

**MAPPING THE EU ON LEGAL WHISTLEBLOWER PROTECTION
ASSESSMENT BEFORE THE IMPLEMENTATION OF THE
EU WHISTLEBLOWING DIRECTIVE**

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of March 2019. Nevertheless, Transparency International Nederland cannot accept any responsibility or legal liability for the accuracy and completeness of data, or for the consequences of its use for other purposes or in other contexts.

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MAIN FINDINGS

At the time of this assessment there is no uniform legal framework to protect whistleblowers in the EU. Whistleblower protection legislation remains the exception rather than the rule within the EU. Most EU-member states do not have dedicated legislation in place, and even in the few countries where such laws do exist, they usually leave significant loopholes and fall short of good practice. However, this will change when the EU Directive on Whistleblowing Protection, that is currently being drafted, will enter into force.¹ This EU Directive affords much-needed harmonisation and will serve as a minimal standard for the implementation of whistleblowing legislation in EU member states. Transparency International Nederland (TI-NL) has been actively advocating for this Directive together with other TI-chapters and NGOs.²

- Within more than half of the EU-member states (15 out of 28), there is no legal obligation for companies to implement an internal reporting mechanism.
- In 8 EU-member states, the burden of proof in case of retaliation as a result of making a disclosure lies on the whistleblower.
- Only 10 out of 28 EU-member states have legislation in place dedicated solely to protect whistleblowers.
- Within more than half of the EU-member states (15 out of 28), there is no legal protection of whistleblowers available in both the public and private sector.
- Only 8 out of 28 EU-member states include sanctions or penalties in case of reprisal for or interference with, a whistleblowers' disclosure.
- Still 3 EU-member states do not guarantee the protection of identity with confidentiality when making a disclosure.
- Only 11 EU-member states offer the possibility to anonymously make a disclosure.

Final ranking

Part of this research is the ranking of the legal framework of the assessed EU member states regarding their degree of whistleblower protection.³ The ranking per category is as follows:

WEAK PROTECTION	MEDIUM PROTECTION	STRONG PROTECTION
Spain	Hungary	United Kingdom (UK)
Bulgaria	Sweden	Malta
Finland	Slovakia	Italy
Greece		The Netherlands
Lithuania		Ireland
Austria		France
Czech Republic		
Latvia		
Poland		
Cyprus		
Denmark		
Belgium		

¹ Proposal for a 'Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union Law', {SWD(2018) 116 Final} – {SWD(2018) 117 Final}: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52018PC0218>

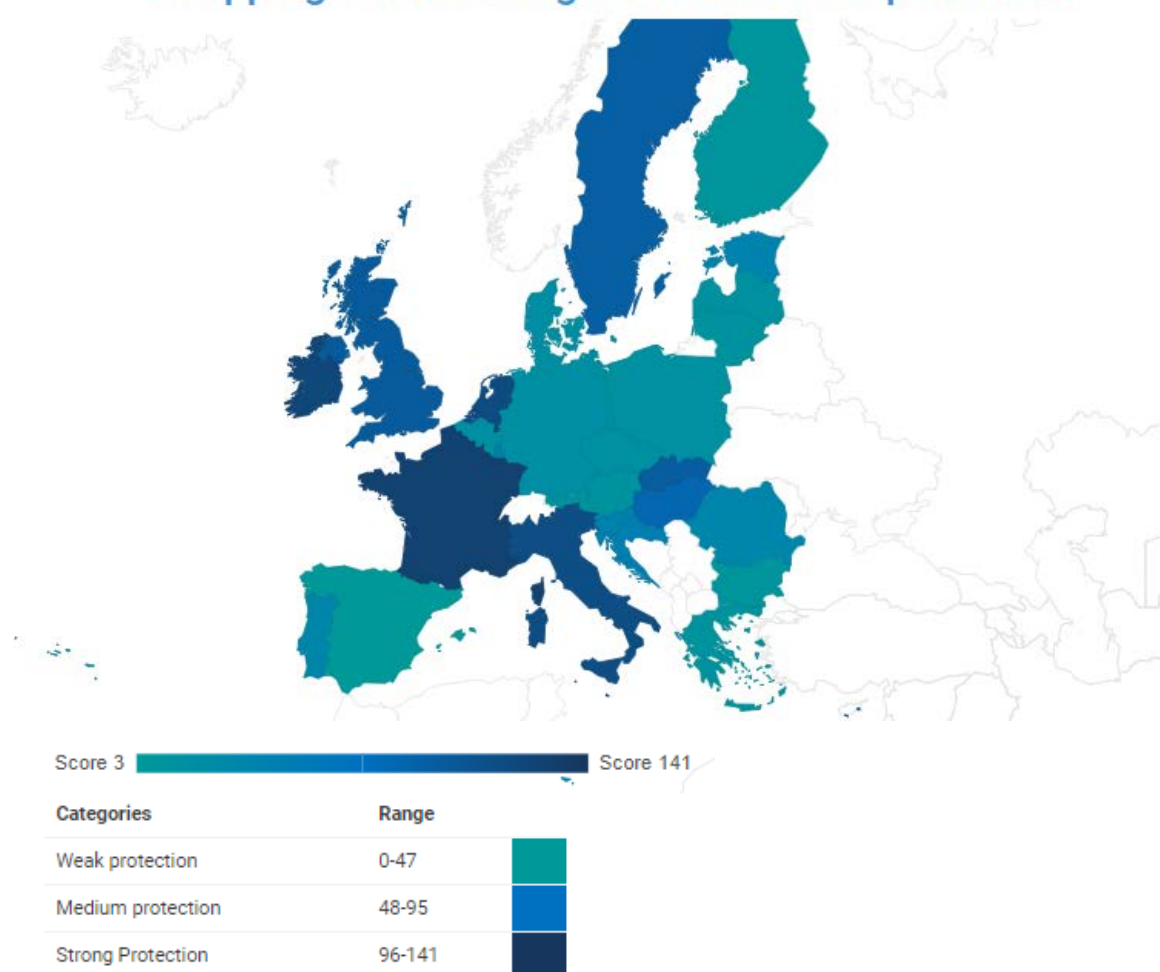
² Making whistleblowing work for Europe: https://www.transparency.nl/wp-content/uploads/2019/02/FINAL_Making_whistleblowing_work_for_Europe.pdf

³ In the methodology (p. 6) the ranking of the EU member states and the available categories are explained.

Germany
Romania
Portugal
Estonia
Luxembourg
Slovenia
Croatia

The above ranking shows that up until now EU member states have a patchwork of protection for those who wish to expose wrongdoing. Only very few countries have strong whistleblower legislation in place whereas most member states offer minimal protection for whistleblowers. As a result, European citizens remain largely unprotected in case they decide to speak up, causing them to face the risk of retaliation, judicial proceedings and dismissal. This, in turn, leaves suspected cases of fraud, corruption and other malpractice unattended – meaning that a huge potential to fight such practices is lost. Since wrongdoings such as corruption and fraud often cross borders and take place in several jurisdictions, we believe it is of the utmost importance that countries within the EU provide whistleblowers with a strong and uniform legal protection. So no matter who they are or where they work, will be protected.

Mapping the EU on legal whistleblower protection



INTRODUCTION

Over the past few years, international scandals such as ‘Luxleaks’, ‘Dieselgate’, the ‘Panama Papers’ and the disclosures concerning ‘Cambridge Analytica’ show the great importance of whistleblowers in society. Without their disclosures, the illegal behaviour of the people and companies involved may have continued without being revealed. Even though whistleblowers are essential in the fight against corruption and other crimes, they often risk reprisals and retaliation for their disclosure. To invigorate the fight against corruption, a logical step would be to improve the protection of whistleblowers. In order to establish a sufficient degree of legal protection in the European member states, the European Commission (EC) proposed an EU-wide Directive on Whistleblower Protection in April 2018.⁴ First Vice-President of the EU, Frans Timmermans, explained why this legislation is necessary:

*"Many recent scandals may never have come to light if insiders hadn't had the courage to speak out. But those who did took enormous risks. So if we better protect whistleblowers, we can better detect and prevent harm to the public interest such as fraud, corruption, corporate tax avoidance or damage to people's health and the environment. There should be no punishment for doing the right thing. In addition, today's proposals also protect those who act as sources for investigative journalists, helping to ensure that freedom of expression and freedom of the media are defended in Europe."*⁵

TI-NL has long advocated for whistleblower protection and believes this is another step forward in efforts to ensure harmonised levels of protection for those reporting wrongdoing and corruption. For over a decade, Transparency International (TI) and others have researched the legal protection of whistleblowers. The underlying research aims to contribute to this knowledge by assessing the current legal frameworks of the 28 member states of the European Union (EU) and creating a practical guide. The outcome of this research mainly serves as the foundation of an online map, showing the degree of legal protection of whistleblowers per member state.⁶ The calculated degrees of the legal frameworks will range from ‘weak protection, to ‘medium protection’ and finally to ‘strong protection. The primary aim of this research is to assist (potential) whistleblowers in their decision whether or not to blow the whistle, by pointing out to which body their disclosure can be made, or to show whether it is possible to anonymously make a disclosure in a given member state. Since whistleblower cases are often quite complicated, we also advise people who want to speak up about potential wrongdoing to seek (legal) advice before blowing the whistle. Moreover, it serves as a baseline assessment before the implementation of the EU Directive on Whistleblower Protection. The degree of protection per member state will be re-assessed after the implementation of the EU Directive on Whistleblower Protection.

With regard to this research, please note that:

- It is conducted between June 2018 and March 2019. Changes in relevant legislation after that period are not taken into account.
- It is limited to the 28 member states of the EU.
- It only includes the main features of whistleblowing legislation. It does not offer exhaustive information regarding every possible situation a whistleblower can face. Moreover, case law

⁴ Proposal for a ‘Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union Law’, {SWD(2018) 116 Final} – {SWD(2018) 117 Final}: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52018PC0218>

⁵ See: http://europa.eu/rapid/press-release_IP-18-3441_en.htm (last accessed 11 October 2018).

⁶ See: <https://www.transparency.nl/wat-wij-doen/corruptie-op-onderwerp/klokkenluiden/>

is not taken into consideration. Therefore, it is recommended that whistleblowers always seek legal advice with regard to their case.

- It is primarily based on national legislation and regulations. However, in case this proved impossible due to language barriers, research is based on secondary documents and guidelines.⁷
- Reference is made to the translated names of the laws (to English) instead of the original names, to make sure the information is easily accessible for all whistleblowers. The abbreviations of the names of legislation are in accordance with the original names in the national language. For example, the Austrian civil code, the *Allgemeines bürgerliches Gesetzbuch* is – in this report – being referred to as the ‘Civil Code’ and abbreviated as ‘ABGB’.
- The overall findings and any unclarities in legislation and/or remaining questions have been shared and discussed with national experts from European chapters of Transparency International. All consulted national experts are listed in Annex 4 - Acknowledgements.
- Finally, it is important to keep in mind that this research and the online map focuses on the legislation that is dedicated to the protection of whistleblowers. Therefore, alternative laws that offer protection to whistleblowers (such as administrative, labour and criminal laws) are taken into account, but are not separately researched. Due to this limitation, the available alternatives can differ per member state (see disclaimer below).

Disclaimer

The main goal of this study is the creation of an online EU-map on whistleblowing protection. With regard to the limited resources of TI-NL and the aim of this online map, we chose to focus on legislation that is specifically dedicated to the protection of whistleblowers.

Our research is partially based on previous research and secondary documents. The underlying documents to the proposal for the ‘Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union Law’ served as an important source as well. Since these documents contain the input of EU member states, it is possible that the information that is available – and therefore the content of the findings presented in this online map – differs (to some degree) per Member State. This is especially the case when it concerns the description of alternative legal routes for whistleblowers, such as contesting unfair dismissals based on labour law or disclosing criminal offences to the police. Please note that the absence of a description of such alternatives does not mean that these alternatives do not exist in a given Member State.

In addition, the degree of protection described in this report may differ from the protection offered in practice. For example: private entities are always free to adapt more elaborate measures to assist whistleblowers than required by law. On the other hand, it is possible that the legislation prohibits retaliations in the workplace, but in practice retaliations are not sanctioned (resulting in a ‘higher’ degree of protection ‘on paper’ than in reality).

Finally, please note that the online map is a ‘living instrument’. If additional information regarding the protection of whistleblowers should be taken into account, please contact TI-NL and let us know. In any case, the degree of protection per member state will be re-assessed after the implementation of the EU Directive on Whistleblower Protection.⁸

⁷ See for example Norton Rose Fulbright, ‘A global guide to whistleblowing laws’ (2014) and The World Law Group, ‘Global Guide to Whistleblowing Programs’ (2016).

⁸ Press release of the European Commission regarding the proposed new rules: http://europa.eu/rapid/press-release_IP-18-3441_en.htm (last accessed 13 November 2018).

METHODOLOGY

This study is conducted in order to create an online guide for (potential) whistleblowers within the European Union, and is focused on: ‘what degree of protection is offered to whistleblowers, based on the legal frameworks of all 28 member states of the European Union?’ The term ‘degree’ refers to three categories (‘strong protection’, ‘medium protection’ or ‘weak protection’). In order to determine the level of protection, each member state has been analysed on the bases of sixteen different indicators regarding the legal protection of whistleblowers.⁹ The presence of each indicator refers to a set value, ranging from 3 to 25 points.¹⁰ Finally, the total number of points obtained by the (legal framework of the) member state will lead to 1 out of 3 categories, describing the degree of legal protection for whistleblowers.¹¹ Therefore, the researched member states can be ranked based on the degree of protection their legal system offers to whistleblowers.

Desk research

This research is based on desk research. The documents consulted are presented in Annex 3 - Desk Research References, mainly consisting of reports of the European Union and Transparency International, and legislation and regulations of the EU member states. Furthermore, where possible, all findings have been reviewed by experts within the relevant national chapter of Transparency International or other specialists in the field of whistleblower protection in the EU member states.¹²

Due to the fact that this research is conducted on the basis of desk research, it is important to note that the degree of protection in this report may differ from the protection offered in practice. For example, it is possible that the legislation prohibits retaliations in the workplace as a result of the disclosure of a whistleblower, but in practice retaliations will not be sanctioned. Therefore, it is possible that the degree of protection ‘on paper’ is higher than the protection in reality.

Analysed indicators

In 2013, Transparency International issued the *International Principles for Whistleblower Legislation*. This guide presented the best practices for laws protecting and supporting whistleblowing in the public interest.¹³ For this research, the principles of that guide are summarized and transformed into manageable indicators to be able to assess the protection offered by the legal framework of member states.¹⁴ All indicators used are traceable and the original principles can be found in Annex 1 - Principles for Whistleblower Legislation. For each indicator, a value is set that reflects the importance TI-NL has given to the specific indicator from the practical perspective of a whistleblower. Therefore, the presence of indicators such as the broad scope of protection against retribution, availability of reporting channels and a wide range of types of wrongdoings that can be disclosed by whistleblowers, reward the given legal framework with 10 points. The presence of other important indicators such as the involvement of multiple actors in the design and (periodic) review of the legislation, are rewarded with 3 points as these are of less great practical importance to whistleblowers.

⁹ An overview of the current member states of the European Union can be found via https://europa.eu/european-union/about-eu/countries_en (last accessed 4 November 2018).

¹⁰ All analysed indicators and the related values are listed below.

¹¹ These categories are ‘weak protection’, ‘medium protection’ and ‘strong protection’.

¹² All contacts are mentioned in Annex 4 ‘Acknowledgements’, per member state.

¹³ Via https://www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation (last accessed 12 October 2018).

¹⁴ See also, Mark Worth, *Whistleblowing in Europe. Legal Protections for Whistleblowers in the EU* (2013), p. 9.

The table below (table 1 - Indicators), sums up all indicators and their values. A comprehensive definition of the indicators can be found in Annex 1 - Principles for Whistleblower Legislation.

INDICATOR	REWARD IF PRESENT
1. Broad definition of whistleblowing	5 points
2. Broad definition of a whistleblower	5 points
3. Protection from retribution	10 points
4. Internal reporting mechanism	10 points
5. External reporting mechanism	10 points
6. Whistleblower participation	5 points
7. Rewards system	3 points
8. Protection of identity with confidentiality	10 points
9. Anonymous reports accepted	7 points
10. Whistleblowers authority	10 points
11. Right to a fair hearing	3 points
12. Full range of remedies	5 points
13. Penalties for retaliation	5 points
14. Involvement of multiple actors	3 points
Extra 1. Stand-alone legislation	25 points
Extra 2. Available in public and private sector	25 points

Table 1 - Indicators

Calculation of the awarded points

In order to calculate the final points and ranking per member state, all received points will be added up. Please note that points are not rewarded gradually but rather binary. For example, if the legal framework of country A offers a broad definition of the term ‘whistleblower’ in accordance with the methodology, the member state receives 10 points. If the legal framework of country B includes an even broader definition, it still receives 10 points. However, if the legal framework of country C contains a limited definition, and therefore not in accordance with the methodology, it receives no points at all. The maximum score that can be received based on the indicators 1 to 14 is 91 points.

In addition to the assessment of the previous indicators, the final ranking of the member states is further based on two aspects, associated with the pursuit of TI-NL to raise the bar for the protection of whistleblowers in all member states. This relates to the continuing development of whistleblowing protection legislation. The first additional indicator concerns the presence of stand-alone legislation on whistleblowing since this emphasises the importance of whistleblower protection in EU member states.¹⁵ A second additional indicator of special importance is legislation that offers protection to whistleblowers in both the public *and* the private sector. It is often the case that protection is only awarded in one sector, leaving a large proportion of the (working) population unprotected. The presence of both of these additional indicators allows member states 25 extra points per indicator. This means that the maximum number of points that can be obtained is 141.¹⁶

¹⁵ Stand-alone legislation is defined as “independent laws and/or regulations specifically with respect to whistleblowers, that functions without the need of other laws and/or regulations in order to address (the protection of) whistleblowers.” The existence of stand-alone legislation does not rule out the implementation of additional legislation regarding (the protection of) whistleblowers.

¹⁶ If all 14 indicators present, 108 points plus 50 for a stand-alone piece of legislation, applicable to both sectors.

