

# European Whistleblower Guide

**D O R D A**



# Introduction

On 16 December 2019, the Directive (EU) 2019/1937 of the European Parliament and of the Council on the Protection of Persons Who Report Breaches of Union Law (also referred to as the „Whistleblowing Directive“) (the „Directive“) entered into force. The aim of the Directive is to ensure minimum standards of protection for whistleblowers across the European Union. EU Member States were required to transpose the Directive into national law until 17 December 2021. National laws must meet the minimum requirements of the Directive, but it is up to the national legislator to create more stringent regulations at national level and to extend the scope of application.

More than one year after this deadline, some Member States were still late to implement the Directive, causing the EU Commission to launch several infringement proceedings against Member States.

The scope of the Directive includes public procurement, product safety and compliance, transport safety, environmental, radiation, food, animal, consumer and data protection, network and information system security and public health. Member States can also include protection for interpersonal grievances between the reporting person and co-workers in their national legislation.

The primary means of protection is the mandatory establishment of internal reporting systems. The obligation to set up internal whistleblowing channels applies to legal entities in the private sector with 50 or more employees. Irrespective of the headcount, regulated entities in the financial sector and companies active in the prevention of money laundering, terrorist financing, road safety and environmental protection must also establish reporting systems. This further applies to legal entities in the public sector and entities owned or controlled by them (e.g., municipalities, provinces, public authorities).

The technology and means of communication of internal reporting channels are not specified in the Directive. However, the channels must be designed and operated in such a manner as to ensure anonymous reporting, protect the whistleblower’s identity and provide for diligent follow-up on the report by a designated person or department.

Third parties can also be authorised to receive reports of breaches on behalf of legal entities in the private and public sector, provided they offer appropriate guarantees of independence, confidentiality, data protection and secrecy. This includes external reporting platform providers, external counsel, auditors, trade union representatives or employees’ representatives. Legal entities must provide clear and easily accessible information on their internal reporting procedures and on external reporting procedures to relevant authorities. This information can be posted on the website of the entity or included in courses and training seminars on ethics and integrity.

The designated body for internal reporting must confirm receipt of the report to the whistleblower within seven days. National legislation must specify a reasonable timeframe to provide feedback, not exceeding three months from the acknowledgment of receipt. An appropriate follow-up measure could include a referral to other channels, closure of the investigation (e.g., due to a lack of sufficient evidence) or internal enquiries.

The Directive does not affect co-determination rights of employee representatives and participation in collective bargaining.

The Directive affords protection to reporting persons who acquired information on breaches in a work-related context. This includes employees, candidates, former employees, self-employed persons, suppliers, subcontractors, volunteers, shareholders as well as facilitators and third persons connected with the reporting person and who could suffer retaliation in a work-related context. Reports of anonymous whistleblowers are not per se protected by the Directive. However, Member States are free to extend the personal scope to anonymous informants. Whistleblowers enjoy protection against retaliation (including threats and attempts thereof), unless the report was made maliciously. Member States must also ensure that the whistleblower’s identity is protected at all times. Third persons referred to in the report (e.g., witnesses or colleagues) are also protected at all stages of the procedure.

In the event of a breach, whistleblowers must have access to legal remedies and compensation, as appropriate, including interim relief pending the resolution of legal proceedings in accordance with national law. While the types of legal action may vary between Member States, each country must ensure that the appropriate remedy in each case is determined by the kind of retaliation suffered, and the damage caused in such cases should be compensated in full in accordance with national law.

Member States must regulate penalties against persons or entities that hinder or attempt to hinder reporting, retaliate or bring vexatious proceedings against whistleblowers or breach the duty of confidentiality of the whistleblower’s identity. Also, Member States must ensure effective, proportionate and dissuasive penalties applicable in respect of reporting persons where it is established that they knowingly reported or publicly disclosed false information. While the Directive provides vital minimum protections for whistleblowers for maintaining an open and transparent society, as they expose misconduct or hidden threats, there is still some ambiguity in the transposition requirements that could leave potential whistleblowers unprotected. Although eight Member States have not yet transposed the Directive into national law at the time of writing, companies in the European Union are well advised to familiarise themselves with the new obligations and to take initial preparatory steps.



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The logo for DORDA, consisting of the letters 'D O R D A' in white, spaced out, on a dark blue square background.

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# Austria

D O R D A



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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

Yes, the Directive has been implemented into national law by the Act of the Protection of Reporting Persons (Hinweisgeberschutzgesetz - "HSchG"), which entered into force on 25 February 2023.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

No, except for companies in the financial sector and companies with certain activities related to the prevention of money laundering, terrorist financing, road safety and environmental protection.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Yes. By way of avoiding an exhaustive list of relevant legal acts – as it is operated in the Directive – the Act also includes all national legislation related to reporting matters. The material scope of application was also extended to include the criminal offences of corruption in Sections 302 to 309 of the Austrian Criminal Code.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

The technology and means of communication of internal reporting channels are not specified. However, the company must ensure to maintain the confidentiality of the whistleblower's identity and that the channels are technically and organisationally suitable in accordance with Articles 25 GDPR ('Data Protection by Design').

### 6. Must the internal reporting channel permit oral reporting?

No. The companies may decide if they enable reporting in writing or orally, or both.

### 7. Can the internal reporting channel be outsourced?

Yes, the channels may be provided externally by a third party. If so, the safeguards and requirement for internal reporting channels within the company apply equally to the engaged third party.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Yes, companies must ensure that whistleblowers have easy access to clear information about the possibility and procedure of whistleblowing to both the internal and the external reporting channels. Neither the method of communication nor the language to be used is predetermined. Pursuant to the general employment law principle, the employer must issue any instruction or policy in a language that is comprehensible to the employees.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Yes. The company must ensure that any report is processed by an impartial person or department within the company. This internal compliance body must confirm receipt of the report to the whistleblower within seven days. Clearly false information must be rejected. The company must take appropriate follow-up action. No later than three months after receipt of the report, the compliance body must inform the whistleblower - to the extent possible and permissible - of the follow-up action(s) taken or of the reasons why the report is no longer investigated, respectively. Personal data must be retained for five years and then for as long as is necessary for any proceedings that may be initiated.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

The Act in its current version is silent on the works council's participation. The implementation of a whistleblower system is likely to require the works council's consent if it goes beyond the legal specifications of the Act (e.g., enabling additional reporting matters).

### 11. Which categories of persons can be whistleblowers in your country?

The Act applies to persons who, due to their current or former professional relationship with a company, have obtained information about violations of the law. This includes, in particular, employees, leased employees, candidates, trainees, self-employed persons, suppliers and shareholders. Anonymous whistleblowers (whose identity is subsequently revealed) and supporters or close associates of whistleblowers also enjoy protection under the Act.

### 12. Can reports be anonymous?

Yes.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The internal and external bodies must protect the whistleblower's identity as well as all other information from which the whistleblower's identity may be directly or indirectly deduced. Whistleblowers enjoy protection against retaliatory measures.

The protection also applies if the report turns out to be without merit, unless it was made maliciously.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

Whistleblowers may claim compensation for financial losses and personal impairment suffered in the event of (partially) irreversible retaliatory measures such as coercion, intimidation or measures that trigger medical treatment.

The Act does not limit the compensation claim. The exact sum must be determined on a case-by-case basis, with the Company having the burden of proof to demonstrate that the action taken was not linked in any way to the reporting.

### 15. How should the employer deal with persons named in the report?

The access to the whistleblower's identity (and other persons named in the report) is reserved for the designated internal body, which is bound by a strict confidentiality obligation. The identity must also be kept confidential within the company, including management.

A whistleblower's identity may only be disclosed if it is indispensable and proportionate in the context of administrative, judicial or investigative proceedings under the Code of Criminal Procedure.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

The following actions constitute an administrative offence under the Act:

- hindering the reporting or bringing vexatious proceedings against the reporting person;
- imposing retaliatory measures against the whistleblower;
- violating confidentiality obligations; and
- knowingly providing false or misleading information.
- Failure to establish an internal reporting channel should not in itself be punishable.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Depending on the headcount, companies must have established an internal reporting system by September or December, respectively. Many companies use web-based solution that enable anonymous reporting and ensure compliance with the Act's provisions around deadlines, documentation, information sharing and other legal requirements. The company should consult with the works council, if any, already before committing to a specific reporting system and, if possible at all, conclude a works council agreement.

The employees should be informed about the possibility and the exact procedure of whistleblowing within the company (e.g., by way of issuing a company policy.)

# Belgien



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### 1. Has the EU Whistleblowing Directive been implemented in your country?

Yes, the Directive was implemented by the Act of 28 November 2022 on Whistleblowing for the Private Sector and has entered into force on 15 February 2023.

Companies with 250 employees or more must set-up an internal reporting channel by 15 February 2023, whereas companies with a headcount between 50 and 249 must set-up such a channel by 17 December 2023.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

The obligation to set-up an internal reporting channel does not apply for legal entities with less than 50 employees, with the exception of companies in the financial sector and companies with activities related to the prevention of money laundering and terrorist financing.

However, the rules regarding the protection of whistleblowers will apply to all companies, regardless of their number of employees.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Yes. The Belgian Act extends the material scope of the Whistleblowing Directive by two additional reporting areas, namely: the fight against tax fraud/tax evasion, and social fraud. The latter includes all breaches of the Social Penal Code, which encompasses breaches of most employment law and social security law provisions.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

In theory, yes, but only if such a grievance relates to a breach of one of the reporting matters included in the material scope of the Act and provided that the information is obtained in a work-related context.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

The company must provide a protected and confidential reporting channel. Different kinds of channels can be used, such as a hotline, a voice-mailing system, an online platform, etc. Also, a mix of different options is possible.

### 6. Must the internal reporting channel permit oral reporting?

No, this is optional. The legal entity may decide to enable reporting in writing or orally or both.

