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Resources Key contacts

The Whistleblowing Directive in the spotlight for 2026

What you need to know

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Current state of play

When the EU Whistleblowing Directive (the '**Directive**') came into force in 2019, it promised something straightforward: a coherent, Europe-wide framework to protect people who speak up about wrongdoing. Several years later, the framework exists – but the gap between what the legislation requires and how it operates in practice remains wider than it should be. With a full European Commission evaluation due in 2026, now is a good moment to take stock.

The framework is in place. The hard work is not done.

Transposition is complete across all 27 Member States, with Estonia and Poland among the last to enact implementing legislation. But completion is not the same as compliance, and the European Commission has been increasingly candid about the difference.

In its July 2024 report on Member State implementation, the European Commission identified a pattern of recurring failures across the EU:

- **Who is protected?** The Directive's list of protected persons was never intended to be exhaustive, yet several Member States treated it as such – leaving trainees, volunteers, contractors and suppliers without protection. If your organisation relies on a workforce that extends beyond direct employees, this matters.
- **How anonymous reports must be handled.** Where a Member State permits anonymous reporting, the same procedures must apply as for identified reports. A number of Member States failed to transpose this requirement correctly, creating inconsistency and legal uncertainty.
- **Basic procedural requirements.** Acknowledgement timeframes, diligent follow-up obligations, rules on confidentiality exceptions – most Member States got at least some of this wrong. The European Commission noted that the absence of proper protections "has a chilling effect on potential whistleblowing with negative impacts far beyond the Directive."

The consequences have moved beyond warnings. In March 2025, the Court of Justice of the EU ordered Germany, Luxembourg, the Czech Republic, Estonia and Hungary to pay financial penalties for failing to transpose the Directive on time. Infringement proceedings for substantive non-compliance are a real prospect for others.

Multinational considerations

The question that will not go away: Central or local?

For multinational companies, one question has dominated practical implementation from the outset: can a single, group-level whistleblowing channel serve the whole organisation – or must each local entity have its own?

The European Commission answered this early and has not shifted. Every entity with 50 or more employees must have its own internal reporting channel. A group-level channel may exist alongside local ones, but it cannot replace them. The 2024 report reaffirmed this, criticising Member States that had allowed groups to operate solely at group level as acting contrary to the Directive's objective of ensuring reporters can raise concerns through a channel they know and trust.

The corporate counterargument is legitimate: maintaining separate, legally compliant channels across every entity in every Member State is a significant administrative and legal burden, made harder by national laws that – while built on the same Directive – sometimes diverge considerably. The European Commission acknowledges the tension but has not moved on the principle.

Practical impact

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The approach that works best in practice is a **hybrid model**: a single technology platform that allows reporters to submit reports from anywhere, locally configured – including involvement of local management where applicable– for each entity to satisfy the per-entity obligation. It preserves the efficiency of a centralised system while meeting the legal requirement for local channels. A single group-wide policy with local annexes is often the most workable solution, allowing for national particularities to be addressed without fragmenting the broadercompliance framework.

An often-overlooked obligation: Reporting criminal conduct to authorities

One aspect of internal investigations triggered by whistleblowing reports that companies frequently underestimate is the potential obligation to report findings to external authorities. Handling a whistleblowing report is not always a purely internal matter – and this is an area where national law adds a layer of complexity that the Directive itself does not resolve.

Across a number of EU Member States – including Belgium and Spain – domestic legislation may require companies to notify competent authorities when an internal investigation uncovers criminal conduct. Beyond purely criminal reporting, companies operating in regulated sectors may face parallel notification obligations towards regulators – most notably in financial services, where regulators may require independent disclosure of for example misconduct or fraud. The threshold, timing, and procedure for such notifications varies by jurisdiction and regulatory regime, but the underlying principle is consistent: companies cannot simply treat the internal resolution of a report as the end of the matter where criminal wrongdoing or serious regulatory breaches are involved.

Multinational considerations

This is a practical point that frequently falls through the gap between the compliance team and legal counsel. For organisations operating across multiple jurisdictions, the risk is compounded: what may be a discretionary decision in one Member State can be a mandatory obligation in another. Internal investigation protocols should therefore explicitly address at what stage criminal findings are escalated, who makes that assessment, and what the notification procedure looks like – and this analysis needs to be done on a jurisdiction-by-jurisdiction basis, before a report lands on the desk rather than after.

Practical impact

2026: The year of evaluation

The Directive is now subject to a full overarching evaluation by the European Commission, following a stakeholder consultation that ran in the autumn of 2025. The European Economic and Social Committee is simultaneously preparing a civil society information report, with its plenary session scheduled for **June 2026**.

The outcome matters practically. The central-versus-local channel debate will feature prominently, as will the adequacy of investigative procedures, the scope of protected persons, and the significant variation between Member States in interpretation and enforcement. Whether the evaluation leads to targeted amendments to the Directive – or simply to renewed pressure on Member States to comply with what is already there – remains to be seen. What is clear is that organisations operating with a light-touch approach to compliance should not assume the current landscape will remain unchanged.

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Current state of play

A new front: The EU AI Act

One development that has attracted less attention than it deserves: violations of the EU AI Act will fall explicitly within the scope of the Directive as its obligations are progressively phased in. Following the approval of the AI Omnibus, compliance obligations for high-risk AI systems in HR and recruitment contexts will only enter into force in December 2027, meaning violations in those categories will not be reportable until that date.

Even before then, whistleblowers reporting AI-related concerns under existing Directive categories – such as product safety, consumer protection, or data protection – may already benefit from protection. Some uncertainty will persist beyond December 2027 for HR and recruitment systems specifically: it remains unclear, for instance, whether risks arising solely from internal deployment would qualify.

For organisations deploying AI systems in those sectors, this is already a live issue. The intervening period should be used to prepare internal reporting procedures, ensure they explicitly cover AI-related incidents, and equip those handling reports to recognise them.

Multinational considerations

What this means for your organisation

The Directive is no longer new. The European Commission is paying close attention, enforcement is real, and 2026 will bring further scrutiny. This is a good moment to review whether your whistleblowing framework is genuinely fit for purpose – not just on paper, but in practice to assess whether any updates are needed after implementation.

A few questions worth asking:

- Does each relevant entity in your group have its own local reporting channel, or are you relying solely on a group-level system?
- Does your personal scope explicitly cover trainees, volunteers, contractors and suppliers – not just employees?
- Do you have a clear, documented investigation procedure – one that addresses both the protection of the reporter and the rights of the person reported against – and that complies with the applicable legal framework governing internal investigations, such as the Private Investigations Act ('PIA') in Belgium?
- Have you mapped, for each jurisdiction in which you operate, whether criminal or regulatory findings uncovered through an internal investigation must be notified to the competent authorities?
- Have your procedures been updated to capture AI Act-related reports?

Practical impact

We are happy to assist with any of these questions – whether that means reviewing your existing framework, updating your policies, or navigating the cross-border complexities of a multi-entity group structure.

Our employment law team advises on whistleblowing compliance, internal investigations and policy design across jurisdictions. Please do not hesitate to get in touch.

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Current state of play



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