Ranking categories

The points obtained reflect a certain degree of protection offered by the national judicial system of a researched member state. In order to make this less abstract, the number of points can be translated into a specific ranking of the degree of protection. Legal frameworks can be ranked as ‘*strong protection*’, ‘*medium protection*’ or ‘*weak protection*’. In the table below, the bandwidth per final ranking is determined and the degree of protection is generally described.

WEAK PROTECTION	MEDIUM PROTECTION	STRONG PROTECTION
0 – 47 Points	48 – 95 Points	96 - 141 Points

Table 2 - Ranking categories

The bandwidth per ranking is calculated as follows. The maximum amount of points a member state can receive, based on the presence of the 16 indicators (14 general indicators plus 2 extra indicators) in the legal framework, is 141 points. Assuming that the legal framework of the member states can only qualify as ‘strong protection’ if (almost) all indicators are present and the protection is enclosed in stand-alone legislation *and* covers both the public and private sectors. In that case, the legal framework should obtain a score ranging between 96 and 141 points. Legal frameworks enter the bandwidth qualified as ‘medium protection’ if the awarded points range from 48 to 95 points. This means that the legal framework scored at least half or almost all of the possible points but did not implement stand-alone legislation, neither applies to both the private and public sector. Finally, the bandwidth regarding the weak protection category ranges from no indicators present (0 points) to just a few but not even half of all possible points obtained (with a maximum of 53 points).

Report structure and design

This report includes 28 chapters and the indicators are addressed per member state. The two most important indicators are discussed in the introduction of each chapter. In the context of creating a practical guide, the chapters are based on the fifteen indicators. It is important to note that the number of each indicator as given in this methodology (ranging from 1 to 14) does not fully correspond with the number of the indicator as used in the table in each chapter (ranging from 1 to 10). This is because; due to their coherence, indicators 4 (internal reporting mechanism) and 5 (external reporting mechanism) are assessed together, as well as indicators 8 (protection of confidentiality) and 9 (anonymous reports accepted). Indicators 6 (whistleblowers participation), 7 (availability of a rewards system), 11 (right to a fair hearing) and 14 (involvement of multiple actors) are mentioned together under the heading ‘Other relevant aspects’.

1. AUSTRIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> • Austria has no stand-alone legislation dedicated to protect whistleblowers. • The protection that is available to whistleblowers is either based on specific sectors or on specific types of wrongdoing. For example, fragmented legislation exists concerning whistleblowing in the public sector and the financial sector, or concerning corruption or environmental harmful substances.¹⁷ • Other relevant laws are: the Public Service Law; the Civil Servants Act; the Private Employees Act; the Banking Act; the Environmental Information Act; the Stock Exchange Act; the Austrian Financial Market Authority; the Labour and Constitution Act; the Data Protection Act and the Civil Code (ABGB).
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law. ¹⁸
3. Who are protected?	<p>Depending on the legislation, protection is granted to:</p> <ul style="list-style-type: none"> • Civil servants; • financial sector employees reporting on insider trading, market manipulation, money laundering and financing of terrorism; • all citizens reporting corruption via an online platform; and • employees in the private sector reporting on environmental harmful substances.¹⁹
4. What types of wrongdoing can be disclosed?	Disclosures can be made regarding certain types of wrongdoing, including: criminal acts liable for prosecution, breaches of public duty (by civil servants), financial crimes such as bribery, money laundering, insider trading, market manipulation and financing of terrorism, corruption and breaches of EU law regarding environmental harmful substances. ²⁰
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures made by whistleblowers. • Specific disclosures can be made to: <ul style="list-style-type: none"> - The Federal Bureau of Anti-Corruption for disclosures regarding corruption ('FBAC');²¹ - The Austrian Office of Prosecution for Economic Crime and Corruption for the disclosure of economic crimes, through their website; and

¹⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 138. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸ Walter Greyer (TI Austria) defines a whistleblower as 'a person who is an insider and who has knowledge about a criminal offence, but who is not part of the malversation and who can disclose information about the offence', according to Shahanaz Müller, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country report: Austria* (2012), p. 35.

¹⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 138. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 136. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹ If a report has been made to the FBAC and the disclosure does not fall within the scope of this authority, disclosures can be sent to the national ombudsman office.

	<ul style="list-style-type: none"> - The Public Prosecutors office, specifically for the disclosure of economic crimes and corruption.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made. • In the financial sector, entities are required to implement disclosing procedures.²² • Employees can make external disclosures regarding corruption and white-collar crimes to a public channel.²³ • Disclosures regarding environmental cases can be made to the Environmental Agency and Federal Ministries.²⁴
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general protection mechanism concerning whistleblowers in place. • Protection against workplace retaliation and interim relief procedures can be offered based on alternative legislation. • The FBAC offers protection for all disclosed behaviour within the scope of the FBAC, meaning regarding economic crimes such as corruption and money laundering (§4 Section 1 BAK-G). • Contracts that violate morality are null and void (§879 (1) ABGB). It can be possible to contest termination of a work contract (dismissal/suspension), for example due to whistleblowing, because of violating the basic principles of the society.²⁵ However, it is unclear how this will work out in practice. • In order to receive legal protection in any case, the disclosures are required to have been made in good faith.²⁶ • There is no reversal of the burden of proof from the whistleblower to the employer.²⁷
8. How is the identity of whistleblowers protected?	Confidentiality is guaranteed and reporting anonymously is not legally prohibited. With specific regard to external reporting in the financial sector, anonymous reporting is accepted by law. ²⁸
9. Does the law include remedies for whistleblowers?	The law does not offer specific remedies to whistleblowers that are harmed because of their disclosure. ²⁹ However, there is a general possibility to claim damages (section 29 of the Austrian White Collar Employees Act or section 84 of the Austrian Trade Code). ³⁰

²² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137 See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²³ See: <https://www.bkms-system.net/bkwebanon/report/clientInfo?cin=1at21&language=ger> (last accessed 28 October 2018).

²⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p.137 See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁵ Shahanaz Müller, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country report: Austria* (2012), p. 14.

²⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137 See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137 See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 138. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁰ Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 73.

10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not specifically entitle whistleblowers to a fair hearing. In general, whistleblowers can appeal dismissals or suspensions based on the labour law (articles 105 and 106 of the Austrian Labour Relations Act). • The law does not offer specific whistleblower participation rights nor are procedural aspects regulated.³¹ • There is no reward system for whistleblowers in place. • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	<p>In the public sector, after a disclosure has been made internally, the supervisor immediately has to initiate an investigation and if necessary start disciplinary procedures.³² If the complaint indicates a possible criminal act, the case has to be referred to the public prosecutor.³³</p>

³¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 137. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

2. BELGIUM

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Belgium has no stand-alone legislation dedicated to protect whistleblowers. Due to the governmental system in Belgium, a distinction exists between the Federal State and the Flemish Region.³⁴ <ul style="list-style-type: none"> Protection on the Federal State level is covered by The Law on Integrity and Ethics ('the Law'). Protection in the Flemish Region is covered by the Decree on Whistleblowers for the public sector ('the Decree')³⁵ and the Protocol regarding the protection of whistleblowers ('the Protocol').³⁶ Other relevant laws are: the Law on the disclosure of a suspected violation of the integrity of the administrative authority by a staff member.³⁷
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	<ul style="list-style-type: none"> At the Federal State level, all employees active in the Federal Administration are covered by the Law.³⁸ At the Flemish regional level, all employees of the administrative authority that belongs to the Flemish region and Flemish speaking authorities in Brussels are covered by the Decree and Protocol.³⁹ The Flemish Ombudsman can receive staff members who report an irregularity, meaning a civil servant, trainee or contract staff member of the Belgium government who reports negligence, abuse or crime as mentioned in article 3 paragraph 2 of the Decree' (article 1 Protocol, article 3 paragraph 2 of the Decree). The FSMA refers to persons reporting an actual or potential breach of the financial rules (article 2, sub 2 Decree 24 September 2017 regarding the FSMA).
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> The range of people that can make disclosures differs per sector and institute. The laws and regulations cover (both on the Federal and Flemish level) different types of wrongdoings that can be disclosed. In the Federal State: <ul style="list-style-type: none"> All acts that constitute an infringement of legislation that applies to public administrations and their personnel; acts that involve an unacceptable risks to life, health or the safety of persons or the environment; and

³⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 138. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁵ See: <https://codex.vlaanderen.be/Portals/Codex/documenten/1006276.html> (last accessed 11 October 2018).

³⁶ See: http://www.vlaamseombudsdienst.be/ombs/nl/nieuws/pdf/20140509_klokkenluidersprotocol.pdf (last accessed 11 October 2018).

³⁷ (Unofficial) translation: <https://www.whistleblower-rights.org/s/Belgium-Public-Federal-Personnel-2013-English.doc> (last accessed 22 January 2019).

³⁸ Due to the system, this excludes employees in the Federal Police Corps, Ministerial Cabinets and the Parliament.

³⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 138. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> - all acts that (seriously) breach professional duties can be reported.⁴⁰ • In the Flemish Region the acts of negligence, abuse and crime can be reported.⁴¹
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures made by whistleblowers. • Specific disclosures can be made to: <ul style="list-style-type: none"> - The Ombudsman;⁴² - Audit Vlaanderen;⁴³ - The Financial Services and Markets Authority (FSMA, for the disclosure of breaches of financial legislation);⁴⁴ - Trusted person in all federal administrative bodies;⁴⁵ - The Social Security Intelligence and Investigation Service;⁴⁶ and - The Federal Police, reporting point Sporting Fraud.⁴⁷
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally, before external disclosures can be made. • External disclosures can be made to authorities such as the Federal Ombudsman, the Ombudsman Flanders and the Financial Services and Markets Authority.⁴⁸ • On both levels, disclosure in good faith is required. In addition, on the Federal level it is also required to have reasonable belief that the disclosed information is true.⁴⁹
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • On the Federal level, the law prohibits retaliation against a whistleblower.⁵⁰ If retaliation or any discriminatory act does occur, a disclosure can be made to the Federal Ombudsman.⁵¹ • On the Flemish level, the law prohibits retaliation and sanctions against the whistleblower. During the protected period, the government cannot take measures and pending measures will be suspended temporarily (article 5 Protocol). The government employee can be replaced on request (article 7 Protocol).

⁴⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁴¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁴² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁴³ See: <https://www.auditvlaanderen.be/klokkenluiden> (last accessed 15 November 2018).

⁴⁴ (Procedural) rules regarding the FSMA are available in the Royal Decree of 24 September 2017.

⁴⁵ Article 3 of Chapter 3 Law on the report of a suspected violation of integrity of the administrative authority by a staff member requires the appointment of such a person, per linguistic role,

⁴⁶ See: <https://www.meldpuntsoctalefraude.belgie.be/nl/index.html> (last accessed 4 November 2018).

⁴⁷ See: <http://fraudefootball.be/index-nl.html> (last accessed 4 November 2018).

⁴⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁴⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 140. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁵⁰ The Law on Integrity and Ethics lists all (an extensive amount) protected types of retaliation.

⁵¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> At both levels, the protection of the whistleblower lasts two years after the investigation is closed.⁵² On both the Federal State level and the Flemish level, there is a reversal of the burden of proof from the employee to the employer.⁵³
8. How is the identity of whistleblowers protected?	Confidentiality of the disclosure is guaranteed. The legal framework does not accept nor prohibit anonymous disclosures. ⁵⁴
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> The law does not offer specific remedies to whistleblowers harmed because of their disclosure. However, it is possible to seek remedies in alternative laws. On the other hand, the law includes sanctions including lifting protection, following a knowingly false disclosure (article 1, par. 3 Protocol) and qualifies such behaviour as a criminal act. On the Federal level, the employer can face a disciplinary procedure if the employer retaliates against a whistleblower.⁵⁵
10. Other relevant aspects	<ul style="list-style-type: none"> The legal framework does not offer specific rights regarding whistleblower participation, nor the right to a fair hearing.⁵⁶ However, the Ombudsman can provide advice to the whistleblower.⁵⁷ There is no reward system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation, dedicated to whistleblowers.
11. Final notes	<ul style="list-style-type: none"> An amendment of the Law on Integrity and Ethics is proposed in order to broaden the scope.⁵⁸ In that case the Law will also apply to the Federal police. Wrongdoings on a Federal level need to be reported within 5 years; wrongdoing on a Flemish level within 1 year.⁵⁹ Audit Vlaanderen can also start an investigation into disclosed irregularities. However, no protection will be granted to the reporter. Nevertheless, the name of the reporter will not be disclosed to the public.⁶⁰

⁵² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁵³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁵⁴ OECD, *Committing to Effective Whistleblower Protection* (2016), p. 6.

⁵⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139 – 140.

⁵⁶ Furthermore, the balancing of competing rights for the whistleblower is not mentioned in Belgian legislation according to Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 140. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁵⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 140. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁵⁸ See <http://www.lachambre.be/FLWB/PDF/54/2324/54K2324001.pdf> (last accessed 28 October 2018).

⁵⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 139. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). With regard to the Flemish regional legislation, see article 1 paragraph 2 of the Protocol.

⁶⁰ See <http://www.auditvlaanderen.be/klokkeluiden-bij-de-vlaamse-overheid> (last accessed 13 June 2018).

3. BULGARIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Bulgaria has no stand-alone legislation dedicated to the protection of whistleblowers in the public and private sector. The most important laws that offer fragmented protection to whistleblowers are the Administrative Procedure Code (APC) and the Conflict of Interest Prevention and Ascertainment Act (CIPAA). Other relevant laws are the Criminal Code;⁶¹ the Law on Prevention and Detection of Conflict of Interests; the Corruption Prevention and Forfeiture of Illegal Assets Act (2018) and the Administration Act. The main legislation only covers public institutions.⁶²
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	<ul style="list-style-type: none"> Every citizen who discloses wrongdoing related to the public sector is covered by the APC and CIPAA.⁶³ The Conflict of Interests Law refers to 'everyone who has information about a person holding a public office and who infringes a provision of that legislation has the right to submit a report on the allegation of the conflict of interest' (article 47(1)).
4. What types of wrongdoing can be disclosed?	Disclosures based on the APC and the CIPAA should regard the public sector and can concern matters including the abuse of power, corruption, conflict of interests in the public sector and other illegal or inappropriate acts. ⁶⁴
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures made by whistleblowers. Specific disclosures can be made to: <ul style="list-style-type: none"> Signals of corruption can be addressed to inspectorates (bodies) within the ministries, based on the Law for the Civil Servants.⁶⁵ Such signals can also be appointed to the ombudsman (article 109 APC). The Commission for Prevention of Corruption and Forfeiture of Illegal Assets is empowered to investigate reports against high public official, including elected representatives, but not against middle and low level officials.⁶⁶

⁶¹ The Criminal Code also applies to whistleblowers, meaning that some of the defined criminal offences can be subject to whistleblowing, according to Lauren Kierans, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Bulgaria*, (April 2013), p. 4.

⁶² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 140. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁶³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 140. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁶⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 141. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). Also: Lauren Kierans, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Bulgaria*, (April 2013), p. 5.

⁶⁵ Lauren Kierans, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Bulgaria*, (April 2013), p. 7.

⁶⁶ Chapter 6 of the Corruption Prevention and Forfeiture of Illegal Assets Act.

	<ul style="list-style-type: none"> - The National Council on Anti-Corruption Policies (Council of Ministers) via an online tools. - The Ministry of Finance maintains an online tool for submission of disclosures of irregularities and fraud committed in the course of EU-funded projects.⁶⁷ • Disclosures can also be made to the Advocacy and Legal Advice Centre of TI Bulgaria.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • Disclosing channels are not heavily regulated. • All citizens are required to disclose criminal acts, based on article 205(1) CPC. • Several inspectorates provide online tools and e-mail addresses and/or telephone lines in order to receive disclosures. • The APC requires the recipient body to conduct an internal investigation regarding the report of the signal.⁶⁸ • In general, in the private sector there's no requirement to implement whistleblowing mechanisms.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general protection mechanism concerning whistleblowers in place. Alternative laws offer protection such as: <ul style="list-style-type: none"> - The Labour Code and the Civil Servant Law offer protection against unfair dismissal. - Protection against prosecution due to disclosures in the context of the APC and the CIPAA (article 108(2) of the APC and the CIPAA).⁶⁹ The CIPAA also requires the person responsible for handling the disclosures to take concrete measures in order to protect the dignity of whistleblowers. - Inspectors of the General Labour Inspectorate Executive Agency are allowed to investigate violations of rights of civil servants at their workplace based on reports/complaints of public sector employees (article 128(1) Civil Servants Act). • The burden of proof is not regulated. • The APC and the CIPAA do not require disclosure in good faith or with reasonable belief that the disclosed information is true.⁷⁰
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • There is no general legal basis for confidentiality. According to the APC, administrations are allowed to create their own procedures.⁷¹ According to the CIPAA, persons handling the reports are not allowed to reveal the identity of the whistleblower.⁷² They can face a fine in the case they do reveal the identity.

⁶⁷ See: <http://www.minfin.bg/en/375> (last accessed 4 November 2018).

⁶⁸ Lauren Kierans, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Bulgaria*, (April 2013), p. 4.

