



# ARE EU GOVERNMENTS TAKING WHISTLEBLOWER PROTECTION SERIOUSLY?

Progress report on transposition of the EU Directive

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## **Are EU Governments Taking Whistleblower Protection Seriously?**

Progress Report on Transposition of the EU Directive

Supported by a grant from the Open Society Policy Center in cooperation with the Open Society Initiative of Europe (OSIFE), part of the Open Society Foundations.

Author: Marie Terracol

Contributors: Anna Myers, Ida Nowers and all the country experts (listed on page 30)

Reviewers: Matthew Jenkins, Adam Földes, Julius Hinks, John Devitt, Jan Dupák, Carina Paju, Nick Aiossa

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of February 2021. Nevertheless, Transparency International and the Whistleblowing International Network cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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# EXECUTIVE SUMMARY

Whistleblowing is one of the most effective ways of uncovering corruption and other wrongdoing. Robust legislation is vital to protect whistleblowers against retaliation and other injustices, and to ensure their reports are addressed.

In the past year, there has been no shortage of reminders that the greatest challenges of our time cannot be solved unless wrongdoing is called out and the truth exposed. The world is facing the combined threats of a global pandemic, climate change and deep structural inequalities, made worse by entrenched corruption. Often, the illegal acts that exacerbate these crises are only brought to light by individuals who blow the whistle on the wrongdoing they encounter in their daily lives. In this way, whistleblowers have [saved countless lives](#) and [billions in public finances](#), and avoided [environmental](#) disasters. Yet all too often, they face retaliation in the form of harassment, dismissal, blacklisting, lawsuits, prosecution, threats or even physical harm.

Since the beginning of the COVID-19 emergency, worrying reports concerning hospitals and public authorities retaliating against healthcare professionals for speaking out about the realities of the pandemic have emerged across Europe, from [Poland](#) to the [Czech Republic](#) to [Slovenia](#).

With government spending going through the roof, from millions of euros to purchase health equipment during the emergency to billions in recovery plans, it is more essential than ever to ensure funds are allocated in a transparent way and that they reach their intended beneficiaries. In the EU, the losses due to a lack of whistleblower protection in public procurement were estimated at [between €5.8 and €9.6 billion](#) each year – in a “normal” year.

Whistleblowing is one of the most effective ways to detect and prevent misconduct that undermines the

public good. It is especially critical in times of crisis, where abuses can cost lives and when normal oversight of decision-making and accountability mechanisms is weakened.

It is important, even urgent, to ensure that workers who become aware of wrongdoing speak up, without fear of retaliation, and are listened to.

## Whistleblower protection legislation in the EU

To protect whistleblowers from retribution, a strong legal framework is an important precondition. In most European countries, blowing the whistle is a risky decision to make, primarily because there is no, or insufficient, legal protection for whistleblowers. In April 2018, the EU Commission found that only nine EU member states offered comprehensive legal protection:<sup>1</sup> France, Hungary, Ireland, Italy, Lithuania, Malta, the Netherlands, Slovakia and Sweden.<sup>2</sup> Latvia adopted a whistleblower protection law in October 2018, and Croatia in 2019, bringing the number to 11. Yet even in these countries, loopholes remain and enforcement is lacking.

## EU Whistleblower Protection Directive

In 2019, the European Union adopted the “Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law” ([Whistleblower Protection Directive](#)).<sup>3</sup>

The Directive contains many ground-breaking provisions. It prohibits retaliation against whistleblowers, safeguards their identities in most circumstances and offers them several reporting avenues. It sets obligations for organisations with more than 50 workers to create internal reporting channels and requires companies, public institutions and authorities who receive information on wrongdoing to follow up on these reports. It also expands the definition of whistleblower to include not just employees, but individuals who report wrongdoing encountered in a work-related context.

The 27 EU member states have two years from its entry into force (until 17 December 2021) to comply with the Directive.

## Transposition into national law

EU directives set out standards that each EU member state must meet, and each country must devise its own laws, regulations and administrative provisions to comply with them. Directives need to be implemented or “transposed” into national law if national legislation does not already meet the minimum standards.

The benefit of this approach is that it allows governments to adapt and tailor a directive to their national legal systems and context. They are also free to go beyond the minimum standards set by the Whistleblower protection Directive and adopt legislation that meets best practice.

**“ Directives can only achieve their intended effects if they are completely and correctly transposed into Member States’ national legislation by the deadline set out in these directives.**

EU Commission

The EU Commission monitors whether member states fully and correctly incorporate a directive into their national law by the set deadline. It may take legal action – known as an [infringement procedure](#) – against an EU country that fails to comply with a directive and refer the issue to the European Court of Justice, which, in certain cases, can impose financial penalties.

In addition, when a member state does not transpose a directive by the deadline, the directive could have a so-called [vertical direct effect](#). This means that citizens would be able to invoke their rights under the directive. However, this would only be in relation to the state, and not, for example, in relation to their company.

Nevertheless, countries are often late in their transposition, and many are failing to turn EU directives into adequate laws.

## Best practice legislation

While a significant step in the right direction, the Whistleblower Protection Directive has loopholes and weaknesses. Its main flaw is that it does not cover all whistleblowers who speak up in the public interest, only those who report breaches of EU laws in some areas. To address those weaknesses, EU member states should not just fulfil their obligation to meet the minimum standards required by the Directive when transposing it. Instead, they should seize the opportunity to go further, and bring their national legal framework on whistleblower protection into line with international standards and best practice.

**Delays and incorrect or minimal transposition of the Whistleblower Protection Directive could further endanger whistleblowers and discourage them from speaking up at this critical time of global emergency.**

## Assessing the transposition process

Based on input from local partners of Transparency International (TI) and the Whistleblowing International Network (WIN),<sup>4</sup> complemented by information from the [EU Whistleblowing Meter](#) and online research, this report assesses the transposition process of the Whistleblower Protection Directive in all 27 EU member states, 14 months into the two-year timeframe.

The report firstly assesses the status of the transposition process. When did countries start the work? What progress has been made? Will countries meet the 17 December 2021 deadline?

Secondly, the report reviews the transparency and inclusiveness of the transposition process in each EU country. Was information about the process

publicly available? Have relevant stakeholders – such as civil society organisations (CSOs), trade unions, business associations, academia, and national and local public institutions – been meaningfully involved in the development of the new legislation?

Finally, where draft bills or concrete proposals are available, this report evaluates whether, at first glance, they comply with the Directive and whether they go beyond minimum standards to meet international best practice. In particular, do they adopt a wider scope, in order to protect all whistleblowers speaking up in the public interest?

## Key findings

By mid-February 2021, two-thirds (18) of the 27 member states had not started or had made minimal progress in the transposition process, and it is uncertain whether any EU country will transpose the Directive by the December deadline.

This lack of urgency from EU member states is concerning. The corruption and other health and public interest concerns [exposed](#) by the COVID-19 pandemic, and the huge amounts of relief funds at stake, should spur countries into action. Unfortunately, they seem to have done the opposite. It is understandable that governments are currently dedicating significant resources to dealing with COVID-19. However, thinking that implementing whistleblower protection legislation is not a high priority in that context would be a mistake. The purpose of whistleblower protection legislation is to enhance the enforcement of laws and policies, thus preventing loss or harm and preserving the rule of law. Critical times, such as those we are living through today, only accentuate that need.