### 7. Can the internal reporting channel be outsourced?

Yes, it may be outsourced to a third party (e.g., a platform provider). However, the employer will remain legally responsible for the use of the system.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Yes, the company must provide clear information to the employees regarding the use of the internal reporting channel and about the procedure to report externally. This can be done in the work rules, in a collective bargaining agreement or by means of a written policy, with the latter being the most flexible option.

Based on the GDPR, employers are also obliged to provide their employees with detailed information about the data processing that takes place under the whistleblowing scheme.

This information must be given in the local language, i.e. Dutch, French or German, depending on the location of the seat of operations where the employee works.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Yes:

- A company must appoint a reporting administrator (person or team) to receive and follow-up on the reports.
- The reporting administrator must confirm acknowledgement of receipt of the complaint within seven days.
- The reporting administrator will lead the investigation on the reported breach.
- Feedback on the outcome must be given to the whistleblower within a period of three months.
- The employer must keep a record of all reports received in compliance with GDPR.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

The employer must inform and consult with the works council (or, in its absence, the Trade Union Delegation, or if there is no Trade Union Delegation, then the Health & Safety Committee, or if there is no Health & Safety Committee, with the employees) prior to implementing the internal reporting procedure.

### 11. Which categories of persons can be whistleblowers in your country?

The scope of the Act in this respect is very broad. The categories of persons who may act as a whistleblower include employees but also shareholders, board members, independent contractors, suppliers, interns, former employees, candidates, etc. Companies must open their internal reporting channel to their employees. Whether or not they also open it to other categories of people is optional. External reporting is always possible.

### 12. Can reports be anonymous?

Yes. Companies with 250 employees or more must provide for the option of anonymous reporting; companies with a headcount between 50 and 249 can choose whether or not they will provide this option.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Whistleblowers are protected against any form of retaliation. This protection not only applies to employees, but also to whistleblowers in any other capacity and to 'facilitators' assisting the whistleblower in the reporting process.

For employees, this includes protection against dismissal, but also against demotion, the transfer of duties, a change of working time or place, depriving the employee of training, disciplinary action, etc.

The whistleblower is protected if the information falls within the material scope of the Act and if the whistleblower had reasons to believe that the reported information was correct at the time of reporting, even if this report turns out to be without merit. No protection is afforded if the report was made maliciously. In the latter case, the whistleblower can be penalised with a criminal punishment.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

Employees who are victims of retaliatory measures will be awarded specific damages equal to a minimum of 18 and a maximum of 26 weekly gross salaries. If their report is related to financial breaches or money laundering the compensation will amount to six gross monthly salaries (or compensation for the actual damage suffered), with the employee having the option to request his/her reinstatement. If this reinstatement is not granted, then he/she will be awarded an additional six gross monthly salaries.

Whistleblowers, other than employees, must prove the extent of the damage.

### 15. How should the employer deal with persons named in the report?

The identity of the whistleblower, the suspect and of any third party named in the report must be protected and kept confidential. Moreover, the company must ensure that no unauthorised staff members have access to this information.

Any processing of personal data must be done in accordance with the GDPR.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Yes, the Belgian Act provides that legal entities or their representatives who (i) do not comply with their obligations on internal reporting and follow-up, or (ii) (try to) obstruct reporting, breach confidentiality, take retaliatory measures or initiate abusive proceedings, may be penalised with a prison sentence between six months to three years (which, for legal entities, will be converted by a fine of up to EUR 576,000) and/or a fine between EUR 4,800 to EUR 48,000.

Legal entities or their representatives who do not comply with their obligations on internal reporting and follow-up can also be punished with an administrative fine instead, ranging between EUR 2,400 to EUR 24,000 per employee.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies belonging to an international group will not be compliant by merely applying the world-wide group policy. Therefore, this group policy must be adapted to the specificities and any stricter rules at the local level. The best practice would be to provide an annex to the group policy with deviations and/or additions for each specific country.

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**1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?**

Yes, by way of the “Protection of persons who report breaches of Union law and national law Law of 2022 (6(I)/2022)” which entered into force on 4 February 2022.

**2. Will your national legislation apply to businesses with fewer than 50 employees?**

No.

Businesses which are not obliged to establish internal reporting channels are nevertheless encouraged by the statute to designate appropriate persons or agencies according to their capabilities and structure, to receive and follow up on reports. If they do establish internal reporting channels, companies must follow the procedures for internal reporting and follow-up stipulated under the statute.

**3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?**

Additional reporting matters include acts or omissions relating to commission or potential commission of criminal offence, particularly corruption offences, or relating to failure of a person to comply with a legal obligation, as well as infringements endangering or likely to endanger safety or health of any person or causing or likely to cause damage to environment.

**4. Can a grievance/an interpersonal grievance constitute a reporting matter?**

No.

**5. What internal whistleblowing channels will companies need to put in place in your country?**

Internal reporting channels can be a matter of internal management, or can be entrusted to a designated person or department, or outsourced altogether.

**6. Must the internal reporting channel permit oral reporting?**

Yes.

**7. Can the internal reporting channel be outsourced?**

Yes.

**8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?**

Procedures for internal reporting must include clear and easily accessible information regarding procedures for reporting externally to competent authorities and to EU institutions, bodies, offices, or agencies. There are no statutory provisions around language requirements.

**9. Is there a mandatory procedure that companies will need to follow once a report is filed?**

The statute largely reflects Article 9 (1)(a)-(g) of the Directive, but does not include any provision on diligent follow-up in the event of anonymous reporting.

**10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?**

The role of the works council or other employee representation bodies is limited to consultation. The works council’s approval is not a prerequisite for establishing internal reporting channels and procedures.

**11. Which categories of persons can be whistleblowers in your country?**

National law reflects Article 4 (1)-(4) of the Directive for disclosure of breaches of EU Law.

Employees, self-employed persons and those stated in Article 4 (2)-(4) of the Directive can also be qualified as whistleblowers concerning disclosure for breaches of national law.

**12. Can reports be anonymous?**

Yes.

**13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?**

The following categories of protective measures are afforded under the national Law to whistleblowers reporting breaches of EU law and the national law:

- National law reflects Article 19 (1) of the Directive and adds to list the unilateral adverse change of employment conditions, but also goes a step further and provides that any retaliatory measure is invalid, unless the employer proves that the dismissal or adverse change was made for reasons not related with the reporting.
- National law repeats the support and protection measures stated in Article 20 (1)(a)-(c) and Article 21 (2)-(7) of the Directive.
- Reporting persons in criminal proceedings are qualified for protection afforded under Cypriot witness protection law.
- National Law introduces obligations on employers to assist/protect employees from retaliation.

**14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?**

The law does not provide a specific amount. The liability can be unlimited but must reflect the loss suffered.

**15. How should the employer deal with persons named in the report?**

The employer must protect identity of third parties in the report and prevent access thereto by unauthorised personnel.

**16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?**

Yes. A person who commits acts described in Article 23(1) of the Directive may incur criminal liability of up to three years imprisonment and/or fine of up to EUR 30,000. Legal entities may also be subject to criminal fines of up to EUR 30,000.

**17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?**

Companies must seek advice/assistance on, inter alia, employment, privacy and compliance, to establish internal re-

porting channels, appoint independent persons, implement suitable whistleblowing policies, provide advice on potential disciplinary measures and train personnel.

# Czech Republic



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## 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The transposition of the Directive in the Czech Republic is delayed. The first bill did not pass the legislative process and a new bill is currently heading to the Parliament. If approved (it is not certain when this might happen), the bill provides for the law to take effect on 1 July 2023 with an obligation for all affected entities to establish an internal whistleblowing system by 1 January 2024 at the latest. However, those dates are not necessarily final, as the bill has not been approved yet.

The following information is based on provisions of the bill which might be subject to further changes during the legislative process.

## 2. Will your national legislation apply to businesses with fewer than 50 employees?

No, the current version of the bill uses a threshold of at least 50 employees, except for entities required to comply with the Anti-Money Laundering laws, such as securities dealers, investment companies/funds, insurance and reinsurance companies, which should comply with the new whistleblowing law regardless of the number of their employees.

## 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Yes, the bill goes beyond the scope of the Directive in that it also includes all criminal acts under the Czech Criminal Code in the reporting matters.

## 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No.

## 5. What internal whistleblowing channels will companies need to put in place in your country?

Internal reporting channels must enable reporting in writing, verbally or (if requested) personally. The specific form and practical implementation of an internal reporting system is left to each company, provided that it respects all mandatory features of such system, in particular the confidentiality of the whistleblower's identity.

## 6. Must the internal reporting channel permit oral reporting?

Yes.

## 7. Can the internal reporting channel be outsourced?

Yes, but only in relation to the technical operation of the system. Companies remain fully responsible for the fulfilment of all their obligations under the whistleblowing law.

## 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Yes, companies must ensure that information on reporting methods is made available to the public in a way that allows remote access (online). The bill does not specify in which language, which means that the local language (Czech) must be used, but nothing in the bill prohibits publication of the same information in additional languages, should companies consider this useful or necessary.

## 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Yes, each company must appoint a designated person (whistleblowing officer) and make sure that all reports are duly processed by this person and that appropriate corrective measures are adopted.

The receipt of a report must be confirmed to the whistleblower within seven days. The merits of the report must be assessed and the result of such assessment notified to the whistleblower in writing within 30 days of receipt of the report. This time limit may be extended for up to 30 days in complex cases, but not more than twice.

## 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

The current bill does not require any participation by the work councils or other representative bodies in respect of whistleblowing systems.

## 11. Which categories of persons can be whistleblowers in your country?

The whistleblower can only be an individual reporting information which he/she became aware of in connection with

his/her work or other similar activity for the relevant company. Companies may (but are not obliged to) accept reports from persons who have no such relationship with them.

The notion of "work or other similar activity" is very wide and includes:

- employment,
- military service,
- exercise of rights in a legal entity,
- exercise of the function of a corporate officer,
- fulfilment of duties within/for a legal entity,
- trust administration,
- volunteer activity,
- internship, secondment,
- exercise of rights resulting from a supply contract (goods, services etc.),
- applying for work or similar activity.