⁶⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 141. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁷⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 141. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁷¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 141. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁷² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 141. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> • The laws prohibit anonymous reporting. • Based on the Corruption Prevention and Forfeiture of Illegal Assets Act, the identity of whistleblowers that disclose under this act is protected (article 49(1)).
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> • The law does not offer specific remedies to whistleblowers that are harmed due to their disclosure. • There are general provisions that allow employees to receive compensation of retaliation, dismissal or harassment due to their disclosures, for example based on the Labour Code, Civil Servant Law, Corruption Prevention and Forfeiture of Illegal Assets Act (article 51) and the CIPAA.⁷³ These can be used as a remedy in the absence of specific rules.
10. Other relevant aspects	<ul style="list-style-type: none"> • The legal framework does not offer specific rights regarding whistleblower participation nor the right to a fair hearing. • There is no reward system for whistleblowers in place. • There are some stakeholders trying to be involved in the regulation of protection of whistleblowers, for example Transparency International Bulgaria. However, there is no involvement regarding the design and periodic review of legislation dedicated to whistleblowers.
11. Final notes	N/A

⁷³ Lauren Kierans, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Bulgaria*, (April 2013), p. 9. Also Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 141. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

4. CROATIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> • Croatia has no stand-alone legislation dedicated to protect whistleblowers. • The protection of employees in both the private and the public sector is based on fragmented provisions in laws, such as the Civil Servants Act; the Governmental Employees Act; the Trade Act; the Law on the Internal Financial Control System in the Public Sector; the Labour Act; the Criminal Code and the Civil Law Obligation Act.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	All employees in the public and private sector. ⁷⁴
4. What types of wrongdoing can be disclosed?	Disclosures can be made by all citizens' concerning (a suspicion of) corruption. ⁷⁵ In addition, civil servants can disclose any irregularity that relates to the internal financial control system based on the Law on the Internal Financial Control System in the Public Sector. ⁷⁶
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. • Specific disclosures can be made to: <ul style="list-style-type: none"> - Governmental hotlines for crime and corruption;⁷⁷ - The Public Prosecutors office;⁷⁸ - The Bureau for Combatting Corruption and Organised Crime (USKOK).⁷⁹
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to report internally before external disclosures can be made.⁸⁰ • External disclosures can be made to several authorities and hotlines.⁸¹
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general protection mechanism concerning whistleblowers in place. Alternative legislation offers protection including unfair dismissal and discrimination at work to employees in both sectors.⁸² This can also derive

⁷⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 142. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁷⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). The protection of private sector employees is based on the Trade Act and the Labour Act.

⁷⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁷⁷ Blueprint for Free Speech, *Briefing Paper: Whistleblower Protection in Croatia*, (2018).

⁷⁸ S. Laleta and V. Smokvina (2016), p. 83.

⁷⁹ S. Laleta and V. Smokvina (2016), p. 83.

⁸⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁸¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁸² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). See also: S. Laleta and V. Smokvina (2016), p. 88.

	<p>from the Labour Act (article 7, par. 4 and 5) if the disclosure regards corruption and it is made in good faith. More specifically, civil servants are protected of the disclosure of (suspicions of) corruption to the appointed individuals or authorised government institutions.</p> <ul style="list-style-type: none"> • A whistleblower can be treated as a protected witness, according to articles 283-300.⁸³ • In the private sector the burden of proof is reversed and therefore placed upon the employer. • In any case, disclosures must be made in good faith.⁸⁴
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • In general, confidentiality is guaranteed.⁸⁵ The Labour Act protects the anonymity of civil servants, and whistleblowers receive additional protection regarding denial or restriction of rights and protection of harassment, based on the Civil Servants Act.⁸⁶ The identity of civil servants can also be protected under the Civil Service Act if the disclosed wrongdoing qualifies as 'serious'.⁸⁷ • The legal framework does not accept nor prohibit anonymous disclosing.
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> • The law does not offer specific remedies to whistleblowers that are harmed because of their disclosure. However, it is possible to seek remedies in alternative laws including the Civil Obligations Act. Based on this law, any person who suffered damages as a result of acts of corruption can receive compensation. • Employers can be punished with (up to 3 year) imprisonment if they unfairly dismiss a whistleblower who disclosed corruption.⁸⁸
10. Other relevant aspects	<ul style="list-style-type: none"> • The legal system does not offer any rights to whistleblowers to participate in the follow-up of their disclosure or give them feedback rights.⁸⁹ • The law does not specifically entitle whistleblowers to a fair hearing. • There is no reward system for whistleblowers in place. • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	<p>Croatia is currently in the process of enacting the Whistleblower Protection Act. The Whistleblower Protection Act will enter into force on 1 July 2019 and must come into full compliance by March 2020.⁹⁰</p>

⁸³ S. Laleta and V. Smokvina (2016), p. 82.

⁸⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁸⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁸⁶ S. Laleta and V. Smokvina (2016), p. 87 – 88.

⁸⁷ M. Worth, 'Whistleblower Protection in Southeast Europe', p. 23. According to this research, restricting the rights of employees qualifies as a 'serious' crime.

⁸⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁸⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 143. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

⁹⁰ See: <https://www.schoenherr.eu/publications/publication-detail/croatia-enacts-whistleblower-protection-act/>

5. CYPRUS

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> • Cyprus has no stand-alone legislation dedicated to protect whistleblowers in both the public and private sector.⁹¹ The most important protective law is the Public Service Law that requires public sector employees to disclose incidents of corruption and bribery.⁹² • Other relevant laws and regulations are the Criminal Code; the Code of Ethics of the Public Services; the Labour Law; the Unfair Dismissal Law; the Civil Law Convention on Corruption and Supplementary Provisions Law of 2003.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	The Public Service Law concerns employees, including a wide range of types of employees (article 2).
4. What types of wrongdoing can be disclosed?	It is unclear what kind of wrongdoings can be disclosed in order to receive protection.
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. • Specific disclosures can be made to: <ul style="list-style-type: none"> - Governmental hotlines and a direct phone line;⁹³ - The Advocacy and Legal Advice Centre of TI Cyprus; - The Public Service Commission; and - The General Audit Office.⁹⁴
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to report internally before external disclosures can be made. • There is no legal basis for external disclosure, nor a specific authority to disclose to in the private sector. • For civil servants, a channel has been introduced to receive disclosures of misconduct in the public sector.⁹⁵ It is important to note that public officials are required to disclose any abuse by other public officials. • According to the Police Act 2018, each member of the police is required to disclose acts or omissions of another member that constitute (potential) corruption.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general protection mechanism concerning whistleblowers in place. However, alternative laws also offer protection including: <ul style="list-style-type: none"> - General protection against retaliation offered by labour courts, based on the labour law provision on unfair

⁹¹ Currently, a draft legislation has been promoted at the parliament, called: "Reporting of Corruption Acts (additional protection and leniency measures) Law 2017.

⁹² G. Thüsing and G. Forst, 'Whistleblowing – A Comparative Study', Springer (2016), p. 109.

⁹³ Constantinos Kombos, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Cyprus* (2012), p. 19. See: https://anticorruption.police.gov.cy/police/platform/platform.nsf/subscribe_en/subscribe_en?OpenForm (last accessed 10 October 2018).

⁹⁴ G. Thüsing and G. Forst (2016), p. 109, for corruption occurring in (semi-)governmental sectors.

⁹⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 146. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<p>dismissal.⁹⁶ Such protection to civil servants derives from the Public Service Law (article 69A) and the Code of Ethics of Public Services.⁹⁷</p> <ul style="list-style-type: none"> • Since 2004, retaliating against a whistleblower is a crime.⁹⁸ • In general, the burden of proof lies with the employer.⁹⁹
8. How is the identity of whistleblowers protected?	<p>There is no general guarantee of the protection of the identity of the whistleblower nor the general acceptance of reporting on an anonymous basis. For example, (required) disclosures that are made under article 69a Public Services Law cannot be made anonymously.¹⁰⁰ In contrast, other reports, not required under article 69a Public Services Law, can be made anonymously to police officers.¹⁰¹ The Internal Audit Service of the Police will handle such reports.¹⁰²</p>
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> • The law does not provide specific remedies for whistleblowers. However, it is possible to seek remedies in alternative laws.¹⁰³ • The law includes a specific sanction with regard to anyone imposing an unjustified punishment on a whistleblower (who disclosed corruption) according to article 7 of the Civil Law. In addition, violation of article 7 of the Criminal Code (regarding whistleblower protection) can result in being fined or sent to prison.¹⁰⁴ The Civil Law Convention on Corruption describes the same sanction for unjustified punishment of a whistleblower for disclosing corruption.¹⁰⁵
10. Other relevant aspects	<ul style="list-style-type: none"> • Regarding whistleblower participation: the public entity that received a disclosure from a whistleblower is required to update the whistleblower concerning the progress and results of the proceeding.¹⁰⁶ • There is no reward system in place nor does the law offer the right to a fair hearing. • There is some involvement of stakeholders in the design of legislation dedicated to whistleblowers. For example, TI Cyprus assisted in the development of a draft whistleblowing law in 2015.¹⁰⁷
11. Final notes	<p>In 2012, a whistleblower was promoted for his actions regarding the disclosure of nepotism; the involved government officials were convicted and fined.¹⁰⁸</p>

⁹⁶ Blueprint for Free Speech, 'Briefing Paper Protection in the EU, Cyprus' (2018).

⁹⁷ Constantinos Kombos, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Cyprus* (November 2012), p. 7.

⁹⁸ Blueprint for Free Speech, 'Briefing Paper Whistleblower Protection in the EU, Cyprus' (2018).

⁹⁹ G. Thüsing and G. Forst, 'Whistleblowing – A Comparative Study', Springer (2016), p.109.

¹⁰⁰ Constantinos Kombos, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Cyprus* (November 2012), p. 17.

¹⁰¹ See: https://anticorruption.police.gov.cy/police/platform/platform.nsf/subscribe_en/subscribe_en?OpenForm (last accessed 30 October 2018).

¹⁰² Establishment and Operation of the Internal Audit Service of the Police Law 2018.

¹⁰³ Constantinos Kombos, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Cyprus* (November 2012), p. 17.

¹⁰⁴ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Cyprus' (2018). See also G. Thüsing and G. Forst (2016), p. 109.

¹⁰⁵ Constantinos Kombos, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Cyprus* (November 2012), pp. 7 and 16.

¹⁰⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 146. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁰⁷ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Cyprus' (2018).

¹⁰⁸ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Cyprus' (2018).

6. CZECH REPUBLIC

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> The Czech Republic has no stand-alone legislation dedicated to protect whistleblowers in both the private and public sector. The most important protective laws are the Government Resolution no. 145/2015 Coll. and the Administrative Procedure Code (APC).¹⁰⁹ They apply to the public sector. Other relevant laws are the Criminal Code; the Labour Code; the Anti-Discrimination Act; Ombudsman Act and the Act on Banks.¹¹⁰
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law. However, In the Directive of 15 June 2015 (part of the Civil Service Act) 'whistleblower' is defined as "oznamovatel", meaning any person who discloses misconduct. ¹¹¹
3. Who are protected?	Civil servants who disclosed misconduct in the public sector.
4. What types of wrongdoing can be disclosed?	The APC does not specify what acts qualify as 'misconduct'. ¹¹² Only specific types of wrongdoings can be disclosed, based on specific laws such as the labour law.
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Specific disclosures can be made to: <ul style="list-style-type: none"> The Ombudsman which may investigate individual cases, both in response to a whistleblowers complaint and/or on his or her own accord. However, the mandate of the Ombudsman is limited since he cannot overrule activities of or decisions made by civil service agencies.¹¹³ Under the Directive (part of the Civil Service Act) there is a special internal mechanism for disclosing (dedicated investigator, hotline, email, post box). Employees can also contact Labour Inspectorates and labour offices regarding violations of labour law, such as discrimination.¹¹⁴
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made. This is different in the public sector:

¹⁰⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 145. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹¹⁰ (Unofficial) translations via: <http://www.ejtn.eu/PageFiles/6533/Criminal%20Code%20of%20the%20Czech%20Republic.pdf>, https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/pravni_predpisy/Anti-discrimination-Act.pdf, <http://www.parliament.am/library/Ombudsman/Czech%20republic.pdf>, https://www.mpsv.cz/files/clanky/3221/Labour_Code_2012.pdf and https://www.cnb.cz/miranda2/export/sites/www.cnb.cz/en/legislation/acts/download/act_on_banks.pdf (last accessed 22 January 2019).

¹¹¹ Based on input from the TI Chapter in the Czech Republic.

¹¹² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 145. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹¹³ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Cyprus* (November 2012), p. 7-8.

¹¹⁴ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 6-7.

	<ul style="list-style-type: none"> - Under the Directive of 15 June 2015 (part of the Civil Services Act), public institutions are obliged to (1) appoint an internal investigator regarding whistleblower reports; and (2) set up a whistleblower mechanism that allows disclosure.¹¹⁵ These reporting mechanisms should be available to all governmental officials. • The Code of Ethics requires employees from the government to disclose loss of property or fraudulent/corrupt behaviour. Reports can be made to a superior or competent body. However, the Code does not specify what bodies are competent.¹¹⁶ • Employees can disclose (suspicions of) violations of the labour law to labour inspectorates and labour offices. This includes discrimination.¹¹⁷ • The law does not require whistleblowers to disclose in good faith.¹¹⁸
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general protection mechanism concerning whistleblowers in place. However, protection can be derived from alternative laws including: <ul style="list-style-type: none"> - Protection against workplace retaliation for civil servants, based on the Government Resolution.¹¹⁹ - Protection against unfair dismissal, discrimination and changes in the work(location) is offered by the Labour Code.¹²⁰ This is also offered by the Anti-Discrimination Act.¹²¹ - Protection against any <i>(in)direct actions</i>. The nature of these actions is not specified.¹²² - Protection against the conduct of authorities and other Czech institutions.¹²³ - Also, it is possible to qualify as witnesses and therefore receive special protection based on the criminal code. • There is no legal basis for the reversal of the burden of proof.
8. How is the identity of whistleblowers protected?	Disclosures based on the APC and the Government Resolution can be made confidentially and anonymously. However, the law does not include any penalties if this is breached. ¹²⁴ When an

¹¹⁵ Based on input from the TI Chapter in the Czech Republic.

¹¹⁶ Country Report Czech Republic, p. 13.

¹¹⁷ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 7.

¹¹⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 146. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹¹⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 145. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹²⁰ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 6.

¹²¹ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 7.

¹²² Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 5-6.

¹²³ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 7-8. However, this protection is rather narrow since the Ombudsman is entitled to investigate matters regarding basic rights of individuals such as discrimination. Because of this limited scope, not all whistleblowers can or should report to the Ombudsman

¹²⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 145 - 146. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	inspection by labour inspectorates is carried out, the identity of the employee should be kept confidential. ¹²⁵
9. Does the law include remedies for whistleblowers?	The law does not provide specific remedies for whistleblowers. However, it is possible to seek remedies in alternative laws.
10. Other relevant aspects	<ul style="list-style-type: none"> • In general, the law does not offer the whistleblower the right to participate after the disclosure nor the right to a fair hearing. • There is no reward system for whistleblowers in place. • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	Ozivení provides free legal advice to whistleblowers. ¹²⁶

¹²⁵ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Czech Republic* (2013), p. 7.

¹²⁶ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Czech Republic' (2018).

7. DENMARK

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Denmark has no stand-alone legislation dedicated to protect whistleblowers in both the public and the private sector. The relevant fragmented laws that include disclosures and the protection of whistleblowers primarily focus on the financial sector.¹²⁷ Other relevant laws are: the Penal Code; the Danish Financial Business Act; the Danish Money Laundering Act; the Guidelines regarding whistleblowers of The Danish Data Protection Act (DPA); the Code of Conduct in the Public Sector and the Employers' and Salaried Employees' Act.¹²⁸
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	Employees in the financial sector. ¹²⁹
4. What types of wrongdoing can be disclosed?	Breaches (and potential breaches) of financial regulations that are committed by an undertaking can be disclosed. ¹³⁰
5. Which bodies can receive/investigate disclosures?	Disclosures can be made to the Danish Financial Supervisory Authority (FSA). ¹³¹
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> In general, companies are not required to implement whistleblowing mechanisms.¹³² There is no general requirement to disclose internally before external disclosures can be made. When disclosing through a whistleblowing mechanism, the DPA is relevant regarding processing data. The DPA recommends that disclosing through whistleblower mechanisms should be solely available to non-anonymously employees.¹³³ Also, the transferral of personal data within the EU/EEA is unrestricted while transfer out of the EU/EEA is restricted.¹³⁴ Financial institutions are required to implement internal reporting mechanisms.¹³⁵ The scope of whistleblower mechanisms within financial institutions is broader than the

¹²⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹²⁸ The Directive is relevant for law firms, the gambling sector and estate agencies. More specific, see the Danish Financial Business Act (sections 75a and 75b) and relevant; the American Sarbanes Oxley Act.

¹²⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹³⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹³¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹³² However, they are free to adapt mechanisms.

¹³³ World Law Group, 'Global Guide to Whistleblowing Programs', (2016), p. 46.

¹³⁴ The requirements are: (1) the receiving country needs to insure an adequate level of protection; (2) or there is an underlying legal basis for the transfer.

¹³⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<p>one issued by the DPA. Both less severe and severe breaches can be reported.¹³⁶</p> <p>It is possible that companies voluntarily implement an internal whistleblowing mechanism.</p>
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> Whistleblowers who reported to the FSA can be protected against unfair treatment or any unfair consequence as a result of their report.¹³⁷ Employees of financial institutions are protected by the institution against unfavourable treatment based on the Financial Business Act.¹³⁸ With regard to the financial sector, there is no reversal of the burden of proof from the whistleblower to the employer.¹³⁹ Public sector employees are also permitted to disclose non-confidential information to external parties if they respect certain rules (for example they have to state that they are not speaking on behalf of the institution). Public employees are further permitted to disclose <i>confidential</i> information if they are instructed to do so, are acting in an obvious public interest, are acting in their own or others' best interests or if the information refers to something "clearly illegal". If employees respect these rules, they are protected against internal sanctions and unfair dismissal.
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> There is no general protection of the identity of whistleblowers. In the financial sector, the confidentiality of identity is guaranteed and anonymous reporting is accepted.¹⁴⁰ The DPA recommends that disclosing through whistleblower mechanisms should be solely available to non-anonymous employees.¹⁴¹
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> The law does not include any remedies for whistleblowers. However, the whistleblower can seek remedies based on alternative legislation, such as: <ul style="list-style-type: none"> Employees of financial institutions have the possibility of compensation if the employee suffers detriment because of the disclosure.¹⁴² Retaliation claims can be filed in labour court and will be decided based on case law due to the lack of legislation dedicated to whistleblowers.¹⁴³ <p>In case of an unfair dismissal to a disclosure, claims can be made under the Danish Salaried Employees Act or applicable collective agreement.¹⁴⁴</p>

¹³⁶ The Norton Rose Fulbright Guide, p. 79.

¹³⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹³⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹³⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁴⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 147. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁴¹ World Law Group, 'Global Guide to Whistleblowing Programs', (2016), p. 46.

¹⁴² Based on "Bill on whistleblowing systems in financial institutions". See The Norton Rose Fulbright Guide, p. 80.

