Innovative Accreditation Standards in Education and Training

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The Italian Experience in Ethical Standards
and the Impact on Business Organisation

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Contents

1	Organisational Theories and Models	1
1.1	A Comparison of Organisational Theories	1
1.2	The Classical Organisational Theories	3
1.3	The Structural Contingency Theory	6
1.4	Organisational Ecology, Resource Dependence and Transaction Cost Theory	8
1.5	The New: Institutionalism and Compliance	12
	References	15
2	The Ethical Challenge: An Italian Way Through Organisational Models and Theories	17
2.1	Ethics and the Responsibility of Legal Persons in Italy: The Legislative Decree n. 231/2001	17
2.2	The Company's Responsibility and Organisational Models	21
2.3	Compliance and Organisational Models: Rhetorical or Technical Requirement?	27
2.4	From Compliance to Business Ethics	28
	References	32
3	The Organisational Model and an Innovative Accreditation Standard in the Education Sector	35
3.1	The Role of Education and Training in the Implementation of the Europe 2020 Strategy	35
3.2	Accreditation Procedures and Standards in the VET System	38
3.3	Organisational Model and Innovative Accreditation Standards in the Italian VET Sector	43
3.4	Organisational Theory in Action: From New Institutionalism to Accreditation Systems	46
	References	49

4 Innovative Accreditation Standards: The Italian Experience in VET	53
4.1 Research Background	53
4.2 The Lombardy Region	55
4.3 The Research Results	56
4.4 Conclusions	65
5 A More General Consideration About Accreditation Standards: From VET to Health Systems	67
5.1 Research Background	67
5.2 The Research Results	68
5.3 Final Considerations	72
6 Further Applications of Compliance with Decree 231 and Anti-Corruption	75
6.1 The Evolution of Compliance with Decree 231 as a Condition of Accreditation	75
6.2 From Compliance with Decree 231 to Anti-Corruption	77
6.3 The State of Play: From VET to the Education Sector	78
6.3.1 Specific Control	79
6.3.2 Other Controls	80
6.3.3 Transparency	81
6.3.4 Training	81
6.3.5 Rotation of Executives	81
6.3.6 Whistleblowing	82
6.3.7 Code of Ethics	83
6.4 Conclusion	83
References	84
Conclusion	85
Appendix	89

List of Figures

Fig. 1.1	Interacting structural dimensions of design and contingency factors	7
Fig. 1.2	Mechanistic vs. organic organisation	8
Fig. 1.3	Population ecology model	9
Fig. 2.1	Crimes contemplated under the decree	20
Fig. 2.2	Administrative liability and legal entities	22
Fig. 2.3	Compliance versus ethics	31
Fig. 4.1	Composition of the sample by revenue	54
Fig. 4.2	Composition of the sample by public funding	54
Fig. 4.3	Composition of supervisory unit by number of members	58
Fig. 4.4	Composition of supervisory unit by number of members in small enterprises with (a) revenues below 500,000 euros. (b) revenues ranging from 500,000 euro to 2 million euros	59
Fig. 4.5	Composition of supervisory unit by provenance of members	59
Fig. 4.6	Number of meeting minutes of the supervisory unit a year	60
Fig. 4.7	Number of meeting minutes of the supervisory unit in companies with revenues below 2 million euros a year (a) revenues below 500,000 euros. (b) revenues ranging from 500,000 euros to 2 million euros	60
Fig. 4.8	Distribution of the sample according to profitability	61
Fig. 4.9	(a) Comparison of private and public company organisations according to the number of meeting minutes a year by supervisory unit in 2011. (b) Comparison of private and public company organisations according to the number of meeting minutes a year by supervisory unit in 2012. (c) Comparison of private and public company organisations according to the number of meeting minutes a year by supervisory unit in 2013	62
Fig. 4.10	Fines imposed on the VET providers	63
Fig. 4.11	Impacts on procedures	63
Fig. 4.12	Impacts on procedures	64

Fig. 4.13	Relationship between compliance and ethics	66
Fig. 5.1	Composition of the sample by revenue	68
Fig. 5.2	Composition of the sample by public funding	68
Fig. 5.3	Composition of supervisory unit by number of members	69
Fig. 5.4	Composition of supervisory unit by provenance of members	69
Fig. 5.5	Number of meeting minutes of the supervisory unit a year	70
Fig. 5.6	Organisational impact of compliance	70
Fig. 5.7	Value of the compliance with Decree 231	70
Fig. 5.8	Probability of adoption of the organisational model without the obligation by law	71
Fig. 5.9	Year of implementation of the organisational model compliant with Decree 231	71
Fig. 6.1	Anti-corruption strategies in Italian universities	80