## 12. Can reports be anonymous?

Yes.

## 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Whistleblowers will be protected against retaliation within the meaning of the Directive. The protection should be preserved even if the report is determined to be without merit, unless it was made maliciously. Such protection cannot be invoked by a person who has knowingly made a false report.

## 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

A person subjected to retaliation may claim compensation for intangible damage against the company. The company bears the burden of proof that it took no retaliatory measures. The amount of compensation will depend on the circumstances of each specific case and the outcome of the civil court proceedings.

## 15. How should the employer deal with persons named in the report?

The employer has no access to the contents of the report.

Such access is reserved only for the designated person (whistleblowing officer) who is bound by a strict confidentiality obligation.

If the notification is found to be justified, the designated person shall propose corrective measures to the employer. The employer should adopt the proposed measures or take other appropriate action.

## 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Yes, penalties for non-compliance or violation of the law may reach CZK 50,000 (approximately EUR 2,000) for a person making a malicious report, CZK 100,000 (approximately EUR 4,000) for breaches by designated persons and CZK 1,000,000 (approximately EUR 40,000) for breaches by other persons and entities.

## 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies – especially those that do not have any whistleblowing system in place yet – can start preparing already now for the application of the new whistleblowing regime. Although the new law has yet to be approved, its essential features are defined by the Directive and, therefore, cannot be materially changed. In any event, the new law should provide for a transition period to allow companies to implement all necessary systems and changes.

# Denmark

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The EU Whistleblowing Directive has been implemented in Denmark. The Danish Act on Protection of Whistleblowers (the “Act”) came into force on 17 December 2021.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

The Act applies to employers with 50 or more employees. However, employers with less than 50 employees may be obliged to establish a whistleblower scheme pursuant to their sector-specific legislation. For instance, certain companies within the financial sector have an obligation if they have five or more employees.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

The scope of the Act is extended to also include serious offences and other serious matters, e.g., theft, fraud, and sexual harassment.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

*Only if it relates to a serious offence or a serious matter.*

### 5. What internal whistleblowing channels will companies need to put in place in your country?

The employer must enable written or oral reporting or both.

### 6. Must the internal reporting channel permit oral reporting?

No.

### 7. Can the internal reporting channel be outsourced?

Yes to an external third party or an employer in a group company.

### 9. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

An employer must provide information about the procedure for reporting to the internal and/or the external whistleblower scheme established by the Danish Data Protection Agency in a clear and easily accessible form. This is normally provided in a whistleblower policy. It is not a requirement to provide the information in Danish. However, employees must be able to fully understand the language chosen.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

The company must provide a confirmation of receipt of the report within seven days from receipt, reports must be carefully followed up, and the whistleblower must receive feedback as soon as possible, in any event within three months from confirmation of receipt of the report.

### 10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?

There are no specific participation rights pursuant to the Act, however these might follow from a collective bargaining agreement.

### 11. Which categories of persons can be whistleblowers in your country?

The definition of a whistleblower in the Act corresponds to the definition in the Directive. It is only mandatory to process reports received from employees of the company. The company may voluntarily choose to extend the scope to other natural persons included in the definition of a whistleblower.

### 12. Can reports be anonymous?

There is no obligation for companies to process anonymous reports. However, the employer may decide to do so.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Whistleblowers are protected against retaliation if they have reasonable cause to believe that the reported or published information was correct at the time of the report or publication and that the information fell within the scope of the Act. Certain protection also applies in relation to the disclosure of the whistleblower’s identity and other information from the report.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

The Act does not state the amount of compensation. Pursuant to the explanatory notes the compensation must be determined in accordance with the principles of the Danish Act on Equal Treatment of Men and Women. At present it corresponds to approximately six to twelve full monthly salaries.

### 15. How should the employer deal with persons named in the report?

As a starting point, the employer must comply with the GDPR and the Danish Data Protection Act. This, inter alia, includes an obligation to inform the affected persons and other persons mentioned in the report about the processing of their personal data and their rights in this respect. However, special rules on the duty of confidentiality and other exceptions apply.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

If an employer does not comply with certain of its obligations pursuant to the Act, it may be subject to a fine. The amount of the fine is not stated in the Act, and there is at present no case law providing guidance in this respect. If the employer is in breach of the personal data protection legislation, this may also attract a fine pursuant to the said legislation.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies may consider whether to handle the whistleblower scheme internally or engage an external third-party provider, e.g., a law firm, to receive reports under the whistleblower scheme in order to avoid conflicts of interests, etc.



# England & Wales

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**1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?**

The UK, having left the EU, will not be implementing the EU Whistleblowing Directive. It was, however, the first EU country to grant whistleblowers comprehensive protection under the Public Interest Disclosure Act 1998 (“PIDA”) as incorporated into the Employment Rights Act 1996 (together, “UKWB”).

**2. Will your national legislation apply to businesses with fewer than 50 employees?**

Yes.

**3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?**

Categories of reportable wrongdoing under UKWB include criminal offences, miscarriages of justice and breach of legal obligations, although categories overall cover similar reportable matters as EUWD. Additional whistleblowing rules imposed by regulators in the UK financial services sector are mandatory for certain firms or non-binding guidance for others (“FSWB-rules”). Under FSWB-rules reportable concerns include policy breaches or behaviour that harms the reputation/ financial wellbeing of the firm.

**4. Can a grievance/an interpersonal grievance constitute a reporting matter?**

Personal grievances are not reportable unless in the public interest (e.g., unsafe working conditions/ manipulation of company accounts).

**5. What internal whistleblowing channels will companies need to put in place in your country?**

None are required. However, to encourage internal reporting many employers have a policy detailing the process whistleblowers should follow. FSWB-rules require firms to establish internal whistleblowing channels and inform staff about the arrangements, the role of regulators, and employees’ rights under UKWB.

**6. Must the internal reporting channel permit oral reporting?**

No, this is not required under UKWB, although good practice. Under FSWB-rules, firms must permit oral reporting.

**7. Can the internal reporting channel be outsourced?**

Yes. Also, FSWB-rules permit firms to outsource internal reporting channels to group companies/ third parties but must ensure arrangements are appropriate.

**8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?**

No such requirements exist under UKWB, although best practice would be to do so. FSWB-rules require whistleblowing channels to be appropriate/ effective. This requires policies to be understandable. Firms are required to inform/ train staff about regulators’ own whistleblowing reporting services and how to access them directly without raising matters internally. The UK Corporate Governance Code requires UK listed companies to have written whistleblowing arrangements or to explain why they do not.

**9. Is there a mandatory procedure that companies will need to follow once a report is filed?**

No. Under FSWB-rules, there are certain minimum arrangements required but not to the extent envisaged by the EU Directive. FSWB-rules also include certain reporting obligations to regulators.

**10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?**

There is no statutory UK requirement to consult on whistleblowing systems. Employers may choose to do so (voluntarily or under collective bargaining arrangements). FSWB-rules state that firms may refer to charities/ recognised bodies and consult with employees or their representatives.

**11. Which categories of persons can be whistleblowers in your country?**

UKWB applies to employees and workers. An extended definition of workers applies and includes agency workers/home-workers/those undergoing training and work experience.

**12. Can reports be anonymous?**

Yes. Also, FSWB-rules require this.

**13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?**

UKWB includes protection against unfair dismissal and suffering any detriment on the grounds that whistleblowers have made a protected disclosure. Protection may be lost if the disclosure is determined to be without merit or malicious unless, in the reasonable belief of the whistleblower, it was made in the public interest.

**14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?**

Remedies for unfair dismissal include reinstatement/ re-engagement and a basic award up to GBP 17,130. An additional compensatory award is uncapped (but whistleblowers must mitigate losses) and can include an award for injury to feelings. Co-workers can be personally liable for acts of victimisation.

**15. How should the employer deal with persons named in the report?**

Whistleblowers are protected from victimisation. Anonymity/ confidentially generally should be preserved if requested. Disciplinary action can follow if misconduct occurs.

**16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?**

No separate offences/ penalties for non-compliance exist within UKWB. In the financial services sector, regulators treat seriously any detriment suffered by a whistleblower and may take action against individuals/ firms.

**17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?**

Businesses operating in the EU or with global whistleblowing framework policies may adapt processes to accommodate the new regime.

# Finland

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The Finnish Whistleblowing Act entered into force on 1 January 2023. The Act contains two different transitional periods which consider the number of employees of the company. Companies regularly employing at least 250 employees must establish their internal reporting channels by 1 April 2023. Companies employing less than 250 employees must ensure their internal reporting channels comply with the Act by 17 December 2023.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

Yes, if the company has set up an internal reporting channel referred to in the Act. Companies with less than 50 employees can set up internal reporting channels voluntarily and companies within the financial sector and companies with money laundering reporting obligations are, based on other legislation, required to set up a channel regardless of the number of employees and the Act also applies to such channels.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

The Finnish Whistleblowing Act covers breaches of both European Union law and any national legislation within the material scope set out in the Whistleblowing Directive.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

Companies are to a large extent free to determine how the reporting channels are established provided the confidentiality of the report and identity of the whistleblower is ensured. The channel should allow to make reports either in writing or orally, and the company may decide whether anonymous reporting is permitted.

### 6. Must the internal reporting channel permit oral reporting?

No.

### 7. Can the internal reporting channel be outsourced?

Yes.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Companies are required to provide information on their internal reporting channels and procedures, on external reporting procedures to the centralised channel as well as on the conditions for whistleblower protection in a clear and easily accessible manner. However, there is no explicit obligation to provide this information in local language.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

An acknowledgement of receipt must be provided within seven days of receipt. In addition, the whistleblower must be informed within three months from acknowledgement of receipt of actions taken due to the report.

Otherwise, there are no specific procedural requirements, but companies must ensure that reports received are diligently registered, processed and followed up. This includes designation of impartial persons responsible for the follow-up on the reports received.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

The introduction of internal reporting requires consultation with the employee representatives or in the absence of representatives, the employees collectively. The matter must be discussed but there is no requirement to reach an agreement with the employee representatives.