¹⁴³ See: <https://www.changeofdirection.eu/assets/briefings/EU%20briefing%20paper%20-%20Denmark%20-%20english.pdf> (last accessed 10 July 2018).

¹⁴⁴ The Norton Rose Fulbright Guide, p. 80.

10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not provide for the participation of whistleblowers and the right to a fair hearing.¹⁴⁵ • There is no rewards system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation, relevant to whistleblowers.
11. Final notes	N/A

¹⁴⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 148. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

8. ESTONIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Estonia has no stand-alone legislation dedicated to protect whistleblowers. The most important law regarding whistleblowers is the Anti-Corruption Act 2012 (ACA) addressing both the public and private sector.¹⁴⁶ The provisions of the ACA are complemented by Order 164 of the Director General of the PBGB Other relevant laws are the Penal Code; the Public Service Act (PSA); the Witness Protection Act; the Administrative Procedure Act (APA); and the Employment Contract Act.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	<ul style="list-style-type: none"> The ACA refers to 'any person who can receive protection'.¹⁴⁷ With regard to public officials, the ACA refers to "a natural person who holds an official position for the performance of public duties who has the right to make binding decisions, perform acts or take part in their making notwithstanding if he or she is performing those tasks permanently or temporarily, for remuneration or for free or has been elected to the office or appointed to the office" (§2 ACA).¹⁴⁸
4. What types of wrongdoing can be disclosed?	According to the ACA, all incidents of corruption qualify as the type of wrongdoing that can be disclosed. ¹⁴⁹
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Specific disclosures can be made to: <ul style="list-style-type: none"> The hotline of the Central Criminal Police. Corruption can be disclosed through this hotline.¹⁵⁰
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made.¹⁵¹ Disclosures of corruption can be made to "agencies performing public duties, public officials, and persons exercising supervision over agencies, persons controlling

¹⁴⁶ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Estonia* (2013), p. 3-4. It is important to note that the ACA only regulates reporting channels and does not offer any form of protection. Therefore, it is not a stand-alone piece of legislation. See also: <https://www.riigiteataja.ee/en/eli/530032016001/consolide> (last accessed 22 January 2019).

¹⁴⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 148. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁴⁸ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Estonia* (2013), p. 7.

¹⁴⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 148. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁵⁰ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Estonia', (2018).

¹⁵¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<p>declarations or bodies conducting proceedings concerning an offence”.¹⁵²</p> <ul style="list-style-type: none"> • Civil servants and employees must report suspected corruption and misconduct (listed as “corrupt use” of an official position, as well as “corrupt use” of public resources, influence or inside information) by colleagues in accordance with section 6 ACA.¹⁵³ • While there is no disciplinary liability for non-reporting under the ACA, a failure to report would entail a violation of the CSA for civil servants and Employment Contracts Act for employees.¹⁵⁴ • If the act of corruption occurred “outside the performance of public duties” they may also be disclosed (§6 sub 5 ACA), though it is unclear to what extent the (in principle public sector) rules and principles can be applied to the private sector.¹⁵⁵ • Disclosing in good faith is required.¹⁵⁶
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general whistleblower protection mechanism in place. However, protection can derive from alternative laws including: <ul style="list-style-type: none"> - Protection of employees against retaliation, if the disclosure has been made under the ACA.¹⁵⁷ - Protection against unfair dismissal based on the Employment Contract Act. - Protection against the jeopardizing of the safety of anyone who qualifies as a witness, according §6 of the Witness Protection Act.¹⁵⁸ • If the whistleblower proves that he/she suffered negative treatment due to the disclosure, the assumption will be made that this treatment is related to the disclosure. The employer/office needs to prove otherwise in order to avoid being sanctioned.¹⁵⁹
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • The identity of the whistleblower shall remain confidential and can be disclosed only with the written consent of the official having made the notification.¹⁶⁰ • The ACA guarantees anonymity of the whistleblower when requested. If there is a risk that the source will be revealed,

¹⁵² Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁵³ See: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680900551> (last accessed 22 January 2019), p. 53.

¹⁵⁴ See: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680900551> (last accessed 22 January 2019), p. 53.

¹⁵⁵ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Estonia* (2013), pp. 4-5.

¹⁵⁶ Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁵⁷ Blueprint for Free Speech, ‘Briefing Paper – Whistleblower Protection in the EU, Estonia’ (2018). Also relevant: Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Estonia* (2013), p. 4.

¹⁵⁸ See also §8 for protection before and after court proceedings, and §3 for unlawful influence. Transparency International Estonia, ‘Whistleblower Protection Assessment Report on Estonia’, p. 6.

¹⁵⁹ Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). See also: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680900551> (last accessed 22 January 2019), p. 54.

¹⁶⁰ See: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680900551> (last accessed 22 January 2019), p. 54.

	<p>the investigation will be ceased and the investigators will try to gather the disclosed information through other means.¹⁶¹ However, this is not the case if the whistleblower discloses knowingly false information.¹⁶²</p> <ul style="list-style-type: none"> • If the whistleblower discloses knowingly false information, the guarantee of anonymity will be lifted, according to the ACA.¹⁶³ Such disclosures could also lead to punishment under the Penal Code (§319). • In case an employee fails to disclose, the whistleblower could be subjected to disciplinary punishments due to the loss of trust.¹⁶⁴ However, such punishments can be challenged on the on the base of PSA and APA. <p>The law does not accept nor prohibit anonymous disclosure.</p>
9. Does the law include remedies for whistleblowers?	The law does not provide any remedies for whistleblowers. ¹⁶⁵ However, it is possible to seek remedies in alternative laws, such as the Employers and Salaried Employees Act.
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer rights regarding participation for whistleblowers such as a follow-up or a fair hearing.¹⁶⁶ • There is no reward system for whistleblowers in place. • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation, dedicated to whistleblowers.
11. Final notes	N/A

¹⁶¹ See: <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680900551> (last accessed 22 January 2019), p. 54.

¹⁶² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁶³ Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Estonia* (2013), p. 5.

¹⁶⁴ The scope for both the failure of reporting and the concealment of crime is limited. It only extends to crimes of first degree. See §306 and §307. Also, Transparency International, *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Estonia* (2013), p. 4.

¹⁶⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 148. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁶⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

9. FINLAND

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Finland has no stand-alone legislation dedicated to protect whistleblowers in both the private and public sector. The available (fragmented) legislation focuses on regulating disclosing in the financial sector. Relevant laws are the Act on Credit Institutions; the Act on Financial Supervision; the Employment Contracts Act; the Act on the Protection of Privacy in Working Life and the Personal Data Act.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	The legal framework does not offer any specific protection. ¹⁶⁷
4. What types of wrongdoing can be disclosed?	Breaches of financial legislation applicable to the financial sector. ¹⁶⁸
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Employees of credit facilities can use their internal channels and government officials are required to make their disclosures to the police.¹⁶⁹
6. How can wrongdoings be disclosed?	In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made. This is not the case for credit institutions; these entities are required to implement such mechanisms in order to enable the disclosure of breaches. ¹⁷⁰
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> There is no general whistleblower protection mechanism in place. Only employees of credit institutions can derive some protection based on the Act on Credit Institutions which states that "credit institutions should implement appropriate and adequate measures in order to protect whistleblowers". It is not specified what kind of protection should be implemented.¹⁷¹ Also, protection can derive from alternative laws such as the Employment Contracts Act.¹⁷²

¹⁶⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 150. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁶⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149 – 150. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁶⁹ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Finland'(2018).

¹⁷⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 149. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁷¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 150. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁷² According to the Norton Rose Fulbright Guide, whistleblowing on itself does not qualify as a proper and weighty reason and can therefore not be used by the employer.

8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • In the financial sector, confidentiality is guaranteed.¹⁷³ • The legal framework does not accept nor prohibit anonymous disclosures.
9. Does the law include remedies for whistleblowers?	The law does not offer specific remedies to whistleblowers that are harmed because of their disclosure. Whistleblowers can use alternative laws to seek for remedies such as labour laws. ¹⁷⁴
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer specific rights regarding participation in follow-up steps for whistleblowers nor a fair hearing.¹⁷⁵ • There is no reward system for whistleblowers in place. • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation, dedicated to whistleblowers.
11. Final notes	In case the whistleblower disclosure includes personal data, the data needs to be processed in accordance with the Personal Data Act. If not, sanctions can be imposed. ¹⁷⁶

¹⁷³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 150. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁷⁴ The OECD Phase 4 report' (2017), p. 13-14. Also relevant: The Norton Rose Fulbright Guide, p. 84.

¹⁷⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 150. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁷⁶ The Norton Rose Fulbright Guide, p. 84.

10. FRANCE

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 2016, France implemented a stand-alone piece of legislation addressing both the private and public sector (the Sapin II Act). ¹⁷⁷
2. Definitions	<ul style="list-style-type: none"> The term 'whistleblower' is defined as "an individual disclosing or reporting – in good faith – a crime, an offence, a violation of an international commitment, a law or regulation infringement, a threat or an important prejudice to the general interest he or she became aware off."¹⁷⁸ The term 'whistleblowing' is not defined.
3. Who are protected?	All employees in both sectors are covered. ¹⁷⁹
4. What types of wrongdoing can be disclosed?	Under the Sapin II Act, "any serious harm or threat to the public interest, as well as violations of the national and international law" can be disclosed. ¹⁸⁰
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Where a whistleblower should direct their disclosure depends on the phase of the disclosure and the way the disclosure has been handled in the past, for example by their employer. In November 2018, the French House for Whistleblowers, an initiative of 17 organisations (including TI-France) and trade unions was opened. The 'Maison des Lanceurs D'Alerte' offers legal advice to whistleblowers whereby they are informed about their rights and obligations and receive assistance in bringing their case. The House also offers technical support in securely sharing information and if necessary moral and psychological support. Moreover, in some cases it can provide financial support from the donation fund.¹⁸¹
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> Firstly, whistleblowers should report to their supervisor, employer or any referent appointed by their employer. If that first recipient fails to verify within a reasonable period of time, or in the event of a serious and imminent danger, risk or irreversible damage, the disclosure can be made to external (judicial or administrative) authorities. If these authorities do not act on the disclosure within 3 months, the report can be made public.¹⁸²

¹⁷⁷ (Unofficial) translation of the whistleblower provisions: <https://www.whistleblower-rights.org/s/Sapin-II-2016-final-English.doc> (last accessed 22 January 2019).

¹⁷⁸ See: <http://www.osborneclarke.com/insights/whistleblowing-a-new-regulation-in-france-in-january-2018/> (last accessed 24 July 2018).

¹⁷⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 151. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 151. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸¹ See: <https://mlalerte.org/>

¹⁸² See: <http://www.osborneclarke.com/insights/whistleblowing-a-new-regulation-in-france-in-january-2018/> (last accessed 24 July 2018). Also relevant: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 151. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> Also, it is important to note that all companies with over 50 employees are required to implement a professional whistleblower mechanism. Such a mechanism should be available to employees and external stakeholders of the company (article 17 of the Sapin II Act).
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> The Sapin II Act protects whistleblowers against workplace retaliation in a broad way, such as discrimination, sanctions and not having access to work-related programmes. Whistleblowers cannot be held criminal liable for disclosure of legally protected bank or trading secrets if disclosure of the information is necessary and proportionate to the involved interests. Retaliation is prohibited (article 10 of the Sapin II Act). The burden of proof is reversed from the whistleblower to the employer. Besides that, whistleblowers are required to disclose information in an objective manner and in good faith.¹⁸³
8. How is the identity of whistleblowers protected?	Confidentiality of the identity of the whistleblower is guaranteed and anonymous reporting is accepted according to article 9 of The Sapin II Act.
9. Does the law include remedies for whistleblowers?	Yes, an interim relief is available to suspend dismissal and whistleblowers can be entitled to reinstatement after a trial. ¹⁸⁴
10. Other relevant aspects	<ul style="list-style-type: none"> The Sapin II Act does not offer specific rights to whistleblowers in order to participate or to receive a fair hearing. There is no reward system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation relevant to whistleblowers.
11. Final notes	<ul style="list-style-type: none"> In case a whistleblower acts in bad faith, he/she can be held liable under tort law and face criminal or disciplinary sanctions, for example slander (up to 5 years of imprisonment and a criminal fine up to EUR 45.000) or dismissal for fault. A breach of confidentiality can lead to punishment such as imprisonment up to two years and a fine up to EUR 30.000 (individuals) or EUR 150.000 (legal entities).¹⁸⁵ Preventing transmission of a report from a whistleblower is punishable by imprisonment (one year) and/or a criminal fine (up to EUR 15.000).

¹⁸³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 152. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 151. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸⁵ See: <http://www.osborneclarke.com/insights/whistleblowing-a-new-regulation-in-france-in-january-2018/> (last accessed 24 July 2018); see also: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 151. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

11. GERMANY

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Germany has no stand-alone legislation dedicated to protect whistleblowers in both the public and private sector. The most important laws dedicated to the protection of whistleblowers are the Federal Civil Service Act and the Law on the Federal Financial Supervisory Authority, primarily covering the public and financial sector.¹⁸⁶ Other relevant laws are the Criminal Code (StGB); the Handelsgesetzbuch (HGB); the Employment Protection Act; the Civil Code (BGB); the German Data Protection Act (BDSG); the German Works Constitution Act (BetrVG) and the Financial Services Supervisory Law (FinDAG).
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	In the public sector only employees are covered whereas in the financial sector all employees and companies of financial institutions under the control of the Federal Financial Supervisory Authority are covered. ¹⁸⁷
4. What types of wrongdoing can be disclosed?	With regard to the public sector, concerns regarding the legality of official orders and criminal acts can be disclosed. In the financial sector, wrongdoing related to money laundering and terrorism financing, and any (potential) violation of (European) law and regulations related to ensure compliance with this legislation by the companies and supervisors. ¹⁸⁸
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Specific disclosures can be made to: <ul style="list-style-type: none"> Employees from the financial market can make disclosures regarding the financial sector to the Federal Financial Supervisory Authority (BAFin); Discrimination offences can be disclosed to the Federal Anti-Discrimination Agency;¹⁸⁹ In general, disclosures regarding criminal offences can be made to the public prosecutor.¹⁹⁰
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> Apart from the financial sector, there is no legal obligation to implement internal reporting mechanisms. However, in general, public authorities do have internal complaints procedures.¹⁹¹ Whistleblowers are usually not required to first disclose internally.

¹⁸⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 152. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁸⁹ See: <https://www.globalworkplaceinsider.com/2014/05/whistleblowing-what-protection-do-employees-have-in-germany/> (last accessed 30 October 2018).

¹⁹⁰ See: https://www.whistleblower-net.de/pdf/WB_in_Germany.pdf (last accessed 30 October 2018).

¹⁹¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> • Data Protection Officers can disclose possible violations of data protection legislation to the relevant authorities (BDSG); • Employees can file a complaint to their employer and/or works council regarding unfair treatment (BetrVG). • German Financial Institutions are required to implement an internal reporting mechanism (Banking Act Sec. 25a para 1 s. 6 no. 3). • Disclosures regarding (threats of) safety and health protection can be made to the relevant authorities if an employer has not remedied previous internal complaints. • Disclosures to the BAFin can be made without at first disclosing internally (FinDAG Sec. 4d).
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no general whistleblower protection mechanism in place. However, protection can derive from alternative laws such as: <ul style="list-style-type: none"> - Disclosures made under the FinDAG offer protection against penalties under criminal and labour law.¹⁹² - General protection in the public sector is offered against disadvantages and criminal acts.¹⁹³ Also, witness procedural rules apply. - Discrimination due to the exercise of rights (for example the freedom of speech) cannot lead to sanctions (section 612(a) BGB). This type of protection only applies if the whistleblower can demonstrate that the disclosure of information was legally permissible, the discrimination actually took place, and it is a result of the disclosure itself. - Whistleblowers need to act in good faith and there is no reversal of burden of proof from the whistleblower to the employer.¹⁹⁴
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • There is no general guarantee of protection of the identity of whistleblowers. However, some bodies do offer the protection of the identity, like in the financial sector: the BAFin (FinDAG Sec. 4d paragraph 6).¹⁹⁵ • Disclosures made to the BAFin can also be made anonymously (FinDAG Sec. 4d paragraph 6). However, reporting on an anonymous basis is not encouraged.¹⁹⁶ • The protection of whistleblowers based on the FinDAG can be lifted if the disclosure is knowingly false and was made intentionally or with gross negligence.¹⁹⁷ This could also lead to criminal prosecution, according to §145d StGB for pretending to have committed a criminal offence or according to § 164 StGB for false suspicion.

¹⁹² See: <http://www.cms-lawnow.com/ealerts/2017/03/federal-financial-supervisory-authoritys-central-contact-point-for-whistleblowers> (last accessed 10 October 2018).

¹⁹³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁹⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁹⁵ The whistleblowers' anonymity may be lifted in connection with investigations or other administrative or judicial proceedings.

¹⁹⁶ See: <https://globalcompliancenews.com/germany-whistleblowing-hotlines-20180822/> (last accessed 10 October 2018)

¹⁹⁷ See: <http://www.cms-lawnow.com/ealerts/2017/03/federal-financial-supervisory-authoritys-central-contact-point-for-whistleblowers> (last accessed 10 October 2018)

	<ul style="list-style-type: none"> • There are no legal consequences for retaliating employers. In addition, the law does not offer a legal basis for whistleblowers to sue the employer and claim damages.¹⁹⁸ • In case of criminal wrongdoing, confidentiality in the context of witness protection is guaranteed.¹⁹⁹
9. Does the law include remedies for whistleblowers?	It is possible that a court accepts an unfair dismissal due to the fact that continuation of the contract can be unacceptable for the employer. In that case, the employer needs to pay the employee a small amount (section 10, paragraph 2 Termination-Protection Employment Law). However, each case must be assessed individually.
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer specific rights regarding participation after a disclosure has been made nor does it provide rights to a fair hearing. However, whistleblowers can fight their unfair dismissal based on labour laws. • There is no reward system for whistleblowers in place. • Organisations such as 'the Whistleblower Netzwerk' and Blueprint for Free Speech are committed to support whistleblowers. In addition, the 'Whistleblower Netzwerk' was involved in a parliamentary hearing on the introduction of a whistleblower section in the Civil Code.²⁰⁰
11. Final notes	N/A

¹⁹⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

¹⁹⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 153. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁰⁰ See: https://www.whistleblower-net.de/pdf/WB_in_Germany.pdf (last accessed 21 October 2018).

