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EPAC / EACN

**WORKSHOP
ON
WHISTLEBLOWING
REPORT**

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PREFACE

PREFACE

EPAC/EACN had already taken up the topic of whistleblowing in 2012: During its Annual Professional Conference, in a plenary session entitled “Challenges on the protection of the whistleblower”, practitioners from both the anti-corruption and the police oversight strands addressed the issue, putting the focus on the individual who summons the courage to report irregularities. As a result of the discussions, the conference participants also formulated the following call in the Barcelona Declaration:

“Recognize legal and practical challenges concerning whistleblowing, its value and importance in fighting corruption, and call for an analysis of factors which either hinder or could be used to encourage it.”

While whistleblowing remained on the agenda and several members of EPAC/EACN continued to work on the issue, including in the “EU Integrity” Working Group, it was the adoption of the EU Whistleblower Directive seven years later that caught the attention of a wider public.

Given the obvious importance of reports from “insiders” of an organization or company in the fight against corruption, EPAC/EACN member organizations are not only often designated as national reporting offices, but they also share a professional interest in people “speaking up” and bringing breaches of laws, regulations or other norms to the attention of the competent authorities. This in turn applies to both strands of the networks.

The Austrian Federal Bureau of Anti-Corruption, which itself acts as an internal and external reporting office, invited interested organizations from EPAC/EACN and beyond, in particular the Network of Corruption Prevention Authorities (NCPA) and the Network of European Integrity and Whistleblowing Authorities (NEIWA), to discuss the practical issues and challenges that reporting offices regularly face, especially in the preparatory and initial stages of their operations. During a two-day workshop in Vienna, representatives from thirteen organizations had the opportunity to hear and learn from experienced practitioners, exchange best practices and foster personal contacts with colleagues from across Europe.

My sincere thanks go to all the speakers and participants and to all those who helped to organize and conduct the workshop, including the preparation of this report, which I am very pleased to present. I hope that it will be useful to all those working or interested in the field of whistleblowing and that it will contribute to achieving our common goal of fighting corruption in all its forms.

Ernst Schmid

Austrian Federal Bureau of Anti-Corruption (BAK),
EPAC/EACN Vice President (Anti-Corruption Authorities Strand)

INDEX

I. INTRODUCTION	6
II. CHANGES AND CHALLENGES OF WHISTLEBLOWING	8
II. 1 GENERAL ASPECTS	8
II. 2 RAGMENTED MATERIAL SCOPE	8
II. 3 PROTECTION OF THE IDENTITY OF WHISTLEBLOWERS	12
II. 3.1 Confidentiality of the whistleblower	12
II. 3.2 Anonymous reporting	12
II. 4 CHALLENGES IN PRACTICE (SURVEY)	14
III. EXTERNAL REPORTING OFFICES AND THEIR RELATION TO THE PRIVATE AND PUBLIC SECTORS	16
III. 1 GENERAL ASPECTS	16
III. 2 AREAS OF COMPETENCE	16
III. 2.1 Reports & Investigation	18
III. 2.2 Protection & Support	18
III. 2.3 Advice	19
III. 2.4 Prevention & Education	19
III. 3 SYNERGY BETWEEN THE PUBLIC SECTOR AND REPORTING OFFICES	20
III. 3.1 Common Goals and Objectives	20
III. 3.2 Proper Reporting Mechanisms and Information Sharing	20
III. 3.3 Facilitating Investigation	20
III. 3.4 Regular Meetings and Collaboration	21
III. 3.5 Data Sharing and Analysis	21
III. 3.6 Confidential Reporting Channels	21
III. 3.7 Whistleblower Protection and Support	21
III. 3.8 Cross-Agency Task Forces	21
III. 3.9 Public Awareness and Education	21
III. 3.10 Review and Feedback Mechanisms	21
III. 3.11 Legal Framework Alignment	22
III. 4 MAKING USE OF TRAININGS	22
III. 5 CASE STUDY	24
IV. BEST PRACTICES IN DEALING WITH WHISTLEBLOWERS	26
IV. 1 GENERAL ASPECTS	27
IV. 2 INSIGHTS FROM THE PRACTICE OF THE AUSTRIAN FMA	27
IV. 2.1 FMA's channels of communication	27
IV. 2.2 FMA's whistleblowing point of contact and procedure	28
IV. 2.3 FMA's protection of whistleblowers	29
IV. 2.4 Results and measures due to FMA's Whistleblower System	30
IV. 3 PRACTICE TIPS	30
IV. 3.1 Dos and Don'ts for companies	30
IV. 3.2 Distinction between complaints and reports	31
IV. 3.3 Further practical tips ("Check list")	31
V. WHISTLEBLOWING - QUO VADIS?	32
VI. CONCLUSION	34
VII. ANNEX	36

INTRO DUCTION



I. INTRODUCTION

It has been almost four years since the Directive on the protection of persons reporting breaches of Union law (Directive (EU) 2019/1937, hereinafter: “Whistleblower Protection Directive”) came into force (16 December 2019). Due to the Corona pandemic, the Directive was not at the top of the agenda in many states across Europe and the implementation process therefore stalled to some extent. Meanwhile, however, 25 of the 27 EU Member States have transposed the Directive into national law¹ and also countries outside the EU have established laws to protect whistleblowers.

Nowadays, it is recognized that whistleblowers form an essential source of information on wrongdoing and can help reduce the cost of malpractice.² Already in the drafting phase of the Directive, the European Commission stressed the importance of whistleblowers in regard of detecting fraud and corruption and demonstrated the beneficial impact on economic growth, cross-border investments in the EU and the EU’s competitiveness. But it is not only the integrity of the internal market that is strengthened. Private companies also demonstrably benefit from whistleblowing arrangements which can help avert or address reputational and economic risks or damages, deliver high standards of customer service and gain trust amongst consumers and investors. Therefore, it becomes clear that the new set of rules will not only make a significant contribution to the investigation of legal breaches, but that above all the protection of whistleblowers as a human right will be noticeably enhanced. In the end, the remaining question is how much of the ideas and obligations of the Directive that resulted in national implementations can become part of a new culture of whistleblowing. Thus, how much of these rules can become social norm? What is the role of civil society in creating this social norm and what can public agencies and authorities do to contribute to this social change?

These questions and many more were addressed at the Workshop on Whistleblowing, the aim of which was to identify both opportunities and challenges in connection with whistleblowing and to find suitable solutions for emerging problems together. Even though the Directive tries to get every Member State on the same page, it must be taken into account that each country has its own standards and approaches that must be given sufficient consideration. For this reason, it is even more important to create a network that addresses these differences and facilitates international cooperation. With more than 20 participants from different countries and organizations, the workshop therefore contributed to building and strengthening such an informal network within the existing structures of EPAC/EACN and to exchange views on a wide range of subjects.

¹ As of 30 November 2023.

² See for example ACFE, *Occupational Fraud 2022: A Report to the Nations*, 22 et seq.



CHANCES AND CHALLENGES OF WHISTLEBLOWING

II. CHANCES AND CHALLENGES OF WHISTLEBLOWING

II. | 1 GENERAL ASPECTS

Whistleblowing is a key instrument in exposing and preventing breaches of law and in safeguarding the welfare of society. Before the EU Whistleblower Protection Directive came into force, the protection provided to whistleblowers by the various Member States was fragmented and uneven across policy areas.³ The Directive fills this important legislative gap and presents the result of a few decades of incremental change in Europe. It is intended to accomplish the goal of setting minimum harmonization standards for the improvement of EU law enforcement and the effective protection of whistleblowers from liability related to reporting breaches of law in accordance with the legal framework provided.

The key benefits and advantages of modern whistleblowing systems are:

- Develop the submission of well-founded reports on wrongdoings;
- Provide a valuable tool for risk analysis and compliance;
- Provide a valuable instrument for quality management;
- Contribute to upholding the principles of legality and legitimacy;
- Build trust with citizens, customers, and other stakeholders;
- Foster and enhance (corporate) reputation, resilience, credibility, and integrity.

What is more, whistleblowing systems are a most essential source of support in criminal investigation of corruption, money-laundering, terrorism financing, tax evasion and fraud, and other offences. They are further a valuable instrument to foster asset recovery of illegal money flows.

