



# Whistleblowing

Implementing the EU Directive in practice



# Speakers



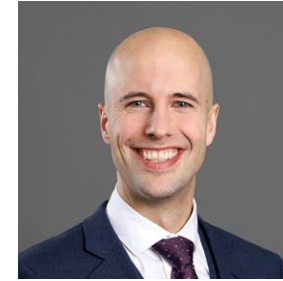
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# Overview: Whistleblower Protection Directive

## Directive

EU 2019/1937 of  
23 October 2019 on the  
**protection of persons who  
report breaches of Union  
law**

## Implementation

- Implementation deadline for Member States was 17 December 2021
- Many only complied in 2023 & 2024
- Poland last to implement with internal reporting channel required by 25 September 2024

## Scope

Breaches of certain EU laws including:

- public procurement
- public health
- financial services
- product safety
- transport safety
- environment protection
- radiation protection / nuclear safety
- food and feed safety, animal welfare
- consumer protection
- protection of privacy and personal data

## Protection

Protection covers a wide range of individuals who report breaches, including **current and former**:

- workers including part-time, fixed-term and agency workers
- self-employed
- shareholders
- contractors, subcontractors, suppliers
- volunteers
- trainees
- job candidates / new recruits



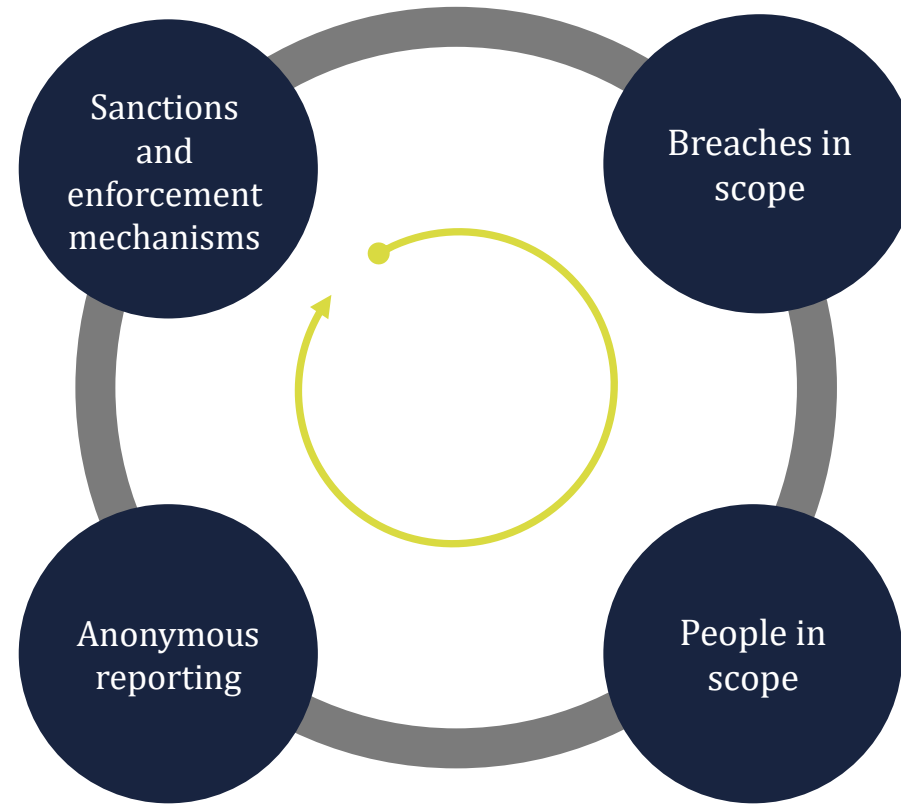
# Key provisions

- Comprehensive protection against retaliation for people who report relevant breaches.
- Whistleblower can choose to report internally or externally.
- Obligation for employers to set up and operate internal reporting and follow-up channels.
- Requirements for internal channels vary by business size:
  - Under 50 workers;
  - 50 to 249 workers;
  - 250 + workers.



# Country implementation

different approaches



# Sanctions

Potential sanctions must be considered when assessing risk tolerance level

	Criminal sanctions	Administrative sanctions	Individual enforcement action	Risk of personal liability
<b>Not implementing internal reporting channel</b>	Denmark, Ireland, Belgium	Netherlands, Italy, Sweden, Germany, Belgium, Luxembourg		France Ireland Denmark Belgium Austria Luxembourg
<b>Preventing or hindering reporting</b>	France, Ireland, Belgium	Italy, Belgium, Germany, Austria, Luxembourg	Netherlands, Sweden	
<b>Retaliation / Penalisation</b>	Belgium, Ireland	Italy, Spain, Belgium, France, Germany, Austria, Finland, Luxembourg	Belgium, France, Denmark, Sweden, Germany, Ireland, Austria, Finland, Luxembourg	
<b>Breach of confidentiality</b>	Sweden, Netherlands, Belgium, Ireland, Denmark, France, Finland	Italy, Spain, Belgium, Germany, Austria, Luxembourg	Ireland	

# Hot topics for global employers



# What approaches have businesses taken?

For most businesses, their approach is dictated by their risk tolerance level and existing arrangements

Approach	Risk level (1 low – 5 high)
Full local compliance	1
Global approach: EU Directive compliant with local variations where required	2
Global approach: EU Directive compliant without any local variations	3
Global approach: non-EU Directive compliant	4
No action	5



# Future developments

- European Commission activity: 2024 transposition review; 2025 call for evidence; Commission evaluation report due in 2026. Review highlighted where new laws do not meet the Directive's requirements. E.g.:
  - Personal scope: omitting e.g. contractors and suppliers.
  - Incorrectly including consideration of whistleblowers' motives for reporting as a condition for protection.
  - Allowing corporate groups to set up reporting channels solely at group level, so exempting entities in the same group from the obligation to set up their own internal channel.
- NGOs pursuing shortcomings in country transposition with European Commission and looking for opportunities to support claims to highlight improper transposition.
- Competent authorities expected to introduce new regulatory guidance and then ramp up enforcement action for non-compliance.
- Some organisations seeing an increase in use of hotlines as individuals become more familiar with new rules/rights and protections offered to them by new whistleblowing regimes.



Questions?

