnormal occurrences in the information available (an insignificant fact if considered alone could assume a different importance if repeated or extended beyond the area in which it occurred).

Such information could concern, by way of example:

- operations perceived as sensitive (for example, decisions in relation to the request for, disbursement and use of public funds; summaries of public tenders obtained following national and international competitions; information on commissions awarded by public agencies, etc);
- orders and/or notices issued by the judicial police, or by any other authority, giving rise to investigations, including of unknown persons, about the crimes contemplated by Law 231/2001, which may involve the University;
- requests for legal assistance forwarded by employees of the non-academic and academic staff, in the event of legal proceedings against them in relation to the crimes set out in Law 231/2001, except on the express prohibition of the judicial authorities;
- reports prepared by the managers of the other areas in the context of their control activity from which facts, acts, events or omissions could emerge with relevance to compliance with the regulations and provisions of the Model;
- information on disciplinary proceedings and any penalties imposed (including measures against employees of any category) or measures for archiving such proceedings with the relevant reasons;
- any other information that, even if not included in the list above, is relevant for the purposes of proper and complete supervision and updating of the Model.

9. Disciplinary system

Article 6 subsection 2b) and Article 7 subsection 4b) of Law 231/2001 indicate that effective implementation of the organization, management and control model requires a **disciplinary system for penalizing failure to comply with the measures set out in the model.**

The definition of an appropriate disciplinary system is thus an essential prerequisite of the organization, management and control model pursuant to Law 231/2001 on the administrative liability of organizations.

The penalties provided for in the disciplinary system will be applied to all breaches of the provisions of the model, irrespective of the outcome of any criminal proceedings begun by the judicial authorities, in cases where the conduct being censured includes the extreme limits of a significant crime pursuant to Law 231/2001.

A breach of the individual provisions and rules of conduct set out in the Model by the University's non-academic and academic staff is a disciplinary offence, as is the case for other regulations and procedures. The disciplinary measures can be applied to academic and non-academic staff in conformity with Article 7 of Law 300 of 20 May 1970 (the “Workers’ Statute”) and the special legislation applicable to tenured professors and researchers. With regard to the verification of infractions, the disciplinary proceedings and the imposition of sanctions, the powers already conferred, within the limits of the respective delegations and authorities, on University management, or the authorities otherwise contemplated by the public employment of tenured professors and researchers, remain valid. Each document relating to the proceeding should be provided to the Regulatory Body for evaluation.

A breach by external faculty of the rules of conduct of the Model applicable to them, or any commission by them of the crimes contemplated by Law 231/2001, will attract penalties in accordance with the specific clauses of the relevant contracts and compatible with the length and terms of renewal of those contracts.

Similarly, a breach by **contract workers, consultants, commercial partners or those with contractual relationships with the University** of the rules of conduct of the Model will be penalized. For the purposes of this provision, commercial partners means all public and private organizations with whom the University collaborates on applied research, custom training and other ancillary activities (hereinafter referred to as “*Commercial Partners*”).

This provision does not apply to the University’s **institutional partners**. This term refers to other Italian or non-Italian universities, business schools, structures, bodies or organizations of any legal form, working in the field of high level education with which the University collaborates on teaching and research.

The above clauses may make specific reference to the provisions and regulations relating to conduct set out in the Model. They may provide, for example, for an obligation on the part of those third parties not to conduct themselves in such a way as to cause the University to breach the Model. A breach of this obligation would result in the termination of the contract and the possible application of penalties.

It obviously remains the prerogative of the University to seek compensation for damage arising from the breach of the Model's provisions and regulations in relation to conduct by those such parties.