



EU Whistleblower Directive – Latest News

■ Jan Stappers LLM, EU Whistleblowing Specialist, NAVEX

Presenter



Jan Stappers LLM

EU Whistleblowing Specialist, NAVEX

An expert in organisational whistleblowing management, Jan is engaged in the development of the new ISO 37002 Standard, is a frequent speaker on subjects related to whistleblowing, and has authored various articles on new legislation concerning whistleblower protection, anti-corruption and organisational whistleblowing best practices.

Jan is CIPP/E is an International Association of Privacy Professionals (IAPP) Certified Information Privacy Professional (CIPP/E). He holds a Postgraduate Diploma (PGDip) from King's College London in the United Kingdom (EU Competition Law) and a Master's Degree (LL.M) from Leiden University in the Netherlands (European Law).

Housekeeping

- The slide deck is available in the resources section.
- Use the Q&A at any time
- In the survey, you can;
 - Register for the next webinar
 - Suggest topics related topics for us to cover in future



Agenda

- Introduction & housekeeping
- Latest updates & overview of member-state progress
- Practical implications of completed transpositions
- Current FAQs
- Live Q&A



Latest updates & overview of member-state progress





EU Whistleblower Protection Directive

Main Requirements



Reporting in writing and/or verbally, via telephone lines or other voice communication systems



Acknowledgement of receipt of the report within no more than 7 days



Max. 3 months to provide feedback



Designation of an impartial person or department to deal with the notification



Clear and easily accessible information on the conditions and procedures for external reporting to competent authorities



Country Status

Completed

Sweden

Portugal

Malta

Denmark

France

Latvia

Lithuania

Pending

Austria

Belgium

Bulgaria

Croatia

Czechia

Estonia

Finland

Germany

Greece

Hungary

Ireland

Italy

Luxembourg

Poland

Romania

Slovakia

Slovenia

Spain

Netherlands

Practical implications of completed transpositions



Practicalities

- Personal Scope

Directive:

- Reporting persons working in the private or public sector who acquired information on breaches in a work-related context

Notable transposition:

- **Portugal:** Broad definition: Whistleblower is "a natural person who publicly denounces or discloses an offense on the basis of information obtained in the course of their professional activity . . ."

Challenge:

- How to reach potential non-employee whistleblowers (language, channel)?

Practicalities

- Reporting Channels

Directive:

- Enable reporting in writing or orally, or both

Notable transposition:

- **Sweden:** reporting must be possible both orally and in writing

Challenges:

- How to train compliant (i.e., capable) recipients at all entities?



Practicalities

- Material Scope

Directive:

- Breaches of Union law
- Breaches of Union's financial interest
- Breaches related to internal market and tax evasion

Notable transpositions:

- **Denmark:** infringements relating to "serious offences or other serious matters"
- **France:** infringements relating to a threat or serious harm to the public interest
- **Sweden:** "a public interest in the misconduct coming to light"
- **Portugal:** Violent and/or organised crime

Challenge:

- What to do with out-of-scope reports?
Dissenting national regulations?

Practicalities

- Facilitation and Reward

Directive:

- Legal entities should provide information that allows for making an informed decision on whether, how and when to report
- Silent on rewards

Notable transpositions:

- **Lithuania:** authority may grant compensation

Challenge:

- To what degree do we need to communicate the whistleblower's rights, how much do we need to facilitate them? How should we reward whistleblowers?

Practicalities

- Anonymous reporting

Directive:

- Power of Member States to decide whether legal entities in the private or public sector and competent authorities are required to accept and follow up on anonymous reports

Notable transposition:

- **Portugal:** From last EU country prohibiting anonymous reporting to one of the first to require allowance of anonymous reporting

Challenge:

- Should we accept anonymous reports, even if we don't have to?

Practicalities

- Group/subsidiary approach

Directive:

- Where a group comprises entities with 50 or more workers, each one of them must set up and operate its own internal channel

Notable transposition:

- **Denmark:** may establish group-common Whistleblower schemes, unless the Minister of Justice overturns this

Challenge:

- Are we compliant if we maintain various channels within one system?

Our most FAQ





Our most FAQ so far...

- How should group entities deal with reporting at group vs subsidiary level?
- What approach would you recommend for accepting and investigating anonymous reports?
- Do you have any guidance for entities in member-states that have not yet completed transposition of the EU Directive?

Questions?

NAVEX™

