

## Current status of the implementation of the EU Whistleblower Directive in the various EU member states

EU Member State	Implementation of EU Whistleblower Directive into national law ongoing?	Status of the implementation into national law?	Will the deadline of December 17, 2021 be met?	Will the national law go further than the EU Whistleblower Directive?	Other useful information
<b>Belgium</b>	Yes	<p>After certain political representatives in the Federal Parliament submitted two legislative proposals (in June 2020 and January 2021), it was decided to divide the transposition of the EU Whistleblower Directive into two parts:</p> <ol style="list-style-type: none"> <li>1. a public law section under the supervision of Minister De Sutter (Deputy Prime Minister and Minister of Public Administration, Public Enterprises, Telecommunication and the Postal Services in the Belgian Federal Government).</li> <li>2. a private law section under the supervision of Minister Dermagne (Deputy Prime Minister and Minister of the Economy and Employment in the Belgian Federal Government).</li> </ol> <p>With regard to the private law section, on Friday July 2, 2021 a legislative proposal (not yet open to the public) was submitted to Minister Dermagne's cabinet by the working group constituted for this purpose, which includes representatives of the Financial Services and Markets Authority FSMA, the FPS Economy, the FPS Justice, the FPS Employment, Labor and Social Dialogue, etc.</p>	<p>At the end of June 2021, the cabinet of Minister Dermagne submitted a request to the European Commission for an extension of the deadline, but an answer has not yet been received. It is clear that it will be difficult for the Belgian Government to pass the necessary laws (for both the private and the public sector) within the current deadline. Should an extension be given to the deadline for transposition into national law, the same extension will apply to companies that fall under the EU Whistleblower Directive.</p>	<p>It is not yet clear whether Belgian national law will impose more far-reaching obligations; the current negotiations seem to indicate that the terms of the EU Whistleblower Directive will be closely followed. It looks unlikely that Belgian national law will bring in stricter requirements (e.g., it has already been decided that Belgian national law will not apply the obligations imposed by the EU Whistleblower Directive to companies with fewer than 50 employees).</p>	<p>There is currently no general legislation on whistleblowing in Belgium (only some very specific regulations for the public sector and the financial sector).</p>

		<p>The cabinet of Minister Dermagne now has two weeks to formulate its comments. The aim is to submit the text to the National Council for the Economy and the National Labor Council by July 21, 2021 so that these two bodies can give their opinion. These Councils are expected to consider the proposal for about two months, after which the proposal will once again be reviewed by the Cabinet.</p> <p>As regards the public law section, no further information is yet available as far as we are aware.</p>			
<b>France</b>	Yes	<p>A <u>first legislative proposal</u> (No. 2591) was submitted to the French Constitutional Acts, Legislation and General Administration Committee on January 15, 2020 by deputies of the French political party “<i>La France insoumise</i>” under supervision of deputy and rapporteur Mr. Ugo Bernalicis. A second legislative proposal (No. 2600) was submitted by the same political party on January 21, 2020: “<u>Proposition de loi visant à la protection effective des lanceuses et des lanceurs d’alerte, n° 2600</u>” (original text in French)</p> <p>The second legislative proposal is still under review by the French Constitutional Acts, Legislation and General Administration Committee.</p>	Yes	<p>French law already provides for sector-specific whistleblowing procedures, as well as for a more general whistleblowing and whistleblower protection scheme introduced by the “<i>Sapin II law</i>” (2016).</p> <p>The French legislation needs to be amended to take account of the EU Whistleblower Directive, but it is likely that where the existing French law is stricter than the EU Whistleblower Directive, the stricter law will be retained where possible.</p>	<p>The French Ministry of Justice wished to involve the general public and all stakeholders in its reflections, and therefore opened an online questionnaire platform. The consultation was closed on March 21, 2021. The contributions are now being analyzed by the Ministry of Justice.</p>
<b>Germany</b>	Yes	<p>In November 2020 a legislative proposal for a “<i>Whistleblower Protection Act</i>” was submitted by the Federal Ministry of Justice:</p> <p>“<u>Hinweisgeberschutzgesetz</u>” (original German text).</p> <p>At the end of April 2021, the proposal was rejected by the political party CDU/CSU (“<i>Christian Democratic Union of Germany</i>”  </p>	<p>Several local counsel who are specialized in the field have informed us that the chances are high that the deadline will not be met.</p>	<p>The draft proposal for a Whistleblower Protection Act went beyond what was required by the EU Whistleblower Directive. The Federal Ministry of Economics had favored an exact implementation of the EU Whistleblower Directive, but the Federal</p>	<p>There is currently no general legislation on whistleblowing in place in Germany.</p>