However, it must also be noted at this point that the Directive not only offers opportunities for the investigation of legal violations, but also poses a number of challenges for the responsible reporting offices in the practical implementation of national law. These challenges were discussed intensively during the workshop and will be outlined and explained in more detail below.

II. | 2 FRAGMENTED MATERIAL SCOPE

The Directive is comprehensive in nature, encompassing both its material and personal scope of application. In terms of its material scope, it pertains to both the private and public sectors, a crucial measure in ensuring uniformity in reporting procedures. Furthermore, the Directive describes the areas in which information about misconduct is protected. Only if the wrongdoing relates to one of these areas will the whistleblower benefit from the protection of the framework.

More precisely, Article 2 of the Directive covers various areas in which whistleblowers can report violations of EU law.

³ Indeed, less than half of all EU Member States had legislation in place aimed at whistleblower protection, see Transparency International (2019), "Mapping the EU on Legal Whistleblower Protection".

These are:

- public procurement;
- financial services, products and markets and the prevention of money laundering and terrorist financing;
- product safety and compliance;
- transport safety;
- protection of the environment;
- radiation protection and nuclear safety;
- food and feed safety, animal health and welfare;
- public health;
- consumer protection;
- protection of privacy and personal data as well as security of network and information systems.

As set forth in Article 5 and Recital 43 of the Directive, a report of breaches in these areas is further subject to protection if:

- breaches have already taken place;
- breaches have not yet materialized, but are very likely to occur;
- the reporting person has reasonable grounds to consider acts or omissions as breaches;
- there are attempts to conceal infringements;
- the reporting person has legitimate concerns and suspicions, even if no positive evidence can be provided.

In any case, neither information that is already fully accessible in public nor unsubstantiated rumors and hearsay are protected by the Directive.

However, it also becomes apparent from the provisions in the Directive that the material scope of application is limited and fragmented, mainly because of the limited legislative competence of the EU. Therefore, the Directive only covers reports of breaches of EU law in certain areas. Whistleblowers who are reporting infringements of other national laws, are – at least under European law – not protected. To mitigate these limitations, the Directive expressly encourages Member States to extend protection to areas of national law which are not covered. This extension of the scope of protection was also recommended by the European Commission. Subsequently, many countries have followed this recommendation and have actually expanded the scope of their whistleblower protection. While in Spain and Germany, for example, reports on the areas of the Directive, serious administrative offenses and criminal offenses are subject to the scope, whistleblowers in France can report breaches in the areas of the Directive, criminal offenses and “impairments of the public interest”, which presumably allows for a much broader field of application. Austria, in turn, in its national implementation of the Directive, lists a closed list of areas in which reports by whistleblowers are protected.

What is repeatedly criticized and became an issue especially during the COVID-19 pandemic is that both the Directive and some national implementations exclude reports on working conditions from the scope of protection.⁴ In the literature, therefore, the idea is already being expressed that the scope of application should be expanded when the Directive is reviewed by the Commission.⁵ In this context, however, it should be borne in mind that if violations of worker protection are associated with negative health consequences, this may fall within the area of “public health” protected by the laws.

For potential reporting persons, it is therefore essential to familiarize themselves with the respective national legal situation (implementing the Directive) or at least to be aware of which reports of violations grant them protection against retaliation. However, this leads to risks for potential whistleblowers: If the scope of the respective national law is not clearly defined and differs from other countries, whistleblowers do not know whether their information falls under the law and is thus protected. The result of this uncertainty is that whistleblowers prefer to remain silent in case of doubt and do not turn to reporting channels. Furthermore, if they speak up but then they are not protected, the negative consequences they suffer will serve as a warning to others to stay silent (so-called “chilling effect”). As a result, violations continue to be undetected and can further harm the public interest or the interest of organizations.

However, it can become a challenge not only for the reporting persons, but also for the responsible external reporting offices to filter which reports constitute a violation of areas falling within the scope of the respective law and thus fall within their investigative competence, and which reports are brought to their attention as a hint or complaint, and the relevant provisions do not apply to this type of report. Depending on how the report is to be assessed, this will also have an impact on how the company in focus is dealt with: If there are legal violations to be investigated, sometimes even criminally relevant behavior, this will lead to appropriate investigative measures and the involvement of further authorities. If, however, the report concerns areas not covered by national whistleblower law, such as labor law in some countries, initial contact with the company and further recommendations will prove more expedient.

⁴ See to this topic Cf. Abazi, V. (2020), “Truth Distancing? Whistleblowing as Remedy to Censorship during Covid-19”, *European Journal of Risk Regulation* 11, 375-381.

⁵ Cf. Abazi, V. (2020), “The European Union Whistleblower Directive: A ‘Game Changer’ for Whistleblowing Protection?”, *Industrial Law Journal* 49, 645 ff.

II. | 3 PROTECTION OF THE IDENTITY OF WHISTLEBLOWERS

Protecting the identity of whistleblowers and the content of their reports is an important issue for competent authorities. In this context, a distinction must be made between the confidentiality of the whistleblower as a person on the one hand, and the anonymous reporting of potential breaches of law on the other.⁶

II. | 3.1 Confidentiality of the whistleblower

Confidentiality of whistleblowers is a key element of the EU Whistleblower Protection Directive. As long as this confidentiality is ensured, it is up to each individual legal entity in the private and public sector to define the kind of reporting channels to establish.⁷ It is further acknowledged by the Directive that safeguarding the confidentiality of the identity of the reporting person during the reporting process and investigations triggered by the report is an essential ex-ante measure to prevent retaliation.⁸

Indeed, confidentiality of whistleblowers is a mandatory element of both the prescribed procedures for internal reporting and follow-up, and the design of external reporting channels.⁹ Both private companies and public reporting offices must therefore ensure that the data and information of whistleblowers are treated confidentially and are under no circumstances passed on to unauthorized persons or bodies. It should only be possible to disclose the identity of the whistleblower or any information from which the identity may be directly or indirectly deduced where that is a necessary and proportionate obligation under EU or national law in the context of investigations by authorities or judicial proceedings, in particular to safeguard the rights of defence of persons concerned.¹⁰ This will usually be the case when criminal proceedings are opened. However, if a natural or legal person breaches the duty of maintaining confidentiality, this may result in effective, proportionate and dissuasive sanctions, which are provided for accordingly in the respective national implementations of the Directive.¹¹

II. | 3.2 Anonymous reporting

The enabling of anonymous reporting goes a step further than ensuring the confidentiality of a whistleblower's identity and is therefore not protected to the same extent by the EU Whistleblower Protection Directive. While the Directive provides for the protection of persons who reported or publicly disclosed information on breaches anonymously, but who are subsequently identified and suffer retaliation ("ex-post" protection), Member States still have the power to decide whether legal entities in the private or public sector and competent authorities are required to accept and follow up on anonymous reports of breaches ("ex-ante" protection).¹² It is therefore up to each country to set up systems/options for anonymous reporting. As became clear in the course of implementation, some countries have actually made use of this option.

⁶ Cf. Stappers, J.T. (2021) "EU Whistleblower Protection Directive: Europe on Whistleblowing", ERA Forum 22, 95 ff.

⁷ Directive (EU) 2019/1937, Rec. 53

⁸ Directive (EU) 2019/1937, Rec. 82.

⁹ Directive (EU) 2019/1937, Art. 9 and Rec. 12.

¹⁰ Directive (EU) 2019/1937, Rec. 82.

¹¹ See Directive (EU) 2019/1937, Art. 23.

¹² See Directive (EU) 2019/1937, Art. 3 para 2 and 3.

Acknowledging and following up on anonymous reports brings both benefits and limitations. First and foremost, accepting anonymous reports helps building trust in whistleblower systems. It shows both potential whistleblowers and other stakeholders that addressing wrongdoing is more important than identifying who is "blowing the whistle". Furthermore, it encourages people to speak out who might otherwise be reluctant to do so for fear of negative consequences or insufficient care to protect their identity. The fear that whistleblowers would not be held accountable for malicious reports and that allowing anonymous reporting would increase the number of false reports has not (yet) materialized in practice. In fact, whistleblowers often reveal their identity and cooperate with the reporting office after a few exchanges with the person handling their report and once they have been given the necessary trust.