In addition, in several countries, the levels of transparency and inclusiveness of the transposition process are unsatisfactory. Without proper consultation with all relevant stakeholders, national legislation is unlikely to offer adequate protection to whistleblowers and improve the detection and tackling of wrongdoing in practice.

Finally, it is worrying that some countries are not fully embracing the recommendation of the EU

Commission and whistleblowing experts to adopt comprehensive and coherent legislation on whistleblower protection. The Czech Republic, Denmark and Sweden are to be commended for proposing legislation with a broad scope, but still fall short of best practice regarding what whistleblowers will be able to safely report. Estonia and especially Latvia are leading the way in that regard by deciding, so far, in favour of legislation covering a wide and coherent array of whistleblowing situations. Serious debates on the issue of scope are still taking place in other countries, such as Germany and Finland. In the Netherlands, the draft bill curiously foresees parallel reporting procedures for breaches of EU law and breaches of national law, with different obligations for those handling them,

## Key recommendations

With only ten months left until the deadline, all EU countries, and especially those which have made minimal or no progress towards transposing the Whistleblower Directive, must intensify their efforts.

However, this does not mean that countries should rush through with flawed legislation to meet the transposition deadline, just to avoid fines and other repercussions.

The transposition process should be transparent and include all key stakeholders. It is important that adequate public consultation, research and sufficient thought are brought to the drafting process.

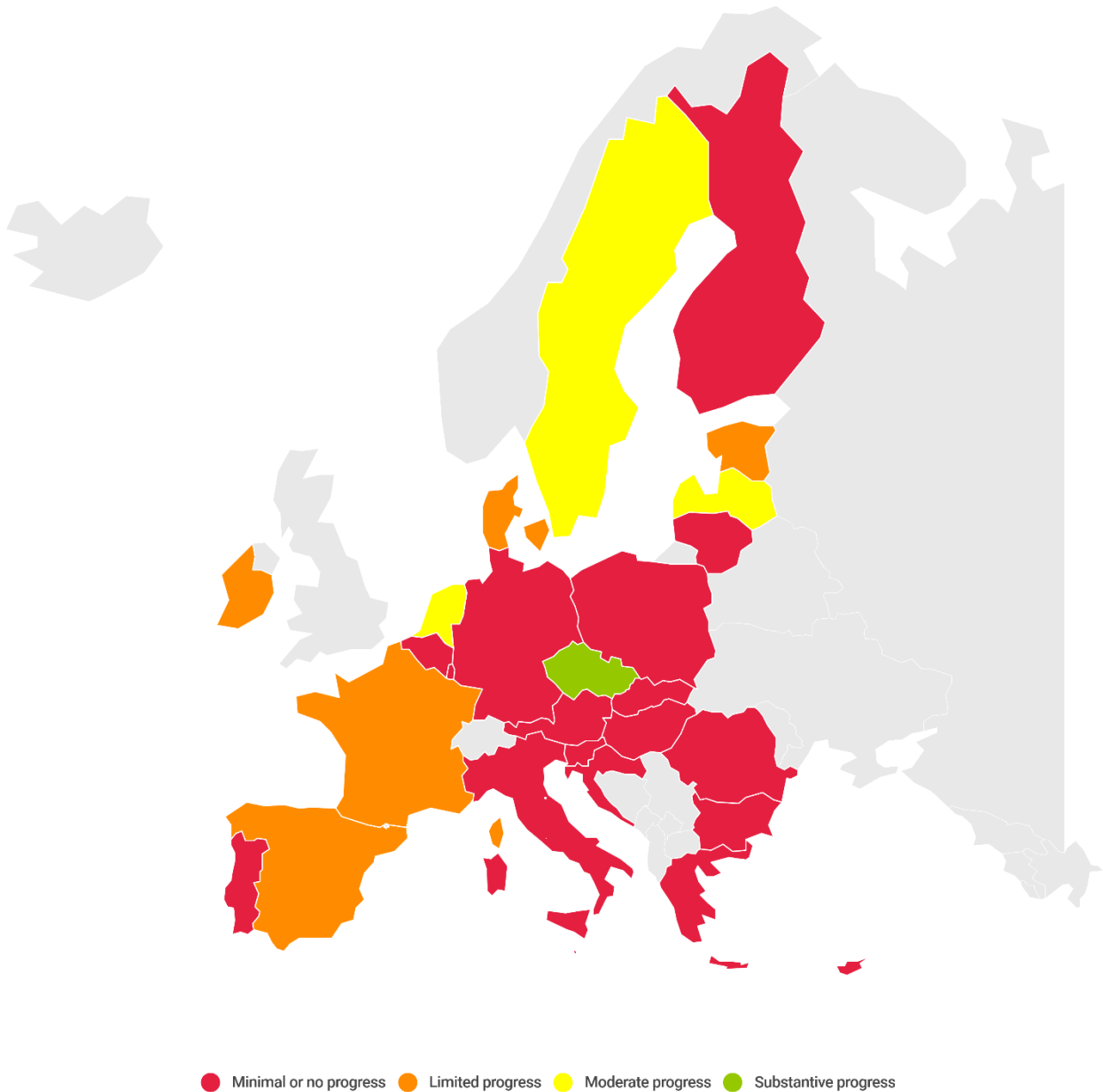
This also means that member states should not just have a minimalistic (or verbatim) approach to the transposition. They should seize the opportunity offered by the transposition process to go further than the minimum standards in the Directive and adopt comprehensive national legislation that meets best practice and international standards.

Only then will whistleblower protection laws across the EU live up to the promise of the Directive and be fit for purpose, enhancing the enforcement of both EU and national law and policies by providing for high-level protection of every single whistleblower speaking up in the public interest.

# STATUS OF THE TRANSPOSITION PROCESS

Given the status of the process over halfway through the timeframe in EU countries, it is unlikely that more than a handful – if any – will succeed in transposing the Whistleblower Protection Directive by the end of 2021.

Status of the transposition process in EU countries on 17 February 2021



[According to the EU Commission](#), member states generally have “difficulty” in transposing directives within the agreed deadline. The average transposition delay was almost one year in 2019. The transposition of the Whistleblower Protection Directive is no exception.

### Minimal or no progress

According to our information, one year and two months into the two-year timeframe **two-thirds (18) of the 27 member states** had made minimal or no progress toward transposing the Whistleblower Protection Directive.<sup>5</sup> Unless significant efforts are invested this year, it is unlikely that any of those countries will meet the transposition deadline of 17 December 2021.

Some countries who have as yet made minimal or no progress had initially taken some promising first steps early in 2020 (e.g. Bulgaria set up a working group in January 2020 and Greece in May 2020), but since then, progress seems to have slowed almost to a stop.

### Limited progress

**Five countries** have made limited progress towards transposition: Ireland, Estonia, Spain and France, with the launch of public consultations between June 2020 and early February 2021, and Denmark, which circulated a draft bill to some stakeholders outside government in December 2020.<sup>6</sup>

### Moderate progress

**Three EU member states** have made moderate progress toward transposition (Latvia, the Netherlands and Sweden), with public consultations on draft bills.

### Substantive progress

**One EU country** has made substantive progress towards transposition: the Czech Republic introduced a bill on whistleblower protection into Parliament on 9 February 2021.

