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Chimec S.p.A.

**Organisation, Management and Control Model
pursuant to Legislative Decree 231 of 8 June 2001**

SPECIAL SECTION “F”

RECRUITMENT AND EMPLOYMENT OF ILLEGAL ALIENS

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1. - Offence of recruitment and employment of illegal aliens pursuant to art. 25-*duodecies* of L. Decree no. 231/2001

Article 22, paragraph 12, of Legislative Decree 286/1998, applies to “*any employer who recruits and employs foreign citizens without a valid residence permit, as provided for herein, or whose residence permit has expired and no application for renewal has been submitted within the required deadline, or which has been withdrawn or cancelled*”.

The following paragraph 12-*bis* of article 22 increases the penalty when the employer hires more than three such illegal foreign citizens, or minors below the legal working age, or if they are subject to particularly exploitative working conditions, as described in article 603-*bis* of the Italian Criminal Code¹.

Article 25-*duodecies* of the Decree provides for the liability of the legal person only in connection with the aggravated circumstances referred to in article 22, paragraph 12-*bis*, of Legislative Decree 286/1998.

This, of course, does not exempt Chimec from adopting the measures and rules of conduct suited to preventing the commission of the offence *herein*, also in the so-called “ordinary” form, as referred to in the preceding paragraph 12 of article 22.

The offence aims to protect the regularity of the presence of foreign workers in Italy and of the related employment relations.

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¹ The text of article 603-*bis* of the Criminal Code is reported below: “***Unlawful intermediation and labour exploitation***

Unless the fact constitutes a more serious offence, anyone who commits the offences listed below shall be punished with imprisonment from one to six years and with a fine from 500 to 1,000 euro for each worker recruited:

1) employment of labour for the purpose of assigning it to work for third parties in conditions of exploitation, taking advantage of the state of need of the workers;

2) the use, recruitment or employment of labour, also through the intermediation activity referred to in number 1), by subjecting workers to conditions of exploitation and taking advantage of their state of need.

Should the facts be committed by using violence or threats, the penalty of imprisonment from five to eight years and a fine of between 1,000 and 2,000 euros for each worker recruited are applied.

For the purposes of this article, exploitation refers to the existence of one or more of the following circumstances:

1) the repeated payment of wages in a way that is clearly different from the national or territorial collective agreements stipulated by the most representative trade unions at national level, or in any case disproportionate to the quantity and quality of the work performed;

2) the repeated violation of the rules regulating working hours, rest periods, weekly rest periods, compulsory leave, holidays;

3) the existence of violations of the rules on safety and hygiene at work;

4) the subjecting of a worker to particularly degrading working conditions, monitoring procedures or housing facilities.

Aggravating circumstances, which shall entail an increased penalty of between one third and a half, are shown below:

1) if three or more workers are employed;

2) if one or more of the workers are minors below the legal working age;

3) if the exploited workers are exposed to serious hazards, based on the characteristics of the work and the working conditions”.

This is a permanent offence that is committed when the foreign citizens are hired or start working and continues throughout the work period and ceases when the foreign citizens cease to be employed by the employer.

Law no. 161/2017 extended the liability of the Entity also to the hypotheses, listed below, referred to in art. 12, paragraph 3, 3-bis, 3-ter and 5 of the Consolidation Immigration Law (L. Decree no. 286/98).

Pursuant to art. 12 paragraph 3 “Unless the fact constitutes a more serious crime, whosoever, in violation of the provisions of this consolidation act, promotes, directs, organises, finances or carries out the transport of foreigners into the territory of the State or performs other acts aimed at illegally procuring their entry into the territory of the State, or of another State of which the person is not a citizen or does not have the right of permanent residence, is punished with imprisonment from five to fifteen years and with a fine of 15,000 euro for each person in the event that:

- a) the fact concerns the illegal entry or stay in the territory of the State of five or more persons;
- b) the transported person has been exposed to danger for his/her life or safety in order to procure the illegal entry or stay;
- c) the transported person has been subjected to inhuman or degrading treatment in order to procure the illegal entry or stay;
- d) the fact is committed jointly by three or more persons or by using international transport services or documents that are counterfeit or altered or in any case illegally obtained;
- e) the perpetrators of the fact have weapons or explosive materials available”.