However, there are limitations too when it comes to anonymous reporting. Firstly, it is practically difficult to provide comprehensive protection to a person whose identity is not known. Secondly, the dialogue between the recipient of the report and the whistleblower is important in cases where the report does not contain sufficient information to initiate investigations and take corrective action. In this case, however, it would be necessary to ask the whistleblower for clarification or additional information he or she may have. Thirdly, the reporting person may not be informed of the progress and outcome of the investigation, if the person receiving the report has no means of contacting the anonymous whistleblower. Nevertheless, these issues can be resolved through the use of IT platforms that allow communication between the office and the anonymous whistleblower.

The fact that people are more inclined to report misconduct if they can do so anonymously is also supported by figures:¹³ 46 % of the employees in a company survey in Germany state that concerns about anonymity/identity are the main reason for not reporting (1st "barrier").¹⁴ The concern that the acceptance of anonymous reports would lead to an increased number of abusive reports with the intention of deliberately harming employees or the company, or with a purely opportunistic background, does not prove to be true. While "abuse of a whistleblower system" is defined as the deliberate false reporting of alleged wrongdoing, the submission of unknowingly false reports does not constitute an "abuse of system". Out of 1,239 companies from Germany, France, Switzerland and the UK, around 50 % have set up channels that also allow anonymous reporting. Those companies that support anonymous reporting received 48 % of initial reports anonymously. In 2020, on average, companies received 34 notifications. Not even 8 % of the reports could be classified as abusive. This contrasts with a large majority of reports that reveal specific misconduct within the company.

¹³ For detailed information on various statistics and figures, see the Whistleblower Report 2021 published by EQS Group and the University of Applied Sciences Graubünden (see the link in the annex).

¹⁴ See also Bussmann/Oelrich/Schroth/Selzer (2021), *The Impact of Corporate Culture and CMS. A Cross-Cultural Analysis on Internal and External Preventive Effects on Corruption*, Springer

II. | 4 CHALLENGES IN PRACTICE (SURVEY)

Prior to the workshop, the participating organizations were asked 7 different questions about their design and structure, as well as their whistleblowing responsibilities and their biggest challenge in the role as a reporting office. These questions were then also answered orally by the participants again in the workshop as part of a “tour de table”.

1. What is your organization’s legal mandate?
2. Is your organization an active (or designated) reporting office?
3. What type of reporting office does your organization represent?
4. Since when has the reporting office been operational?
5. How many reports has your reporting office received already?
6. How do you evaluate the quality of the reports received so far?
7. What is your biggest challenge related to the operation of the reporting office?

The survey showed that organization A been newly established in the last 2 years. Moreover, it is noteworthy that the number of reports received varied greatly from organization to organization. For instances, it was mentioned that in one year alone, about 1600 reports were received, while other reporting offices received no reports at all or only a few so far. Also interesting were the statements about the quality of the reports received so far. Only 2 reporting offices stated that the quality of the reports was at least very variable. The remaining 3 offices, which already have experience with whistleblower reports, indicated that the quality would be predominantly poor.

Regarding the question of what would be the biggest challenge related to the reception and investigation of reports a reporting office faces, several issues were raised. For example, the lack of the necessary personnel resources to actually analyze and check incoming reports carefully and efficiently and to follow them up in a further step. The number of incoming reports increases every year, which leads to a problem of managing these many reports.

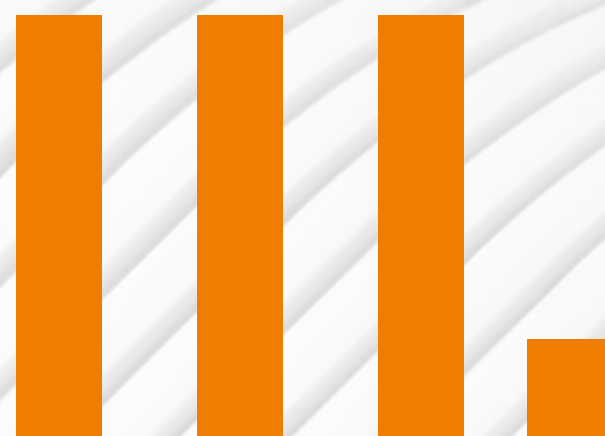
In addition, it was pointed out that the competent authorities often lack the necessary jurisdiction as well as the corresponding competences to be able to sanction non-cooperating companies, for example. A frequent problem in communicating with affected companies or institutions is that they simply do not respond to inquiries or invoke company and business secrets. Without the appropriate sanctioning competence, however, the reporting office is powerless in these situations.

The quality of the reports was also mentioned as another problem. These often do not relate to areas falling within the scope of the respective whistleblower protection law, but rather represent mere complaints or reports of misconduct that may be contrary to moral standards, but not against laws. In these cases, the authority often has to laboriously deal with the question of whether a legal violation has actually occurred or whether a person is simply dissatisfied with a certain morally reprehensible but lawful situation. This in turn takes up resources that are needed to pursue actual breaches of law.

Furthermore, concerns were raised in connection with ensuring the anonymity and privacy of whistleblowers. This includes, among other things, the proper IT equipment in office buildings as well as the establishment of a suitable system in order to be able to guarantee anonymous reporting and ensure appropriate conditions for the secure storing of documents and files.

Finally, the problem of the lack of social awareness was widely discussed. Society in general still lacks understanding of the protection of whistleblowers, as they are often put in a bad light and the reporting of violations is viewed negatively. In this context, the need for training and education of employees as well as those responsible for internal channels in dealing with whistleblowers was also expressed several times.

EXTERNAL REPORTING OFFICES AND THEIR RELATION TO THE PRIVATE AND PUBLIC SECTORS



III. EXTERNAL REPORTING OFFICES AND THEIR RELATION TO THE PRIVATE AND PUBLIC SECTORS

III. | 1 GENERAL ASPECTS

The EU Whistleblower Protection Directive follows a three-tiered whistleblowing system of reporting, which is composed of internal, external and public reporting channels.¹⁵ Although the Directive states that Member States are to encourage whistleblowers to use internal reporting channels first, it acknowledges – against the intentions during the drafting period – the necessity to allow the whistleblower to be able to choose the most appropriate reporting channel, depending on the individual circumstances of the case. In its recitals the Directive even explicitly states that for the effective detection and prevention of breaches of EU law, it is vital that the relevant information reaches swiftly those closest to the source of the problem, most able to investigate and with powers to remedy it, where possible.¹⁶ Therefore, whistleblowers may report internally or externally – i.e. outside of one's workplace – to competent authorities and, as a last resort, they may make a public disclosure, including directly to the media.¹⁷

Regarding the external channels, it is for the Member States to designate the authorities competent to receive information on breaches and give appropriate feedback and follow-up on the reports.¹⁸ This competence was therefore assigned to different institutions depending on the Member State, e.g., to judicial authorities, regulatory or supervisory bodies, law enforcement agencies, anticorruption bodies or ombudsman offices. The tasks of the external reporting offices include assessing the accuracy of allegations and addressing the breaches reported by launching an internal enquiry, investigation, prosecution, or other appropriate action. Alternatively, offices can also refer the report to another authority that should investigate the reported breach, while ensuring that appropriate follow-up by such authority takes place within the set time limitations.

Based on these competences, it is already evident that exchange and cooperation with both private companies and public institutions play a crucial role in whistleblower matters.

III. | 2 AREAS OF COMPETENCE

During the workshop, four major areas could be identified where reporting offices can carry out important tasks connected to whistleblowing and whistleblower protection. These are listed below as examples and can provide input for expanding one's own competences in dealing with outside companies and organizations.

¹⁵ See in detail about this three-tiered model Vandekerckhove, W. (2010) "European whistleblower protection: tiers or tears?" In D. Lewis (ed) *A Global Approach to Public Interest Disclosure*, Cheltenham/Northampton MA, Edward Elgar, 15-35.

¹⁶ Directive (EU) 2019/1937, Rec. 47.