While it is reasonable to be cautiously optimistic about the capacity of countries in the moderate and substantive progress categories to conclude their legislative processes by the end of the year, many factors could compromise this progress. For example, due to parliamentary elections, the Czech Republic has, in effect, only until September 2021 to do so. And in the Netherlands, the recent fall of the

government and call for general elections to take place in March 2021 will likely significantly delay the process. Whether the laws adopted will meet the objectives of the Directive and effectively protect whistleblowers in those four countries also remains open.

Although timeliness is important, it should not be to the detriment of transparency and inclusiveness. Countries that have not yet started transposition or are lagging behind should get to work, but not rush through the process.

### Assessing progress

To assess the status of the transposition process in EU countries, we looked at the steps taken by governments by 17 February 2021, exactly 10 months to the transposition deadline.

In the absence of any significant output – i.e. a draft bill<sup>7</sup> (or detailed proposal) circulated outside government, or formal consultation with relevant stakeholders – a country is considered to have made minimal or no progress.

If one significant output was realised – i.e. the government has circulated a draft bill *or* organised formal consultation with relevant stakeholders – a country is considered to have made limited progress.

If two significant outputs were realised – i.e. the government has circulated a draft bill *and* organised formal consultation with relevant stakeholders, a country is considered to have made moderate progress.





If three significant outputs were realised – i.e. the government has introduced a bill into parliament, after circulating a draft and organising formal stakeholder consultation, a country is considered to have made substantive progress.

It should be noted that the criteria used to assess the status of the transposition process are the same whether or not the country already has dedicated whistleblower legislation. Revising existing legal and institutional frameworks requires as much, if not more effort, than setting them up.

In addition, this assessment of progress only looks at which steps have been taken and is not a reflection on the quality of the process or its outputs.



**TABLE 1: STATUS OF THE TRANSPOSITION PROCESS PER EU COUNTRY ON 17 FEBRUARY 2021**

 Minimal or no progress	 Limited progress	 Moderate progress	 Substantive progress
Austria	Denmark <sup>8</sup>	Latvia	Czech Republic
Belgium	Estonia	The Netherlands	
Bulgaria	France	Sweden	
Croatia	Ireland		
Cyprus	Spain		
Finland			
Germany			
Greece			
Hungary			
Italy			
Lithuania			
Luxembourg			
Malta			
Poland			
Portugal			
Romania <sup>9</sup>			
Slovakia			
Slovenia			

# TRANSPARENCY AND INCLUSIVENESS

When those in power listen only to a few narrow interests, policy decisions are likely to benefit the few over the many. By allowing all groups affected to participate in the policy debate, decision-makers gain access to different points of view and can better assess where the public interest lies.<sup>10</sup>

The Whistleblower Protection Directive sets minimum standards that EU countries must achieve, but it is up to each country to adopt national legislation to meet them. This approach allows governments to adapt and tailor the Directive to their national legal systems and context. The two-year timeframe to fulfil the transposition gives them time to involve relevant national stakeholders in the design of the legislation, such as whistleblowers, employee and business associations, CSOs, academia, public institutions, journalists' associations, regulators and judges.

Reforms developed through consultation with relevant stakeholders inside and outside government are more likely to be effective. Meaningful, wide stakeholder engagement will ensure that the legislation takes into account the challenges, needs and concerns of all those who will be affected, building buy-in, trust and support.<sup>11</sup>

This is especially true when it comes to whistleblower protection laws, as many actors will play a role in implementing such laws. They include companies and public institutions who will run internal reporting systems, national authorities who will handle external reports, journalists who will facilitate public disclosure, trade unions and civil society who will assist workers, and courts which will adjudicate retaliation claims. If these actors are not adequately consulted and do not have confidence in how they are meant to fulfil their responsibilities, implementation of the law will be poor.

In addition, the exchange of experience and proposals from diverse stakeholders enriches public

debate and will help achieve more effective solutions to protect whistleblowers and address their reports. Some stakeholders, such as ombudspersons, financial regulators and CSOs, have already implemented reporting mechanisms. Others have experience using such mechanisms or advising those who do, such as CSOs, trade unions or business and employer associations.

Finally, wide consultation can be the first step in a public awareness campaign to promote whistleblowers as people acting for the common good and out of loyalty to their organisation or profession. This is particularly important in countries where the cultural perception of whistleblowers is negative.<sup>12</sup>

## **The UN Office on Drugs and Crime and the Council of Europe recommend consultation with the following stakeholders:**

- Relevant ministries, including justice and labour/employment, and ministries dealing with sensitive areas (e.g. customs, education, health care and public procurement).
- Inspection and enforcement bodies (e.g. health and safety, and trading standards).
- Independent human and public rights bodies, such as ombudspersons and commissioners

for information, privacy, data protection and human rights.

- Ethics and integrity bodies, including civil service commissioners at central and local government levels
- Trade unions and staff associations.
- CSOs, including human, community and consumer rights groups, and legal and advocacy organisations (especially those advising and protecting whistleblowers and addressing corruption issues).
- Professional bodies such as those for lawyers, auditors, engineers or doctors (including disciplinary or ethics committees).
- The judiciary and judicial bodies.
- Law enforcement bodies, including police, prosecution and special prosecutors.
- Public accountability bodies, such as national and local audit authorities.
- Sector regulators, including education, social care, health and safety, financial, anti-competition and fair-trade bodies.
- Business organisations and private-sector associations.<sup>13</sup>

Inclusiveness in the transposition process is therefore key, but true inclusiveness cannot be achieved without transparency. This is because meaningful participation relies on stakeholders being provided with detailed information about the proposed legislation.

As the transposition process is at very different stages across EU member states, it is not possible to compare levels of transparency and inclusiveness. In ten countries (Belgium, Croatia, Cyprus, Hungary, Italy, Luxembourg, Malta, Poland, Portugal and Slovakia), these could not even be assessed, either because the transposition process had not or had only just started, or because we did not have enough information to establish whether the process had come to a virtual stop or was very opaque. However, some best practices deserve to be highlighted, while some bad practices should be corrected.

## TRANSPARENCY

Proactive disclosure is integral to the transparency that underpins good government.<sup>14</sup>

### Information on the process

Several countries have set up online pages dedicated to the transposition process, where most of the information on the process, from relevant documents to milestones, can be accessed by anyone. This is a good practice that should be adopted across the EU. Examples can be found in the [Czech Republic](#), [Finland](#), the [Netherlands](#) and [Sweden](#), albeit with varying levels of user-friendliness.

As these online pages are mainly directed to (and understood by) a technical or expert audience, some countries have used additional means of dissemination to make information accessible to a wider range of stakeholders, such as web articles and press releases to launch the process (e.g. in [Sweden](#)), a public consultation (e.g. in [Estonia](#), [Latvia](#)) or provide progress updates (e.g. in the [Czech Republic](#) and [Latvia](#)). Some countries even wrote directly to key stakeholders to invite them to participate in a public consultation (e.g. [Sweden](#)). This is best practice and should be commended.

Such openness stands in contrast with the opacity encountered in several other countries. In Germany, where it [appears](#) the government has been working on the transposition since at least April 2020, the only official information publicly available came in an August 2020 response to an official request by a Member of Parliament. The only other available information came from leaks relayed in the German media. In Bulgaria, no information has been published either, even though the transposition process started in January 2020. In Greece, the administrative order setting up a working group was published in May 2020, but no further information has since been provided, not even to update the group's mandate after its October 2020 deadline was apparently not met.

Without a minimum of publicly available information about the process, such as which ministry or department is responsible for the transposition, what steps are planned with what schedule, and key documentation, it is very difficult for interested parties – unless they have privileged access – to participate meaningfully in the legislative process and hold the government accountable.