### 11. Which categories of persons can be whistleblowers in your country?

Employees, self-employed persons, shareholders, members of the board of directors, executive director, volunteers, trainees, and other persons who receive information relating to the breach prior or during work, including work that has since concluded. The employees must be able to report through an internal channel, but the company is free to decide whether or not other individuals can use the reporting channel.

### 12. Can reports be anonymous?

Yes, but the company is free to decide whether or not it accepts anonymous reporting.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The Finnish Act protects against any direct or indirect retaliation, including threats or attempts thereof, directed against the notifying person. The prohibition of retaliation applies to employers and other parties with whom the reporting person is associated in the course of work.

Protection does not exist if the disclosure is determined to be without merit or if the report was maliciously made.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

Any act of retaliation against a whistleblower would entitle the injured party to a compensatory payment in addition to any compensation that could be claimed based on other legislation or contract. The individual compensation must be equitably proportionate to the severity of the act, but there are no caps or other specific provisions on the amount.

### 15. How should the employer deal with persons named in the report?

The person's right to an effective remedy as well as rights of defence should be fully respected at all stages of the internal procedure. In addition, the person named in the report should be protected from reputational damage or other negative consequences, excluding measures to stop the breach.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

The consequence for not setting up a reporting channel is that external reporting can be used. Fraudulent reporting may lead to criminal sanctions for the individual.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies are recommended to assess whether they have an obligation to establish a whistleblowing channel and if needed, take actions to establish the required channel. Further, data protection requirements must be observed when introducing a channel (including data protection impact assessment).

# Germany

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**1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?**

The EU Whistleblowing Directive has not yet been implemented in Germany. A legislative bill will be put to vote in the Federal Parliament (Bundestag) as a next step. The law is expected to be put into effect in the first half of the year 2023.

**2. Will your national legislation apply to businesses with fewer than 50 employees?**

Generally, businesses with more than 50 employees are obliged to implement internal reporting channels. Some exceptions are made to the required number of employees for certain types of companies, e.g., investment services companies.

**3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?**

No.

**4. Can a grievance/an interpersonal grievance constitute a reporting matter?**

This is not mandatory, unless an interpersonal grievance otherwise also constitutes a reporting matter in the scope of the bill. Nevertheless, companies can arrange it on a voluntary basis.

**5. What internal whistleblowing channels will companies need to put in place in your country?**

The legislative draft of the bill only provides that an internal reporting channel can consist of one or more employees or of an external third party. The choice of contact (telephone hotline, computer-based solution, personal contact, etc.) is up to each company.

**6. Must the internal reporting channel permit oral reporting?**

No, each channel can decide for itself whether oral or written reporting should be possible. A personal meeting has to be offered either way.

**7. Can the internal reporting channel be outsourced?**

Yes.

**8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?**

Internal reporting units are required to provide clear and easily accessible information to their employees on external reporting procedures and relevant reporting procedures of European Union institutions, bodies, offices or agencies.

**9. Is there a mandatory procedure that companies will need to follow once a report is filed?**

Mandatory Procedure: Confirmation of the report to the whistleblower, checking whether the reported infringement falls within the material scope of the bill, contacting the whistleblower, checking the validity of the report, (if necessary) asking for further information and taking appropriate follow-up action.

**10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?**

The works council rights have not been extended by the legislative bill, but co-determination rights under section 87 para 1 no 1, no 6 of the German Works Constitution Act (BetrVG) must be considered. In such cases, either an agreement is reached, and a works council agreement is concluded, or the conciliation board decides.

**11. Which categories of persons can be whistleblowers in your country?**

*Employees, former employees, applicants, self-employed persons, trainees or members of governing bodies.*

**12. Can reports be anonymous?**

Yes, but there is no obligation to accept anonymous reports. If anonymous reports are nevertheless accepted, they must be processed subsequently after sufficient processing of non-anonymous reports has been ensured.

**13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?**

There is a prohibition of reprisals against whistleblowers. Furthermore, the confidentiality of the whistleblower's identity is generally protected. After an intentional or grossly neg-

ligent false report, the whistleblower is liable for damages.

**14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?**

There is a general claim for damages for whistleblowers who have suffered reprisals, which is not limited in amount. The amount of the claim depends on the actual damage suffered, which must be proven by the whistleblower. Rather small sums are to be expected here.

**15. How should the employer deal with persons named in the report?**

There is a confidentiality requirement regarding the identity of the persons named in the report. Only the persons entrusted with the processing of the report may know the identity.

**16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?**

Administrative offences for non-compliance are created, e.g., for taking reprisals, for not creating an internal reporting channel or for disturbing the communication after a report. These provide for a fine of up to EUR 100,000,00.

**17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?**

Internal reporting channels may be already implemented now, without waiting for the law to be passed.

# Hungary

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The directive has not yet been transposed into Hungarian law. At this stage, one cannot tell when the rules implementing the directive will be issued.

There is already an act which provides for whistleblowing rules. Under the act, if an entity decides to set up a reporting system, there are certain rules to comply with.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

This is still uncertain. It is expected that businesses with fewer than 50 employees will likely be exempt to the extent permitted by the Directive.

### 3. Can the internal reporting channel be outsourced?

Yes.

### 4. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

The employer is required to publish detailed information on the operation of the whistleblowing system along with the procedural rules on its website in Hungarian.

### 5. Is there a mandatory procedure that companies will need to follow once a report is filed?

When making a notification, the whistleblower must declare that the notification is made in good faith. The whistleblower must be informed of the consequences of making a report in bad faith, of the procedural rules of the investigation and of the fact that his/her identity will be treated confidentially.

The reporting system must be designed in such a way that the identity of the non-anonymous whistleblower cannot be known to anyone other than the investigators. The act also contains certain rules on data processing.

The examination of the notification may be rejected in certain cases (e.g., if the whistleblower has made the notification anonymously, or the notification is a repeated notification by the same whistleblower with the same content).

The report must be examined within 30 days, which may be extended only in justified cases and even in case of an extension, the duration of the examination may not exceed three months.

If the report is found to be unfounded, the data relating to the report must be deleted within 60 days.

If action is taken on the basis of the report, the data may be processed until the final conclusion of the proceedings initiated.

### 6. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

The employer is required to ask for the opinion of the works council (if any) at least 15 days before making a decision on any employer measure affecting a larger group of employees. The opinion of the works council is not binding.

### 7. Which categories of persons can be whistleblowers in your country?

Employees and persons who have a contractual relationship with the employer or who have a legitimate interest in making the report may make a report.

### 8. Can reports be anonymous?

Yes.

### 9. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The data of the whistleblower may be disclosed only to the body competent to conduct the proceedings. However, if it has become apparent that the whistleblower has communicated false and decisive information in bad faith, depending on the circumstances of the case, his/her data must or can be handed over to the competent body.

### 10. How should the employer deal with persons named in the report?

The incriminated person must be informed in detail about the notification (save for the identity of the whistleblower) and the processing of his/her data.

The incriminated person must be given the opportunity to express his/her opinion.

Exceptionally, the person concerned may be informed later if immediate information would prevent the investigation.

### 11. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

There is no sanction if an entity does not set up a reporting system.

### 12. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

One will be in a position to work out a strategy once the implementation law will have come out. There will likely be a grace period for the entities concerned to prepare for the new regime.

# Ireland

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### 1. Has the EU Whistleblowing Directive been implemented in your country?

Yes.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

Yes. However, the requirement to establish internal reporting channels and procedures will not apply to employers with less than 50 employees save for public bodies and employers subject to the Directives listed in Parts I.B and II of the Annex to the Directive, e.g., certain regulated entities.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Yes, we have many additional reporting matters which were in existence prior to the Directive, including:

- where an offence has been committed;
- failure to comply with a legal obligation;
- miscarriage of justice;
- endangerment of health and safety; and
- damage to the environment and unlawful/improper use of public funds.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

Yes, provided it does not exclusively affect the whistleblower.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

In Ireland, the required internal reporting channel is closely aligned to that required by the Directive.

### 6. Must the internal reporting channel permit oral reporting?

Yes.

### 7. Can the internal reporting channel be outsourced?

Yes.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or

### external reporting channels? If so, must this information be given in local language?

Yes, there is a statutory obligation to provide whistleblowers with clear and accessible information as to the procedures for making a report internally and to a prescribed person or the Commissioner.

The information need not be given in the local language.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Yes, the mandatory procedure is prescribed in statute and is closely aligned to the procedure in the Directive.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

There is no express participation right. However, if the employer recognises a Union, the employer must consult this Union.

### 11. Which categories of persons can be whistleblowers in your country?

Any persons who were or are employees, directors, consultants, contractors, agency workers, trainees, apprentices, shareholders, members of administrative, management or supervisory bodies (including non-executive members), volunteers, job applicants (information acquired during recruitment process) or persons who acquire information during pre-contractual negotiations can be whistleblowers.

### 12. Can reports be anonymous?

Yes. While our transposing legislation does not require employers to accept anonymous reports, governmental guidance provides that public sector employers and certain designated authorities must do so.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Whistleblowers are protected from retaliatory measures once the report is made in accordance with legislation and with a reasonably held belief, even if it is ultimately determined to be without merit. It is a criminal offence to knowingly disclose false information and any person suffering damage as

a result has a right of action in tort against the whistleblower. Where a report was made maliciously, any compensation awarded to the whistleblower for retaliation may be reduced by up to 25 %.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

Up to five years' remuneration (gross).

### 15. How should the employer deal with persons named in the report?

The employer is obliged to protect the identity of any persons named in the report and will need to respect the fair procedure rights of subjects of an investigation.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Yes, with penalties up to a maximum of EUR 250,000 or imprisonment of up to two years or both.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies should introduce an updated policy and provide training to those designated to receive, follow-up or investigate reports.