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Pursuant to paragraph 3-bis below “If the facts referred to in paragraph 3 are committed using two or more of the hypotheses referred to in letters a), b), c), d) and e) of the same paragraph, the penalty therein envisaged shall be increased”.

Paragraph 3-ter provides that “The custodial sentence is increased from one third to a half and a fine of 25,000 euro is applied to each person if the facts referred to in paragraphs 1 and 3:

- a) are committed in order to recruit persons destined to prostitution or in any case to sexual or labour exploitation or they concern the entry of minors to be employed in illegal activities in order to favour their exploitation;
- b) are committed in order to make a profit, even indirectly”.

Finally, pursuant to paragraph 5 of the same art. 12 “Apart from the cases provided for in the preceding paragraphs, and unless the fact constitutes a more serious crime, anyone who, in order to derive an unjust profit from the condition of illegality of the foreigner or within the context of the activities punished pursuant to this article, favours the permanence in the territory of the State in

violation of the rules of this consolidation act is punished with a prison term of up to four years and a fine of up to thirty million lire. When the offence is committed jointly by two or more people, or it concerns the stay of five or more people, the penalty is increased from one third to a half’.

1.1. - Penalties applicable to the offences referred to in article 25-*duodecies* of the Decree

In relation to the commission of the crime referred to in article 22, paragraph 12-bis, of legislative decree no. 286 of 25 July 1998, a fine from 100 to 200 quotas is applied to the entity, up to a limit of 150,000 euro.

In relation to the commission of the crimes referred to in article 12, paragraphs 3, 3-bis and 3-ter, of the consolidation act as per legislative decree no. 286 of 25 July 1998 and subsequent amendments, a fine from four hundred to one thousand quotas is applied to the entity.

In relation to the commission of the crimes referred to in article 12, paragraph 5, of the consolidation act as per legislative decree no. 286 of 25 July 1998 and subsequent amendments, a fine from one hundred to two hundred quotas is applied to the entity.

In cases of conviction for the crimes referred to in paragraphs 1-bis and 1-ter of this article, the disqualification penalties provided for in article 9, paragraph 2, for a duration of not less than one year, are applied.

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2. - Risk areas

Taking into account Chimec's operations, the following risk areas have been identified:

- personnel recruitment activities;
- employment relations with companies using unqualified workers or workers from non-EU Member Countries;
- *partnerships* with companies that primarily operate in non-EU Member Countries.

The areas specified above are relevant also if the relevant activities are carried out, in whole or in part, by individuals or corporations in the name and on behalf of Chimec, by virtue of specific proxies or powers of attorney or of contracts and other arrangements, of which the SB must be promptly informed.

3. - General rules of conduct and methods of implementation

The purpose of this Special Section is to provide a set of rules of conduct aimed at preventing the commission of offences arising from the employment of illegal foreign citizens, giving rise to the penalty system set out in the Decree in the event the Entity should be found liable.

These rules of conduct apply to all the Recipients and, in particular to all those who operate in the risk areas defined above.

The Board of Directors of Chimec, together with the SB, shall be responsible for the circulation and implementation of said systems.

The Recipients are expected to know and abide by the rules set out herein, as well as to:

- the Code of Ethics;
- the disciplinary system, including the system envisaged by the applicable National Collective Agreement (CCNL);
- the internal personnel recruitment and training procedures;
- the system regarding the criteria used by Chimec to qualify the companies with which it enters into *partnership* agreements;

The Recipients and all external collaborators – duly informed by means of dedicated contractual clauses – are prohibited from adopting any kind of conduct capable of fostering the commission of the offences contained in this Special Section.

It is also forbidden to:

- recruit and employ foreign citizens without a valid residence permit;
- hire personnel without complying with the contractual and trade union regulations in force;
- select service providers or suppliers who make use of manpower hired through procedures that do not guarantee compliance with the legislation on the employment of foreign workers.

All the Recipients are required to promptly notify the Board of Directors and the SB of any anomalies observed in the management of the personnel recruitment and in the *partner/supplier* selection procedures.

Chimec undertakes to require its *partners/suppliers*, when entering into the relevant contract, to sign a declaration confirming that they are aware of the regulations to which this Special Section refers.

Finally, the Board of Directors may provide for other measures aimed at protecting the identified risk areas, in addition to the obligations and requirements mentioned above.