¹⁷ Cf. Stappers, J.T. (2021) "EU Whistleblower Protection Directive: Europe on Whistleblowing", *ERA Forum* 22, 87-100.

¹⁸ Directive (EU) 2019/1937, Art. 11.

III. | 2.1 Reports & Investigation

Receiving WB reports	Ability to receive external whistleblowing (WB) reports
Evaluation of WB reports	Ability to evaluate whether the report meets the criteria of a whistleblowing report.
Receiving ANONYMOUS reports	Ability to receive and process reports delivered anonymously.
Investigation of WB reports	Ability to investigate reports, such as evidence gathering, witness hearings and other.
Sanctions for obstruction in investigation	Ability to impose sanctions for obstruction or hindrance of investigations of external and internal WB reports.
Receiving retaliation reports	Ability to receive reports of retaliation by organizations against whistleblowers.
Investigation of a retaliation	Ability to investigate retaliation, to gather evidence and take other steps.
Sanctions for retaliation	Ability to impose sanctions for retaliation against whistleblowers.

III. | 2.2 Protection & Support

Authority grants protection status	Ability to grant the status of a (protected) whistleblower by the authority, which entails the specific status (and rights) of a whistleblower
Protective measures & remedies	Ability to perform protective measures against negative actions towards whistleblowers and/or impose corrective actions and protective remedies after retaliatory actions against whistleblowers.
Psychosocial support	Providing psychosocial support to whistleblowers
Legal representation	Providing legal services to the whistleblower, in the form of legal representation or court representation
Mediation	Providing mediation services to employers and whistleblowers.
Rewards	Providing rewards to whistleblowers.

III. | 2.3 Advice

Advice on decisions to report	Advice on reporting procedures, possible risks of reporting and applicable protective measures.
Advice on legal steps (legal support)	Providing legal advice and consultations for whistleblowers throughout and after the reporting procedure (e.g., possibilities of protection, preparation of criminal report).
Advice on protection against retaliation	Providing legal advice in case the whistleblower was subjected to retaliatory measures by his/her employer.
Advice for employers	Advice for employers on legal requirements, whistleblower protection or internal whistleblowing systems.
Guidelines and manuals	Publication of guidelines or manuals related to whistleblowing, internal reporting systems or whistleblower protection for the wider public (individuals or organizations).

III. | 2.4 Prevention & Education

WB systems support and training	Implementation of preventive activities related to internal and external whistleblowing (WB) systems, in the form of education or training.
Integrity management support	Implementation of preventive activities related to enhance integrity, in the form of education or training.
Cooperation with NGOs (non-governmental sector)	Cooperation with NGOs, trade unions, business associations or other civil society and non-governmental actors.
Awareness raising	Conducting public awareness activities, such as public campaigns, public events, provision of information and engagement in public debates.
Research on WB	Conducting research on whistleblowing, whistleblowers and their protection or assessment of legislation implementation and its impacts.

III. | 3 SYNERGY BETWEEN THE PUBLIC SECTOR AND REPORTING OFFICES

Synergy can be created through cooperative and harmonious collaboration between different institutions or agencies to achieve common goals. Some of these “synergy points” are mentioned below.

III. | 3.1 Common Goals and Objectives

Even if the main goal is to transpose the EU Whistleblower Protection Directive and to protect whistleblowers, there are some other common goals and objectives shared by institutions of the public sector and external reporting offices that need to be identified. For instance, both may aim to ensure transparency, prevent corruption, protect public funds, or promote ethical conduct and a culture of transparency.

III. | 3.2 Proper Reporting Mechanisms and Information Sharing

Establishing efficient internal channels (protocols, dedicated contact points, register of designated persons, etc.) and ensuring that public sector bodies and external reporting offices have access to each other’s contact information and are each aware of the procedures for initiating communication can lead to further synergy.

III. | 3.3 Facilitating Investigation

Whistleblower reports often serve as valuable leads for investigations. Both external reporting offices and public sector bodies can play a crucial role in the investigation process of data reported by a whistleblower. Their intervention is essential in maintaining the integrity of whistleblower investigations. It ensures that allegations are thoroughly examined, potential wrongdoers are held accountable, and necessary actions are taken to address misconduct while safeguarding the rights and well-being of whistleblowers.

Public sector bodies have the authority to investigate reports that have been submitted through internal channels. They can also investigate reports that have been forwarded to them for examination. Sometimes, external reporting offices lack the capacity to investigate all reports, with the result that investigations are transferred to other entities, often public bodies.

Several key considerations arise in this context:

1. **Secure Transfer:** It is crucial that the transfer of allegations is done securely. One effective approach is to utilize internal channels for this purpose, facilitating safe and confidential communication.
2. **Confidentiality Assurance:** Establishing fundamental procedures to guarantee the confidentiality of the reporting individuals is of paramount importance.
3. **Communication Protocols:** Having well-defined procedures for communication between relevant authorities is vital to ensure a seamless transfer and investigation process.

In summary, the secure transfer of information, the safeguarding of whistleblower confidentiality, and clear communication protocols are key components of an effective investigative process.

III. | 3.4 Regular Meetings and Collaboration

Another measure for better mutual understanding is the organization of regular meetings or forums where representatives from public sector bodies and external reporting offices can come together and discuss emerging issues, share information, and coordinate efforts. Collaboration may extend to joint training sessions, workshops, or awareness campaigns related to whistleblowing and compliance.

III. | 3.5 Data Sharing and Analysis

Sharing anonymized data and information related to reported concerns and investigations can help identifying trends, patterns, or systemic issues that need attention. In particular, sharing information between institutions investigating reports, as well as courts and institutions providing legal and psychological assistance to whistleblowers has significant practical value and can help identify gaps. Furthermore, collaboration on data analysis is recommended to generate insights that lead to policy improvements or targeted interventions.

III. | 3.6 Confidential Reporting Channels

To reassure potential whistleblowers that their concerns will be handled discreetly and without fear of retaliation, it is important to ensure that both public sector bodies and external reporting offices offer confidential reporting channels.

III. | 3.7 Whistleblower Protection and Support

Great benefits can be derived from collaboration on whistleblower protection initiatives, such as establishing robust legal protection and support mechanisms for whistleblowers who report wrongdoing within the public sector.

III. | 3.8 Cross-Agency Task Forces

Forming cross-agency task forces or working groups that include representatives from both public sector bodies and external channels, should be considered. These task forces can focus on specific areas of concern, such as fraud prevention, and work together to address them.

III. | 3.9 Public Awareness and Education

To educate citizens and employees about the importance of whistleblowing, reporting mechanisms, and the role of both public sector bodies and external reporting offices in supporting whistleblowers, collaboration on public awareness campaigns and educational initiatives is essential.

III. | 3.10 Review and Feedback Mechanisms

Regular review and feedback mechanisms should be established to assess the effectiveness of collaboration between public sector bodies and external reporting offices. In doing so, it is important to make necessary adjustments based on lessons learned and evolving needs.

III. | 3.11 Legal Framework Alignment

Finally, another prerequisite for achieving synergy is to ensure that the legal framework for whistleblowing and for cooperation between public sector bodies and external reporting offices is aligned. This includes, among other things, harmonizing reporting requirements, safeguards and procedures.

III. | 4 MAKING USE OF TRAININGS

Dealing with whistleblowers is still an unfamiliar area for many practitioners and may therefore raise some questions and uncertainties. This makes it all the more important to pass on one's own knowledge and experience and share it with others. These may be not only employees of public or private entities, but also prosecutors, judges and attorneys. All these persons are a suitable target group for training on whistleblowing. The focus of these trainings should be on the following key areas:

1. **Leveraging Internal Channels:**
 - Exploring the advantages of establishing internal channels for both public and private entities.
 - Recognizing the pivotal role of employees as early detectors of potential violations.
2. **Establishing Effective Internal Channels:**
 - Implementing best practices in the creation of efficient internal communication pathways.
 - Ensuring adherence to legal requirements while developing these channels.
3. **Enhancing Organizational Impact:**
 - Emphasizing the significance of internal channels in shaping organizational culture.
 - Building trust among employees and customers through transparent communication.
 - Mitigating financial losses and safeguarding reputation through proactive measures.
4. **Tailored Training Sessions:**
 - Customizing training sessions to cater to the unique needs of specific organizations.

