

Specific Aspects of Criminal Matters with regard to the Structuring Document for the Compliance Management System

1. Definitions

The definitions of the *Compliance Management System* in the *Compliance Policy* should include the following:

Criminal risk risk related to carrying out an action that could constitute a criminal offence attributable to Globalvia or to any of the entities in its criminal control group, in accordance with the rules on the criminal liability of legal entities set out in the Spanish Criminal Code.

2. Stakeholders

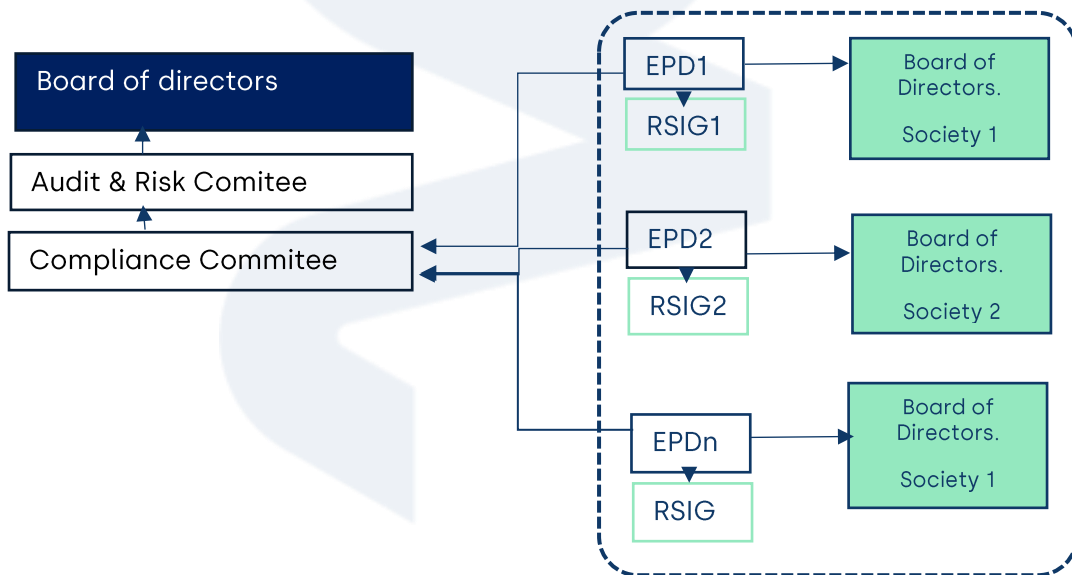
Stakeholders	Requirements	Measures adopted
Employees	<ul style="list-style-type: none"> - Regulatory compliance. - Fostering Compliance culture within the Organisation. 	<ul style="list-style-type: none"> - Design and implementation of a Criminal and Anti-bribery <i>Compliance Management System</i> aligned with national and international standards (ISO 37001 and UNE 19601) - Deployment of the Criminal and Anti-bribery <i>Compliance Management System</i> in concessionaire companies in Spain and abroad, based on a deployment plan.
Shareholders	<ul style="list-style-type: none"> - Regulatory compliance in all countries in which Globalvia operates. - Sustained long-term growth mitigating legal and reputational risks in all countries in which Globalvia operates. - Implementation and monitoring of a robust <i>Compliance Management System</i> aligned with international standards. 	
Providers	<ul style="list-style-type: none"> - Regulatory compliance. - Implementation and monitoring of a robust <i>Compliance Management System</i> that simplifies the due diligence procedures applicable to the Organisation. 	
Public authorities	<ul style="list-style-type: none"> - Regulatory compliance. - With regard to the Justice System and, in particular, the 	

	Public Prosecutor's Office, monitoring must be carried out of the requirements that must be met by organisational and management models, together with the criteria to assess their effectiveness, as set out in its Circular 1/2016.	
Concession users	- Regulatory compliance.	

3. Control and Supervisory Bodies in Criminal Matters

The existence of the *Compliance Committee* fulfils the requirements of Spanish criminal legislation (article 31a of the Spanish Criminal Code) relating to the oversight of the Criminal Compliance Management System, which is integrated into the *Compliance Management System* of the *Globalvia Group*.

At subsidiary level, the structure of the control and supervisory bodies in criminal matters is as follows:



3.1. Board of Directors of the subsidiaries (or Governing Boards)

Its main functions as regards criminal matters are:

- Ensuring the correct implementation and effective operation of the Criminal Compliance Management System through regular monitoring of reports made by the Crime Prevention Officer.
- Appointing and/or dismissing the company's Crime Prevention Officer.
- Allocating budget items for the Crime Prevention Officer and the Integrated Management System Manager and/or resources for carrying out their duties and responsibilities.
- Regular supervision of the Criminal Compliance Management System to ensure that its contents are aligned with the Company's vision, mission and values.