## Information on opinions received

Policymakers should proactively disclose information about which stakeholders provided input during the transposition process – whether proactively or on invitation, whether during a meeting or in response to a public consultation – and about the content of that input. Supporting documents, such as reports or position papers, should also be published, to allow the general public to see what arguments are being presented and enable other stakeholders with potentially different interests to organise and join the decision-making process.<sup>15</sup>

Written submissions from stakeholders answering public consultations were published by the government in [Estonia](#), [Ireland](#), [Netherlands](#) and [Sweden](#).

In the Czech Republic, where, as per standard procedure, the government issued a targeted call for written feedback on the draft bill to a standardised and closed list of stakeholders, the comments received were collated in a [publicly available](#) document which indicates whether each comment received was accepted or rejected, with an explanation. It is considered good practice for policymakers to outline how the various views have been taken into account, and why.<sup>16</sup>

In most other countries, stakeholders' inputs have not, to date, been publicly disclosed by governments.

## INCLUSIVENESS

In order to be truly inclusive, the transposition process of the Whistleblower Protection Directive should meet international standards for public participation in decision making in all EU countries.



**Both pressure groups and the public at large should enjoy an open and fair access to public decision-making, allowing for a diversity of input, better policies, and ultimately more**

## representative and trusted democracy.

International Standards for Lobbying Regulation

### Public participation in decision making

1. Right to participate – There should be a generally recognised right for all groups and the public at large to participate in public decision making, extending in particular to legislative and policy matters, within all levels of governance.
2. Public consultation process – A legal framework should lay out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies and laws, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies.
3. Equal opportunity – There shall be an obligation on public authorities to provide an equal opportunity for participation to various interest groups and the public at large.
4. Timely and effective contribution – The public authorities should be obliged to provide an adequate time period for consultation allowing sufficient time for review of the preparatory materials under discussion, and should strive to promote effective participation at the appropriate stage, while decisions are still open.
5. Publication of results – The (written and verbal) views of participants in the consultation process shall be made public, and the authorities should outline how the various views have been taken into account and why.
6. Refusals of the right – The public authorities shall provide a written justification for any refusal of the right to participate, and those excluded shall have options available to challenge and contest that exclusion in a procedure that is expeditious enough to provide for participation in case the refusal is overturned.

From Access Info Europe, Open Knowledge, Sunlight Foundation, Transparency International, [International Standards for Lobbying Regulation – Towards Greater Transparency, Integrity and participation](#), 2015.

EU countries that have already involved stakeholders in their transposition process so far have done so at varying stages in the process and through different channels and mechanisms.

### Multi-stakeholder working groups

In Bulgaria, Finland, Greece, Spain and Sweden, governments have launched their transposition process by establishing working groups that include external stakeholders, to conduct impact studies and draft legislative proposals.

Multi-stakeholder working groups allow hands-on stakeholder and expert involvement from the inception of the process. As whistleblower protection is a highly technical issue which governments often do not fully understand, it is reasonable – or even essential – for them to rely on expert input. However, a number of best practices should be followed.

#### Best practice for working groups

**Balanced composition** – Expert and advisory bodies should have a balanced composition, representing a diversity of interests and views.

**Disclosure of interests** – Advisory and expert group members should be required to disclose their interests and affiliations relevant to items under consideration, in advance of any work on the issue.

**Transparency** – The parameters and functioning of expert groups, and policy documents they consider, should be made transparent.<sup>17</sup>

Unfortunately, none of the working groups set up by EU countries for the transposition of the Whistleblower Protection Directive include representatives from all key stakeholders, and it is often not clear how members were chosen.

CSOs are particularly underrepresented, and are not part of the working groups in Finland, Greece, Spain

and Sweden. This is concerning, given that CSOs have valuable expertise to share – including experience using existing reporting mechanisms or supporting citizens to use them. Some CSOs, such as many TI chapters and WIN members, are themselves operating reporting mechanisms. CSOs also have experience drafting legislation. Their involvement is essential to protect responsible whistleblowing in the public interest.

Other under-represented stakeholders include trade unions (missing in Bulgaria and Greece), journalists (missing in all four countries), academia (missing in Bulgaria and Sweden) and business (missing in Bulgaria). Such gaps must be compensated for via other means, such as a public consultation and multilateral or bilateral meetings.

In addition, the functioning of these working groups is not fully transparent and can even be opaque – for example, whether, when and how often they meet, meeting agendas and minutes, how they make decisions, and who they consult. In Bulgaria, for instance, no information about the working group was publicly disclosed, not even regarding its official mandate and composition.

### Public consultation vs targeted consultation

Eight EU countries have conducted public consultations as part of the transposition process (Estonia, France, Ireland, Latvia, the Netherlands, Spain and Sweden by mid-February 2021 and Romania since).

Public consultations are generally considered best practice, as they are by definition open to all, and therefore provide any interested party with equal opportunity for participation. However, governments should make an active effort to promote these public consultations via various communications channels, including traditional and social media, to reach as many stakeholders as possible.<sup>18</sup> This was the case, for example, in Estonia and Latvia, where the responsible ministries issued press releases.

As public consultations are not only open to interest groups, but also to the public at large, whistleblowers themselves are able to submit comments, which they have done in Ireland and the Netherlands, for example.

In the Czech Republic and Denmark, the governments conducted formal but targeted consultations, rather than public consultations.

Although the lists of stakeholders consulted were reasonably long and diverse, targeted consultations always run the risk of “forgetting” relevant interested parties.

### **Informal consultation**

While informal consultations can be helpful at a very early stage in the preparation of a draft bill – for example, to better understand the issue at hand and potential challenges – they create uncertainty as to whether all stakeholders have had a chance to be heard.<sup>19</sup> Such an informal approach, often taking the form of bilateral meetings (e.g. in Germany) or multilateral ones (e.g. in Denmark), should be limited to this early stage and followed by a formal consultation process, to reduce the risk of undue influence by certain interested parties in private meetings with policymakers.

### **“Prior” consultation vs consultation on a draft bill**

In Ireland, France and Spain, stakeholders were invited to answer a number of questions before the drafting of the bill began, allowing these governments to collect input that will inform the drafting process from inception.

In the Czech Republic, Denmark, Latvia, the Netherlands, Romania and Sweden, stakeholders were consulted on a draft bill. This allows respondents to provide feedback on concrete legislative text, although it does not necessarily give them the full picture, as further regulations might be needed to implement the law, depending on the national context. In the case of Sweden, the draft bill was accompanied by an 800-page report which gives extensive explanatory information. In addition, governments might be more reluctant to implement significant changes at this advanced stage.

In Estonia, the government followed an “in-between” solution, asking stakeholders to provide comments on proposals or “intentions”, rather than a legal text. This approach has the advantage of allowing more in-depth contributions in response to concrete proposals, while giving policymakers flexibility to respond to the feedback received.

### **Timely and effective participation**

Whatever the approach, stakeholders should have sufficient time to review the documentation and formulate their comments. For consultations on the

transposition of the Whistleblower Protection Directive, the timeframe for providing answers ranged from two weeks in Latvia to 15 weeks in Sweden (where the object of the consultation was an 800-page report). Romania and Spain gave a time period of less than three weeks (and Spain notified CSOs over one week after the launch of the consultation). The Czech Republic, Denmark, Estonia and Ireland provided a timeframe of one month, the Netherlands six weeks and France close to nine weeks. For reference, the European Commission has a minimum 12-week window for its public consultations.