# Italy

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**1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?**

Italy is expected to implement the EU Whistleblowing Directive by 10 March 2023, once the existing scheme of the legislative decree – already approved by the Privacy Authority – will be published (the “Decree”).

**2. Will your national legislation apply to businesses with fewer than 50 employees?**

Yes, but limited to: (a) all legal entities in the public sector and (b) private entities that: (i) voluntarily adopt the Organisation Model within the meaning of D. Lgs. No. 231/01 (i.e. the law on administrative liabilities of legal entities), or (ii) operate in EU-regulated sectors (e.g., financial markets, credit).

**3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?**

Yes, but limited to companies of the public sector and companies referred to in letter (b)(i) above: additional reporting matters refer to certain breaches of national laws and/or regulations.

**4. Can a grievance/an interpersonal grievance constitute a reporting matter?**

No.

**5. What internal whistleblowing channels will companies need to put in place in your country?**

Companies must put in place one internal channel, which shall grant confidentiality.

**6. Must the internal reporting channel permit oral reporting?**

Yes.

**7. Can the internal reporting channel be outsourced?**

Yes.

**8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels?**

Yes.

**If so, must this information be given in local language?**

Not legally imposed, but strongly advisable and implied in the provisions of the Directive (what if the whistleblower does not speak different languages than the local one?). Private entities must provide whistleblowers with clear information on the channels, the procedure and the conditions on reporting, also by creating a dedicated section on their website.

**9. Is there a mandatory procedure that companies will need to follow once a report is filed?**

Yes, companies need to (a) send to the reporting person a notice of receipt of the report within seven days, and (b) give feedback to the reporting person within three months.

**10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?**

Before establishing the internal channel, companies need to inform unions thereof.

**11. Which categories of persons can be whistleblowers in your country?**

Under the Decree, employees, self-employed individuals, volunteers and interns, stakeholders and persons with administrative, managerial, controlling or supervisory functions.

**12. Can reports be anonymous?**

Yes.

**13. What protection will be afforded to whistleblowers under your national legislation?**

Any form of retaliation against the reporting persons is prohibited (such as, retaliatory, or discriminatory dismissal, or demotion); in such a case, the burden of proof is shifted from the whistleblower to the public/ private entity.

**Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?**

In case of criminal or civil liability for defamation and slander, the protection is not granted, and a disciplinary sanction will apply to the reporting person if the reporting person is an employee.

**14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?**

Any retaliatory or discriminatory act against the reporting person is null and void. Therefore, depending on the whistleblower’s position, judicial remedies may be applicable (e.g., reinstatement in the workplace, damages, etc.)

**15. How should the employer deal with persons named in the report?**

After an in-depth investigation, to be carried out based on procedures established at entity/ company/ group level, the employer can decide to start a disciplinary proceeding according to the rules provided by the law and by the applicable national collective bargaining agreement, if the report turns out to be true.

**16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?**

Administrative sanctions will apply if (i) retaliatory acts are committed against the reporting persons (ranging from EUR 5,000 to EUR 30,000), and/ or (ii) whistleblowing channels and procedures are not established (ranging from EUR 10,000 to EUR 50,000).

**17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?**

Yes. The companies which fall under the scope of the Decree should

- set up a whistleblowing procedure
- implement reporting channels compliant with the Decree’s provisions
- train personnel and relevant stakeholders.

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

Yes, the new law came into legal effect on 4 February 2022.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

No. Businesses which employ fewer than 50 employees can establish internal reporting channels at their own discretion. In this case, they are subject to the national legislation.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

The Whistleblowing Act allows whistleblowers to report any violations related to the public interest. Additional reporting matters include:

- inaction, negligence, abuse of office or other unlawful acts of public officials;
- corruption, violations of the rules on financing political organizations (parties) and their associations and restrictions on pre-election campaigning;
- embezzlement of public funds or property;
- tax evasion;
- threat to building/ construction safety;
- threat to occupational safety;
- threat to public order;
- violations of human rights.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

Companies can choose one or more different options for internal reporting, for example:

- a special separate e-mail address for filing whistleblowing reports;
- the e-mail address of the person, who is responsible for handling whistleblowing reports;
- online or web-based individual reporting channels;
- special mailbox at the premises of the undertaking;

- oral reporting / reporting in presence of the person, who is responsible for handling whistleblowing reports in the undertaking.

### 6. Must the internal reporting channel permit oral reporting?

It is not mandatory to provide an oral reporting option.

### 7. Can the internal reporting channel be outsourced?

Internal reporting channels for private entities can be outsourced.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

All persons must be informed of the internal whistleblowing system and internal reporting channels at the start of their traineeship, employment, service or other professional relationship. Also, the company must ensure that the information about the whistleblowing system is easily accessible and available at the place of work.

The information must be given in the local (Latvian) language pursuant to the Official Language Act.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Generally, the procedure for review and investigation of the reports is left at the companies' discretion. However, the company must observe some statutory obligations, e.g., notification to the whistleblower of the receipt of the report immediately, but no later than seven days from receipt; informing whistleblower about the progress of investigation within two months after the report was qualified as whistleblower's report etc.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

Trade unions can provide support, including counselling, to whistleblowers and persons wishing to report to promote whistleblowing and whistleblower protection.

Trade unions may also, without a specific authorisation, apply to an authority (body) or a court on behalf of a whistleblower they represent, and defend the rights and legitimate interests of the whistleblower.

### 11. Which categories of persons can be whistleblowers in your country?

A whistleblower is a natural person who provides information about an alleged violation concerning public interest, if the information was obtained during the fulfilment of work duties (not only employment work duties, but also provision of services), while establishing a legal relationship related to work or during practice (internship).

### 12. Can reports be anonymous?

Anonymous reports fall outside of the legal framework for whistleblowing in Latvia. It is at the companies' discretion to investigate anonymous reports or not.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The whistleblower is afforded protection of identity, protection against adverse consequences resulting from whistleblowing, exemption from legal liability.

Additional protective measures that facilitate the rights of the whistleblower include:

- legal aid provided by the state;
- exemption from the payment of court costs/ state fee in civil proceedings and administrative proceedings before a court;
- interim relief in civil proceedings and administrative proceedings before the courts;
- appropriate compensation for damages for loss or personal injury, including moral injury;
- advice on the protection of their rights;
- exemption from the obligation to comply with the out-of-court procedure in administrative proceedings.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

There are no statutory limits or quotas for compensations if whistleblowers are penalised. If any material damage is caused, it is calculated and compensated pursuant to Civil Act and Civil Procedure Act in the court proceedings. Compensation for moral suffering is awarded in case of illegal conduct against the whistleblower.

### 15. How should the employer deal with persons named in the report?

Reports are confidential and must be treated as such. Information in the whistleblower's report and the related investigation thereof is limited access information. It is forbidden to disclose information revealing the identity of the natural or legal person that is reported by the whistleblower.

Disclosures may be allowed only to the person responsible for investigation based on the whistleblower's report, or persons, who work in the investigation initiated.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Administrative fines between EUR 30 and EUR 700 for a natural person, and from EUR 70 and EUR 14,000 for a legal entity can be imposed for causing adverse consequences to the whistleblower, his relatives or related persons.

Administrative fines in the amount between EUR 30 and EUR 700 can be imposed for knowingly making false statements in whistleblower's reports (malicious reporting).

Administrative fine in the amount between EUR 15 and EUR 350 for natural persons or EUR 35 and EUR 7,000 for legal entities may be imposed for obstructing or attempting to obstruct whistleblowing, including obstructing the submission or consideration of a whistleblower's report.

Companies may become criminally liable for breach of the duty to maintain confidentiality of the identity of reporting persons.

Procedural fine in civil proceedings may be applied for bringing vexatious proceedings against whistleblowers, their family members, related parties, or colleagues in relation to reporting.

Criminal liability may be imposed if retaliation results in filing malicious report with the intention to initiate criminal proceedings against whistleblower, family members, related parties.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Since the whistleblowing regime has been in effect in Latvia for three years, most of the companies subject to the Whistleblowing Act have already implemented appropriate measures to ensure efficiency. Most probably some minor amendments were required to the internal policies after the Whistleblowing Act came into legal force.

# Lithuania

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**1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?**

Yes, Lithuania has implemented the EU Whistleblowing Directive. Whistleblowing is governed by the Law on the Protection of Whistleblowers of the Republic of Lithuania.

**2. Will your national legislation apply to businesses with fewer than 50 employees?**

Normally no, with some exceptions included in special lists of legislation.

**3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?**

No.

**4. Can a grievance/an interpersonal grievance constitute a reporting matter?**

According to the law, the information about violations should be provided with a view to protecting the public interest. Providing information for the purpose of defending exclusively personal interests should not be considered as a notification/reporting matter. However, companies could allow grievance/ an interpersonal grievance reports at their own discretion.

**5. What internal whistleblowing channels will companies need to put in place in your country?**

Companies must take the necessary organisational, technical and other steps to implement an internal reporting channel, where information about violations can be provided in one or more ways, e.g., in person to a competent entity, by mail or e-mail, using Internet or intranet platforms, by telephone hotline etc.

**6. Must the internal reporting channel permit oral reporting?**

Yes.

**7. Can the internal reporting channel be outsourced?**

Yes, however the responsibility remains with the employer. Administrative services provided by third parties do not include the investigation about the breach and any subsequent decision-making.

**8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?**

Yes. The information must be given in the local language.

**9. Is there a mandatory procedure that companies will need to follow once a report is filed?**

Yes, on principles level.

**10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?**

In general none. However, since the employer must inform and consult with the works council regarding the adoption of certain internal legal acts, including when they may be relevant to the social and economic situation of the employees, the employer may need to inform and consult with the works council regarding the introduction of the whistleblowing policy.

**11. Which categories of persons can be whistleblowers in your country?**

The possibility to report a violation through an internal channel must be ensured for any person who is or has been associated with the company through services, work or contractual relationships (consulting, contracting, subcontracting, internships, voluntary activities, etc) or employment or other pre-contractual relationships, as well as to a self-employed person, shareholder or person belonging to the administrative, management or supervisory body of the company (including non-executive members, as well as volunteers and paid or unpaid interns), or any individual working under the supervision and direction of contractors, subcontractors and/or suppliers.