12. GREECE

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> There is no stand-alone legislation dedicated to the protection of whistleblowers in both the private and public sector. The most important legislation related to the subject is the Public Interest Witness Protection Law 4254/2014, offering protection to whistleblowers in the public sector.²⁰¹ Other relevant laws are the Civil Service Code; the Civil Code; the Criminal Procedure Code; Law 2928/2001 and the Data Protection Act.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	Employees in the public sector are covered. ²⁰²
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> The types of wrongdoing that can be disclosed is limited to bribery (different forms), disloyalty in the service, false assertion, misappropriation, fraud and money laundering. In addition, all disclosed wrongdoing does need to be linked to the public interest. However, it is not clear how 'public interest' is defined.²⁰³
5. Which bodies can receive/investigate disclosures?	There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. ²⁰⁴
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made. Greek citizens are required to disclose illegal actions (article 40 Penal Code). The disclosures can be made to the Public Prosecutor or a responsible employee.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> There is no general whistleblower protection mechanism in place. However, protection can be derived from alternative laws such as: <ul style="list-style-type: none"> Whistleblowers qualify as witnesses acting in the public interest, which means that they are protected from criminal prosecution with respect to offences such as disclosure of privileged information and false complaints (article 45B Code of Criminal Procedure, article 9 of Law 2929/2001 and article 252/371 Penal Code).²⁰⁵

²⁰¹ Together with the OECD, Greece is working on the improvement of protection in the private sector. In this context: OECD (2018), Whistleblower Protection in the Private Sector: Developing the Legal Framework. (Unofficial) translation of the whistleblowing provisions: <https://www.whistleblower-rights.org/s/Greece-WBer-provison-2014-rough-English.doc> (last accessed 22 January 2019).

²⁰² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 154. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁰³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 154. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁰⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 155. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁰⁵ See: <https://www.lexology.com/navigator/#results/290/view> (last accessed 22 January 2019); see also: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 154. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> - Public officials not involved in the disclosed wrongdoing can receive protection against prosecution for perjury, deformation, false accusations and official secrets violations if the public official reported bribery or influence peddling (Law 4254).²⁰⁶ - If an employee discloses corrupt practices in which he/she was involved, he/she can receive clemency or a less severe punishment (article 263B Penal Code). • Civil Servants can request a transfer due to a disclosure (article 15, paragraph 2 Law 3849/2010). • Whistleblowers need to act in good faith.²⁰⁷
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • The protection of confidentiality is not guaranteed. For example, the identity of the witness/whistleblower can be revealed in trial if the prosecutor orders to do so (article 9 of Law 2929/2001). • The legal framework does not accept nor prohibit anonymous reporting.
9. Does the law include remedies for whistleblowers?	The law does not provide any remedies for whistleblowers. However, whistleblowers can use alternative laws to seek for remedies, such as the labour law.
10. Other relevant aspects	<ul style="list-style-type: none"> • There is no legal basis for whistleblowers to be entitled to participation nor does the law offer the right to a fair hearing. • There is no reward system for whistleblowers in place. • There is some involvement of key stakeholders in the design of legislation dedicated to whistleblowers.²⁰⁸
11. Final notes	N/A

²⁰⁶ Blueprint for Free Speech, 'Gaps in the System: Whistleblower Laws in the EU, page 30.

²⁰⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 154. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁰⁸ In November 2017, The Hellenic Anti-Corruption Organization has delivered a proposal for a Law on Whistleblower Protection in Greece to the Minister of Justice: <https://whistleb.se/whistleblowing-greece/> (last accessed 22 January 2019).

13. HUNGARY

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	Hungary has implemented stand-alone legislation dedicated to protect whistleblowers in both the private and public sector called: the Act CLXV on Complaints and Public Interest Disclosures (2013). ²⁰⁹ Hereinafter referred to as “the Act”.
2. Definitions	The terms ‘whistleblower’ and ‘whistleblowing’ are not defined by law.
3. Who are protected?	It covers all citizens (and therefore all employees) in both the public and private sector. ²¹⁰
4. What types of wrongdoing can be disclosed?	In this context, the Act refers to public interest disclosures, meaning a disclosure that calls attention to a circumstance the remedying or discontinuation of which is in the interest of the community or the society as a whole (article 1(3) of the Act).
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. • Disclosures can be made to the Ombudsman, who can direct the disclosures to the relevant authorities.²¹¹
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • The law requires the implementation of reporting channels in the public sector.²¹² • Regarding the public sector, two options are available: a centralised channel operated by the Ombudsman and an institutional reporting channel, operated by advisors.²¹³ • The requirement to set up reporting channels does not apply to the private sector. However, if a company does implement such a system, it must meet the legal requirements (articles 4-10 and 13-16 of the Act). • Disclosures can also be made externally via an online mechanism. There is no need to first disclose internally. The entity that receives the disclosure is required to follow up within 30 days (article 2(1) of the Act).
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • The protection is limited to the workplace.²¹⁴ • Any action taken as a result of the disclosure of a public interest or disclosure made in good faith, which may cause disadvantage to the whistleblower, shall be unlawful even if it would otherwise be lawful (article 11 of the Act). • The State shall provide whistleblowers with legal aid (article 12 of the Act).

²⁰⁹ (Unofficial) translation: http://corruptionprevention.gov.hu/download/7/a2/90000/KIM%20555_2013-4.pdf (last accessed 22 January 2019).

²¹⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹¹ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Hungary' (2018).

²¹² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> Disclosing in good faith is required and the law does not reverse the burden of proof.²¹⁵
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> The identity of the whistleblower will not be disclosed (article 3(3) of the Act). The guarantee of the protection of identity can expire if it becomes clear that the whistleblower disclosed false information of crucial importance and the disclosure was made in bad faith (article 3 (4) of the Act). In general, anonymous reporting is not accepted.²¹⁶
9. Does the law include remedies for whistleblowers?	The law does not include any specific remedies dedicated to whistleblowers. ²¹⁷ It only refers to restoring the unlawful situation and take the necessary actions (article 3 of the Act).
10. Other relevant aspects	<ul style="list-style-type: none"> With regard to whistleblower participation rights, the investigation body will hear the whistleblower if this is necessary (article 2 (3) of the Act) and the whistleblower has to be notified regarding the outcome of the investigation.²¹⁸ Legal persons may conclude in a contract with a lawyer for receiving and managing whistleblower reports (article 17 of the Act). The whistleblower is entitled to free legal advice.²¹⁹ There is no reward system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation relevant to whistleblowers.
11. Final notes	N/A

²¹⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 154. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²¹⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 156. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

14. IRELAND

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 2014, Ireland implemented stand-alone legislation dedicated to protect whistleblowers both in the private and public sector, called the Protected Disclosures Act (PDA). ²²⁰
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	The PDA protects all employees from the private and public sector who have made a protected disclosure. ²²¹
4. What types of wrongdoing can be disclosed?	The PDA refers to the (protected) disclosure of wrongdoing, which covers an offence; a breach of a legal obligation; a miscarriage of justice; an endangerment of health and safety; damage to the environment; a misuse of public funds; an oppressive, discriminatory or grossly negligent act or omission by a public body or one which constitutes gross mismanagement. ²²²
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures made by whistleblowers. • Specific disclosures can be made to: <ul style="list-style-type: none"> - The employer/responsible person (section 6 PDA); - The prescribed person (section 7 PDA); - The minister (section 8 PDA); - The legal adviser or Trade Union Official (section 9 PDA); - Others, such a Member of Parliament or a journalist.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • Public bodies are required to implement internal disclosing mechanisms. Companies are not required to do so.²²³ It is possible to report to an external party, even if the disclosure has (at first) not been made internally. Disclosures to external parties, including the media, are protected if this is reasonable in the circumstances of the case.²²⁴ However, initial internal disclosure is encouraged.²²⁵ • The disclosures can be made online.²²⁶

²²⁰ See: <http://www.irishstatutebook.ie/eli/2014/act/14/section/11/enacted/en/html#sec11> (last accessed 22 January 2019). It is important to note that the Act amended a large number of sectoral provisions such that if a disclosure made under a sectoral provision complies with the definition of protected disclosure under the PDA, then it will fall under its ambit and attract the protections therein. If, however, a disclosure made under a sectoral provision does not satisfy the requirements of the PDA, that disclosure will still be covered by the relevant sectoral provision.

²²¹ The definition is very broad and includes (former) employees, trainees, and people working under a contract for services, independent contractors, agency employees, interns etc. However, the PDA does not include volunteers. Relevant: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 157. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²²² Relevant: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 158. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²²³ Relevant: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 158. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²²⁴ Transparency International Ireland, 'Speak Up Safely. TI-Ireland's Guide to Whistleblowing and Making a Protected Disclosure' (2014), p. 31 – 32.

²²⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 158. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²²⁶ See: http://www.citizensinformation.ie/en/employment/enforcement_and_redress/protection_for_whistleblowers.html (last accessed 4 November 2018).

<p>7. What kind of protection does the law offer?</p>	<ul style="list-style-type: none"> • All disclosures are assumed to be protected disclosures, until the employer proves the contrary.²²⁷ • An employee making a protected disclosure enjoys immunity from criminal prosecution and civil action for damages. In return, the worker (and other persons such as family members) may sue anyone who caused detriment to them due to the protected disclosure. • Changes made to the PDA in June 2018 which were aimed at transposing the EU Trade Secrets Directive weakened protections by requiring a whistleblower to demonstrate he/she acted with the 'purpose of protecting the general public interest' when making protected disclosure using a trade secret. Employees are therefore exposed to criminal and civil action if they cannot prove their motivation in disclosing a trade secret.²²⁸ • Whistleblowers receive, based on the PDA, immunity from civil actions for damages. In return, the whistleblower may sue anyone who caused detriment to him/her due to the protected disclosure. • Whistleblowers must report with a 'reasonable belief'.²²⁹ • If a disclosure is to be found incorrect, the whistleblower is still protected if the whistleblower had reasonable belief the information was correct and the disclosure was made in the manner set out in the PDA. A reduction of compensation of up to 25% may be levied in cases where the investigation of the relevant wrongdoing was not the sole or main motivation for making the disclosure.
<p>8. How is the identity of whistleblowers protected?</p>	<ul style="list-style-type: none"> • Confidentiality is guaranteed since the persons receiving protected disclosures are not allowed to share the identity of the whistleblower without their consent. However, there are some exceptions.²³⁰ • The legal framework does not accept nor prohibit, anonymous disclosure.
<p>9. Does the law include remedies for whistleblowers?</p>	<ul style="list-style-type: none"> • Yes, if an unfair dismissal or penalisation is successfully claimed, the whistleblower may be awarded compensation up to 5 years pay. The claims can be made online.²³¹ • Civil action leading to uncapped compensation can be brought against anyone causing a detriment arising from a protected disclosure or for loss caused by a failure to protect a discloser's identity. • Employers are vicariously liable for any detriment caused to a worker making a protected disclosure. This means that they can be held responsible for their employees' penalisation of whistleblowing. • Dismissals due to protected disclosures are assumed unfair. Whistleblowers can seek reinstatement and compensation for any detriment caused to them through their disclosure.

²²⁷ The disclosure qualifies as protected if it has been made according to the manner as prescribed in the DPA.

²²⁸ See: <https://www.transparency.ie/resources/submissions/heather-humphreys-letter-PDA> (last accessed 4 November 2018).

²²⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 158. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²³⁰ For example, if identifying the whistleblower is essential to the effective investigation of the matter.

²³¹ See: http://www.citizensinformation.ie/en/employment/enforcement_and_redress/protection_for_whistleblowers.html (last accessed 4 November 2018).

10. Other relevant aspects	<ul style="list-style-type: none"> • Employees are not entitled to participate in the investigation or to receive any more information on the investigation than any other person is. • There is no rewards system for whistleblowers in place. • TI-Ireland, the Irish Congress of Trade Union and others were consulted during the draft of the PDA and made submissions during its three-year review. TI-Ireland is also assisting the Irish government in implementing the PDA with public bodies and other employers through its Integrity at Work programme. Therefore, stakeholders are involved in the design and review of legislation dedicated to whistleblowers.
11. Final notes	<ul style="list-style-type: none"> • The Transparency Legal Advice Centre provides free legal advice to anyone who wishes to disclose wrongdoing under the PDA.²³² • The government (partly) funds the Speak Up whistleblower helpline of the Legal Advice Centre of TI-Ireland.²³³

²³² See: <https://www.transparency.ie/helpline/TLAC>

²³³ See <https://www.transparency.ie/integrity-work> and <https://www.transparency.ie/helpline> ((last accessed 11 February 2019).

15. ITALY

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 2017, Italy implemented a stand-alone piece of legislation regarding the protection of whistleblowers, both in the private and the public sector. It concerns the law (no. 179/2017) freely translated as 'Provisions to protect people reporting crimes or irregularities they became aware of within their public or private employment' (hereinafter: "the Law"). ²³⁴
2. Definitions	<ul style="list-style-type: none"> • A public sector whistleblower is defined as 'each employee of public administrations disclosing about illicit behaviours' (article 1, par. 2 of the Law). It also applies to employees and contractors of companies providing goods or services on behalf of, and in favour of, the public administration. • The term 'whistleblowing' is not defined by law.
3. Who are protected?	All employees, including self-employed individuals, in both public and private sector. ²³⁵
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> • The law refers to 'reporting illicit behaviour he became aware of because of his employment' (article 1 of the Law). • The provision on the private sector refers to disclosing illicit behaviours based on specific and convergent elements or violations of the compliance programme they became aware of because of their employment (Legislative Decree 231/2001).²³⁶ In addition, violations of this legislation can be disclosed. • The 'illicit behaviour' includes offences against the Public administration, abuse of power in order to obtain private advantages and the misuse of public functions for other, private, purposes, according to the ANAC Guidelines.²³⁷
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • The National Anticorruption Agency (ANAC) is appointed to receive and investigate disclosures (article 1 of the Law).²³⁸ • Other relevant bodies are: <ul style="list-style-type: none"> - The Transparency and Anticorruption Officer (article 1 of the Law); - The judiciary authority (article 1 of the Law); - The fiscal authority (public sector). - The criminal judiciary authority (public sector). - The fiscal judiciary authority (public sector).
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • Companies that fall within the scope of the Legislative Decree 231/2001 are required to implement an internal

²³⁴ The law amends a few existing laws and decrees, such as Legislative Decree 165/2001; Law 190/2012; Legislative Decree 385/1993; Legislative Decree 58/1998; Legislative Decree 231/2001; Legislative Decree 81/2008 and Law 300/1970. (Unofficial translation: <https://static1.squarespace.com/static/5a742d5ae9bdf1f3304898d/t/5a974db8419202f909ee4e01/1519865278761/Italy+WBer+la+w+-+2017+English.pdf> (last accessed 22 January 2019)).

²³⁵ The term 'public employees' refers to employees of the public administration, of public-economic entities and employees of entities that are subject to public control or provide goods and services in relation to the public administration. See www.nortonrosefulbright.com/knowledge/publications/167206/whistleblowing-in-italy (last accessed 20 November 2018).

²³⁶ See: www.nortonrosefulbright.com/knowledge/publications/167206/whistleblowing-in-italy (last accessed 20 November 2018).

²³⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 160. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²³⁸ This agency has a central role in the (guiding of the) protection of whistleblowers (article 1).

	<p>whistleblowing mechanism.²³⁹ Thus, employees of such companies can use those channels to disclose.</p> <ul style="list-style-type: none"> • In the public sector employees can disclose to external bodies.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • A whistleblower cannot be sanctioned, demoted, dismissed, transferred or suffer from other organisational measures that directly or indirectly affect his/hers working conditions negatively as a consequence of the disclosure (article 54bis(1) of the Law). • Discriminatory and retaliatory measures are void (article 54bis(7) of the Law). • In case the whistleblower suffers negative consequences, he/she has the right to reinstatement (article 54bis(8) of the Law). • The public administration body in which the whistleblower suffers retaliations must prove that the measures taken are motivated by other reasons than the disclosure (article 54bis(7) of the Law). • Protections under this law are not applicable in case the whistleblower is convicted in the first degree for libel, defamation, other crimes related to the report or civil responsibilities for the same behaviour (article 54bis(9) of the Law).
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • The legal framework does not accept nor prohibit anonymous disclosures. • In case of confidential disclosures, the identity of the whistleblower cannot be revealed (article 1(3) of the Law). • A disciplinary proceeding can only use the identity of the whistleblower with his consent. • During criminal or fiscal proceedings, the identity of the whistleblower can be revealed at a certain stage of the project.
9. Does the law include remedies for whistleblowers?	<p>The law includes the reinstatement or restoration of the employment position (article 54bis(7) of the Law).</p>
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer specific rights in regard to participation of the whistleblower. In addition, the law does not provide a (specific) fair hearing right for whistleblowers. • There is no reward system for whistleblowers in place. • With regard to the involvement of key stakeholders, many subjects were formally heard during the preparatory works of the law, including unions, industrial associations and civil society organisations.
11. Final notes	<ul style="list-style-type: none"> • In 2015, whistleblower regulations specifically regarding the banking sector are implemented in accordance with the new EU Directive regarding financial institutions.²⁴⁰ • Transparency International Italy has set up an Advocacy and Legal Advice Centre (ALAC) in order to support Italian citizens with reporting corruption complaints. The centre offers free (and confidential) advice.²⁴¹

²³⁹ This regards to a certain compliance programme. Companies are free to choose to implement this programme. Therefore, the implementation of internal reporting channels in the private sector is not fully covered. See: www.nortonrosefulbright.com/knowledge/publications/167206/whistleblowing-in-italy (last accessed 20 November 2018).

²⁴⁰ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Italy' (2018).