All members of the Boards of Directors of *Globalvia Group* companies must sign an affidavit with regard to the applicable legislation on Criminal Liability of Legal Entities using form PCM03-F02 (a copy of which is attached as Annex II) for the purpose of declaring their steadfast commitment to legal compliance.

3.2. Crime Prevention Officer

The Crime Prevention Officer ("CPO") is the person appointed at each of the companies in the *Globalvia Group* to undertake the job of overseeing and monitoring the Criminal Compliance Management System proposed by the *Compliance Committee* and must be named by the Board of Directors in each of the companies comprising the *Globalvia Group*.

Their main functions with regard to the Criminal Compliance Management System are:

- Ensuring the proper establishing and operation of the Criminal Compliance Management System, suggesting the modifications, updates and revisions that they deem appropriate to Globalvia's *Compliance Committee*.
- Requesting the means and resources necessary to carry out their duties from the Board of Directors of the company in question.
- Reporting all the actions undertaken under this Criminal Compliance Management System to the *Compliance Committee* every six months or whenever considered timely.
- Informing the company's Integrated System Manager and the Corporate Integrated System Manager of the need to and desirability of modifying the applicable internal policies and procedures. Similarly, working with them to check the Criminal Compliance Management System in their company.
- Paying heed to and analysing all unusual or suspicious operations and, if considered necessary, referring the case to the OMBUSDMAN using the Whistleblowing Channel. For analysis purposes, the Crime Prevention Officer

must collect all of the documentation pertaining to the case and produce a background file for that purpose.

- Documenting and storing evidence on crime prevention activities.
- Providing extensive assistance in the internal auditing process and certification of the Criminal Compliance Management System.
- Monitoring recommendations or instructions arising out of the certification process or emanating from regulatory bodies.
- Intervening, when appropriate, in the legal action taken by the *Globalvia Group* and providing all of the background information they may have.
- Undertaking special work that the Board of Directors of the company or the *Compliance Committee* entrust to them concerning matters under their responsibility.

The responsibilities and duties set out above will apply to the person appointed as substitute when, in the absence of the Crime Prevention Officer or by any other circumstance warranting it, they undertake the duties of the Crime Prevention Officer. The substitute will be proposed by the Crime Prevention Officer to the Board of Directors of their company.

The CPO must sign the document listing all duties with regard to the Criminal Compliance Management System, using for this purpose form PCM03-F01 (a copy of which is attached as Annex III).

3.3. Holders of controls in the companies

The managers of each Department are the holders of the controls associated with the *Criminal Risks* identified in their area of responsibility and shall have the following duties:

- Identifying the *Criminal Risks* that can affect processes within their activity or in their area of action.
- Designing, implementing and maintaining the most effective procedures for preventing those risks and communicating the need to update those procedures when considered appropriate.
- Designing, implementing and maintaining the most effective controls in order to ensure compliance with the procedures described in the previous section and communicating the need to update those controls when considered appropriate.
- Storing the supporting documentation for the controls performed over a period of 5 years.
- Collaborating with the *Compliance Committee* in its management and oversight duties for the Criminal Compliance Management System.
- Identifying and analysing the legislative changes that affect their operations together with the Crime Prevention Officer, if applicable, and establishing any new controls that prove necessary.

- Communicating legislative changes detected by the *Compliance Committee* through the person designated as a representative in their specific department to the *Compliance Committee*.
- Communicating any non-compliance through the Whistleblowing Channel.
- Raising any compliance concerns or questions that may arise using the mechanisms established for that purpose with the *Compliance Committee*.

3.4. Management control

The Management Control Division ensures the correct design and implementation of the *Globalvia Group Risk Management and Internal Control Model*, as defined in the Structuring Document for the *Compliance Management System*.

4. Management Methodology

4.1. Identification of risks

Risks will be identified as set out in the Structuring Document for the *Compliance Management System*. Among other measures, the Legal Department shall ensure that the following aspects are identified in the activities in whose scope crimes may be committed that must be prevented:

- Identification of possible conducts constituting crimes in accordance with the activity and operations of each of the Group's concessionaire companies, together with the risk groups with the greatest exposure to them.
- Segregation of functions to ensure the correct review of criminal matters.
- Seeking the opinions of external consultants in order to evaluate the criteria adopted in critical-risk cases.
- Monitoring of the development and management of risks identified in previous financial years and their possible development over future financial years.
- Incidents and recommendations resulting from the monitoring of the effective and correct implementation of the controls established in the processes and procedures.