**12. Can reports be anonymous?**

A person may submit an anonymous report, however such person will not be subject to protection. Also, for a person who has provided information on the breach to be recognised as a whistleblower by the competent authority, he/ she must be identified (i.e. the personal data requested in the notification form is necessary for the identification of the person by the competent authority when deciding whether to grant the status of whistleblower).

**13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?**

The main measures to protect, encourage and support persons who have provided information on breaches are as follows:

- securing safe channels for providing information on breaches;
- ensuring a person's confidentiality;
- prohibition to adversely affect a person who has provided information on breaches (inter alia, it is prohibited to dismiss an employee for providing such information);
- right to remuneration for valuable information;
- right to compensation;
- ensuring free legal aid;
- exemption from liability;
- the right to full, impartial information and free consultation on procedures for the provision of information on breaches and provision of remedies.

If a person has intentionally provided false information about the breach, the status of whistleblower may be revoked. Also, if a person was aware that he or she was providing incorrect information, he or she may incur contractual or non-contractual (tortious or wrongful conduct) liability, as well as liability for the insult of honour or dignity, defamation. Also, the submission of knowingly false information does not give the person any protection under the Law on Protection of Whistleblowers. Such person will be liable under the procedure established by the laws.

**14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?**

Compensation must be reasonable, proportionate and depends on the value of information reported. During the investigation of the report about the breach, the competent authority may, at the reasoned request of the whistleblower, grant him/ her a compensation in the amount of up to 50 basic social allowances in order to compensate the whistleblower for the adverse effects or possible consequences suffered by the whistleblower as a result of his/ her submission of the notification.

**15. How should the employer deal with persons named in the report?**

Ensure confidentiality and impartial investigation until the matter is resolved.

**16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?**

Yes, an administrative liability may be imposed. This may be up to EUR 300 (or up to EUR 500 for repeated infringement). If the infringement is related to disclosure of the identity of the person who provided information about the breach or if the infringement is related to non-compliance with the prohibition to negatively impact a person who provided information about the breach, the fine may be up to EUR 2,000 (or up to EUR 4,000 if it is a repeated infringement).

**17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?**

When setting up an internal channel for reporting breaches, it is worth considering who will be responsible for its administration, the investigation of information and how the confidentiality of individuals will be protected.



# Luxemburg



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**1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?**

The EU Whistleblowing Directive has not yet been implemented into Luxembourg law. The Bill of law 7945 is currently being debated in Parliament (the “Bill”). It is subject to (significant) discussion and continues to be a moving target.

The Bill may be completely revised and one cannot tell exactly when the Directive will be implemented, however, it is anticipated that it will happen by the end of 2023.

**2. Will your national legislation apply to businesses with fewer than 50 employees?**

No, except where such businesses voluntarily opt to put in place internal whistleblowing channels.

**3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?**

Yes, the Bill goes beyond the Directive and targets all and any infringements of national or European law.

**4. Can a grievance/an interpersonal grievance constitute a reporting matter?**

Yes.

**5. What internal whistleblowing channels will companies need to put in place in your country?**

The Bill replicates the provisions of the Directive.

**6. Must the internal reporting channel permit oral reporting?**

No.

**7. Can the internal reporting channel be outsourced?**

Yes.

**8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?**

Yes, clear and easily accessible information must be provided. The Bill does not specify in which language this information must be given.

**9. Is there a mandatory procedure that companies will need to follow once a report is filed?**

The Bill currently provides for the same mandatory procedure as the one contained in the Directive.

**10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?**

If a business with more than 15 employees wishes or is required to set up a whistleblowing policy, the staff delegation must be informed and consulted. The staff delegation can also suggest modifications to the whistleblowing policy. In a business with more than 150 employees, the staff delegation enjoys co-decision powers.

**11. Which categories of persons can be whistleblowers in your country?**

The Bill replicates the Directive.

**12. Can reports be anonymous?**

Yes.

**13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?**

The Bill provides for the same protection as the Directive. Whistleblowers will be protected even if the disclosure is found to be without merit, provided they were acting in good faith at the time the disclosure was made. Whistleblowers will not be protected if the report was made maliciously. In this situation, even if it turns out that there was an infringement, a whistleblower will not be protected because, at the time of the report, they did not believe that was the case.

**14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?**

This will be decided on a case-by-case basis by the courts, who will assess the damage incurred by the whistleblower and award equivalent compensation.

**15. How should the employer deal with persons named in the report?**

In general, employers have an obligation to investigate and interview those persons. If they were correctly reported, employers can use their disciplinary powers, ranging from warning to dismissal. Depending on the nature and gravity of the infringement and the damage incurred, employers may initiate civil or criminal proceedings to obtain compensation.

**16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?**

Yes, if a private business does not comply with its obligations, it may incur a fine up to EUR 250,000, which can be doubled for repeated breaches in specific cases.

**17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?**

They can ensure that their internal reporting channels are efficient and easy to use. In this respect, they may implement an electronic/ online whistleblowing system or an app, compliant with GDPR. They can also start training managers and personnel now on handling investigations and building investigations protocols.

# Netherlands

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

Yes, on 24 January 2023 the Senate adopted the Whistleblower Protection Act (the “Act”). The Act amends the current national whistleblowing legislation and implements the EU Whistleblowing Directive. The Act entered partially into force on 18 February 2023.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

No, the Act only obliges organisations with 50 or more employees to maintain an internal whistleblowing channel. However, this obligation will also apply to organisations with less than 50 employees that are active in certain specific fields such as financial services, civil aviation and oil and gas.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

The Act also allows reports of possible breaches Union law, and (possible) breaches of other laws or company internal rules (which have been established by an employer based on a statutory rule) where the public interest is at stake.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No, there must be a public interest at stake (and, thus, not solely an interpersonal matter).

### 5. What internal whistleblowing channels will companies need to put in place in your country?

An organisation needs to have an internal channel in place which allows for reports in writing, in person or orally, and which complies with other requirements as set out in the Act (e.g., how a report can be made, the manner in which the report will be handled, confidentiality of the report and the identity of the reporter, the independency of the investigators, and when the reporter will be informed about the handling of the report).

### 6. Must the internal reporting channel permit oral reporting?

Yes.

### 7. Can the internal reporting channel be outsourced?

Yes, as long as the requirements as set out in the Act and GDPR requirements are respected.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

The employer must provide information on:

- the procedure for internal reporting;
- the procedure for external reporting; and
- the legal protection of the employee when reporting.

The Act does not contain any language requirement, but the information should be provided in a language that the workforce understands.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

- Such procedure must at least comply with the following:
- Confirmation of receipt of the report within seven days.
- Feedback on the follow-up of the report within three months following confirmation of receipt.
- The report is registered internally.

### 10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?

The works council has a right to prior consent with regard the establishment or amendment of a procedure for handling reports, i.e., the whistleblower system.

### 11. Which categories of persons can be whistleblowers in your country?

Any person that has or had or will have a working relationship with the organisation.

### 12. Can reports be anonymous?

Yes, if submitted through a person of trust or a lawyer.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

- Protection of the identity of the reporter;
- Protection against retaliation measures (including a shift in the burden of proof in case of retaliation measures);
- Indemnity against claims for damages and legal proceedings.

The protection is only offered if the reporter has reasonable grounds to believe that the report is correct.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

An employee may seek damages through a court if they encounter retaliation measures. The amount depends on all facts and circumstances of the matter and is not capped.

### 15. How should the employer deal with persons named in the report?

There is an obligation of confidentiality for all those involved in the investigation or the report. Confidential data includes at least the identity of a reporter and data which can disclose the identity of the reporter and the person to whom the wrongdoing is attributed.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

The investigation department of the “Huis voor klokkenluiders” will have the authority to impose administrative sanctions if:

- an employer with at least 50 employees does not have a whistleblower reporting system;
- an employer does not make information available to employees about the whistleblower reporting system;
- an employer does not follow recommendations from the investigation department; or
- a whistleblower is disadvantaged.

Depending on the nature of the offence, a remedial sanction or a punitive sanction (a fine of which the amount is not yet known) may be imposed.

This part of the Act has not entered into force as the amount of the fines is yet to be determined in further regulations. It is not announced when this part of the Act will enter into force.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Under current Dutch whistleblower legislation, organisations with 50 or more employees are already obliged to maintain a whistleblower reporting system. Such organisations should start preparations for necessary changes to their system (time frames, protection identity reporters, definitions of reporters and conduct, and registration of reports).

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The Directive is not implemented in Norway. Norway is still considering whether the Directive is EFTA-relevant, which it most likely is. The relevant national legislation is expected to enter into force in Q3 2023. The below notes are based on a proposal and may differ from the final statutory law.

Please note that Norway already has whistleblowing regulations in the Norwegian Working Environment Act (“WEA-regulation”), which will work in parallel with the new regulation implementing the EU directive.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

No, except if the business falls within the scope of I.B and II of the Annex to the EU Whistleblowing Directive.

The WEA-regulation applies to all employers, regardless of size. Businesses with five employees or more are obliged to have routines for internal notification.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

No. However, the reporting matter according to the WEA-regulation is “censurable conditions” at the company, which includes more issues than the Directive.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No, but a grievance may constitute a reporting matter in the WEA-regulation.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

Companies must appoint an independent person or department to receive and follow up on notifications and maintain contact with the whistleblower.

### 6. Must the internal reporting channel permit oral reporting?

Yes.

### 7. Can the internal reporting channel be outsourced?

Yes.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

The company must present the procedures for internal or external notification, including an invitation to use internal notification channels and the prohibition of retaliation, in a clear and easily accessible manner to its employees.

Regarding language, the company may be obliged to design the routines in Norwegian if the employees do not understand English or another language.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

The company must confirm receipt of a notification within seven days and give feedback within three months. Further on, the reporting channel must follow up on notifications in a suitable way.

