

## CRIMINAL COMPLIANCE

The recent reform of the Criminal Code carried out and with entry into force on July 1, 2015, Organic Law 1/2015, of March 30, is encouraging companies to adopt and implement a model of crime prevention as a necessary requirement to avoid under certain assumptions criminal responsibility by the company, its administrators and managers.

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Under the current legal framework **companies can be criminally charged for crimes committed in the name or on behalf of the company and for their direct and indirect benefit.**

The new text of the Penal Code establishes a responsibility of prevention and control to the managers and administrators under its articles 31 and 31 Bis, and also refers to categories of offenses that are directly attributable to the administrators of fact or of right of the company.

The content of the articles of the Criminal Code leads to the conclusion that, if crime prevention programs are not implemented - or **Criminal Compliance** - a high risk of serious criminal and economic consequences is assumed, ranging from the imposition of fines on the suspension of Activities, closure of premises and establishments or judicial intervention itself.

The implementation of a system of Criminal Compliance or crime prevention that is appropriate, effective and properly executed, is of great importance in relation to the criminal responsibility of the company, administrators and executives in the commission of a crime because our current Criminal Code, exempts from criminal responsibility or, if applicable, mitigates it in cases where it is possible to prove the implementation of a crime prevention program and the existence of a supervisory body with sufficient resources, authority and independence to carry out control functions, information and policy development to achieve the objectives pursued.

Criminal Compliance is not a new phenomenon in our country, for many years all companies have been applying compliance systems; in the field of Occupational Risk Prevention, Data Protection or Money Laundering.

In the current scenario, with the recent reform of the Criminal Code, companies need to have accessible tools to adapt to these new regulatory compliance requirements; not only large companies, but also this requirement is requested for all companies in our country, are these SMEs (medium size companies) or micropymes (small companies).

Our offer of services is applicable to any type of company regardless of its size and the maturity level of its compliance management system. Adapted and created following the Standards established by ISO 19600: 2014 and therefore based on the principles of good governance, proportionality, transparency and sustainability, will enable organizations to apply it:

- **carry out an assessment and diagnosis of corporate risks in criminal matters that facilitates the identification of the risk map which is facing the organization.**
- **Select the policies and protocols applicable to each level of responsibility to prevent the commission of crimes.**
- **have an Internal Control System capable of detecting and preventing any behaviour that represents a risk, of having efficient channels of denunciation and communication along with the establishment of appropriate disciplinary measures for the correction of such actions.**
- **carry out periodic verifications of the model and its possible modification when relevant violations of its provisions become apparent, or when there are changes in the organization, in the control structure or in the developed activity that makes them necessary.**