4.2. Risk assessment

In accordance with the provisions of the ERM Comprehensive Risk Management System, after identifying the risks that could affect the Group, these must be assessed and prioritised to determine their potential effect on the achievement of Globalvia's objectives and to put in place appropriate measures for their management and control. A separate analysis must be carried out of the risks applicable to all countries – taking into account, among other elements, the extraterritorial application of certain offences in the Spanish Criminal Code – such as risks applicable only to some countries or businesses of certain concessionaire companies.

The *criminal risks* will be assessed by the Group's Legal Directorate in collaboration with the internal heads of legal practice at each subsidiary. This will take place as follows:

- At least biannually.
- At specific times, following internal changes (organisational/structural changes in Globalvia) or external changes (changes to the regulatory or legislative framework).
- Exceptionally, if a *Criminal Risk* arises.

The impact and probability of occurrence of the *Criminal Risk* will be assessed using the impact and probability scales defined by Globalvia and detailed in the *Globalvia Risk Management Methodology* document.

The impact analysis is based on the individual classification of three different impact categories: economic impact (EBITDA/Cashflow considering the Legal/Regulatory aspect of the penalty, where applicable), image impact and media echo, and impact on continuity. The probability assessment determines the level of occurrence of each risk based on possible events.

- There are two aspects of particular relevance for applying risk assessment methodology to criminal matters in the framework established in the *Globalvia Risk Management Methodology* and the Structuring Document for the *Compliance Management System*:
 - As part of the biannual risk assessment process, once the Inherent Risk has been determined, an assessment will be made of the Level of Control of each risk in order to obtain the residual risk resulting from the application of that level of control. The level of control only affects the axis of risk materialisation probability (reducing it if a robust and effective control system is in place).
 - In accordance with the Structuring Document for the *Compliance Management System*, the Level of Control must be assessed in accordance with the levels and ratings based on the level of development of the scope of the controls.

By placing all risks on the same global scale, it is possible to compare the importance of the different exposures across all business areas and geographies. To complete the inherent risk assessment, the *Compliance Committee* performs a global "reality check" on the level of risk, which is based on the most critical risk activities or events identified. This lays the foundation for setting the control objectives and controls that could mitigate critical risks. The residual risk is assessed later, after applying the oversight and control measures in place at the company.

4.3. Control activities

In order to guarantee and provide appropriate levels of risk response, the management units for corporate risk, business risk, country risk and concession risk are directly responsible for implementing the appropriate due diligence and mitigation measures and for monitoring compliance by all staff in their charge who

have a direct or indirect relationship with the business activities associated with the risk.

Management Control ensures the proper functioning of the control activities that comprise the *Globalvia Group* Risk Management and Internal Control Model. To this end, the Legal Department offers its support by proposing, in collaboration with the areas involved, the necessary plans of action for *Criminal Risks*, as set out in the Structuring Document for the *Compliance Management System*.

5. Reports and the Justice System

When dealing with the detection of an occurrence classifiable as an offence, the *Compliance Committee* and the Crime Prevention Officer in subsidiaries will evaluate the need or possibility of reporting it to the Courts of Justice, Prosecution Service or the Police.

6. Disciplinary Rules

To efficiently implement the standards and principles of the Criminal Compliance Management System, and under article 31a 5(5) of the Spanish Criminal Code, disciplinary rules must be established to punish acts of non-compliance. The *Globalvia Group* will apply the punishment procedure set out in the Company's applicable Collective Agreement or, failing this, the applicable labour legislation. In addition to the sanctions applicable under the disciplinary rules, infringements could also give rise to administrative or criminal sanctions.

- The adoption of punitive measures must consider the following:
- The sanctions must be proportional to the misconduct committed.
- They must be consistent with the Company's disciplinary policies and procedures.
- They are applicable to all individuals involved.
- The application of a sanction will be substantiated by an investigation of the occurrence that clearly justifies it.
- The sanction to be applied must be proposed by the *Compliance Committee* and, on one hand, validated by the Director of Human Resources if dealing with *Members of the Organisation* and, on the other, validated by the Crime Prevention Officer and executed by the Managing Director and the Company's Director of Human Resources, depending on the importance of the occurrence.