### 10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?

The company may appoint an employee representative to act as a third party that receives and processes notifications on behalf of the company.

Further on, the procedures for internal reporting must be prepared in cooperation with the elected representatives of employees.

### 11. Which categories of persons can be whistleblowers in your country?

The categories of persons are:

- employees (including former employees and persons to be employed);
- self-employed individuals;
- shareholders;
- members of the board, supervisory body or similar bodies;

- volunteers and interns; and
- persons working for contractors, subcontractors and suppliers.

### 12. Can reports be anonymous?

Yes.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Whistleblowers will be afforded freedom of responsibility if they breached their statutory duty of confidentiality. The same applies to the acquisition of information that was the subject matter of the notification, unless the acquisition constitutes a criminal offence or if the information is covered by lawyers’ and healthcare personnel’s duty of confidentiality.

The whistleblower is also protected against retaliation.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

The compensation is awarded in accordance with the WEA-regulation. The whistleblower may be entitled to redress and compensation. Case law suggests that redress may be awarded in the range of NOK 30,000 to 150,000.

### 15. How should the employer deal with persons named in the report?

The employer must ensure that the identity of whistleblowers, affected persons and third parties is kept confidential, and that unauthorised access is prevented.

Furthermore, the affected persons must be guaranteed the right to effective remedies and protected by the presumption of innocence and the right to a fair trial, including the right to be heard.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

The Norwegian Labour Inspection Authority can issue orders and decisions which are necessary to secure compliance, such as to impose fees and compulsory fines.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies should be updated on which decisions and changes are made on the basis of the directive in Norway and consider whether any changes can be implemented in their already existing notification routines. If not, they should consider whether they prefer an internal or external notification channel.

# Russia

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The EU Whistleblowing Directive has not been implemented in Russia.

**Currently, Russian legislation does not provide for any regulation with respect to whistleblowing. There are also no legislative initiatives concerning whistleblowing regulation either.**

Whistleblowing is generally regulated at the level of an individual company. For this purpose, a company could adopt an internal policy and make it obligatory for employees. The Russian Labour Code stipulates that an employee must faithfully fulfil their job duties and act in compliance with an employer's internal policies. The breach of a whistleblowing policy by an employee could constitute a disciplinary matter and the employee could become subject to disciplinary action.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

Each company regardless of its size may introduce internal regulations related to whistleblowing. At the same time, whistleblowing procedures affect the application of other related laws, for example, the Federal Law No 152-FZ on Personal Data, since they entail the processing of personal employee data, the Russian Labour Code and provisions of the Russian Constitution related to individual rights to privacy. The national legislation applies to all businesses regardless of the number of employees.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Any reporting matters, which do not contradict Russian law requirements, can be included in the company's local whistleblowing policy.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

Yes. As a matter of common practice, grievances/ interpersonal grievances generally do constitute a reporting matter.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

Russian legislation does not oblige Russian companies to create internal whistleblowing channels. For this reason, companies, regardless of their size, headcount or turnover are free to choose whether to set up such a channel for whistleblowers or not.

Companies can put in place any channel they deem appropriate, as Russian authorities have not provided any specific recommendations in this respect. Usually, companies create web-based platforms, use application services, or provide employees with a special telephone number that they can use to report information.

### 6. Must the internal reporting channel permit oral reporting?

No.

### 7. Can the internal reporting channel be outsourced?

Yes. It is highly important to ensure that the respective procedures comply with the general data protection requirements with respect to processing of personal data of the data subjects.

8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Russian legislation does not establish such an obligation. The general Russian law requirement is that all information related to employment relations be given in Russian, or at least in a bilingual fashion. This is important since the information received via the reporting channel may subsequently be used for disciplinary or termination cases, presented to authorities or in court.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Russian laws do not provide any mandatory procedure.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

Russian laws do not provide any specific participation rights in respect of whistleblowing, but these may be established inter alia in the company's local policies or collective bargaining agreements.

### 11. Which categories of persons can be whistleblowers in your country?

Companies can itself determine the respective categories in their local policies. In practice, these are generally employees or the company's counterparties, i.e., individuals whose rights and obligations may be affected by the company's, its employees' or contractors' actions or wrongdoings.

### 12. Can reports be anonymous?

Yes.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The Labour Code establishes several ways to protect labour rights, among them judicial protection. In the event of a violation of labour rights, employees have the opportunity to apply to the court and/ or state authorities (prosecutor's office, state labour inspectorate). There are no specific regulations with respect to whistleblower's protection, as well as any difference in protecting the disclosure made with/without merit or made maliciously.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

The compensation is determined on the basis of the employee's claim and courts discretion in particular circumstances of the case. The court may decide in favor of the employee and oblige the employer to (i) reinstate the whistleblower in his job position with salary payment for the period of forced unemployment or (ii) to pay bonuses that the employee was deprived of; or (iii) to pay a compensation for the employee's moral damages in case the employer's actions are considered illegal and unjustified.

### 15. How should the employer deal with persons named in the report?

It is up to the employer to decide whether any further action or formal procedure are launched with respect to the persons named in the report. Depending on the information provided in the report, the employer can initiate the internal investigation or commence a disciplinary procedure with respect to the mentioned employees.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Employees may be subject to material, disciplinary, administrative or even criminal liability for the revealed misconduct (including culpable actions which resulted in the company's non-compliance with applicable legislation), depending on its nature and consequences. Penalties include damages, administrative and criminal fines, disciplinary penalties (warning, reprimand, or dismissal) and other applicable measures. However, in order to bring the employee to any kind of liability, it is important to pass through legally established procedures.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Given the absence of statutory regulations with respect to whistleblowing, the key practical approach is to develop appropriate internal regulations on whistleblowing and arrange whistleblowing processes (including whistleblowing lines, processing reports, etc) in compliance with applicable requirements inter alia to protect, process and transfer personal data in accordance with statutory requirements.

# Scotland



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### 1. Has the EU Whistleblowing Directive been implemented in your country?

No. Scotland is not required to implement the Directive into national law as the UK has now left the EU. No changes to current whistleblowing legislation are under active consideration.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

Current national legislation applies to businesses with any number of employees, but there are no generally applicable specific reporting requirements.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

The Public Interest Disclosure Act 1998 ("PIDA" - Scotland/ the UK's current whistleblowing legislation) encompasses more types of qualifying disclosures than the Directive. Qualifying disclosures include: criminal offences; failure to comply with any legal obligation; miscarriage of justice; health and safety endangerment; damage to the environment; or deliberate concealment of such matters.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

None are mandatory (except in relation to certain financial services firms, who must have a whistleblowing policy including a whistleblowing channel; and premium listed companies, who must have appropriate internal controls to allow staff to confidentially raise concerns about wrongdoing).

### 6. Must the internal reporting channel permit oral reporting?

Not applicable – such a channel is not required under Scottish/UK law, so there are no conditions to what a channel must permit.

### 7. Can the internal reporting channel be outsourced?

Not applicable – but if a company chooses to have one, outsourced hotlines are common.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

No, but it is recommended to provide employees with clear, understandable, and accessible information on how to report whistleblowing concerns.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

No. There is a government code of practice which contains a recommended procedure, but this is not mandatory.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

None.

### 11. Which categories of persons can be whistleblowers in your country?

Workers (including agency and self-employed workers), employees, and those in Crown Employment. Job applicants are not protected (except certain applicants to the NHS).

### 12. Can reports be anonymous?

Yes.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

PIDA protects workers from victimisation or dismissal due to making a whistleblowing complaint.

For a disclosure to qualify for protection, the worker must have a reasonable belief that the information disclosed tends to show one of the relevant failures or acts of wrongdoing; and that the disclosure is in the public interest.

If this threshold is met, but the report was not made in good faith, then the tribunal may reduce any award to a victimised reporter by 25 %.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

No limit on compensation; unfair dismissal can lead to compensation for economic losses while claims for detriment can include compensation for injury to feelings.

### 15. How should the employer deal with persons named in the report?

If disciplinary action may be necessary, then the employer should investigate under its disciplinary process.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

A whistleblower has the right to take their case to an employment tribunal should they be treated unfairly by their employer because of whistleblowing. Such a claim comes with the potential for uncapped compensation.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

European companies operating in Scotland/the UK should consider whether they want to include their Scottish/UK employees in a company-wide whistleblowing procedure or keep a separate Scottish/UK policy.

# Spain

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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The Law 2/2023 “reguladora de la protección de las personas que informen sobre infracciones normativas y de lucha contra la corrupción” (the “Law”) was published in the BOE on 21 February 2023 and will enter into force on 13 March.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

No.

According to Article 10, the Law only establishes the obligation for public and private companies with 50 or more workers.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Yes, under Spanish law there are instances where subjects can report matters. These laws make it mandatory for employers to have adequate internal procedures for their employees to report violations of their provisions, such as:

- Article 26 bis of Law 10/2010, of 28 April 2010, on the prevention of money laundering and terrorist financing; and
- Article 197 of Royal Legislative Decree 4/2015, of 23 October 2015, approving the consolidated text of the Securities Market Law.

Employees who report breaches within the entity must be protected against retaliation, discrimination, and any other type of unfair treatment.

With regard to the criminal law sphere, Article 31 bis of the Criminal Code (LO 1/2015) in the field of crime prevention in the company establishes the “obligation to report possible risks and non-compliance to the body responsible for monitoring the operation and observance of the model of prevention”.

Moreover, Article 24 of the Organic Law 3/2018, of 5 December, on the Protection of Personal Data and guarantee of digital rights states that employees and third parties must be informed about the existence of internal whistleblower information systems.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

Yes, provided that, according to Article 2 of Law, the matter is an act or omission which may constitute an infringement of European Union law, or a serious or very serious criminal or administrative offence.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

According to the Law, both private and public companies must put in place an internal channel, with the minimum requirements under the Law.