In addition, for the transposition process to be truly inclusive, policymakers must be ready to take stakeholders’ views into account, and must therefore invite their participation at an appropriate stage, while decisions are still open. Otherwise, consultations, whatever their type, become pro-forma box ticking exercises.

In the Netherlands, in reaction to criticisms received during the public consultation, an official from the Ministry of Internal Affairs [stated](#) that amending the draft bill, which was the object of the public consultation, was “unfortunately impossible”, as the Directive needed to be transposed into national legislation within a year. If this were to be confirmed by the next draft, this would represent an example of poor practice. A recent report on the consultation indicates that at least one of the issues raised by several stakeholders has been taken into account.

# TOWARDS COMPREHENSIVE WHISTLEBLOWER PROTECTION?

Whistleblower protection legislation needs to be comprehensive and robust to offer effective protection in practice and fulfil its ultimate purpose: to detect, prevent and address wrongdoing.

Whistleblower protection frameworks are complex mechanisms with a delicate balance. If one element is weak or missing, the entire framework will collapse when put to the test.

## Assessing whistleblowing legislation

Transparency International has developed a methodology to help lawmakers, CSOs and other stakeholders assess how national legislation stacks up against the requirements of the EU Directive, as well as against international best practices.

A two-step methodology, it can help member states properly transpose the Directive and then go further to meet international standards. This tool allows assessment of current national legislation, as well as draft laws and amendments throughout the legislative process.

See Transparency International, [Assessing Whistleblowing Legislation: Methodology and Guidelines for Assessment against The EU Directive and Best Practice](#), 2020

## COMPLIANCE WITH THE DIRECTIVE

It is unfortunately not uncommon for EU countries to poorly transpose a directive. In 2019, the EU Commission [alerted](#) member states that the average conformity deficit (incorrectly transposed directives) has never been so high.<sup>20</sup> Many of the bad performers are also countries currently without

comprehensive whistleblower protection legislation: Austria, Bulgaria, the Czech Republic, Denmark, Estonia, Germany, Poland, Portugal and Romania.

It is essential that all EU countries' national legislation meets the minimum standards set by the Directive.

The bill issued by the Czech Republic and draft bills issued by Denmark, Latvia, the Netherlands and Sweden appear to be, on paper, mostly in line with the Directive requirements. The legislative "intention" issued in Estonia lacks sufficient details to fully assess whether the government is on its way to meet all the Directive's objectives.<sup>21</sup>

However, even if complying with the Directive will improve whistleblower protection in many EU member states, it will not be sufficient to establish a comprehensive and robust whistleblowing legal framework.

## MEETING BEST PRACTICE

Countries need to go further than a minimal, verbatim transposition of the Whistleblower Protection Directive. As they have to engage in a legislative process to transpose the Directive, they should take the opportunity to bring their national legal framework on whistleblower protection into line with international standards and best practice as well.

EU countries should not only uphold, but also reinforce, the undertakings in the Directive, to ensure that their national legislation provides robust

protection to all whistleblowers speaking up in the public interest. National policymakers should not only focus on the articles of the Directive, but read them alongside the extensive recitals that precede them, as these shed a light on the intention behind the articles and set out the spirit of the Directive.

Several weaknesses of the Directive can be explained by the limited competences of the EU. Because the EU cannot legislate on matters outside its competence, it could not adopt a Whistleblower Protection Directive with a comprehensive scope. Hence, the scope of the Directive is limited and fragmented, protecting only whistleblowers who report breaches of EU law. Whistleblowers reporting breaches of national law do not benefit from the protections and procedures offered by the Directive, unless national governments extend those protections and procedures to them. This is the Directive's main limitation.

When the Commission presented its proposal for the Directive, it [encouraged](#) member states to adopt comprehensive and consistent national rules on whistleblower protection, beyond the areas covered by the proposal. It has done so repeatedly since, on various occasions.<sup>22</sup>



**The Commission encourages Member States, when transposing the Directive, to extend its scope of application to other areas, so as to ensure a comprehensive and coherent framework at national level.**

European Commission<sup>23</sup>

Transparency International, the Whistleblowing International Network and many other whistleblowing advocates who welcomed the adoption of the Directive also warned policymakers that transposing the Directive without fixing this major loophole would severely weaken the protection it is supposed to bring.<sup>24</sup>

It is very encouraging to see that Latvia, it seems, Estonia have (so far) chosen a “horizontal” approach by opting for a comprehensive and coherent material scope, both integrating and going well beyond the scope of the Directive in their draft bills and “intentions” report.

The scope of the [Latvian draft bill](#) should be highlighted as particularly comprehensive. The State Chancellery is taking the opportunity of transposition to further extend the already broad scope of current Latvian whistleblowing legislation. It covers “any violation which is harmful to the public interest” and, to ensure legal certainty, includes a long but non-exhaustive list of examples of areas covered, including, but not limited to, those listed in the Directive.

In Estonia, the “intention” foresees that although national security, official secrets, professional secrecy of lawyers and doctors, and courtroom and judicial proceedings would be not covered by the new legislation, these sectors would be obliged to create their own regulations on how whistleblower reporting should work and how to protect those who report. This is to be commended as going beyond the Directive, towards best practice, as set out in the Global Principles on National Security and the Right to Information (“[Tshwane Principles](#)”).

Unfortunately, not all EU member states are opting for a coherent framework. The Netherlands, which already has a whistleblower protection law, has decided to create a special reporting regime – running parallel to the existing ones – for breaches of EU laws in the areas covered by the Directive, with different procedures and obligations for those implementing them.

The Czech bill and the draft bills issued by Sweden in June 2020 and Denmark in February 2021 have wider scopes than the Directive, which is to be commended, but their scopes are still somewhat fragmented and do not include all breaches of national law in the areas cited by the Directive.

The Czech bill goes further than the Directive by covering criminal and administrative offences generally, without consideration to whether they constitute breaches of EU or national law. However, violations that do not constitute criminal and administrative offenses are only covered if breaching EU law in the areas cited by the Directive. Breaches of national civil law, for example, are not covered.

The Danish draft bill goes further, covering the scope of the Directive and “serious offences and other serious matters” outside the scope of the Directive. According to the comments attached to the draft, these include not only criminal offences, but also serious or repeated violations of other legislation or administrative law principles, as well as violations involving a risk of harm to human life or health, for example.



The Swedish draft bill appears to have an even broader scope, by covering breaches falling outside the scope of the Directive when the information reported on wrongdoing is of “public interest”. It includes information that does not reveal breaches of any law, but which is nevertheless such that it is in the public interest that the information is disclosed.<sup>25</sup>

However, these “seriousness” and public interest thresholds in the Danish and Swedish draft bills do not apply to breaches of EU law falling within the scope of the Directive, meaning breaches of “lesser gravity” will only be covered if they are breaches of EU law in the areas listed in the Directive.

They can also lead to legal uncertainty, as the concepts of “seriousness” and “public interest” are open to interpretation. This lack of certainty could be addressed by adding a long but indicative list of examples of violations covered, as has been done in Latvia.<sup>26</sup>

Therefore, while the Dutch, Danish Swedish and, to a lesser extent, the Czech bills are adopting or maintaining broad material scopes, extending beyond the areas covered by the directive, they treat breaches of EU law and breaches of national law differently. These approaches fail to ensure a coherent legal framework and will create confusion for potential whistleblowers and other stakeholders, and therefore fall short of best practice and do not fully comply with [recommendations](#) from the EU Commission and civil society experts.