		<p>“<i>Christian Social Union in Bavaria</i>”), who stated that the draft proposal goes “<i>without necessity</i>” beyond the requirements imposed by the EU Whistleblower Directive.</p> <p>In view of the current deadlock in Germany following the rejection of the legislative proposal by the CDU/CSU, it remains to be seen how matters will proceed.</p>		<p>Ministry of Justice wanted a stricter law (whereby the protection afforded would be the same regardless of whether the reported violation was a violation of EU law or national law).</p>	
<b>Italy</b>	Yes	<p>On April 21, 2021, the Italian Government adopted a law (which entered into force on May 8, 2021) granting itself the power to transpose the European Directive into national law.</p> <p><u><i>“Delega al Governo per il recepimento delle direttive europee e l’attuazione di altri atti dell’Unione europea – Legge di delega zione europea 2019-2020”</i></u> (original text of the “delegation law” in Italian).</p> <p>However, no legislative proposal for the transposition of the EU Whistleblower Directive has been submitted yet.</p>	Unknown.	Unknown.	<p>Italy already provided legal protection for whistleblowers before the adoption of the EU Whistleblower Directive. In December 2017, whistleblowing regulations were adopted for the public and private sectors (i.e., Law of November 30, 2017 on the <i>Provisions for the protection of whistleblowers who report offences or irregularities which have come to their attention in the context of a public or private employment relationship</i>”). However, the current Italian regime does not cover everything contained in the EU Whistleblower Directive.</p>
<b>The Netherlands</b>	Yes	<p>The Dutch government made public its legislative proposal in July 2020, and followed this by a public consultation period from July 31, 2020 to September 10, 2020. <u>Eight responses</u> were received, all of which have been made public.</p> <p>The legislative proposal was accordingly amended and submitted to the House of Representatives on June 1, 2021.</p>	<p>As the legislative proposal has been submitted in accordance with the <u>schedule</u> foreseen by the Dutch legislator, it is expected that the deadline will be met.</p>	<p>The Netherlands is one of the EU member states which already had legislation in place for the protection of whistleblowers (since 2016). These rules are laid down in the “<i>House for Whistleblowers Act</i>” and in several provisions of the Dutch Civil Code.</p>	<p>From a practical point of view, it can be stated that the legislative proposal submitted by the Dutch Government will create a whistleblowing regime that will run in parallel to the existing legislation, imposing amendments and new laws for the areas newly covered by the EU Whistleblower Directive. The House for Whistleblowers Act will be</p>

		<p><u>“Wijziging van de Wet Huis voor klokkenluiders en enige andere wetten ter implementatie van Richtlijn (EU) 2019/1937 van het Europees Parlement en de Raad van 23 oktober 2019 (PbEU 2019, L 305) en enige andere wijzigingen”</u> (original text in Dutch)</p>		<p>The Dutch legislator does not seem inclined to impose more far-reaching obligations than those contained in the EU Whistleblower Directive. However, it is important to note that the implementation of the EU Whistleblower Directive will change Dutch law, because a whistleblower will no longer be obliged to report internally first.</p>	<p>amended and, as a result of the legislative proposal, will be called the <i>“Protection of Whistleblowers Act”</i>.</p>
<b>Poland</b>	Yes	<p>On December 1, 2020 the Polish Prime Minister instructed the Ministry of Development, Labor and Technology to prepare a proposal of law transposing the EU Whistleblower Directive into national law. However, no draft law has yet been proposed.</p>	Unknown.	Unknown.	<p>With the exception of banks and investment companies, Polish companies are not required by law to implement whistleblowing systems or provide protection to whistleblowers. The recently proposed Polish law on corporate criminal liability will, however, provide protection for whistleblowers, and this protection will be in line with the most recent EU Whistleblower Directive. Poland will still need to install further general regulations to facilitate full compliance with the EU Whistleblower Directive.</p>

<b>Spain</b>	Yes	<p>The <u>first proposal</u> of the Spanish legislature by Xnet (a Spanish non-profit anti-corruption activist group) of December 11, 2019 was registered in the Spanish Congress with the support of 16 deputies of the Spanish Congress. Xnet is a member of and is responsible for coordinating the “<i>Whistleblowing International Network</i>” and took the initiative itself to draft a legislative proposal. However, this proposal did not lead to major results as it was also criticized by many.</p> <p>A working group of the Ministry of Justice started working on a legislative proposal in mid-2020. On June 17, 2020, a proposal was voted against by the Spanish Congress, after which a public questionnaire platform was opened until January 27, 2021.</p> <p>The Codification Commission of the Ministry of Justice is now working on a legislative proposal, but it is unclear when this draft will be finalized and submitted for approval.</p>	Several local counsel who are specialized in the field have informed us that the deadline will most likely not be met.	Unknown.	The protection currently offered to whistleblowers in Spain is fragmentary and contained in sectoral rules (e.g., “ <i>Law 10/2010 of April 28, 2010 on the prevention of money laundering and terrorist financing</i> ”).
<b>Sweden</b>	Yes	<p>The Swedish Government appointed a committee that published a <u>802 page report</u> (for an English summary see pp. 33-40) on June 29, 2020, including a legislative proposal to implement the EU Whistleblower Directive.</p> <p>A public consultation process followed, the public questionnaire platform closed on November 27, 2020.</p> <p>A second legislative proposal was submitted on April 15, 2021 to the Swedish Council on Legislation: “<i>Genomförande av visselblåsardirektivet</i>” (original Swedish text).</p> <p>The proposal was accepted without further comments by the Legal Affairs Council and a final bill was therefore presented on May 25, 2021.</p>	Yes. The report by the Swedish governmental committee of June 29, 2020 states that the date for entry into force for the proposed legal changes is December 1, 2021.	Yes. The legislative proposals go beyond the minimum standards required by the EU Whistleblower Directive and introduce protection for public interest reporting and <i>horizontal</i> disclosures, which means all thematic areas covered by the EU Whistleblower Directive, and beyond. Reporting on wrongdoing (a matter of public interest) is covered, including reporting and disclosure of breaches of both national and EU law.	Sweden stands out because it started an investigation into the implementation of the EU Whistleblower Directive even before the EU Whistleblower Directive was formally adopted.