In addition, whistleblowers can report through the external information channel of the Independent Authority for the Protection of Informants, A.A.I.

### 6. Must the internal reporting channel permit oral reporting?

Yes, according to Article 5.c) and 7 of the Law, the internal channel must permit communications both in writing and oral.

The oral reporting can be made by telephone, by voice messaging system or at the request of the informant, it may also be submitted by means of a face-to-face meeting within a maximum period of seven days.

### 7. Can the internal reporting channel be outsourced?

Yes, Article 16 of the Law establishes that any natural person may report directly or previously to the communication to the internal company channel, to the Independent Authority for Whistleblower Protection or to the authorities or automatic organisms.

The Companies are not entitled to outsource the internal reporting channel but the previous exception.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Article 25 of the Law establishes that all subjects obliged to set up a reporting channel shall provide adequate information in a clear and easily accessible form, on the use of the channel they have set up and on the essential principles of the management procedure.

In addition, if the subjects have a website, the information shall be placed on the home page in a separate and easily identifiable section.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

The Law sets forth, in Article 9, the procedure to manage the information, with the minimum requirements, such as the maximum response time for investigation proceedings and the guarantees and rights afforded to the whistleblower, among others.

### 10. What are the works council’s or other representative bodies’ participation rights in respect of whistleblowing systems?

The Law sets forth, in Article 3, that the whistleblower protection measures also apply, where appropriate, specifically to the legal representatives of employees in the exercise of their functions of advisory and support functions for whistleblowers.

Furthermore, the Workers Statute establishes a number of rights for workers’ representatives such as the right to information or the right to freedom of expression and opinion, amongst others.

### 11. Which categories of persons can be whistleblowers in your country?

The Law sets four different types of whistleblowers either from the public and private sector:

- (persons having the status of public employees or employees,
- self-employed persons,
- shareholders, unit-holders and persons belonging to the administrative, management or supervisory body of an undertaking, including non-executive members,
- any person working for or under the supervision and direction of contractors, subcontractors and suppliers.

### 12. Can reports be anonymous?

Yes, according to Article 7 of the Law, the internal channel implanted by the company must guarantee that reporting can be anonymous.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The Law establishes in Title VI, several guarantees and protections to prevent any consequences for the whistleblower, such as prohibition of retaliation, support measures and potential reductions of fines and sanctions if the whistleblower informs of the behaviour previously to the investigation process.

The protection measures are not applied if the information are not admitted, are related to interpersonal conflicts, rumors or information not included in the Law.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

According to the Law, the whistleblower is not entitled to compensation. However, the Law establishes guarantees and protections to prevent any consequences for the whistleblower.

### 15. How should the employer deal with persons named in the report?

The Law establishes, in Article 5.2.b, that the internal channel must be designed, set up and managed in a secure manner, to ensure the confidentiality of the identity of the informant and of any third parties mentioned in the communication and of the actions carried out in the management and processing of the same, data protection, preventing access by unauthorised personnel.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Title IX of the Law (Articles 60 to 68) sets out the system of penalties applicable to cases of whistleblowing. Thus, it establishes who can be the responsible subject, the possible infringements and penalties, their grading, as well as the review and follow-up procedures.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies must be prepared to comply with all the legal requirements or to adjust the internal channel previously applied.

# Sweden



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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

Yes, the Swedish Act on the protection of persons who report malpractice ("The Whistleblowing Act"), which implements the EU Whistleblowing Directive entered into force on 17 December 2021.

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

Businesses with fewer than 50 employees are not required to have internal reporting channels, but employees of such businesses are still awarded protection against reprisals.

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Yes, the protection in the Whistleblowing Act generally applies when reporting misconducts of which there is a public interest in it being brought to light and not only to the specific violations listed in Article 2.1.a of the EU Whistleblowing Directive.

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

Not unless it is a misconduct of which there is a public interest.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

The internal whistleblowing channels must be designed so that whistleblowers can report misconduct and file reports in writing, orally and at physical meetings.

### 6. Must the internal reporting channel permit oral reporting?

Yes.

### 7. Can the internal reporting channel be outsourced?

Yes.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

The company must provide information about how to report whistleblowing matters, the whistleblower's freedom of notification and freedom of acquisition, and, if applicable, the prohibition on investigation and retaliation. There is no explicit requirement that the information must be in Swedish.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

After a report has been filed, companies must provide a confirmation of receipt within seven days and provide feedback about the measures taken to follow up the report within three months.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

It is in some cases possible to deviate from the Whistleblowing Act through collective bargaining agreements. A whistleblower is also protected against retaliation when turning to a trade union for consultation regarding a reporting matter. Such consultation must not be prevented by an employer.

### 11. Which categories of persons can be whistleblowers in your country?

Whistleblowers can be:

- employees;
- work seekers;
- volunteers;
- interns;
- persons who otherwise carry out work under control and direction of a company;
- self-employed persons;
- persons in a company's administrative, management or supervisory body;
- shareholders; or
- persons who have belonged to one of the above categories.

### 12. Can reports be anonymous?

Yes.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Protection from retaliation and discharge from liability for breach of confidentiality. If a whistleblower does not meet the requirements for discharge or file a report maliciously, they may be subject to retaliations and be responsible for breach of confidentiality.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

The whistleblower is entitled to receive compensation for both the financial loss and the infringement that the non-compliance with the Whistleblowing Act has caused.

### 15. How should the employer deal with persons named in the report?

Information that could reveal the identity of the whistleblower or other persons in the report may not be disclosed without authorisation. Personal data should furthermore be processed in accordance with the GDPR.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Only compensation as described under question 14.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Generally, ensure that internal systems and a whistleblowing policy that fulfills the information requirements are put in place.

# Ukraine



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### 1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The EU Whistleblowing Directive is not implemented in Ukraine as such, as Ukraine is not a member of the European Union.

However, the main principles and concepts provided by the EU Whistleblowing Directive have been consolidated in the Labour Code of Ukraine and the Law of Ukraine "On the Prevention of Corruption".

### 2. Will your national legislation apply to businesses with fewer than 50 employees?

It applies only if such businesses are participants of the procurement procedure and if the cost of procurement of goods, services or works equals or exceeds UAH 20 million (circa EUR 511,000).

### 3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

A person qualifies as a whistleblower if he/she reports facts of corruption, corruption-related offenses and other offences envisaged by the Law of Ukraine "On the Prevention of Corruption".

### 4. Can a grievance/an interpersonal grievance constitute a reporting matter?

No.

### 5. What internal whistleblowing channels will companies need to put in place in your country?

Companies that are subject to specific whistleblowers' protection obligations have a general duty to ensure the functioning of relevant internal channels, which include (i) the Unified whistleblowers' reports portal, and (ii) special telephone lines.

### 6. Must the internal reporting channel permit oral reporting?

Yes.

### 7. Can the internal reporting channel be outsourced?

No, due to the nature of reporting channels listed above.

### 8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

The legislation envisages a general obligation of businesses to provide employees with methodical assistance and consultations regarding the reporting of facts of corruption or corruption-related offenses. It is also presumed that such assistance would be in the Ukrainian language.

### 9. Is there a mandatory procedure that companies will need to follow once a report is filed?

There are following steps:

- Preliminary review of a report.
- Verifying whether the report qualifies as whistleblower's report.
- Deciding which body shall review the report depending on the nature of alleged violations and persons mentioned in the report.

### 10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

The legislation does not grant special rights to works councils or other representative bodies, unless provided by collective bargaining agreements.

### 11. Which categories of persons can be whistleblowers in your country?

Whistleblowers could be categorised depending on the type of activities in the course of carrying out of which they obtained information that is subject to reporting (employment, professional, public, scientific activities, etc.).

### 12. Can reports be anonymous?

Yes.

### 13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

Whistleblowers cannot be subject to liability for the reported information, unless such a report was deliberately false.

A special protection mechanism applies to employment rights of whistleblowers and their close relatives. Particularly, the law prohibits employers from taking any negative measures against these employees or their close relatives due to reporting of the alleged violation (dismissal, disciplinary actions, change of employment conditions, etc.).

The protection would not apply to whistleblowers whose reports were malicious and/or untrue.

### 14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

Employees who were dismissed due to reporting of a violation are entitled to receive compensation of six average salaries. Apart from this, there is no statutory amount or limitation of compensation to whistleblowers in case they are penalised.

### 15. How should the employer deal with persons named in the report?

If, based on the results of a preliminary review of a report, the information contained in it is confirmed, the relevant persons must be brought to disciplinary liability.

### 16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Non-compliance constitutes an offence and may trigger negative implications from the National Bureau of Investigations, particularly, audits or orders to rectify violations.

### 17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Companies may review their internal policies and take measures to improve the internal ethical culture in relation to whistleblowers' protection.



# The way forward

While most national transposition acts are largely consistent with the Directive, there are some variations in each jurisdiction with some legislators having gone beyond the minimum requirements. Companies, in particular ones that operate internationally, are therefore well advised to familiarise themselves with the new legal frameworks, taking into account the specifics of each country. Compliance in one Member State does not necessarily result in compliance in all other Member States as well.

In the past, employees and other stakeholders had limited possibilities to report wrongdoing within the company without potentially placing themselves at risk. Whistleblowing policies or tools have been in place almost exclusively, and on a voluntary basis, in large and international company groups.

Aside from the legal requirements imposed by the Directive, establishing an effective Whistleblowing arrangement is increasingly seen as a useful means of improving a company's public image from a corporate perspective. Additionally, organisations have an opportunity to identify and manage risk at an early stage, so as to avoid or limit financial and reputational damage.

Despite all efforts, and almost one and a half years after the deadline for transposing the Directive into national law, not only do many companies still struggle to set up compliant internal reporting channels, but some legislators also need to take further action. At the time of writing, there are seven Member States that are still in the process of putting in place national legislation on the protection of Whistleblowers.

The firms mentioned in the contributions herein are part of the World Services Group, an association of independent legal firms that deliver global expertise with highest quality and value for clients worldwide.

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