### **The need for a wider material scope that is comprehensive and coherent**

A “minimal” transposition, limiting the material scope of national legislation to that of the Directive, creates complexity, potential inequalities and legal uncertainty for all parties involved: workers, companies, public employers and the authorities that deal with whistleblower reports.

#### **Legal uncertainty and additional burdens for all stakeholders**

It is very difficult to assess whether a suspected wrongdoing constitutes a breach of EU or national law. Indeed, many whistleblowers do not know all the facts when they report a suspicion of wrongdoing. In addition, most people do not have the expertise necessary to identify which article of which law has been breached in a particular case.

Even if they did, EU and national law can be so entangled that EU law experts themselves are sometimes hard pressed to know where EU law finishes and national law starts.

A whistleblower protection regime that only applies to breaches of EU law would place an incredible burden on whistleblowers, who will need to work out whether their case fits in that box to know whether they are protected, and which procedure to follow to benefit from protection.

A minimal transposition will also create additional burdens for companies. The Directive has created a number of obligations for them, and companies may already have others under the existing legal framework. For each whistleblowing report received, they will have to determine whether it is about a breach of EU law in order to know their obligations in terms of follow-up and protection. This requires additional financial and human resources. The same applies to public entities and authorities receiving whistleblower reports, which are often notoriously lacking in resources.

#### **Unjustifiable inequalities**

A minimalistic transposition places EU interests above national interests. The aim of the Directive is to enhance the enforcement of EU law, as whistleblowing is one of the most effective ways to prevent and detect breaches of law. The failure to extend the Directive’s robust protection regime to all whistleblowers amounts to suggesting that the enforcement of EU law and protection of EU funds is more important than protecting national interests.

A minimalistic transposition would create inequalities between workers reporting wrongdoing. In a country with currently almost no legal whistleblower protection, an employee reporting a minor violation of EU law would be protected from retaliation, while another employee of the same organisation reporting a similar violation of national law, or even a serious crime, could be lawfully dismissed. Such unequal treatment seems difficult to justify, and some argue that this could be [unconstitutional](#) in some countries.

## Selected recommendations to close the loopholes of the Directive

National whistleblowing legislation should:

- have a broader material scope covering all breaches of law (whether national or EU law) and threats or harm to the public interest.
  - not exclude matters relating to defence, security and classified information, but rather provide for specific reporting schemes.
  - define “reasonable ground to believe”. The law should not require a whistleblower’s belief to be accurate. The test should be whether someone with equivalent knowledge, education and experience (a peer) could agree with such a belief.
  - strengthen the protection of whistleblowers against retaliatory legal proceedings. No additional conditions should be required to gain this protection.
  - strengthen the reversal of the burden of proof: the person who has taken a detrimental measure against a whistleblower should prove that it was not linked in any way to their reporting or public disclosure, and would therefore have happened anyway.
  - ensure full reparation of damages suffered by whistleblowers, including reinstatement and full financial compensation (without caps).
- protect internal reporting to any responsible official.
  - require companies, public institutions and national authorities to accept and follow up on anonymous reports.
  - include penalties for failure to fulfil obligations under the Directive, including for failure to establish reporting mechanisms, follow-up on reports, or support and protect whistleblowers.
  - extend protection measures to civil society organisations assisting whistleblowers.
  - designate an independent whistleblowing authority responsible for the oversight and enforcement of whistleblowing legislation.

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**For comprehensive recommendations for the transposition, see Transparency International 2019 [position paper](#), *Building on the EU Directive on Whistleblower protection* and 2018 [Best Practice Guide Whistleblowing for Legislation](#).**

**See also a series of policy briefings on key issues, “Implementing the EU Directive on Whistleblowing”, published by the Whistleblowing International Network and found at [www.whistleblowingnetwork.org](http://www.whistleblowingnetwork.org).**

# COUNTRY SUMMARIES

The summaries for each EU country provide information on progress in the transposition process and on its transparency and inclusiveness. They also reference policy recommendations from TI chapters and WIN local partners.

## AUSTRIA

No comprehensive whistleblower protection legislation.<sup>27</sup>

### **Status of the transposition process: minimal or no progress**

The transposition process in Austria appears to be significantly delayed. Little is known about it, beyond the fact that the Ministry of Labour is responsible for it.

### **Transparency and inclusiveness**

So far, the transposition process has been neither transparent nor, it seems, inclusive. No information has been published or proactively shared by the Austrian government regarding the transposition process. TI Austria had to contact the Federal Chancellery to find out which ministry was in charge of the transposition.

There is still reasonable expectation that the process will be opened up. After TI Austria contacted the Labour Ministry to share its position paper and inform officials of its willingness to support the process, the ministry responded that TI Austria would be contacted at a later stage.

### **Policy recommendations**

See TI Austria's position [paper](#) on the transposition of the Directive into Austrian law, from September 2020 (in German).

## EU Whistleblowing Meter

The EU Whistleblowing Meter was created by the Whistleblowing International Network to track in real time the progress of transposition of the EU Directive on Whistleblower Protection across all 27 member states. A collaboration with Transparency International EU and Eurocadres, the project has recruited a team of voluntary country editors – advocates, lawyers, trade unionists, academics and investigative journalists – to monitor national developments and advocacy efforts relevant to the implementation of the Directive, to help determine whether EU governments are living up to their obligations to protect whistleblowers. The meter highlights whether countries are acting in good faith and consulting widely and openly to develop comprehensive legal and institutional whistleblower protection measures that reinforce good governance, hold decision-makers to account and allow for substantive civic engagement.

The meter is available at:  
<https://euwhistleblowingmeter.polimeter.org/>

# BELGIUM

No comprehensive whistleblower protection legislation.

## Status of the transposition process: minimal or no progress

In Belgium, the transposition process is in the very first stage. It is led by the Federal Department of Economy, which has decided to outsource to a service provider a legal study on the government's obligations resulting from the Directive (due by January 2021), as well as the development of a draft bill to transpose the Directive (due by April 2021). To that effect, the department published a [tender](#) in August 2020. The status of the selection process is unknown. In September 2020, the government [committed](#) to a timely transposition, without further details.<sup>28</sup>

In parallel, members of the Federal House of Representatives introduced [a bill](#) on the protection of whistleblowers in June 2020, which is being discussed in Commission.<sup>29</sup> Of note is also a proposal for a parliamentary [resolution](#) on whistleblower protection, introduced in January 2021, asking the government to transpose the Directive and to "extend the scope to a maximum number of sectors and possible areas".<sup>30</sup>

## Transparency and inclusiveness

As there has been no information publicly available since the publication of the tender in August 2020, the transposition process has either not progressed further, or has been rather opaque and non-inclusive.

# BULGARIA

No comprehensive whistleblower protection legislation.

## Status of the transposition process: minimal or no progress

In Bulgaria, the transposition process started early, but is now significantly delayed. In January 2020, the government created a working group to support the

process, which held its first (and only in-person) meeting in March 2020. The working group drafted a preliminary impact assessment of the transposition on the Bulgarian legal framework, but all activities seem to have stopped at the end of the summer.

## Transparency and inclusiveness

So far, the transposition process has been opaque, although moderately inclusive.