The following recommendations should be shared with training participants:

- **Publish Reporting Channel Information:** Publish information about the institution's internal reporting channel on the institution's website and intranet. Ensure accessibility for current and former employees and contractual parties.
- **Clarify Reporting Channel Purpose:** Clearly state the purpose of the internal reporting channel, highlighting key aspects such as the applicable legislation, who can report, and the available reporting methods.
- **Identify Channel Administrators:** Publicly disclose the individuals responsible for managing the internal reporting channel and specify the requirements for these administrators.
- **Share Internal Reporting Rules:** Approve and make public the institution's internal rules detailing the reporting process for internal irregularities and how notifications are handled.
- **Transparency in Notification Handling:** Publicly specify the timeframe and procedure for informing the whistleblower about the actions taken in response to their report. Ensure proactive communication with the whistleblower.

- **Preventing Retaliation:** Publish information on how the institution safeguards whistleblowers from any adverse actions. This information should also be accessible on the institution's website.
- **Regularly Inform Staff:** Keep institution staff informed about communication options, protection measures, and opportunities for advancement.
- **Publicize Data Security Procedures:** Share institution procedures for ensuring whistleblower confidentiality and data security, specifying the collected data and protection methods.
- **Allocate Resources for Protection:** Allocate sufficient financial and human resources to implement whistleblower protection measures in accordance with the law.
- **Share Effectiveness Data:** Publish data on the institution's internal channel performance, including the number of reports received, examined, forwarded to relevant authorities, and their impact on uncovering offenses or misconduct.

III. | 5 CASE STUDY

During the workshop, participants were also presented with a fictitious case related to whistleblowing and the proper way to deal with private and public entities.

1. Facts

The facts of the case were as follows:

“Anna is an employee in a manufacturing company that produces wastewater pumps for the chemical industry. She knows that not everything in production goes according to regulations and is concerned about the safety of her local waters and nature. Knowing that her superiors are not interested in finding a solution, Anna decides to contact the external reporting office in her home country. She knows some companies where these malfunctioning pumps are already in use and also mentions them in her report.”

2. Questions

Following this, participants were asked the following questions:

- a.) *What would be the procedure in your country?*
- b.) *Assuming it turns out that in Anna’s case no criminal offense was committed, but that internal company regulations were violated, does the handling of the received message change and in what way?*
- c.) *Which agencies and institutions in the private sector can be points of contact?*
- d.) *What are the barriers to communicating with the private sector?*
- e.) *How can communication be improved?*

3. Approaches

In a subsequent discussion, the different approaches of the participating representatives of the countries were discussed and both similarities and differences were highlighted. In the process, some problems and challenges also became apparent.

Initially, there was fundamental consensus that in the event of criminal conduct, the report would be forwarded to the responsible public prosecutor’s office in the respective country by the external reporting office. Some countries reported that as soon as the report reaches the public prosecutor’s office, the latter wants to find out the identity of the whistleblower for its own investigations. However, this is diametrically opposed to the desired protection of the reporting persons and could discourage future potential whistleblowers from disclosing information. In contrast, other countries reported that in their procedures the confidentiality of the whistleblower’s data is very well preserved and no information about it is disclosed to the prosecution. In the course of the discussion, it thus became clear that different approaches exist in the case of reports about criminal conduct, especially in questions of preserving anonymity.

If it turns out that no criminal offense was committed, the external reporting offices indicated that they would initiate their own investigations in this case and contact the company in question. The participants also mentioned forwarding the matter to the relevant authorities, e.g. to an environmental authority. In this

context, the uncertainty was also raised as to whether there is an obligation to inform other (regulatory) authorities. However, cooperation with the relevant authorities was supported in any case. Other points of contact could also be chambers and interested groups, NGOs or other international organizations. However, particular care must be taken as to which information is passed on to which body, since if it becomes public, this can lead to considerable reputational damage for the company concerned. Thus, there was agreement to first contact only the whistleblower’s employer and not to already involve the other affected companies mentioned in the report. Indeed, this could also have negative effects on competition.

The main problem cited in communication with private companies was the lack of cooperation. In some cases, even after repeated inquiries, no suitable information is provided (e.g. because the company invokes business or trade secrets), and the authorities sometimes do not have the necessary instruments to enforce the provision of information. While it is possible in some countries for the external reporting office to even carry out house searches at the company and punish it in the event of non-cooperation, in other countries the authorities have not been given any sanction regime against the private entity. Another difficulty was identified in communicating with large, international corporations. If the internal reporting channel was outsourced within the group and the contact person was located in another country, this could make the communication for the external reporting office much more difficult, also due to language barriers. However, if the authorities then receive the relevant data from the company as part of the investigation, this often involves immense amounts of data that can hardly be evaluated without external expertise. This also represents a major challenge and often delays the investigation enormously (e.g. if an expert is appointed and has to be commissioned with the evaluation).

Finally, communication could be strengthened by raising awareness of the importance of whistleblowers, e.g. through appropriate information via the media or social networks, but also directly with the companies themselves. The latter should also be made aware of the fact that whistleblower reports in internal channels are clearly more beneficial for the company’s management. This allows problems to be dealt with internally before sensitive information leaves the company and may even become public knowledge.

IV.

BEST PRACTICES IN DEALING WITH WHISTLEBLOWERS

IV. BEST PRACTICES IN DEALING WITH WHISTLEBLOWERS

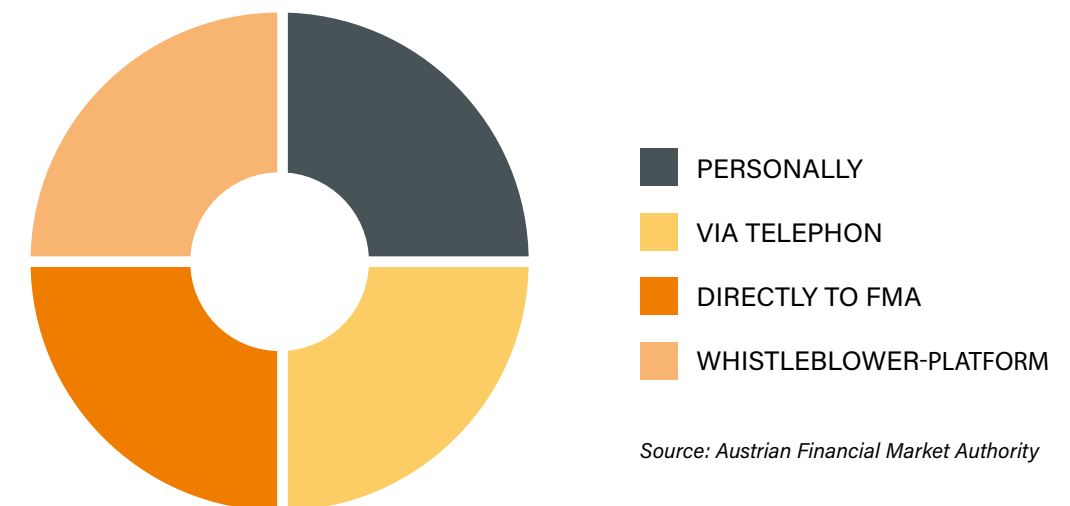
IV. | 1 GENERAL ASPECTS

Getting potential whistleblowers to “blow the whistle” is just the starting point for a successful case management. In order for the agency to investigate alleged wrongdoing, there are some best practices for dealing with reporting persons after they have come forward to the external channel. Proper interaction and communication with whistleblowers are not only essential for effective cooperation but can also provide important support for further investigations of legal violations.