List of Tables

Table 1.1	Organisational theories	2
Table 1.2	Three mechanisms for institutional adaptation	13
Table 2.1	Concept of the organisational model	26
Table 4.1	Key characteristics of the region	56
Table 4.2	Active enterprises registered in the business register	57
Table 4.3	Employment status of the population	58
Table 6.1	Comparative evaluation of compliance with Decree 231	76

Introduction

The aim of this book is to examine how technical and institutional factors affect the responsiveness of public and private organisations to a change in accreditation standards, with specific reference to the vocational educational and training (VET) sector and ethical standards. In particular, we analyse the Italian experience with regard to a new accreditation standard, recently adopted in the Region of Lombardy that concerns compliance pursuant to Legislative Decree No. 231/2001, which was issued on June 8, 2001 in compliance with international standards set forth by EU legislation on judicial co-operation in criminal matters. The focus of the Decree is corporate criminal liability, something which had never before been acknowledged by Italian legislation. Until 2001, companies were not held responsible for offences committed by their legal representative and managers. Legislative Decree 231 covers a wide range of offences: market abuse and insider trading, felonies against the State, IT-related felonies and unlawful processing of data, felonies against industry and commerce, corporate offences (such as false reporting to the prejudice of shareholders or creditors, false statements in a prospectus, false reports or notices drawn up by the auditing company, sham formation of capital, unlawful restitution of capital contribution, etc.), manslaughter or serious bodily harm caused by a breach of laws governing the safeguarding of workplace health and safety and felonies regarding breach of copyright. Of these, the area most applied–up to now–has been felonies against the State or a public body, which implies felonies such as misappropriation of public funding, fraud against the State to obtain public funding and the extortion by and corruption of public officers. In the case of felony, as stated by Article 9, specific disciplinary mechanisms have been defined, from pecuniary administrative penalties to debarments, which include a temporary prohibition on the company to carry on its activity, to confiscation of profit deriving from the crime, to the docketing of the judgement. In such cases, the regulation imposes sanctions on companies as legal entities responsible for not having prevented their employees from committing offences in the interests of the company.

The section of the Decree with major implications for organisation and corporate governance is Article 6 which states that a company is not liable for violations

committed by their employees provided that: (a) prior to the commission of the act, senior executives adopted and efficiently enacted organisational and management models capable of preventing offences of the type from occurring; (b) the task of overseeing such operations, compliance with the models and updating of the same was delegated to a body within the company vested with powers to act on its own initiative and conduct monitoring (the so-called watch structure); (c) the offence was committed by fraudulently circumventing the organisational and management models and (d) there was no omission or insufficient oversight on the part of the watch structure. It is important to underline that these requirements are not compulsory: a company can decide whether or not to implement these systems. So long as the company commits no felonies, nothing changes. But in the case of felony, a company which has not implemented an organisational model will be held liable for violations of law committed in its interest.

Hence, in 2011, in order to enforce higher standards of ethics and to improve the way organisations are structured so as to prevent fraud, corruption and misappropriation of public funds, the Lombardy Regional Government went further than the national government and made it obligatory for all VET providers that receive public funds to adopt an organisational model. In this case, the Lombardy Regional Government is the external body authorised to perform the external assessment and to award accreditation as a result of (positive) evaluation, and it has to elaborate the criteria and standards which VET providers must meet to achieve positive external assessment.

The problem is that no official definition of what an organisational model and code of conduct should be, its format, the issues to be addressed and how it should be implemented was provided, and this uncertainty and ambiguity have led in some cases to great variance in the ways these statements are drafted or to the use of standardised models of coding which add no real value. So, in applying this innovation, the Lombardy Regional Government has encountered two issues with specific reference to the educational and job services sector: firstly, how to set some standards for the implementation of the model, and secondly how to control the implementation of the model especially considering that—as discussed above—an organisational model is not compulsory in the rest of the country or for other sectors. The literature suggests that for the level of compliance to be high, the watch structure must fulfill requisites such as independence, objectivity and competency. The introduction of this requirement has met a lot of resistance, due to the cost and cultural change that a risk management system such as that required by Decree 231 entails, in particular as regards the change that the introduction of a watch structure implies for the VET providers' corporate governance. A typical characteristic of neo-institutional organisational theory is "institutional inertia" which in this case could lead to the failure of this innovative application. In order to avoid this we suggest using the contingency theory approach, which would help drive compliance towards ethics.