²⁴¹ See: <https://www.transparency.it/alac/>

16. LATVIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Currently, there is no stand-alone legislation dedicated to the protection of whistleblowers in the private or public sector. Currently, the only law that offers fragmented protection is the Labour Law.²⁴² Nevertheless, a national 'Whistleblowing Law' has been approved in October 2018 by the Latvian parliament. The Law will provide stand-alone legislation dedicated to the protection of whistleblowers and is expected to enter into force on 1 May 2019.²⁴³
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law. ²⁴⁴
3. Who are protected?	The law does not offer protection to certain types of employees.
4. What types of wrongdoing can be disclosed?	There is no list of wrongdoings that can be disclosed in order to receive protection.
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> The Labour Law does not appoint a specific authority in order to receive and support disclosures of whistleblowers. Reports regarding corruption can be made to the Corruption Prevention and Combating Bureau, through a hotline.²⁴⁵
6. How can wrongdoings be disclosed?	The Labour Law does not address how to disclose wrongdoings.
7. What kind of protection does the law offer?	The Labour Law prohibits retaliation against employees based on their disclosure of wrongdoings.
8. How is the identity of whistleblowers protected?	The Labour Law does not protect the identity of whistleblowers, nor offers the possibility to disclose anonymously.
9. Does the law include remedies for whistleblowers?	The Labour Law does not include any remedies. However, in general, employees who feel victimized can go to court in order to be compensated. ²⁴⁶ This process can take a long time and can turn out to be expensive.
10. Other relevant aspects	<ul style="list-style-type: none"> The Labour Law does not offer specific participation rights to whistleblowers nor establishes a reward system. There is no specific mention of the right to a fair hearing. In addition, there is no specific involvement of stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	N/A

²⁴² (Unofficial) translation: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=60599 (last accessed 4 November 2018).

²⁴³ See: <https://www.mk.gov.lv/en/aktualitates/latvia-takes-important-step-towards-strengthening-whistleblower-protection> (last accessed 11 March 2019).

²⁴⁴ The Labour Law includes employees. They are defined as natural persons who – based on an employment contract for an agreed remuneration – performs specific work under the guidance of an employer (chapter 1, section 2).

²⁴⁵ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Latvia' (2018).

²⁴⁶ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Latvia' (2018).

17. LITHUANIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Lithuania has not implemented stand-alone legislation dedicated to protect whistleblowers in the private and public sector. The most important laws are the Law on Public Administration and the Law on Banks. Other relevant laws and regulations are the government resolution no. 75 on remuneration for valuable information about the crime, resulting in property damage²⁴⁷ and the Guidelines on reporting potential infringements.²⁴⁸
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	Employees of banks.
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> The Law on Public Administration defines 'wrongdoings' as 'actions, omissions or administrative decisions of a public administration'.²⁴⁹ With regard to the employees of banks, any breach of law can be disclosed.
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Citizens can report to all public administration bodies²⁵⁰ or to the Special Investigations Service's Anti-Corruption Agency. Employees can disclose to their employers.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> Citizens can report through disclosing channels of all public administration bodies.²⁵¹ It is also possible that employees disclose to their employer however, the law does not require employers to implement internal disclosure mechanisms, with the exception of financial sector under the Law on Banks. Nevertheless, there seems to be no (detailed) rules regarding the standards of such mechanisms. External disclosures can be made to the general hotline of the Special Investigations Service's Anti-Corruption Agency.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> Employees of banks are protected against retaliation in the workplace, discrimination and other unlawful or fraudulent behaviour. There is also a more general legal protection against unfair dismissal, not specifically related to whistleblowers.²⁵² The Law on Public Administration does not offers protection to whistleblowers. It does require good faith.²⁵³

²⁴⁷ Adopted on the 21st January 2013. However, it seems that the resolution, due to ethical norms, does not (yet) work in practice. See Transparency International Lithuania, *Whistleblower Protection Assessment. Country Report Lithuania* (2009), p. 5-6.

²⁴⁸ The guidelines do not mention whistleblowers specifically, but they to clarify reporting procedures in public institutions, see Transparency International, 'Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Lithuania', p. 2.

²⁴⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 162. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁵⁰ They are required to implement such channels based on the Law on Public Administration.

²⁵¹ They are required to implement such channels based on the Law on Public Administration.

²⁵² Transparency International, 'Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Country Report: Lithuania' (October 2013), p. 2.

²⁵³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 163. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • The Law on Banks and the Law on Public Administration guarantee confidentiality.²⁵⁴ • The law does not accept nor prohibits, anonymous reporting.
9. Does the law include remedies for whistleblowers?	The law does not provide any remedies for whistleblowers that are harmed because of their disclosure. However, it is possible to use alternative laws to seek for remedies, such as the Labour Law.
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer participation rights to whistleblowers nor involve multiple actors with the drafting and review of legislation. • The Government Resolution no. 75 offers a onetime reward that can be issued to a person who provides the relevant authorities with valuable information regarding financial crimes or crimes against the economic order. However, it is unclear how this system works in practice. • The law does not offer a legal basis for a genuine day in court for whistleblowers. • In addition, there is no specific involvement of stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	N/A

²⁵⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 163. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

18. LUXEMBOURG

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	Luxembourg has no stand-alone legislation dedicated to protect whistleblowers. The most relevant law for whistleblowers is the Law on Strengthening the Means to Fight Corruption, that covers the private and public sector, amending the Labour Code. ²⁵⁵
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	Employees in both sectors who disclosed under Article L271(1) of the Labour Code. ²⁵⁶
4. What types of wrongdoing can be disclosed?	The protection of employees covers illegal acts and criminal offences including corruption, influence peddling and illegal assets peddling. ²⁵⁷
5. Which bodies can receive/investigate disclosures?	There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • In general, companies are not required to implement whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made.²⁵⁸ • Employees can disclose to their superiors, other colleagues or any third party.²⁵⁹ • Disclosures are not protected under the legal framework if they are made to the media or the public.²⁶⁰ • All implemented whistleblowing mechanisms should comply with the rules set out by the Data Protection Act.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • Employees are protected against workplace retaliation, according to article L.271-1(1) Labour Code. • In addition, employees may not be subjected to reprisals for reporting or disclosing to a supervisor or the competent authorities (article L.271-1(2) Labour Code). • The termination of an employment contract due to blowing the whistle is null and void (article L.271-1(3) Labour Code). • Even though the disclosed corruption cannot be proved, the reporting employee receives protection as long as the disclosure was made in good faith.²⁶¹

²⁵⁵ Adopted in 2011 with regard to the amendment of the Luxembourg Labour Code. (Unofficial) translation of the whistleblower provisions: <https://www.whistleblower-rights.org/s/Luxembourg-Labor-Code-WBer-amendment-English.doc> (last accessed 22 January 2019).

²⁵⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 164. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). Also, see: <https://www.lexology.com/library/detail.aspx?q=34ba0e2f-4229-4bcf-be8b-bda56b117598> (last accessed 19 November 2018).

²⁵⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 164. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁵⁸ However, employers are advised to implement an internal whistleblowing policy and to set clear rules for their employees. Such policies should include the obligation for the employer to investigate the matter within a short period. In this context: Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 108 – 109.

²⁵⁹ See: <https://www.lexology.com/library/detail.aspx?q=34ba0e2f-4229-4bcf-be8b-bda56b117598> (last accessed 2 November 2018).

²⁶⁰ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Luxembourg' (2018).

²⁶¹ See: http://www.labourlawnetwork.eu/national_labour_law/national_legislation/legislative_developments/prm/109/v_detail/id_1403/category_22/index.html (last accessed 2 November 2018).

	<ul style="list-style-type: none"> The burden of proof is reversed from the whistleblower to the employer.²⁶²
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> In general, confidentiality must be guaranteed.²⁶³ The legal framework does not accept nor prohibit, anonymous disclosures. However, there need to be a balance between the rights of the whistleblower and rights of the person who is subjected to the disclosure. Therefore, anonymity is not guaranteed.²⁶⁴ False statements can lift the protection of confidentiality of the whistleblower.²⁶⁵
9. Does the law include remedies for whistleblowers?	The law does not provide any remedies for whistleblowers that are harmed because of their disclosure. ²⁶⁶ However, whistleblowers can use alternative laws to seek remedies, such as the labour law. ²⁶⁷
10. Other relevant aspects	<ul style="list-style-type: none"> The law does not offer rights regarding participation for whistleblowers, such as a fair hearing. There is no reward system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	N/A

²⁶² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 164. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁶³ See: <https://www.lexology.com/library/detail.aspx?q=34ba0e2f-4229-4bcf-be8b-bda56b117598> (last accessed 2 November 2018).

²⁶⁴ See: <https://www.wildgen.lu/our-insights/article/whistleblowing-luxembourg> (last accessed 2 November 2018).

²⁶⁵ See: <https://www.lexology.com/library/detail.aspx?q=34ba0e2f-4229-4bcf-be8b-bda56b117598> (last accessed 2 November 2018).

²⁶⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 164. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁶⁷ Relevant: article L.271-1(4) Labour Code) and Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 110.

19. MALTA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 2013, Malta implemented a stand-alone legal framework in order to protect whistleblowers addressing both the public and private sector, called “The Protection of the Whistleblower Act” (hereinafter: the Act). ²⁶⁸
2. Definitions	The terms ‘whistleblower’ and ‘whistleblowing’ are not defined by law.
3. Who are protected?	Any employee who makes a protected disclosure to a reporting officer or a competent body (article 2 of the Act). The range of covered employees is wide. ²⁶⁹
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> • A broad range of wrongdoings can be reported. It covers non-compliance with the law, endangering the health/safety of individuals or environmental damage, corruption and bribery, criminal acts, miscarriage of justice, etc.²⁷⁰ • The disclosure is protected if it is made in good faith and the whistleblower believes the disclosed information is substantially true, concerns improper practice and is not made for the purpose of personal gain (Part III, section 1, article 9 of the Act).
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. • Specific disclosures can be made to different bodies based on the nature of the disclosed wrongdoing, such as tax, money laundering and financial services (First Schedule of the Act). • Each authority is required under the Act to set up a whistleblowing reports unit to receive external disclosures. • With regard to the public administration (government), the designated authority is the “Whistleblowing unit” within the Government of Malta. • In practice, each Ministry has designated an individual as the contact point for whistleblowing.²⁷¹
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • Based on the Act, every employer must implement an internal procedure for receiving and dealing with information about improper practices committed within the organisation (Part III, section 2, article 12 of the Act). • Internal disclosures can be made to a reporting officer. • External disclosures only qualify as protected if the whistleblower has first disclosed internally or attempted to disclose internally (Part III, section 3, articles 15-18 of the Act).

²⁶⁸ In September 2013, the Maltese government has implemented the ‘Protection of the Whistleblower Act’. (Unofficial) translation: <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=25151&l=1> (last accessed 22 January 2019).

²⁶⁹ However, members of the disciplined force, the Security Service and persons employed in the foreign, consular or diplomatic service of the Maltese government are excluded from protection based on the act, Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, pp. 165-166. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁷⁰ See for a full list of all wrongdoings Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 165. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁷¹ A list of contact points and individuals can be found here: <https://justice.gov.mt/en/justice/whistleblower/Pages/contact.aspx> (last accessed 22 January 2019).

	<ul style="list-style-type: none"> • External disclosures can also be made directly to the whistleblowing reports unit if the whistleblower believes on reasonable grounds that permitted circumstances as mentioned in the Act exist (e.g. urgency, risk of detriment, if the of the organisation is involved) (Part III, section 3, article 16). • The Act lists the authorities prescribed to receive external disclosures in 'the First Schedule', for example the 'Malta Financial Services Authority' for entities operating in the financial sector (banks, insurance companies, investment intermediaries, etc.). • The receiving officer is required to notify the whistleblower within a reasonable time about the status of the internal disclosure.²⁷²
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • Whistleblowers are protected against detrimental action for having made a protected disclosure (Part II, article 3). • Whistleblowers who make a protected disclosure are also not liable to any civil, criminal and/or disciplinary proceedings for having made such disclosure (Part II, article 4(1)).
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • The Act prohibits whistleblowing officers or units from disclosing information that identifies or may lead to the identification of the whistleblower, unless the whistleblower expressly consents in writing to the disclosure of that information (Part II, article 6 of the Act). This protection also extends to a prohibition of a court asking for disclosure of the identity of a whistleblowers' identity without their consent (Part II, article 6(4)). • Disclosures made anonymously are generally not protected (Part III, section 1, article 11). • The Act prohibits (and includes penalties regarding) the use of violence and/or harmful behaviour to prevent a whistleblower from disclosing (Part IV, article 19); • If whistleblowers knowingly provide false information, the disclosure qualifies as an offence punishable (calumnious accusations) (Part III, section 1, article 9).
9. Does the law include remedies for whistleblowers?	The law does not provide any remedies for whistleblowers that are harmed because of their disclosure. However, whistleblowers can use alternative laws to seek for remedies, such as the Civil Code. ²⁷³
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. • There is no reward system for whistleblowers in place. • It is unclear whether there is specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	The scope of the Act in relation to the private sector is limited to organisations that do not qualify as small and medium sized enterprises. This excludes a large proportion (over 99%) of Maltese private companies. ²⁷⁴

²⁷² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 168. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁷³ For example, Whistleblowers can file an application to the civil court in order to receive a remedy for a detrimental action because of the protected disclosure (Part II).

²⁷⁴ See: https://www.jc.um.edu.mt/data/assets/pdf_file/0008/183896/SMEs_Malta_and_EU.pdf (last accessed 4 November 2018).

20. THE NETHERLANDS

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> In 2016, the Netherlands implemented a stand-alone legal framework in order to protect whistleblowers, addressing both the public and private sector, called the 'Whistleblowers Authority Act' (hereinafter: "The Act").²⁷⁵ Another relevant regulation is the Corporate Governance Code, requiring private entities listed on the Dutch stock exchange to implement whistleblower procedures.
2. Definitions	<ul style="list-style-type: none"> The term 'whistleblower' is broadly defined in the Act and includes anyone who encounters an abuse through their work in the organisation where they currently work or formerly worked, whether or not with an employment contract or appointment. The term 'whistleblowing' is not defined by law.
3. Who are protected?	<ul style="list-style-type: none"> The Act offers protection to 'employees' in the public and private sector who disclose presumed wrongdoing that may harm the public interest, and includes either 1) breaches of law, 2) danger to health, safety of people or the environment, or 3) improper acts or as a ground to claim these remedies. The Act refers to 'employees'. This term is defined in a broad sense, including both a contractual and other working relationships. However, it does not specify or give examples of what this 'other working relationship' refers to precisely. Therefore, it remains unclear whether people who perform work outside a working contract (including self-employed workers, volunteers and trainees) receive legal protection.²⁷⁶
4. What types of wrongdoing can be disclosed?	Wrongdoing is defined as the suspicion of an abuse whereby the public interest is at risk. This involves dangerous, immoral or illegal practices which take place under the responsibility of the employer. Hence, only public concerns can be raised to the Dutch Whistleblowers Authority and this does not involve individual disputes such as an employment conflict between employer and employee.
5. Which bodies can receive/investigate disclosures?	The Dutch Whistleblowers Authority (<i>Huis voor Klokkenluiders</i>) ²⁷⁷ is, according to the act, the designated body to investigate disclosures of alleged wrongdoing that may harm the public interest and retaliation against those who have disclosed it and to provide advice to whistleblowers.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> The Act requires all public institutions and private entities with over 50 employees to implement an internal disclosing procedure. In principal, only after having made a disclosure internally, external disclosing to the competent authority is allowed. Employees can also request information, advice and support at the Whistleblowers Authority.

²⁷⁵ This Act is adopted on July 1st 2016. Translation: https://huisvoorklokkenluiders.nl/wp-content/uploads/2018/01/20160803_Wet-Engelse-versie_BZK116131.pdf (last accessed 22 January 2019).

²⁷⁶ See: <https://wetten.overheid.nl/BWBR0037852/2016-07-01/>

²⁷⁷ See: <https://huisvoorklokkenluiders.nl/whistleblowers-authority-huis-voor-klokkenluiders-english/> (last accessed 11 March 2019).

7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • The Act prohibits retaliation of the whistleblower when the disclosure has been made in good faith with a suspicion based on reasonable grounds. Until now, this does not apply to people who perform work outside a working contract (including self-employed workers, volunteers and trainees).²⁷⁸ • The Dutch law provides that whistleblowers can request for an investigation of alleged retaliation. • The Act did not introduce a reversal of burden of proof, therefore, the whistleblower has to prove that he or she was retaliated as a result of the disclosure made.²⁷⁹
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • In general, the confidentiality of the identity is guaranteed. The Whistleblowers Authority is only allowed to publish the identity with consent of the whistleblower. • Anonymous reporting is not accepted.
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> • In general, the law does not provide any specific remedies for whistleblowers that are harmed because of their disclosure. However, there are several grounds (not specifically related to whistleblowers) for receiving remedies. • The Dutch Whistleblowing Authority investigates retaliation claims. If the investigation indeed shows that retaliation has taken place as a result of the reporting act, whistleblowers can initiate a procedure to request compensating measures. • Non-compliance, such as not implementing an internal reporting procedure, does not lead to sanctions and/or penalties of the employer. • The Whistleblowers Authority can only make non-binding recommendations, such as reinstatement of the employee, that can be used in court.²⁸⁰
10. Other relevant aspects	<ul style="list-style-type: none"> • If the Whistleblowers Authority investigates the disclosure and drafts a report, the employer and the applicant can provide written comments for a period of four weeks, starting from the day after the day on which the draft report was sent. They are obliged to maintain confidentiality of the report. • There is no reward system for whistleblowers in place.
11. Final notes	<ul style="list-style-type: none"> • Since its establishment, the Whistleblowers Authority has faced many struggles and does not yet function adequately.²⁸¹ • As a government agency, the Dutch Whistleblowers Authority might be perceived as part of the system, and hence in reality less independent than it should be in theory. • Any conclusion or recommendation of the Dutch Whistleblowers Authority does establish legal liability; this is for a judge to decide.