IV. | 2 INSIGHTS FROM THE PRACTICE OF THE AUSTRIAN FMA

The Austrian Financial Market Authority (FMA) has been operating a special IT-based whistleblowing system since 1 February 2014 that allows the anonymous receipt of confidential information about possible instances of malpractice in supervised entities. In so doing, the FMA has not only created a central point of contact that is responsible for receiving reports, but has also established a special tool and a dedicated procedure to protect whistleblowers and persons who are affected by the report.¹⁹

IV. | 2.1 FMA's channels of communication



- An IT-based whistleblower system for receiving anonymous reports and for anonymous communications, which can be reached through the landing page of the FMA's website
- In writing, either as written or electronic correspondence
- By telephone
- Verbally towards the staff members of the Whistleblowing Point of Contact at the FMA's premises

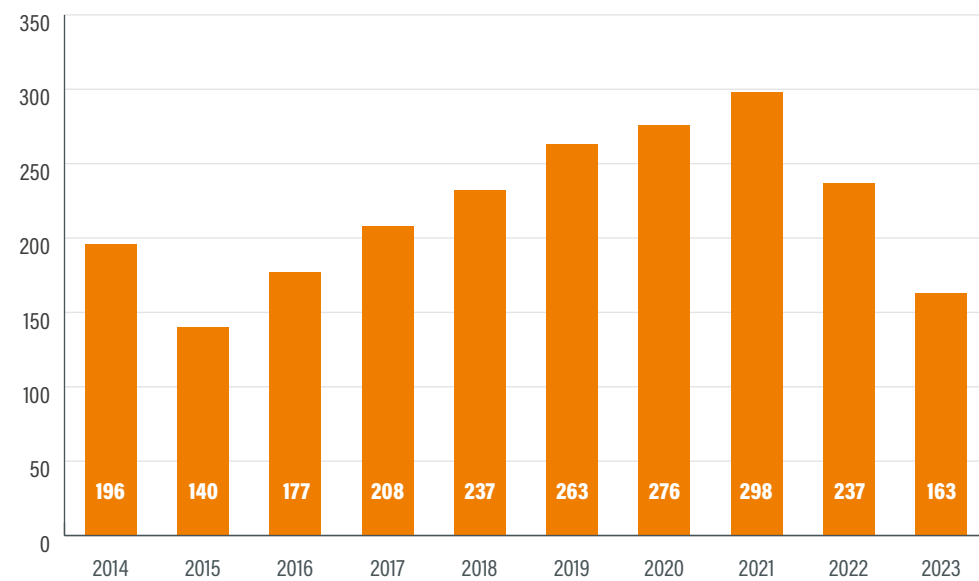
¹⁹ For further information see <https://www.fma.gv.at/en/whistleblowing/>.

IV. | 2.2 FMA's whistleblowing point of contact and procedure

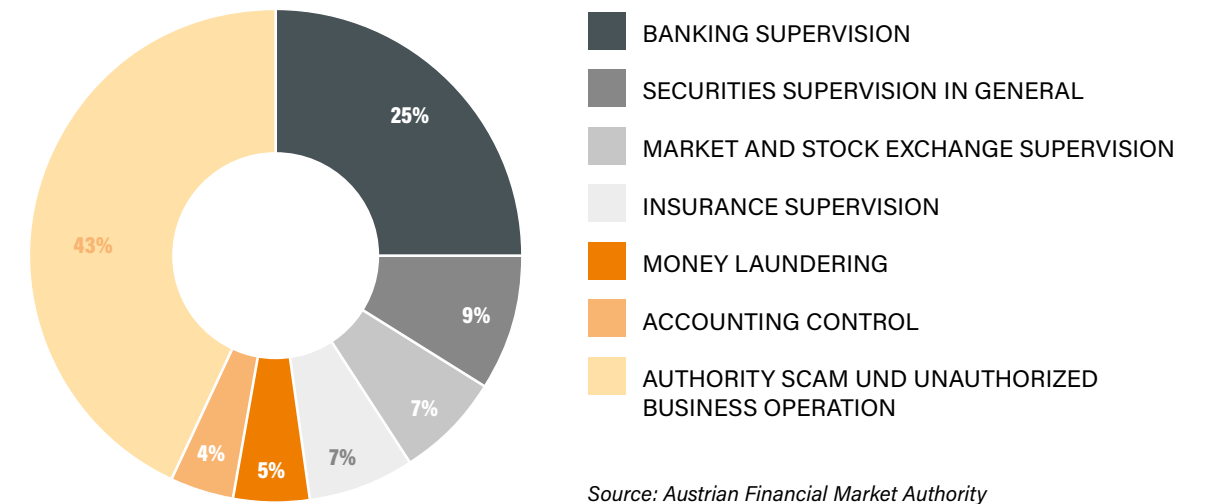
The FMA's whistleblowing point of contact is the central point for receiving and carrying out preliminary reviews on reports that have been submitted, as well as for corresponding with anonymous whistleblowers via the IT-based whistleblowing system. When the whistleblowing point of contact receives a report, specialized employees examine it to see if it falls under the FMA's jurisdiction as well as that of an entity it supervises and to see if it contains pertinent information. The relevant concerned specialist divisions are then given access to the reports that have been determined to be pertinent. These divisions continue to investigate. If the expert division determines that actions are necessary to be performed in accordance with supervisory law, it is to initiate such measures.

Moreover, in FMA's IT-based whistleblower system, a postbox can be set up to facilitate anonymous communications. This is necessary to clarify ambiguities that may arise during the course of the investigation. Postbox communication is typically fairly swift. Therefore, the success of the investigation is greatly influenced by whistleblowers. The FMA has access to this secure postbox and can use it to post queries as well as responses. However, the FMA does not answer inquiries about the progress and findings relating to their procedures, as all bodies and employees of the FMA are bound by law to maintain official secrecy. Additionally, this guarantees that a person who has been impacted by a report is protected during the investigations.

From 2014 through the beginning of 2023, the FMA received approximately 2,200 reports. Around 95% of these reports were submitted through the FMA whistleblower system.



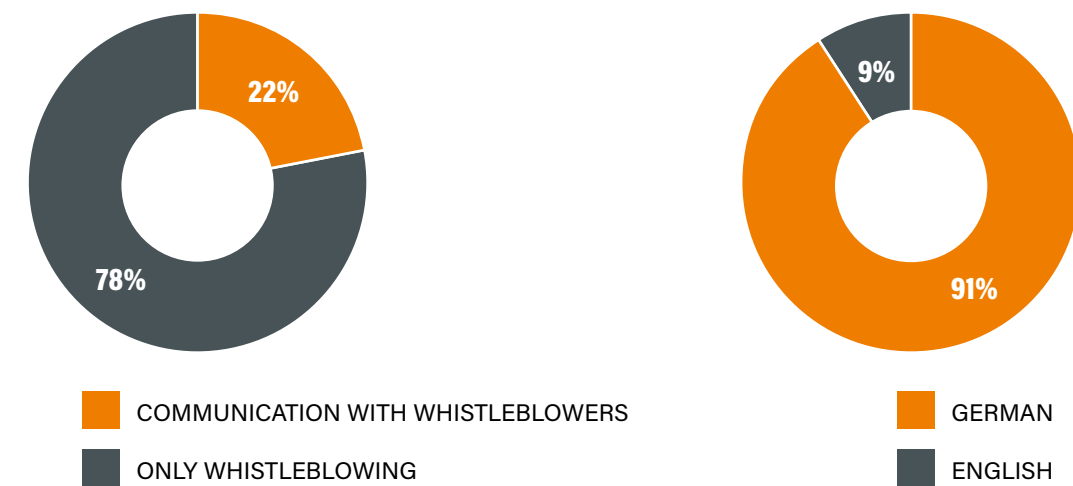
Source: Austrian Financial Market Authority



Source: Austrian Financial Market Authority

IV. | 2.3 FMA's protection of whistleblowers

To provide effective protection for whistleblowers, the FMA has launched a secure communications platform using the latest technologies to allow the anonymous reports using a certificate-based encryption process. Provided that whistleblowers do not submit any information that allows the information to be traced back to them, the whistleblowing system also protects their anonymity on a technical level in communications conducted using the postbox. It is also possible to set up a personal protected postbox in the system used by the FMA, to allow the whistleblower to communicate anonymously with the FMA, thus ensuring that the whistleblower's anonymity is also protected by technical means during such communications.



Source: Austrian Financial Market Authority

The legal requirement of official secrecy applies to all employees and bodies of the FMA, protecting both the identity of the whistleblower and the people impacted by disclosures. The FMA also has specialized procedures in place to secure personal data. Separate secrecy areas also exist within the FMA, and access limitations can be used to handle specific files in a confidential manner during investigations. However, when it comes to criminal investigations, it may be the case that the FMA is obliged to pass on information that it is aware of.

