



What's the Recent Cypriot Legislation for the Protection of Whistle-blowers about?

Individuals employed by public or private entities or involved in activities related to these organisations often become privy to various information of alleged violations of the law by such organisations. The aim is to promote the disclosure of such information by such individuals, who are commonly referred to as “whistleblowers”. Such “whistleblowers” play a pivotal role in uncovering and preventing such transgressions, thereby safeguarding societal well-being. However, these potential whistleblowers frequently refrain from reporting their concerns or suspicions due to fear of facing repercussions or retaliation at their workplace. Hence, the recognition of the crucial need for balanced and effective protection for whistleblowers has been increasingly emphasised at both the Union and international levels.

On 20 January 2022, the Cyprus Parliament, fulfilling its obligation to implement EU Directive 2019/1937, enacted legislation aimed at safeguarding whistleblowers who expose misconduct and instances of corruption within their workplace.

This article summarizes the key provisions of this newly enacted legislation on the protection of whistleblowers.

Purpose of this law

The establishment of an effective framework of special legal protection of those employees who make a disclosure of information that came into their possession or data that fell in their perception within their workplace,

- for which they have the reasonable belief to be true, and
- relates to violations of European Union and national law.

Further, protection is provided to a person who makes a public disclosure of violations, and an obligation of confidentiality is imposed.

To whom does it apply?

- a. Private sector legal entities, with 50+ employees; and
- b. All legal entities of the public sector (except for local authorities with < 5,000 citizens or less than 25 employees)

Type of violations that can be reported

The types of violations that can be reported are the following:

- Public procurement, to prevent and detect fraud and corruption
- Financial services, products, and markets
- Money laundering and terrorist financing
- Product safety, manufacturing, and distribution chains
- Transport security
- Environment
- Radiation and nuclear energy
- Food and feed safety
- Public health
- Consumer protection
- Privacy and data protection
- Unions' financial interests
- Taxes and revenue.

Who can be considered as a Whistle-blower?

A Whistle-blower can be any person that becomes aware of illegitimate activities, as part of their employment or other interaction with a private or public sector organisation, and reports on it, either in writing or verbally. More specifically, a whistle-blower can be:

- a) an employee, an ex-employee, or a person undergoing the recruitment/negotiation process,
- b) a self-employed person interacting with the organisation,
- c) a shareholder, director, volunteer, or trainee of the organisation,
- d) a person employed by a contractor, sub-contractor, or supplier, interacting with the organisation.

It is important to keep in mind that the legislation does not protect every citizen. People reporting incidents outside of work or information regarding external matters are excluded from this protection.

What is a Whistle-blower eligible to do?

Whistle-blowers are urged, but not obligated, to initially report their concerns through internal channels which the organisations in question are under an obligation to set up. Depending on the specifics of the situation, individuals raising complaints can also reach out to the external channels of national competent authorities or the pertinent EU institutions, organisations, offices, and agencies. Moreover, if no adequate action has been taken after the initial report within the organisation or by the authorities, or in cases of imminent threats, whistle-blowers may also seek recourse by means of a public disclosure by approaching the public and media.

Protection of the Whistle-blower

In order to be subject to the protection of the law, individuals reporting incidents must possess reasonable grounds to believe, considering the circumstances and the information accessible to them during the reporting, that the matters they report are accurate. This requirement serves as a critical measure against malicious or baseless reports, ensuring that individuals who intentionally and knowingly provide false or misleading information at the time of reporting are not granted protection.

The primary rationale behind offering comprehensive and consistent protection to these individuals is their vulnerable economic status concerning the person upon whom they rely for employment.

a. Confidentiality Protection

- The identity of the Whistle-blower should not be disclosed to anyone other than authorised staff members who are competent to receive or monitor the reports, without the express consent of that person.
- The name of the Whistle-blower may only be disclosed if such disclosure is a necessary and proportionate obligation imposed by Union or national law.
- The Law has no express provisions on such disclosures being made anonymously. Nevertheless, the law expressly provides that if the identity of a Whistle-blower is made public or known at any stage, the said person is subject to all the protection provided under the law.

b. Protection by the law – No retaliation

Measures are enacted to protect the Whistle-blower from any retaliation. Private and public sector entities are prohibited from retaliating against the Whistle-blower in any form, including:

- Termination or dismissal,
- Demotion or withholding of promotion,
- Negative performance evaluation or negative professional recommendation.

A person who knowingly makes **false reports or public disclosures** is guilty of a **criminal offense** and, in case of conviction, is subject to:

- a prison sentence not exceeding 3 years, or
- a fine not exceeding €30,000, or
- both of the above.

What are the obligations of the entities which fall within the scope of this law?

Organisations are required to take some measures to protect whistle-blowers, establish confidential reporting channels, and clear reporting processes. Organisations employing more than 50 employees are under an obligation to set up internal communication channels within the timeframes mentioned below to allow for an efficient and proper reporting of alleged violations by whistle-blowers. Such communication channels could include telephone hotlines, mailboxes, or digital reporting systems. An organisation should ensure that any means of communication to be introduced for such internal reporting shall comply with the below minimum requirements:

- (i) The channels to be set up for receiving the reports must be designed, established and operated in a secure manner so as to ensure that the confidentiality of the identity of the reporting person and any third party mentioned in the report is protected. Furthermore, access thereto to any non-authorised staff members should be strictly prohibited,
- (ii) An acknowledgment of receipt of the report to the reporting person must be provided within seven days of that receipt,
- (iii) The organisation in question must appoint an impartial person or department competent for following-up on the reports which may be the same person or department as the one that receives the reports and which will maintain communication with the reporting person and, where necessary, ask for further information from and provide feedback to that reporting person,
- (iv) Diligent follow-up by the designated person or department referred to in point (iii) is an absolute must and a report must be provided within three months from the filing of the report.

Which entities are under an obligation to establish appropriate channels and procedures for reporting?



< 50 employees

With regard to violations of the European Union Law, the limit of 50 employees does not apply.



50 – 249 employees

There is a general obligation for all entities with 50+ employees to establish appropriate channels and procedures for reporting.

For companies of 50-249 employees, there are transitional provisions allowing up to the **17th December 2023**.



250 + employees

The law has **immediate** effect.

Such organisations should establish the channels and procedures for internal reporting immediately.

No transitional provisions apply.

Final Comments

In a tight-knit community like Cyprus, there's an undeniable prevalence of mistrust, leading people to hesitate reporting corruption due to past instances where informants faced targeting and the looming fear of reprisals. To address this issue, a robust legal framework has been enacted, a common measure across many European countries, aiming to bolster transparency.

The implementation of these legislative measures is vital for the Cypriot society and its economy. It serves as a crucial support and protective mechanism, encouraging citizens to report corrupt practices that adversely impact their lives, as well as the broader economic and social development of the nation.

Nevertheless, realising the objectives set forth by this legislation necessitates an effective monitoring system to ensure proper execution of its provisions, particularly safeguarding individuals who report corruption. Additionally, it requires businesses to acknowledge their responsibilities in adhering to the law, identifying instances of corruption, and treating each report with utmost seriousness, diligence, and confidentiality. Such measures are anticipated not only to attract talent and human capital to our most productive sectors but also to optimise resource allocation, thus fostering enhanced economic growth, both at a local and European level.

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