²⁷⁸ See: <https://www.transparency.nl/wp-content/uploads/2019/03/Reactie-Internetconsultatie-Motie-Bikker-TI-NL-6-maart-2019.pdf>

²⁷⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 169. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸⁰ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 169. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸¹ See: <https://www.transparency.nl/wp-content/uploads/2018/04/Brief-aan-Minister-BZK-HvK-2.0.pdf>

21. POLAND

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Poland has not implemented stand-alone legislation dedicated to protect whistleblowers in the private or public sector Other relevant laws are the Banking Law; the Labour Code; the Criminal Code and the Code of Criminal Procedure.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	Protection is only offered by the Law on Banks to employees of organisations within the banking sector. ²⁸²
4. What types of wrongdoing can be disclosed?	The Law on Banks protects employees who disclose breaches. ²⁸³
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Specific disclosures can be made to: <ul style="list-style-type: none"> The State Labour Inspectorate; The employment and/or administrative court; The prosecutor's office; The Human Rights Ombudsman; Online disclosure forms and hotlines.
6. How can wrongdoings be disclosed?	The Banking Law requires banks to set up internal disclosing mechanisms. ²⁸⁴ However, (detailed) requirements regarding the standards of such mechanisms appear to be lacking.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> There is no specific whistleblower protection mechanism in place. However, general protection is available including: <ul style="list-style-type: none"> Protection against repressive actions, discrimination and other types of unfair treatment.²⁸⁵ Protection against unlawful acts of their employer, resulting from the reporting of wrongdoing. Protection against demotion, stripping of duties, reduction of payment, unwanted transfer, discrimination and mobbing.
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> In general, confidentiality is guaranteed and the internal disclosing mechanisms based on the Law on Banks are required to accept anonymous disclosures.²⁸⁶ Whistleblowers may apply to be qualified as an anonymous witness. However, this qualification is only possible in a narrow range of circumstances.

²⁸² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 170. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 170. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 170. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 170. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁸⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 170. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

9. Does the law include remedies for whistleblowers?	The law does not offer specific remedies to whistleblowers that are harmed because of their disclosure. However, whistleblowers can use alternative laws to seek for remedies, such as the Labour Law.
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. • There is no reward system for whistleblowers in place. • It is unclear whether there is specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	The Competition and Consumer Protection Agency (UOKiK) has launched a hotline for whistleblowers as part of a pilot project. ²⁸⁷

²⁸⁷ See: <https://blog.egs.com/are-whistleblowers-sufficiently-protected-in-europe/> (last accessed 19 October 2018).

22. PORTUGAL

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Portugal has not implemented stand-alone legislation to protect whistleblowers in the private or public sector. The available protection is derived from sectoral provisions in laws such as: Law 19/2008 (General tax law), the Labour code, Law 25/2008 (on money laundering and financing of terrorism), the Criminal Code, Law 59/2008 (on public officials and civil servants) and the Decree-Law 298/92.²⁸⁸
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	<ul style="list-style-type: none"> Employees in both the private and public sector. Employees of financial institutions and civil servants are protected if they disclose information through a whistleblower mechanism and the disclosure is made in good faith.²⁸⁹
4. What types of wrongdoing can be disclosed?	Due to the restrictions of the internal whistleblower policies, only disclosures regarding persons in the management can be made. ²⁹⁰ In addition, disclosures can only concern accounting, internal accounting controls, auditing, corruption and financial crimes. ²⁹¹
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. Specific offences such as corruption and fraud can be disclosed to the Public Prosecutor's Office.²⁹²
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> Credit institutions are required to implement internal reporting mechanisms in order to receive disclosures concerning breaches of Regulation 575/2013.²⁹³ External disclosures are not regulated.
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> There is no specific protection mechanism concerning whistleblowers in place. However, protection can be derived from alternative laws including: <ul style="list-style-type: none"> Protection against being harmed due to a disclosure (article 4, Law 19/2008). The protection is limited to 1 year after the reporting date. Protection against disciplinary sanctions by the employer. Such sanctions occurring within 1 year after the disclosure will be presumed abusive (article 4, Law 19/2008).

²⁸⁸ This legal framework together covers part of the public and part of the private sector.

²⁸⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 171. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁹⁰ World Law Group, *Global Guide to Whistleblowing Programs* (2016), p. 142.

²⁹¹ Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014) p. 121.

²⁹² See: http://ec.europa.eu/regional_policy/sources/conferences/anti_corruption/lisbon/whistleblowing_marques.pdf (last accessed 22 January 2019).

²⁹³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 171. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> Regarding corruption, the burden of proof is reversed in both the private and the public sector, meaning that it lies with the employer.²⁹⁴
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> Confidentiality is only guaranteed if corruption within credit institutions (in both private and public sector) is disclosed.²⁹⁵ The Law 19/2008 states that an employee who files a report concerning wrongdoing enjoys the right to confidentiality, but only until a criminal prosecution is filed against those who have been implicated in the wrongdoing. After this, the confidentiality of the whistleblower expires. Criminal sanctions may be imposed for those who reveal the identity of whistleblowers disclosing money laundering or terrorism.²⁹⁶ Anonymous disclosures are not specified in legislation, although some entities (including the Central Department for Investigation and Penal Action of the Public Prosecutor's Office) allow anonymous disclosure. According criminal procedure laws, the Public Prosecutor's Office is obliged to follow up on disclosures of potential wrongdoing, even if they are provided anonymously. Although Law 19/2008 provides for a number of protections to be extended to public and private sector employees, no penalties are in place to punish employers who do not respect such provisions.
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> If the employee is unfairly dismissed (and the dismissal is judicially challenged), the employee can choose between being reinstated in the company or receiving compensation.²⁹⁷ The compensation corresponds with 15 to 45 days of salary for each year of employment, with a minimum of three months of salary. In regard to both remedies, the employee is entitled to the salary which he/she would have received if the unfair dismissal had not taken place.
10. Other relevant aspects	<ul style="list-style-type: none"> Whistleblowers need to be informed regarding the processing of data concerning their disclosure.²⁹⁸ However, more specific rights to participation or the right to a fair hearing are not mentioned in the law. There is no reward system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	<ul style="list-style-type: none"> The abuse of whistleblower systems may result in civil liability and/or disciplinary sanctions such as dismissal.²⁹⁹

²⁹⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 172. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁹⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 172. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

²⁹⁶ See: http://ec.europa.eu/regional_policy/sources/conferences/anti_corruption/lisbon/whistleblowing_marques.pdf (last accessed 4 November 2018).

²⁹⁷ Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 123.

²⁹⁸ Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 122.

²⁹⁹ Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 122.

23. ROMANIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 2004, Romania implemented stand-alone legislation dedicated to protect whistleblowers. This legal framework regards the public sector and is called: 'Law on the Protection of Public Officials Complaining about Violations of the Law' (hereafter: "the Law") . ³⁰⁰
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by the Law.
3. Who are protected?	The person making a disclosure in accordance with paragraph a) and which is classified in one of the public authorities, public institutions or other units set forth in article 2 (article 3). Therefore, protection is limited to permanent and temporary employees in the public sector. ³⁰¹
4. What types of wrongdoing can be disclosed?	The disclosure can be made regarding several types of wrongdoings (article 5) including corruption, fraud, nepotism and discriminating treatment.
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • Several authorities, depending on the nature of the disclosure, are appointed to receive disclosures (article 6). • The appointed authorities both regard internal (manager of the involved public authority) and external disclosures (article 6).
6. How can wrongdoings be disclosed?	In general, public employers are not required to implement internal whistleblowing mechanisms. There is no general requirement to disclose internally before external disclosures can be made, for example to the media. ³⁰²
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • There is no specific protection mechanism concerning whistleblowers in place. The law does offer the court to declare disciplinary and/or administrative sanctions, taken by the employer due to the disclosure, void (article 9).³⁰³ It is important to note that this is only the case if the disclosure was made in good faith and in the public interest. • The good faith of the whistleblower is assumed (article 7); • Witness protection can be enforced <i>ex officio</i> (article 8); • The burden of proof is reversed and therefore lies on the employer instead of on the employee.³⁰⁴
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • Confidentiality is guaranteed.³⁰⁵ • The legal framework does not accept nor prohibit anonymous disclosures.

³⁰⁰ (Unofficial) translation: <http://www.whistleblowing.it/Romanian%20Law%20571-2004%20-%20whistleblowingEN.pdf> (last accessed 2 November 2018).

³⁰¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 173. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁰² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 173. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁰³ Also: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 172. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁰⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 173. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁰⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 173. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

9. Does the law include remedies for whistleblowers?	The law does not provide any remedies for whistleblowers that are harmed due to their disclosure. However, whistleblowers can use alternative laws to seek for remedies, such as the Labour Law.
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. • There is no reward system for whistleblowers in place. • It is unclear whether there is specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	Transparency International Romania has established an Anti-Corruption Assistance Centre (ALAC) in order to receive disclosures of corruption and other wrongdoings and support whistleblowers. The centre also offers legal advice and protection from retaliation. ³⁰⁶

³⁰⁶ Blueprint for Free Speech, 'Whistleblower Protection in Southeast Europe. An Overview of Laws, Practice and Recent Initiatives' (2015), p. 55.

24. SLOVAKIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 2014, Slovakia implemented stand-alone legislation dedicated to protect whistleblowers in the public and private sector. This law is called: 'The Act on Certain Measures Related to the Reporting of Anti-social Activities' (hereinafter: "the Act"). ³⁰⁷
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	Employees from the private and public sector. ³⁰⁸
4. What types of wrongdoing can be disclosed?	The Act refers to 'anti-social activity', covering misconduct at the workplace, criminal offences and administrative offences. ³⁰⁹
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> • There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. • Specific disclosures can be made to: <ul style="list-style-type: none"> - The public prosecutor (disclosing a serious anti-social activity that constitutes a criminal offence); - The Labour Inspectorate.³¹⁰
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> • All public and private sector employers with at least 50 employees are required to designate a department or person to receive disclosures (article 1, section 11). Furthermore, this department/person needs to issue internal rules on making disclosures. • Even though there is a requirement to implement an internal whistleblowing channel, there is no general requirement to disclose internally before an external disclosure can be made to the prosecutor and/or labour inspectorate.³¹¹ • Internal disclosures must be handled within ninety days.³¹² The receiving body must inform the whistleblower within ten days after the final decision.³¹³
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> • The protection is limited to the workplace; whistleblowers can request protection by the prosecutor. If the prosecutor or court determines that he/she is a whistleblower and

³⁰⁷ (Unofficial) translation: <https://www.whistleblower-rights.org/s/Slovakia-Act-on-certain-measures-concerning-the-reporting-of-antisocial-activities-2014.doc> (last accessed 22 January 2019).

³⁰⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019). Also relevant: the act refers to 'reporting': the disclosure of matters of which a natural person learnt in connection with the performance of their employment, profession, position or office and which may make or have made a significant contribution to the clarifying of a serious antisocial activity or identification and conviction of the offender (article 1, section 2).

³⁰⁹ For a full list of the types of wrongdoings, see Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹⁰ Article 1, section 3 and Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 175. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<p>protection should be granted, the whistleblower and the Labour Inspectorate are being notified (article 1, section 4).</p> <ul style="list-style-type: none"> • If protection is granted by the prosecutor, court or state body in administrative proceedings, the employer can take legal action or make a legal decision against the employee related to his or her employment only with the approval of the Labour Inspectorate (article 1, section 7).³¹⁴ • Requests for the protection can also be filed with a court, when the criminal proceeding is in the phase of the court proceeding (a request for protection can be filled with the prosecutor in the pre-trial or investigation phase of a proceeding, before the prosecutor indicts the defendant (article 1, section 3). Requests for protection in connection with the disclosure of a serious anti-social activity that constitutes an administrative offence can be filed with the state body responsible for the administrative proceeding (article 1, section 5 and 6).
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • Confidentiality of the whistleblower should be guaranteed within internal disclosing channels (article 1, section 11). • Anonymous internal disclosing is accepted (article 1, section 2 and 12).
9. Does the law include remedies for whistleblowers?	A whistleblower can be granted a fee if a ruling rendered in criminal or administrative proceedings becomes final by which the offender was convicted of a criminal offence or commission of an administrative offence (article 1, section 9).
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. • The law includes the possibility of a financial reward for whistleblowers.³¹⁵ • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation concerning whistleblowers.
11. Final notes	<ul style="list-style-type: none"> • The law does not include any sanctions or penalties relating to whistleblowing. However, such consequences can derive from alternative laws such as the Criminal Code.³¹⁶ • Legislative changes were prepared in 2018 and the proposal of those changes should be presented to the government after a public consultation of the Act on whistleblower protection. Transparency International Slovakia advocates for setting up an independent state body responsible for whistleblower protection and legal changes that would allow whistleblowers to have specific rights in legal procedures.

³¹⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 174. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹⁶ For example, as any reporter of the crime, in the case of false accusations against a third person, the whistleblower may be charged in criminal proceedings (false accusation crime)

25. SLOVENIA

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Slovenia has no stand-alone legislation dedicated to protect whistleblowers in the public and private sector. The most important law with regard to protecting whistleblowers is the 'Integrity and Prevention of Corruption Act' (hereafter "the Act").³¹⁷ Other relevant laws and regulations are the Civil Servants Act and the Code of Ethics. Both are relevant for employees from the public sector.
2. Definitions	<ul style="list-style-type: none"> The Act defines whistleblowers as 'reporting persons' (articles 24 and 25) and the Act refers to 'any person' (article 23, par 1. of the Act). The term 'whistleblowing' is not defined by law.
3. Who are protected?	All citizens disclosing corruption or any employee from the public sector disclosing unethical or illegal activity. ³¹⁸
4. What type of wrongdoing can be disclosed?	Disclosures can be made regarding corruption (by all citizens), illegal or unethical conduct or any form of psychological or physical violence (by public officials). ³¹⁹
5. Which bodies can receive/investigate disclosures?	The Anti-Corruption Commission is appointed to receive and investigate disclosures.
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> There is a limited requirement for employers to implement an internal whistleblowing mechanism.³²⁰ Officials who have grounds to believe that illegal or unethical conduct is required from him/her, may disclose this to the competent person (article 24, par. 1 of the Act). If the competent person fails to respond or is involved, the disclosure can be made to the Anti-Corruption Commission (article 24, par. 2 of the Act).³²¹
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> The protection is limited to the workplace.³²² In case retaliatory measures and adverse consequences are taken against employees due to their disclosure, the employee can demand reimbursement of caused damage (article 25, par 1. of the Act). It is possible to receive witness protection (article 23, par. 6 of the Act).

³¹⁷ (Unofficial) translation: http://www.regulatelobbying.com/images/Slovenia_Lobbying_Law-3.pdf (last accessed 22 January 2019).

³¹⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³¹⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³²⁰ Linklaters, *Whistleblowing: the European Landscape* (PowerPoint), page 3.

³²¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³²² Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> In the public sector, whistleblowers can be transferred to another position within the same organisation.³²³
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> Confidentiality is guaranteed if the disclosure was made in good faith, which is to be determined by the Anti-Corruption Commission (article 23, par. 4 of the Act). Disclosures to the Anti-Corruption Commission can be made anonymously (article 39, Rules of Procedure of the Commission for the Prevention of Corruption, 2012).³²⁴ The Act includes penalties for malicious disclosures (article 77) and employers who retaliated against employees.³²⁵
9. Does the law include remedies for whistleblowers?	<ul style="list-style-type: none"> If the person disclosing has been exposed to retaliatory measures and adverse consequences have occurred, he/she has the right to demand reimbursement of illegally caused damage from the employer (article 25, par. 1 of the Act). The employer retaliating against an employee can be fined.³²⁶
10. Other relevant aspects	<ul style="list-style-type: none"> In general, the law does not offer rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. However, the Anti-Corruption Commission is required to notify whistleblowers about the actions that are being taken. There is no reward system for whistleblowers in place. There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	Transparency International Slovenia established an Advocacy and Legal Advice Centre (ALAC) in order to receive disclosures of whistleblowers.

³²³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³²⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³²⁵ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³²⁶ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 176. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

26. SPAIN

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> Spain has no stand-alone legislation dedicated to the protection of whistleblowers. Available protection can be found in fragmented regional laws, affecting Castilla y León, Balearic Islands, and Valencia, called: Law 2/2016, Law 16/2016 and Law 11/2016, addressing the public sector. Also relevant can be the Real Decreto-ley 11/2018, de 31 de agosto (Anti-Money Laundering) and the Criminal Prosecution Law.
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law. ³²⁷
3. Who are protected?	On a national level, no one is protected. At the regional levels only civil servants are protected. ³²⁸
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> In the regions of the Balearic Islands and Valencia corruption in the public administration can be disclosed. In Castilla y León, a wider range of wrongdoing can be disclosed, including bribery, influence peddling, abuse in the exercise of the function of public officials and embezzlement.³²⁹
5. Which bodies can receive/investigate disclosures?	<ul style="list-style-type: none"> There is no overarching body/authority appointed to receive and investigate disclosures made by whistleblowers. Specific disclosures can be made to: <ul style="list-style-type: none"> The General Inspection of Services (Castilla y León). The regional Ombudsman (Castilla y León). Regional agencies (Balearic Islands, Valencia). The Spanish government set up an e-mail hotline that allows citizens to (anonymously) disclose anti-competitive behaviour.³³⁰
6. How can wrongdoings be disclosed?	In general, companies are not required to implement whistleblowing mechanisms. ³³¹ There is no general requirement to report internally before external disclosures can be made. ³³²
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> There is no general protection mechanism concerning whistleblowers in place. Since there is no national protection available, the nature of the protection differs per region.³³³ <ul style="list-style-type: none"> In Castilla y León, whistleblowers are offered protection against acts that harm the relationship between the whistleblower and the employer or their working

³²⁷ According to relevant case law, 'whistleblowers' are employees (or supply chain, or citizens, or any other stakeholder, depending if we are talking about companies or public agencies, according to the Country Expert, Transparency International Spain.

³²⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 178. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³²⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 178. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³³⁰ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Spain' (2018).

³³¹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 178. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³³² However, if they choose to implement one, requirements of the Spanish Data Protection Act need to be met, according to Norton Rose Fulbright, *A global guide to whistleblowing laws* (2014), p. 128.