Anexo I

Background and Concept of Criminal Liability of Legal Entities

Organic Law 5/2010, of 22 June, modifying Organic Law 10/1995, of 23 November, on the Criminal Code, introduced into the Spanish legal system the criminal liability of legal entities, establishing that legal entities would be criminally liable for offences committed in their name or on their behalf and for their benefit by their legal representatives, administrators (in law or in fact) or by individuals who, subject to the authority of the aforementioned, committed the offence while not being subject to due control.

Organic Law 1/2015, of 30 March 2015, was passed five years later. The new statute further modified the Criminal Code, introducing, among other changes, section two of article 31 a, which determines that the legal entity will be released from criminal liability in the event that, prior to the offence being committed, the following four premises are met:

- *"The governing body, prior to the commission of the offence, must adopt and effectively execute models of organisation and management that include the appropriate surveillance and controls to prevent offences of the same nature or to considerably reduce the risk of their commission;*
- *The oversight of the functioning and compliance with the implemented prevention model must be entrusted to a body of the legal entity with independent powers of initiative and control or that has been legally entrusted with the duty of supervising the effectiveness of the legal entity's internal controls;*
- *The individual perpetrators committed the crime by fraudulently evading the models of organisation and prevention, and*
- *No omission took place and nor were the duties of oversight, surveillance and control duties insufficiently exercised by the body to which condition 2 refers."*

Similarly, section five of article 31 a sets out the requirements that must be met by the models to which condition 1 of section two of article 31 a refers:

- *"They will identify the activities in which crimes may be committed that must be prevented.*
- *They will establish protocols and procedures detailing the process for forming the will of the legal entity, adopting decisions and executing them with regard to those protocols and procedures.*
- *They will have management models in place to ensure adequate financial resources to impede the commission of the crimes that must be prevented.*

- *They will impose the obligation of reporting possible risks and breaches to the body responsible for the functioning and enforcement of the prevention model.*
- *They will establish a disciplinary system that adequately sanctions breach of the measures established by the model.*
- *They will undertake regular verification of the model and of its possible modification when relevant violations of its provisions are evidenced or when changes take place within the organisation, in the control structure or in the activity developed that make them necessary."*

On 22 January 2016, the State Prosecutor's Office published "*Circular 1/2016 on the criminal liability of legal entities in accordance with the reform of the Criminal Code introduced by Organic Law 1/2015*" for the purpose of providing instructions to public prosecutors for assessing the effectiveness of the aforementioned models for their consideration as possible defence for criminal liability.

That guide is useful for determining the approach used by the public prosecutor as to the company's criminal liability, the prevention of *criminal risks* within the company or "*due control*" over employees, management figures and *Third-Party* collaborators of a company.

- Nevertheless, the Supreme Court rulings that begin to set precedents in evaluating crime prevention models deviate from some of the guidelines set out in the Public Prosecutor's Circular 1/2016, considering that **"the absence of a culture of respect for Law is a unifying element of the typical core area of criminal liability for the legal entity and not an exculpatory circumstance. Hence, it is the responsibility of the public prosecutor to supply documentation on the absence of that ethical corporate culture"**. See, for example, Decision of 16 June 2014, and
- The Supreme Court Ruling dated 23 February 2017 on the Falciani case.

These decisions also condition the validity of evidence obtained in the investigation to their having been obtained while upholding the fundamental rights of employees.

Along the same lines and for the purpose of defining measures that will prove effective for preventing and detecting offences, the following, inter alia, should also be taken as points of reference:

Spanish Legislation	<ul style="list-style-type: none"> - Law 10/2010, of 28 April, on the prevention of money laundering, and Royal Decree 304/2014 approving the implementing regulations of Law 10/2010 - Organic Law 15/1999, of 13 December, on personal data protection and Royal Decree 1720/2017 implementing that Law - Occupational health and safety legislation.
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International Legislation	<ul style="list-style-type: none"> - Bribery Act 2010 (United Kingdom) - Legge 231/2001 (Italy) - Foreign Corrupt Practices Act 1977 (FCPA) (USA) - Travel Act 1991 (North America)
International Standards	<ul style="list-style-type: none"> - ISO 19600 - UNE ISO 19601 - UNE ISO 37001 - COSO Framework
Others	<ul style="list-style-type: none"> - Circular 1/2016 issued by the State Prosecutor's Office on the criminal liability of legal entities in accordance with the reform of the Criminal Code introduced by Organic Law 1/2015 - Federal Sentencing Guidelines 2014 (USA) - Thomson Memorandum 2003 by the United States Department of Justice (USA)

Globalvia shall be held criminally liable for crimes committed in its name or on its behalf and for its direct or indirect benefit by:

- The legal and administrative representatives, whether or not legally appointed, of the *Globalvia Group*, as well as those acting individually or as members of a body of the *Globalvia Group*, whether authorised to take decisions on behalf of the legal entity or whether they hold powers of *organisation* and control within it (hereinafter, the "Executives").
- Individuals subject to the authority of the Executives (hereinafter, the "Employees"), as a result of failure to exercise proper control.
- Agents, professionals, and sub-contracted entities subject to the authority of the Executives, as a result of failure to exercise proper control.