IV. | 2.4 Results and measures due to FMA's Whistleblower System

In the years between 2018 and 2022, whistleblower reports and hints led to a total of 680 measures initiated by the FMA as a result:

Hints between 2018 and 2022 to FMA have resulted in:	
291	On- und Off-Site-Analysis and Inspections as well as EZB/JST Notifications
198	Forwarded to other authorities
46	Sanctions
45	Checking Audit Reports
46	Investors' Warnings
22	Insights and Inspections
21	Management Discussions
12	Fit & Proper Analysis and Owner-Controll-Procedures

Source: Austrian Financial Market Authority

IV. | 3 PRACTICE TIPS

IV. | 3.1 Dos and Don'ts for companies

... in Transparency	
DOS	DON'TS
- Ensuring transparency - Keeping in mind that whistleblowers have a great added value, reports submitted can serve to minimize risks and damages	- Disclosing whistleblowing reports (during proceedings) - Poor knowledge about internal whistleblowing procedures
... in Communication	
DOS	DON'TS
- Informing employees about their possibilities concerning submitting whistleblowing reports and the proceedings. This will increase trust in the whistleblowing system ("Tone from the top")	- Gossip - Discrediting whistleblowers - Discussing reports in public
... in Anonymity	
DOS	DON'TS
- Protecting the identity of whistleblowers. They are often confronted with hostility due to their reports, which increases the relevance of protecting them.	- Disclosing whistleblowers. They only act if their anonymity is respected.
... in Company Protection	
DOS	DON'TS
- Informing employees about their possibilities concerning submitting whistleblowing hints. This will reduce the risk of information being reported to external bodies or to the media.	- Underestimating risks - Ignoring reports or delaying investigations

IV. | 3.2 Distinction between complaints and reports

Complaints	Whistleblowing Reports
- Complaints seeking an individual solution	- Whistleblower fight a general grievance
- Complainant is feeling personally disadvantaged	- Whistleblower want to hint an issue even though they might not be directly or indirectly affected by
- Rarely of criminal relevance	- Often of criminal relevance
- Often customers of a company, parties in public proceedings or victims of fraud - "I was treated unfairly during a police check." - "The processing of my file at the administrative authority takes too long." - "I have obtained very secure crypto assets with which I have made tremendous profits. Now, my agent is no longer available"	- Often insiders such as (former) employees of private entities or persons associated with them. - "I became aware of corruption at my former company." - "There are data security problems at XY authority." - "The organization XY does not comply with environmental regulations."
- Goal: finding specific, individual solutions or referring to the appropriate office. Personal involvement is in focus	- Goal: Avoiding or limiting a damage to a bigger group of people or to the system in general. Possible individual harms are secondary.

IV. | 3.3 Further practical tips ("Check list")

The following "check list" is intended to provide practical tips that external reporting offices can use in their own dealings with whistleblowers.

- Try to use clear and simple language!
Long legal explanations often seem overwhelming to potential whistleblowers. Better, however, are concrete instructions on how the reporting person is to carry out his or her report. This facilitates the subsequent processing enormously. See for example the video of the Austrian Federal Competition Authority (link in annex).
- Take steps to gain the trust of potential whistleblowers!
This can be done, for example, by announcing the measures taken and the results of reports by whistleblowers. This shows that these reports are valuable for society.
- Respond to whistleblower reports or questions as soon as possible!
Whistleblowers lose interest after a while, or they forget e.g., the password to access their mailbox.
- Make it clear to companies that setting up internal channels is important!
Whistleblowers will otherwise turn to outside agencies or the media, making it easier for internal information to become public.

WHISTLE- BLOWING – QUO VADIS?

V.

V. WHISTLEBLOWING – QUO VADIS?

Looking to the future of whistleblowing, there will be some more interesting questions to ponder. It remains to be seen with interest what developments will now result from the implementation of the Directive in the individual Member States and what conclusions can be drawn from this as part of an evaluation. Does the scope of application need to be expanded? Do further measures need to be taken to ensure secure whistleblowing and to further gain the trust of whistleblowers? These are all questions that the European legislator will have to answer in the future.

A recent case law of the European Court of Human Rights (ECtHR) could have a not insignificant impact on these decisions. With its Grand Chamber judgment of 14 February 2023 in the case *Halet v. Luxembourg* (application no. 21884/18), the ECtHR was called to decide whether a whistleblowers criminal conviction, following the disclosure of confidential documents issued by his employer, had amounted to a disproportionate interference with his right to freedom of expression under Art. 10 European Convention on Human Rights (ECHR). In overturning an earlier chamber judgment of 2021, the ECtHR's Grand Chamber found that public interest in the disclosure outweighed all of the detrimental effects arising from it, given the importance, at both the national and European levels, of the public debate on the tax practices of multinational companies. It reasoned that the information disclosed by the whistleblower had made an essential contribution to the public's interest in receiving the information on tax rulings. Thus, after weighing up all the interests concerned and taking account of the nature, severity and chilling effect of the applicant's criminal conviction, the Court concluded that the interference with his right to freedom of expression, in particular his freedom to impart information, had not been "necessary in a democratic society" and thus violated Art. 10 ECHR.

With this decision, the ECtHR thus clarified that protection for whistleblowers should not only be granted in cases of disclosure of unlawful acts, but also of other facts, e.g. (legal) tax practices, which are of importance for public debate. The public interest may be a factor that can justify breaches of professional secrecy. However, this question must be assessed on a case-by-case basis. Moreover, the court mentions that the "second" whistleblower might also be entitled to protection under Art. 10 ECHR and that the "chilling effect" on potential whistleblower is a criterion which has to be considered.

These considerations of the ECtHR on the scope of protection of whistleblowers certainly provide impetus for further discussion and may have a signal effect for the EU. Time will tell in which direction the topic of whistleblowing will develop.

VI.

CONCLUSION

VI. CONCLUSION

In conclusion, it can be said that the joint workshop not only raised a large number of interesting questions in connection with the specific approach of the reporting offices in properly dealing with whistleblowers, but also provided answers to these questions in the form of proposed solutions and tips for practical application.

To come back to the opening words: How can the protection of whistleblowers, which constitutes a human right, become a social norm in society, and what can public authorities do to contribute to this? Three main conclusions were unanimously drawn from the questions raised:

Firstly, it is important to put the whistleblower as a person at the center of our work and provide them with the best possible protection. The focus must not only be on the legal framework, but also on the personal burden that every reporting person has to bear. To encourage potential whistleblowers, it is essential to share this burden within society. Reporting offices can make a significant contribution to this by treating whistleblowers with respect, cooperating with them on a regular basis and showing them the necessary appreciation for their contribution to the investigation of breaches of the law. Moreover, it is important that the competent authorities distinguish between investigating the reported violation of the law and ensuring that the whistleblower is not subject to retaliation. Another important point in this context is to ensure the confidentiality of the whistleblower's identity, which has been mentioned several times, and to allow anonymous reports. During the discussion, positive examples were reported of how such identity protection can be ensured, also in cooperation with other (criminal) prosecution authorities. This is the only way to gain the trust of whistleblowers and subsequently obtain qualitatively valuable information.

Secondly, cooperation within society plays a central role. When it comes to the question of whether private companies or the authorities are responsible for protecting whistleblowers, the answer is: both! This principle of cooperation must be based on the two pillars of support and report. On the one hand, it is about how to communicate with whistleblowers, how to support them in the reporting process, and what efficient protection measures can look like in the end. On the other hand, it depends on how the individual options for passing on information are designed, whether the companies actually set up internal channels and how well the external channels are perceived in practice. In particular, effective communication can help to avoid reports being made that cannot be considered protected whistleblowing reports. It must be made clear to potential whistleblowers in comprehensible language when a report falls within the scope of the national whistleblower protection law and it must be structured. This will then also lead to an overall increase in the quality of the reports and to a significant reduction in the workload of the responsible offices.