³³³ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 178. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<p>conditions. The protection lasts for a year after the procedure has been concluded.</p> <ul style="list-style-type: none"> - On the Balearic Islands, whistleblowers are protected against any harm to his/her rights. - In Valencia, whistleblowers are protected against isolation, persecution/worsening of the working conditions and against any measure that can lead to prejudice or discrimination.³³⁴ Whistleblowers can also request to be moved within the organisation or to receive a paid leave. This protection can be extended. • Spanish courts have used protection derived from the rights of freedom of expression and information as a legal basis to offer protection to whistleblowers.³³⁵ • Whistleblowers are protected from dismissal and detriment.³³⁶
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • Confidentiality is guaranteed in all regions. This guarantee ends a year after the end of the procedure in Castilla y León.³³⁷ • Regarding internal reporting, anonymous reports will most likely not be accepted.³³⁸
9. Does the law include remedies for whistleblowers?	The law does not offer specific remedies for whistleblowers. However, whistleblowers can use alternative laws to seek for remedies including the Labour Law.
10. Other relevant aspects	<ul style="list-style-type: none"> • In general, the law does not offer rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. • There is no reward system for whistleblowers in place. • Multiple stakeholders, such as NGOs and whistleblowers, are involved in drafting proposals to secure whistleblower rights.³³⁹ Transparency International Spain is also advocating for whistleblower legislation.³⁴⁰
11. Final notes	Currently, a draft law regarding whistleblower protection is being reviewed. ³⁴¹

³³⁴ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 178. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³³⁵ Norton Rose Fulbright, *A global guide to whistleblowing laws*, p. 127.

³³⁶ Judgement of the Constitutional Court of 21 January 1988 and 12 April 1999, according to Norton Rose Fulbright, *A global guide to whistleblowing laws*, p. 129.

³³⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 178. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³³⁸ Norton Rose Fulbright, *A global guide to whistleblowing laws*, p. 128.

³³⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 177. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁴⁰ See: https://transparencia.org.es/wp-content/uploads/2017/04/position_paper_proteccion_denunciantes.pdf (last accessed 22 January 2019).

³⁴¹ Blueprint for Free Speech, 'Briefing Paper – Whistleblower Protection in the EU, Spain' (2018).

27. SWEDEN

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	<ul style="list-style-type: none"> In 2016, Sweden implemented stand-alone legislation dedicated to protect whistleblowers. This law is called The Whistleblower Act (SFS 2016:749; hereinafter “The Act”).³⁴² Another relevant act for the protection of whistleblowers is the Freedom of Press Act.
2. Definitions	The terms ‘whistleblower’ and ‘whistleblowing’ are not defined by law.
3. Who are protected?	In the public sector, all employees are protected. In the private sector, protection is granted to employees excluding self-employed individuals (or contractors). ³⁴³
4. What types of wrongdoing can be disclosed?	Offences for which the range of penalties includes imprisonment or comparable irregularities are protected. This includes corruption, economic crimes, violation of fundamental rights and freedoms, any risk to life/safety or health and the misuse of public funds. In disclosing them, concrete suspicions of wrongdoing are sufficient (section 1 of the Act). ³⁴⁴
5. Which bodies can receive/investigate disclosures?	There is no overarching body/authority appointed to receive and investigate disclosures by whistleblowers. The Act itself refers to ‘contacting a public body’ but does not specify which body can receive such a disclosure (section 7 of the Act).
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> Employees are protected if the disclosure concerns irregularities and the disclosure was made to the employer or a representative of the employer (section 5 of the Act), or make use of the internal procedure for the disclosure of irregularities, provided by the employer (section 5 of the Act). Disclosures are also protected if the employee disclosed to the employee organisation (section 6 of the Act). Disclosures can be made to a public authority (section 7 of the Act), if: <ul style="list-style-type: none"> The whistleblower is a worker; and The disclosure was first made internally and the employer did not take appropriate action or there is another reason to justify external reporting; and The worker has grounds for the claim of serious irregularities. Information can also be disclosed to journalists, the media and news agencies (Freedom of Press Act).³⁴⁵

³⁴² (Unofficial) translation: <https://www.government.se/4a9faa/contentassets/8eaf2765387e4c18940baee2ca4d461c/sfs-2016749-act-on-special-protection-for-workers-against-reprisals-for-whistleblowing-concerning-serious-irregularities> (last accessed 2 November 2018).

³⁴³ Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 180. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

A ‘worker’ is defined as: employees and those performing work as temporary agency employees if the irregularities reported refer to conditions in the activities of the hiring company. In such cases, the hiring company is to be considered the employer (section 2 Whistleblower Act).

³⁴⁴ For a comprehensive list of the wrongdoings, see Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 180. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁴⁵ Annex 6: Member States’ legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 181. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

7. What kind of protection does the law offer?	<ul style="list-style-type: none"> An employer may not subject a worker to reprisals due to the worker disclosure of serious irregularities relating to the employer's activities (section 4 of the Act).³⁴⁶ An agreement is invalid to the extent that it revokes or limits a worker's protection under the Act (section 3 of the Act). The burden of proof lies with the employer (section 10 of the Act). Disclosures must be made in good faith.³⁴⁷
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> There is no general guarantee of confidentiality.³⁴⁸ At least, the media is required to protect the identity of the person who disclosed the information.³⁴⁹ However, this guarantee of confidentiality will be lifted if the whistleblower intentionally commits severe crimes against national security/the state, discloses classified official documents or breaches duties of confidentiality mentioned in Chapter 156 of the Public Access to Information and Secrecy Act (2009/400) Internal anonymous disclosing is accepted.³⁵⁰ An employee who becomes guilty of an offence by disclosing irregularities is not protected (section 8 of the Act).
9. Does the law include remedies for whistleblowers?	An employer who breaches the prohibition of retaliation due to the employee disclosing serious irregularities (section 4 of the Act), must pay damages for the loss incurred and for the violation the reprisal entails (section 9 of the Act). ³⁵¹
10. Other relevant aspects	<ul style="list-style-type: none"> The law does not grant specific rights regarding participation for whistleblowers, such as a follow-up or a fair hearing. It only mentions that whistleblowers can take their case to the Labour Court (section 11 of the Act). There is no reward system for whistleblowers in place. It is unclear whether there is specific involvement of key stakeholders in the design and/or periodic review of legislation, dedicated to whistleblowers.
11. Final notes	N/A

³⁴⁶ A person who has the right to make decisions on the employer's behalf in matters concerning the worker shall be equated with the employer in the application of the first paragraph.

³⁴⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 181. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁴⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 181. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁴⁹ See: <https://www.lexology.com/library/detail.aspx?q=0e67ed39-9850-4f71-8f47-b7c091325e67> (last accessed 12 October 2018).

³⁵⁰ See: <https://www.lexology.com/library/detail.aspx?q=0e67ed39-9850-4f71-8f47-b7c091325e67> (last accessed 12 October 2018).

³⁵¹ If legal action is taken on the basis of notice of termination or summary dismissal, or any other procedure covered by the Employment Protection Act (1982:80), compensation for losses in respect of the period following the cessation of employment may not, under any circumstances, exceed the amount specified in Section 39 of that Act (section 9).

28. UNITED KINGDOM (UK)

COUNTRY RATING	
1. What legislation is relevant to protect whistleblowers?	In 1998, The UK implemented an act dedicated to the protection of whistleblowers in both the private and the public sector, called the Public Interest Disclosure Act (hereinafter: PIDA). ³⁵²
2. Definitions	The terms 'whistleblower' and 'whistleblowing' are not defined by law.
3. Who are protected?	All employees in the public and private sector are protected. This includes trainees, agency workers, self-employed individuals (contractors) and temporary employees. ³⁵³
4. What types of wrongdoing can be disclosed?	<ul style="list-style-type: none"> Protection is granted to protected/qualifying disclosures, including any disclosure of information, which in the reasonable belief of the worker making the disclosure tends to show one or more of the following: <ul style="list-style-type: none"> - That a criminal offence has been committed, is being committed or is likely to be committed; - that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject; - that a miscarriage of justice has occurred, is occurring or is likely to occur. (section 1, 43B PIDA).³⁵⁴
5. Which bodies can receive/investigate disclosures?	There is no overarching body/authority appointed to receive and investigate disclosures made by whistleblowers. The guidance on the PIDA does provide for a list of specific prescribed people and bodies to whom workers can make appropriate disclosures. ³⁵⁵
6. How can wrongdoings be disclosed?	<ul style="list-style-type: none"> In general, companies are not required to implement whistleblower mechanisms. There is no general requirement to disclose internally before external disclosures can be made. Disclosures can be made to the employer or a prescribed person (section 1, 43C PIDA). Disclosure also can be made to a legal adviser (section 1, 43D PIDA), the Minister of the Crown (section 1, 43E PIDA) or to a prescribed person (section 1, 43F PIDA). Disclosures to the media can lift whistleblowing law rights, including protection.³⁵⁶
7. What kind of protection does the law offer?	<ul style="list-style-type: none"> The Act offers protection against workplace retaliation and offers interim relief procedures.³⁵⁷

³⁵² See: https://www.legislation.gov.uk/ukpga/1998/23/pdfs/ukpga_19980023_en.pdf (last accessed 12 March 2019). The Act took effect in July 1999 and was last amended in 2013.

³⁵³ The term 'workers' means anyone who is an employee, a trainee, an agency worker or a member of a limited liability partnership, according to <https://www.gov.uk/whistleblowing> (last accessed 22 January 2019). See also: Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 182. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁵⁴ For an enumerative list of wrongdoings, see Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 182. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁵⁵ See: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2> (last accessed 12 March 2019)

³⁵⁶ See: <https://www.gov.uk/whistleblowing/who-to-tell-what-to-expect> (last accessed 22 January 2019).

³⁵⁷ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 182. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

	<ul style="list-style-type: none"> • In order to receive protection, the disclosure needs to be made in accordance to the conditions connected to the person/body to where the disclosure has been made (section 1, 43C-43G PIDA). Also, the disclosure needs to be made with reasonable belief that it is in the public interest.³⁵⁸ • An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the employee has made a protected disclosure (section 1, 47B PIDA). • An employee who is dismissed shall be regarded as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure (section 5 PIDA). • There is no reversal of the burden of proof from the whistleblower to the employer.³⁵⁹
8. How is the identity of whistleblowers protected?	<ul style="list-style-type: none"> • Whistleblowers can request confidentiality when making the disclosure.³⁶⁰ • In general, it is accepted to disclose anonymously. However, it is possible that the disclosure can only be 'taken further' if all information needed is provided.³⁶¹ • Also, according to the UK government, it can be found harder to prove that unfair treatment is a result of whistleblowing.³⁶²
9. Does the law include remedies for whistleblowers?	The law does not offer specific remedies to whistleblowers that are harmed because of their disclosure. However, there are several grounds (not specifically regarding whistleblowers) to receive remedies, for example based on dismissals. ³⁶³
10. Other relevant aspects	<ul style="list-style-type: none"> • The law does not offer specific rights regarding participation for whistleblowers, such as a follow-up or a fair hearing.³⁶⁴ An employee may present a complaint to an employment tribunal that he has been subjected to a detriment in contravention of section 47B (section 2 PIDA). • There is no reward system for whistleblowers in place. • There is no specific involvement of key stakeholders in the design and/or periodic review of legislation dedicated to whistleblowers.
11. Final notes	The 'Advisory, conciliation and Arbitration Service' ³⁶⁵ and the charity 'Protect' ³⁶⁶ can be contacted for further guidance and advice on making a disclosure.

³⁵⁸ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 183. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

³⁵⁹ Annex 6: Member States' legislative framework to the European Commission, *Proposal for a Directive of the European Parliament and of the Council, on the protection of persons reporting on breaches of Union Law*, p. 183. See: https://ec.europa.eu/info/sites/info/files/1-11_annexes.pdf (last accessed 11 February 2019).

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³⁶¹ See: <https://www.gov.uk/whistleblowing/who-to-tell-what-to-expect> (last accessed 22 January 2019).

³⁶² See: <https://www.gov.uk/whistleblowing/treated-unfairly-after-whistleblowing> (last accessed 22 January 2019).

³⁶³ See: <https://www.gov.uk/browse/working/redundancies-dismissals> (last accessed 22 January 2019).

³⁶⁴ See: <https://www.gov.uk/whistleblowing/who-to-tell-what-to-expect> (last accessed 22 January 2019).

³⁶⁵ See: <http://www.acas.org.uk/index.aspx?articleid=4489> (last accessed 12 March 2019)

³⁶⁶ See: <https://www.pcaw.org.uk/> (last accessed 17 January 2019).

ANNEX 1 – TI PRINCIPLES FOR WHISTLEBLOWER LEGISLATION

Indicator	Description
1. Broad definition of whistleblowing	Whistleblowing is the disclosure or reporting of wrongdoing including (but not limited to) corruption; criminal offences; breaches of legal obligation; miscarriages of justice; specific dangers to public health; environmental hazards; abuse of authority; unauthorised use of public funds or property; gross waste or mismanagement; conflict of interest and acts to cover up any of the wrongdoings mentioned.
2. Broad definition of whistleblower	A whistleblower is any public or private sector employee or worker who discloses information about a concern of wrongdoing. This also includes individuals outside the traditional employee-employer relationship, such as consultants, contractors, trainees/interns, volunteers, student employees, temporary employees and former employees.
3. Protection from retribution	Individuals shall be protected from all forms of retribution, disadvantage or discrimination at the workplace, linked to/resulting from whistleblowing. This includes all types of harm, including dismissal, probation and other job sanctions; punitive transfers; harassment; reduced duties or hours; withholding or promotions or training; loss of status and benefits and threats of such actions.
4. Internal reporting mechanism	Whistleblower regulations and procedures should be highly visible and understandable; maintain confidentiality or anonymity; ensure thorough, timely and independent investigations of the disclosures and have transparent, enforceable and timely mechanisms to follow up on retaliation complaints of the whistleblower. If reporting at the workplace does not seem practical or possible, individuals may make disclosures to regulatory or oversight agencies or individuals outside their organisation. These channels may include regulatory authorities, law enforcement or investigative agencies, elected officials or specialised agencies established to receive such disclosures.
5. External reporting mechanism	In cases of urgent or grave public or personal danger or persistently unaddressed wrongdoing that could affect the public interest, individuals shall be protected for disclosures made to external parties such as the media, civil society organisations, legal associations, trade unions or business/professional organisations. Furthermore, a wide range of accessible disclosure channels and tools should be made available to employees and employees of government agencies and publicly traded companies, including advice lines, hotlines, online portals, compliance offices and external ombudsman's. Mechanisms shall be provided for safe, secure confidential or anonymous disclosures.
6. Whistleblower participation	As informed and interested stakeholders, whistleblowers shall have meaningful opportunities to provide input to subsequent investigations or inquiries. Whistleblowers shall have the opportunity to clarify their complaint and provide additional information or evidence. They also have the right to be informed of the outcome of any investigation or finding and to review and comment on any results.

7. Rewards system	If appropriate within the national context, whistleblowers may receive a portion of any funds recovered or fines levied as a result of the disclosure. Other rewards or acknowledgements may include public recognition or awards, employment promotion or an official apology of retribution.
8. Protection of confidentiality	The protection of confidentiality means that the identity of the whistleblower may not be disclosed without the individual's explicit consent.
9. Anonymous reports accepted	Full protection should be granted to whistleblowers who have disclosed information anonymously and who subsequently have been identified without their explicit consent.
10. Whistleblowers complaints authority	An independent body or bodies shall receive and investigate complaints of retaliation and improper investigations of whistleblower disclosures. The agency may issue binding recommendations and forward relevant information to regulatory, investigative or prosecutorial authorities for follow-up. The agency shall also provide advice and support, monitor and review whistleblower frameworks, raise public awareness to encourage the use of whistleblower provisions and enhance cultural acceptance of whistleblowing. The agency shall be provided with adequate recourses and capacity to carry out these functions.
11. Genuine day in court Right to a fair hearing	Whistleblowers who believe their rights have been violated are entitled to a fair hearing before an impartial forum with full right of appeal. Decisions shall be timely, whistleblowers may call and cross-examine witnesses and rules of procedures must be balanced and objective.
12. Full range of remedies	A full range of remedies must cover all direct, indirect and future consequences of any reprisals, with the aim to make the whistleblower whole. This includes interim and injunctive relief; attorney and mediation fees; transfer to a new department or supervisor; compensation for lost past, present and future earnings and status; and compensation for pain and suffering. A fund to provide assistance for legal procedures and support whistleblowers in serious financial need should be considered.
13. Penalties for retaliation	Any act of reprisal for, or interference with, a whistleblowers disclosure shall be considered misconduct, and perpetrators of retaliation shall be subject to employment/professional sanctions and civil penalties.
14. Involvement of key stakeholders	The design and periodic review of whistleblowing laws, regulations and procedures must involve key stakeholders including employee organisations, business/employer associations, civil society organisations and academia.

ANNEX 2 – RATED RESEARCH FINDINGS

MEMBER STATE	INITIAL POINTS	EXTRA POINTS	TOTAL	COUNTRY ASSESSMENT
1. Austria	17	0	17	Weak protection
2. Belgium	20	0	20	Weak protection
3. Bulgaria	10	0	10	Weak protection
4. Croatia	20	25	45	Weak protection
5. Cyprus	13	0	13	Weak protection
6. Czech Republic	17	0	17	Weak protection
7. Denmark	22	0	22	Weak protection
8. Estonia	15	25	40	Weak protection
9. Finland	10	0	10	Weak protection
10. France	77	50	127	Strong protection
11. Germany	20	0	20	Weak protection
12. Greece	13	0	13	Weak protection
13. Hungary	33	50	83	Medium Protection
14. Ireland	71	50	121	Strong protection
15. Italy	63	50	113	Strong protection
16. Latvia	17	0	17	Weak protection
17. Lithuania	13	0	13	Weak protection
18. Luxembourg	15	25	40	Weak protection
19. Malta	55	50	105	Strong protection
20. Netherlands	65	50	115	Strong protection
21. Poland	17	0	17	Weak protection
22. Portugal	10	25	35	Weak protection
23. Romania	10	25	35	Weak protection
24. Slovakia	45	50	95	Medium Protection
25. Slovenia	42	0	42	Weak protection
26. Spain	3	0	3	Weak protection
27. Sweden	42	50	92	Medium Protection
28. United Kingdom	47	50	97	Strong protection

ANNEX 3 – DESK RESEARCH REFERENCES

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ANNEX 4 – ACKNOWLEDGEMENTS

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- Latvia: Janis Veide – Transparency International Latvia
- Malta: Tina Urso – journalist & anti-corruption activist
- Netherlands: Lotte Rooijendijk – Transparency International Nederland
- Portugal: João Paulo Batalha – Transparency International Portugal
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