The book is divided into six chapters. The first chapter illustrates various organisational theories that were developed in the last century, beginning from

“scientific management”, also called “Taylorism”, to the more recent theories of “population ecology”, “new institutionalism” and “transaction cost theory”. We will discuss the current state of organisational theories, and follow its evolution along paths both convergent and divergent, before arriving at a point where an unequivocal understanding of organisational theories and models results difficult. Our attention will then turn to neo-institutional theory. Our study of organisational theories will enable us to apply typical notions of isomorphism to our research in the VET sector and so to explain the current state of play of compliance pursuant to Decree 231.

The second chapter presents the issue of the Legislative Decree 231 in 2001, whereby the Government was to define a penalties system for the administrative liability of bodies in compliance with the obligations set out by a number of important international acts and conventions. A question is raised as to how rhetorical or real compliance pursuant to Decree 231 is, since this kind of compliance implies a technical intervention that can become both ambiguous and sometimes dubious. To better understand this phenomenon, it becomes important to apply the institutional theory framework presented in the first chapter, to describing a process whereby the symbolic value of something like the organisational model ultimately supplants its technical value.

The third chapter shows how the application of organisational models under Legislative Decree 231 is becoming a focal point for the Italian government in trying to deploy a corruption prevention strategy, in particular in the VET sector. VET was chosen because of the importance this sector has for economic growth, not only in Italy but for all the European countries, as noted in the Europe 2020 strategy for smart, sustainable and inclusive growth. We explain how the Italian government is experimenting an unusual and innovative kind of accreditation system based on the organisational model pursuant to Decree 231, which has become a fundamental pillar of the accreditation system, and is now compulsory for all VET providers that want to have access to public funding and the right to participate in public procurements.

Chapter 4 presents the results of an empirical analysis of more than 500 VET providers in the Lombardy Region and their experience in applying the compulsory model of accreditation based on compliance with Decree 231. In particular, we focus on verifying the choices that were made regarding the composition of the supervisory unit and the requisites that members had to possess as well as on its functioning, since this is the body appointed to oversee the adoption of the organisational model anticipated by Decree 231. Our results show that VET providers don’t plan the operation of their supervisory body in response to their needs for control, strategy or organisation, but they “simply” incorporate norms from their institutional environments and thus gain legitimacy, resources and stability. In this way they “institutionalise” compliance to Decree 231.

Chapter 5 introduces some research conducted on the application of compliance with Decree 231 as a compulsory requirement in an accreditation system within the health-care system. This example enables us to amplify our reflections on the intertwined relationship between ethics and compliance and to outline the pros

and cons of the current applications made by the Italian government. In particular, the critical aspects are confirmed, and compliance seems to be incomplete, unable to drive behaviour towards ethics. Here too, the new institutionalism theory finds a perfect fit and illustrates the illusion of compliance, which doesn't coincide with ethics. It seems clear that there is a strong risk of creating a compliance system which is merely formal and paper-based, and has no real impact on organisational behaviour, even though compliance is compulsory and required by law. To break this vicious circle, we suggest using the "lens of organisational theories" once again, and to break down the institutional inertia that arises as a result of coercive, normative and mimetic isomorphism through the contingency theory approach, with the aim of moving from an approach oriented merely towards formality and rhetoric to an approach oriented towards making concrete changes in organisational behaviour and efficacy. In so doing, the innovative standard of the accreditation system presented in the previous chapters can become an important pillar for all European countries not only in VET and Education but also for other sectors and types of important accreditation systems such as the health-care system.

Finally, the sixth chapter is about the evolution that is taking place in Italy with regard to compliance systems pursuant to Decree 231, both with reference to the application of compliance as an accreditation system in various Italian regions, and through Law 190 of 2012, the so-called anti-corruption law, which effectively extends the obligation of compliance with Decree 231 to all Italian public administrations. This means not only extending its application to the VET sector but to all education sectors, from primary schools to universities. Hence, we carried out an additional investigation into the application of the anti-corruption law in 52 universities; our conclusions show that Italy has yet to develop a culture of compliance, and thence a system of rules that can serve as an important tool in the support of ethical behaviour.