Thirdly, and here everyone agreed from the outset, raising awareness is probably the most important point for a successful establishment of whistleblower systems. In this context, the right education plays a central role. However, it is not only the future whistleblowers who should be educated, but above all the people who will later have to deal with them. This can take the form of training courses or workshops, for example. The (social) media can also provide helpful support in educating potential whistleblowers. During the workshop, for example, an animated video was shown in which the most important facts and information on reporting an infringement of competition law were presented in simple and understandable language.

In conclusion, many workshop participants mentioned that the ultimate goal must be to change the mentality about whistleblowers in society, as the image of people who report certain misconduct is still a negative one. Society often still associates whistleblowers with the role of the "traitor" or "sneak", since they bring to light internal grievances and openly address secrets, which may cause some people to fear for their own position and actions. It is therefore of great importance to create awareness in civil society and to change the role of the whistleblower from the negative "traitor" to a positive "hero" who exposes unlawful behavior and helps the competent authorities to investigate these malpractices.

VII. ANNEX



WORKSHOP ON WHISTLEBLOWING

28-29 September 2023

Vienna, Austria

AGENDA

Day 1 - Thursday, 28 September 2023

10:00-10:30	Arrival & registration	Federal Bureau of Anti-Corruption (Vienna)
10:30-11:00	Opening session – welcome and setting the scene	Laura Valli, Ernst Schmid
11:00-12:00	Tour de table	All participants
12:00-12:15	Coffee break	
12:15-13:00	Dimensions of Whistleblowing	Luca Mak
13:00-14:00	Lunch	
14:00-15:30	Working session: Relation of the private sector to the reporting offices (and vice versa)	Discussion of a fictional case
15:30-16:00	Coffee break	
16:00-17:30	Working session: Relation of the public sector to the reporting offices (and vice versa)	
	Intro: Monika Kalinauskienė followed by discussion	
17:30-18:00	Conclusions of Day 1	Ernst Schmid, Lukas Krupitsch
18:00	Traditional Viennese buffet dinner/get together (location: BAK)	

Day 2 - Friday, 29 September 2023

09:00-11:00	Working session: Q&A Session – way forward	Intro: Fiona Springer, followed by discussion
11:00-11:30	Coffee break	
11:30-12:50	Whistleblowing – quo vadis?	Intro: Martin Kreutner, followed by discussion with all speakers and participants
12:50-13:00	Closing session	Ernst Schmid
13:00 -	Opportunity for informal discussions; departure	Light lunch/snacks

ANNEX

VII

INFORMATION ON THE AGENDA

OPENING SESSION – **LAURA VALLI**



Board Member of the Italian National Anticorruption Authority (ANAC) and Chair of the Network of European Integrity and Whistleblowing Authorities (NEIWA)

This session will cover:

- the importance of the Directive 2019 - main aspects
- main issues with the transposition of the Directive from an external channel point of view (ANAC)
- the role of NEIWA in the transposition process and in the future

After graduating in labor law at the University of Bologna, Laura was a civil judge and a public pro-secutor in Italy for ten years. She then moved to New Zealand and subsequently to Washington dc where she worked in the anticorruption unit and ethics office of the World Bank. Since 2018, Laura has been collaborating with the Italian Anti-Corruption Authority (ANAC) as an international expert on anticorruption and public sector integrity. In 2020, she was appointed as a member of ANAC's board. Laura is also the chair of NEIWA (Network of European Authorities for Whistleblowing and Integrity) since March 2023.

Q&A SESSION – WAY FORWARD – **FIONA SPRINGER**



Senior Expert Whistleblowing at Austrian Financial Market Authority and Member Transparency Austria

This session will cover:

- The FMA's Whistleblowing Learning Journey
- Implementing Reporting Channels and building Trust
- Practical Insights
- Group discussion and collection of best practices and lessons learned

Fiona Springer is a lawyer, capital market expert and has many years of expertise in the field of whistleblowing. She is an employee of the Austrian Financial Market Authority (FMA), responsible for market monitoring, market surveillance and product intervention, consumer information, financial education and whistleblowing. She is part of the ECB's expert network on whistleblowing and represents the FMA in various national, European and international bodies, not only on whistleblowing. She is also a lecturer at the WU Executive Academy as well as at various higher education schools.

1. DIMENSIONS OF WHISTLEBLOWING – **LUCA MAK**

2. WORKING SESSION: RELATION OF THE PRIVATE SECTOR TO THE REPORTING OFFICES (AND VICE VERSA) – **DISCUSSION**



(Former) Executive Director, Certified Compliance Officer
Transparency International Austria

This session will cover:

- Overview of whistleblowing landscape across key regions
- Societal aspects of whistleblowing including media and policy making
- Key rulings – “Lux leaks”
- Group discussion

Luca Mak is a lawyer, Certified Compliance Officer and works as Managing Director for Transparency International Austria. He graduated with a Master's degree in Business Law from WU. During his academic career he studied in Spain and worked for international organizations (UEFA, IACA), companies and law firms in Austria, Russia, Ukraine, and Switzerland. Based on his education and professional activity, he mainly focuses on human rights, compliance, criminal and anti-corruption law. He speaks Slovenian, German, Spanish and English.

WORKING SESSION: RELATION OF THE PUBLIC SECTOR TO THE REPORTING OFFICES (AND VICE VERSA) – **MONIKA KALINAUSKIENĖ**



Assistant Chief Prosecutor of the Internal Investigations Division of the General
Prosecutor's Office of the Republic of Lithuania

The session will cover the synergy between the public sector and reporting offices:

- Assistance in Establishing Internal Reporting Channels
- Cooperative effort in conducting Investigations
- External Oversight, Communication and Public Awareness
- Group discussion and collection of best practices and lessons learned

Monika Kalinauskienė earned her Master of Law degree from the University of Vilnius in 2004. She commenced her career at the General Prosecutor's Office of the Republic of Lithuania post-graduation. In 2017, she transitioned to the Internal Investigation Division of the General Prosecutor's Office, Lithuania's exclusive whistleblowing channel. Since 2017, she has played a pivotal role in implementing Directive (EU) 2019/1937, serving as the national delegate in the European Commission's expert group dedicated to this directive. In 2022, she represented the government at the International Labour Organization meeting on protecting whistleblowers in the public service sector. From 2019 onward, she has been the national delegate in NEIWA (Network of European Authorities for Whistleblowing and Integrity).

WHISTLEBLOWING – QUO VADIS? – **MARTIN KREUTNER**

Dean Emeritus, The International Anti-Corruption Academy, formerly Special Adviser, Ministry of Interior and Director of the Federal Bureau for Internal Affairs, Austria
EPAC/EACN Honorary Member

This session will cover:

- Discussion about the future and possible developments of Whistleblowing

Martin Kreutner, trained lawyer (AUT) and social scientist (UK), was Dean and Executive Secretary of the International Anti-Corruption Academy (IACA, international organization with over 75 member states) for eight years. Previously, he held the position of the head of the Austrian Director of the Federal Bureau for Internal Affairs and presided over the European network European Partners against Corruption (EPAC/EACN) for a remarkable nine-year period. Today, Martin Kreutner is recognized as an honorary member of EPAC/EACN. His extensive expertise in anti-corruption and compliance matters has led him to become a sought-after expert and consultant for prestigious institutions, including the United Nations, Council of Europe, European Union, OSCE, Transparency International, and the World Bank.

PUBLICATION & ACADEMIC EXPERTISE – **LUKAS KRUPITSCH**

University assistant and lecturer at the Vienna University of Economics and Business;
legal associate (white collar crime and criminal corruption law)

Lukas Krupitsch graduated with honors from the Master's program in Business Law at the Vienna University of Economics and Business, is a lecturer at the Vienna University of Economics and Business, has international experience at DePaul University College of Law, Chicago, and works as a legal associate in a law firm with a focus on white collar crime and criminal corruption law. He is currently working on his dissertation in the legal field of leniency.

VIDEO LINKS



BWB Whistleblowing System Explain Video with Subtitles
<https://www.youtube.com/watch?v=GJ5HmyeVWT8>



Whistle - For the Brave Ones!
https://www.youtube.com/watch?v=sbgO_uxTv7U



www.epac-eacn.org



www.epac-eacn.org