No public communication was made regarding the launch of the transposition process, the creation of the working group or its activities, despite repeated requests from TI Bulgaria.

The working group is co-led by the Ministry of Justice and the Ministry of Labour, and includes public institutions and three CSO representatives. Multi-stakeholder working groups are considered best practice, but in this case, key stakeholders are [not represented](#), such as business, employee and professional organisations, journalists' associations and academia. It seems there is an intention to involve these stakeholders later on in the legislative process, but confirmation and details of how this will happen are still needed.<sup>31</sup>

## Policy recommendations

See TI Bulgaria's policy paper, [Whistleblower protection in Bulgaria](#), from October 2019 (in Bulgarian).

TI Bulgaria has started to develop its own draft legislation, in consultation with various stakeholders, which it intends to present to the working group.

# CROATIA

Dedicated whistleblower legislation since 2019.<sup>32</sup>

## Status of the transposition process: minimal or no progress

In Croatia, the transposition process has only just started, with the adoption by the government on 23 December 2020 of its [plan of legislative activities for 2021](#), which foresees that the Ministry of Justice and Administration should present a draft bill amending the current whistleblowing legislation to the

government in the third trimester of 2021. It is unknown whether any work has yet started.

## Transparency and inclusiveness

It is too early in the process to say whether it will be transparent and inclusive. No official announcement has been made in this regard.

## Policy recommendations

See the Human Rights House Zagreb's report, [The Position of Whistleblowers in Croatia in the Frame of the Upcoming Legal Regulation of Persons Reporting Irregularities](#), from December 2018 (in Croatian).

# CYPRUS

No comprehensive whistleblower protection legislation.

## Status of the transposition process: minimal or no progress


Very little is known about the transposition process in Cyprus, beyond the fact that, in April 2020, the Ministry of Justice and Public Order was [planning](#) the transposition of the Directive into national law.

## Transparency and inclusiveness

If the transposition process has started, it has so far been neither transparent nor, it seems, inclusive.

No information has been made publicly available by the government, and it is unknown whether stakeholders have been consulted.

# CZECH REPUBLIC

 No comprehensive whistleblower protection legislation.

## Status of the transposition process: substantive progress

In the Czech Republic, the transposition process is quite advanced. The Ministry of Justice issued a draft bill for comments by relevant stakeholders in June

2020. A revised draft was then submitted to the government for discussion in September 2020. The Ministry of Justice addressed the government comments and a final draft was [validated](#) by the government. A [bill](#) was submitted to Parliament on 9 February 2021 and put on the lower chamber agenda for a first reading in March 2021.

The relatively advanced state of the transposition process in the Czech Republic is partly explained by the fact that a process to develop national legislation on whistleblower protection had been started while the Directive was being discussed by EU institutions, with a draft bill presented by the Ministry of Justice in February 2019. The process was then interrupted until the adoption of the Directive, and the draft adjusted.

However, this apparently advanced state of affairs is potentially illusory, because the government will have to start the legislative process from scratch again if the whistleblower protection bill is not adopted by the lower chamber of the Czech Parliament (the Chamber of Deputies) by the end of September 2021, as elections are due in October 2021. The risk of this is high, as it usually takes more than seven months to pass a bill through the Chamber of Deputies. Several previous legislative projects on whistleblower protection have failed to materialise because of the tight timeline imposed by this particular rule.

## Transparency and inclusiveness

The transposition process follows a standard legislative procedure that is quite transparent and inclusive. Information and many documents are available [online](#), if not always in a very user-friendly way, and a large and diverse range of stakeholders has been consulted throughout the drafting process.<sup>33</sup> The schedule for the process and its subsequent revisions has been provided to the relevant stakeholders.

As per standard procedure, many stakeholders were invited to provide detailed written comments on a draft bill: national and regional authorities and agencies, the judiciary, business associations, trade unions and employers' organisations.<sup>34</sup> Going beyond legal requirements, CSOs and academics that are part of the prime minister's [working group](#) on whistleblowing were also invited to participate in this process.

The comments received from the "standard procedure" stakeholders were collated in a document which indicates for each comment

whether it was accepted or rejected, with an explanation. The document is [publicly available](#). Comments from other stakeholders consulted – the CSOs and academics that are part of the working group on whistleblowing – were not published, but were discussed within the working group.<sup>35</sup>

A revised draft was then discussed by the [Government Council for Fighting Corruption](#) (which includes representatives from ministries, local authorities, business associations, civil society and academia) and the [Government Legislative Council](#) (which includes legal experts, lawyers and academia).

## Policy recommendations

A significant issue with the Czech bill is that the sole authority designated competent to receive and follow up on external reports is the Ministry of Justice, which is neither independent nor credible enough to ensure that whistleblowers will trust the system and share their concerns with a government authority.

For additional and more detailed recommendations, see [Joint comments of three anti-corruption non-profit organisations on the draft bill on the protection of whistleblowers and the amending law](#), by Oživení, TI Czech Republic and Rekonstrukce státu, from August 2020 (in Czech).

See also Transparency International's position paper, Transposition of the European Whistleblower Protection Directive into National Legislation – [Analysis and Recommendations](#), from October 2019 (in Czech).

# DENMARK

No comprehensive whistleblower protection legislation.

## Status of the transposition process: limited progress

In Denmark, the transposition process started early, with a first meeting with some stakeholders in autumn 2019. After informal consultations on a draft bill in December 2020, the Ministry of Justice, in charge of the process, [launched](#) a formal consultation process targeting key stakeholders at the end of February 2021.<sup>36</sup>

## Transparency and inclusiveness

So far, the process has been opaque, but inclusive.

No information was made public before the launch of the formal consultation process in February 2021. Prior to that, some information was shared with a number of stakeholders, including the process schedule and a draft bill.

The consultation process started with informal consultations of selected stakeholders. In autumn 2019, the Ministry of Justice [organised](#) a first meeting with social partners concerning implementation of the Directive. Another stakeholder meeting, including CSO representatives, took place in autumn 2020. Journalists' associations and academia were not part of these meetings.

At the end of February 2021, the Ministry of Justice launched a formal consultation process, requesting feedback from over 90 stakeholders on a [draft bill](#). The [list](#) of consulted stakeholders is quite wide and diverse, including business associations, representatives of public and private employers, trade unions, CSOs, law enforcement, professional associations (e.g. lawyers and judges) and academia. Stakeholders have four weeks to send comments.

## Policy recommendations

See TI Denmark's contribution to the consultation on the draft law on the protection of whistleblowers, from March 2021 ([forthcoming](#)) (in Danish).

# ESTONIA

No comprehensive whistleblower protection legislation.

## Status of the transposition process: limited progress

In Estonia, the transposition process is a little behind the original schedule, but remains well on the way. There is reasonable hope that the transposition will take place by the deadline in December 2021.

During summer 2020, the Ministry of Justice, which is in charge of the process, [published](#) its "intention to draft a law on the protection of reporting persons" and collected feedback from stakeholders. This document includes information about what the

ministry intends to include in its bill regarding several aspects of whistleblowing and whistleblower protection. The next step in the Estonian legislative process is the publication of a draft bill, which was first scheduled for the end of 2020, then postponed to March 2021.

## Transparency and inclusiveness

So far, the transposition process has been transparent and inclusive.