Thus, it is necessary to demonstrate that the illegal actions brought about by any Executive or *Member of the Organisation* could have undesirable consequences for the *Organisation*.

Under article 33 of the Spanish Criminal Code, the sanctions that could be imposed on the *Globalvia Group* due to the commission of a criminal offence are:

- Fine.
- Dissolution of the legal entity.
- Suspension of activities for more than 5 years.

- Temporary ban, for up to 15 years, or permanent ban on performing the activities in the scope of which the illegal act took place (whether directly or indirectly).
- Disqualification from receiving public grants and subsidies and from entering into contracts with the Public Administration, obtaining tax or Social Security benefits and incentives, for a term of no more than 15 years.
- Judicial intervention to ensure the rights of employees and creditors for up to 5 years.

The **Organisation** finds itself equally exposed to another type of consequences that can have a significant impact on its activities, for example:

- Reputational damage.
- Difficulties contracting with Public Administrations, whether nationally or internationally.
- Negative impact on the financial valuation of the company.

In the framework of the regulation of the criminal liability of legal entities, the members of the company's governing body could potentially be found liable if the legal entity is criminally responsible. In this respect, article 31 of the Criminal Code states that:

"The individual who acts as a director, whether or not legally appointed, or in name or legal or voluntary representation of another, will be held personally liable, even in the case of not fulfilling the conditions, features or relations required by the relevant concept of the crime or offence to be able to be an active subject thereof, should such circumstances arise in the entity or person in whose name or on whose behalf they work."

Annex II

PCM03-F02_Declaracion_Consejero_Director

[City], [day] of [month] 201X

Dear Sir/Madam,

I, Mr, of nationality, with identity card number, [marital status], [profession], domiciled for these purposes at, in my capacity as board member of the company (hereinafter the "**Company**"), make the following statement under oath:

1. I have not been convicted or charged, in either national or foreign territory, for any criminal offence.
2. I pledge not to commit any criminal offence during my term of office as board member of the Company.

Yours sincerely,

[XXXXX]

Annex III

PCM03-F01_Recibi_Funciones_EPD

Madrid, [day] [month] of 2016

Dear Sir/Madam,

I write to inform you that on [date] the Board of Directors of the company [XXX] (hereinafter, the "**Company**") approved your appointment as Crime Prevention Officer.

To guarantee the effective functioning of the *Globalvia Group's Organisation and Management Model for Crime Prevention and Detection* (the "**Model**"), to which the Company subscribed by agreement of its Board of Directors on [date], your duties as Crime Prevention Officer shall be as follows:

- Ensuring the proper establishment and operation of the Model, suggesting the modifications, updates and revisions you consider appropriate to Globalvia's *Compliance Committee*.
- Requesting from the company's Board of Directors the necessary means and resources to fulfil your duties.
- Reporting all actions carried out under this Model to the *Compliance Committee* every six months or whenever considered timely.
- Informing the company's Integrated System Manager and the Corporate Integrated System Manager of the need to and desirability of modifying the applicable internal policies and procedures. Similarly, working with them to check the Model in the Company.
- Paying heed to and analysing all unusual or suspicious operations and, if considered necessary, referring the case to the OMBUSDMAN using the Whistleblowing Channel. For analysis purposes, the Crime Prevention Officer must collate all of the documentation pertaining to the case and produce a background file for that purpose.
- Documenting and storing evidence on crime prevention activities.
- Providing extensive assistance in the internal auditing process and certification of the Model.
- Monitoring recommendations or instructions arising out of the certification process or emanating from regulatory bodies.
- Intervening, when appropriate, in legal actions undertaken by the *Globalvia Group* and providing all of the background information that you may have.
- Undertaking special work that the Board of Directors of the company or the *Compliance Committee* entrust to you concerning matters under your responsibility.

You are likewise informed that, through the action plans that rolled out on an annual basis for effective operation of the model, the Company's Board of Directors shall

approve the assignment of resources and material means necessary for you to properly undertake these duties.

Yours sincerely,

[XXX]

Chairman of the Board of Directors

Received and approved by

Signature: -----