In June 2020, the ministry introduced its transposition plans to the corruption prevention contacts in ministries and several other anti-corruption stakeholders (including TI Estonia). In July, the ministry's official "intention" to draft a law on whistleblower protection was made publicly available and the related consultation process was opened to any interested party. The document was published online and sent to all ministries, the Chancellor of Justice, the Supreme Court, the Association of Journalists and TI Estonia. The Ministry of Justice also issued a [press release](#) to explain the "intention". All the feedback received is available [online](#).

The rest of the transposition process will likely continue to be transparent and inclusive, as the intention document specifies that a further plan for including all stakeholders will be developed and that sufficient time will be scheduled for them to give feedback. According to our information, the Ministry of Justice is planning to hold a public consultation on the draft bill once it is published in March 2021.

## Policy recommendations

See TI Estonia's [Opinion on the Ministry of Justice intention for a whistleblower protection bill](#), from September 2020 (in Estonian).

# FINLAND

No comprehensive whistleblower protection legislation.

## Status of the transposition process: minimal or no progress

In Finland, the Ministry of Justice set up a working group to conduct the transposition process in February 2020. The group's mandate is to identify

the legislative changes required to transpose the Directive and prepare the necessary legislative proposals. In particular, it is tasked with assessing the need for a separate law on whistleblower protection, as well as whether the scope of the national legislation should go beyond the minimum level mentioned in the Directive. The working group's term of office has been [extended](#) by two months, until the end of June 2021, a delay seemingly due to discussions on the scope of the proposed legislation.<sup>37</sup> The introduction of a bill in Parliament was originally due in early June 2021, but has been postponed to the end of August.

## Transparency and inclusiveness

So far, the transposition process in Finland has been transparent and moderately inclusive.

As with any legislative project in the country, the process has a dedicated [project page](#) on the Ministry of Justice website. This includes basic information regarding the process schedule and progress, the composition of the working group and other relevant documents.

The working group in charge of transposition includes representatives from several ministries, trade unions, business associations and the Finnish Municipalities association, but not from CSOs or academia.

Informal consultations with social partners and relevant national authorities and local institutions began soon after the adoption of the Directive with a meeting in November 2019, but again CSOs and academia were not invited.

# FRANCE

Dedicated whistleblower legislation since 2016.<sup>38</sup>

## Status of the transposition process: limited progress

In France, the government started the transposition process late, with the [launch](#) by the Ministry of Justice of a public consultation on a number of questions on 19 January 2021.

A year before, Members of Parliament introduced a [bill](#) for the effective protection of whistleblowers, which was examined in Commission in March 2020.

In addition, two key national institutions published official positions in 2020, calling on the government to transpose the Directive in an ambitious manner (the [Defender of Rights](#) and the [National Consultative Commission on Human Rights](#)).<sup>39</sup>

## Transparency and inclusiveness

The transposition process is off to a good start in terms of inclusiveness, with a public consultation. It is too early to assess its transparency. The Ministry of Justice announced that the input received through the public consultation will be published in summary form, but not in full.

## Policy recommendations

See TI France's response to the public consultation on the transposition of the Whistleblower Protection Directive, from March 2021 ([forthcoming](#)) (in French).

See the *Maison des Lanceurs d'Alerte's* [open letter](#) for an ambitious law to defend whistleblowers and their disclosures, from 14 December 2020 (in French).

# GERMANY

No comprehensive whistleblower protection legislation.

## Status of the transposition process: minimal or no progress

In Germany, the transposition process started early in 2020 and is seemingly on track. By April 2020, the Ministry of Justice, in charge of the process, had [reportedly](#) shared a “key point” paper on the transposition with the Ministry of Economy. In December 2020, a draft bill was [apparently](#) shared by the Ministry of Justice with other ministries, for discussion. In August 2020, the government was confident that it would submit a bill to Parliament “in good time” for it to be adopted before the general election in September 2021, and the transposition deadline (without further specifications).<sup>40</sup> However, this is becoming less and less likely.

## Transparency and inclusiveness

So far, the transposition process has been opaque, although moderately inclusive.

The sole information made publicly available by the government on the transposition process is the [response](#) to a “Minor Inquiry” submitted by a Member of Parliament. Contrary to other countries (e.g. Sweden), the positions of the various relevant ministries on the issue were not made public, and the government officially declined to provide this information in response to a question in the minor inquiry.<sup>41</sup> According to the [media](#), a draft bill has been shared with ministries, but not with stakeholders outside the government so far.

Regarding stakeholder participation, at least two CSOs (TI Germany and the Whistleblower-Netzwerk) were invited by the Ministry of Justice for internal, non-public consultation. It is assumed, although not confirmed, that similar consultations took place with some employer organisations and trade unions.

The process should become more transparent and inclusive once the ministries agree on a draft bill, as the public process will then begin. Relevant external stakeholders should gain access to the draft bill, participate in a hearing and submit written comments.

## Policy recommendations

See TI Germany and the Whistleblower-Netzwerk's [position paper](#) on the transposition of the Directive, from April 2020 (in German).

See Whistleblower-Netzwerk and Reporters Without Borders' [position paper](#) on the transposition of the Directive, from October 2020 (in German)

See the [open letter](#) to the federal government from TI Germany, Whistleblower Netzwerk, Bund Deutscher Kriminalbeamter, the German Business Ethics Network, Reporters Without Borders and the Federation of German Consumer Organisations, from August 2020 (in German).



## GREECE

No comprehensive whistleblower protection legislation.

### Status of the transposition process: minimal or no progress

Very little is known about the status of the transposition process in Greece, and it is assumed that it is very delayed.

In May 2020, the Ministry of Justice [established](#) a special committee to prepare an impact assessment of the Directive and a draft bill to transpose it. The committee had until the end of October 2020 to deliver, but the state of its work is unknown.

### Transparency and inclusiveness

So far, the transposition process has been opaque and non-inclusive.

Since the establishment of the special drafting committee, no information has been published or shared regarding the committee's activities or potential outputs.

The committee is composed of judges, academics, the National Transparency Authority, the Ministries of Interior and Justice, and lawyers. It is unknown whether the committee has consulted, or is planning to consult, with other key stakeholders, such as business organisations, trade unions and CSOs.

TI Greece, together with 18 CSOs and workers' organisations, has repeatedly [called on](#) the government to open up the legislative process, so far to no avail.

### Policy recommendations

See TI Greece's position paper, "Effective transposition of the EU Directive for the protection of whistleblowers", [Analysis and recommendations](#), from September 2020 (in Greek).

## HUNGARY

Dedicated whistleblower legislation since 2013.<sup>42</sup>

### Status of the transposition process: minimal or no progress

There is currently no information available on the transposition process in Hungary. It has either not started or, if it has, is opaque and non-inclusive.

### Policy recommendations

See TI Hungary's [Comments on the \(then\) draft law on public interest disclosure](#), from 2013 (in Hungarian).

## IRELAND

Dedicated whistleblower legislation since 2014.<sup>43</sup>

### Status of the transposition process: limited progress

The transposition process in Ireland started in the first half of 2020, with a public consultation launched in June. The Department of Public Expenditure and Reform, which is responsible for the transposition of the Directive, is reviewing input from stakeholders and is now expected to begin drafting a bill.

### Transparency and inclusiveness

So far, the process has been adequately transparent and inclusive, with a [public consultation](#) conducted in summer 2020 seeking views from any interested stakeholder on a number of questions, in particular the "optional" aspects of the Directive. All submissions received, except one (at the express demand of its author, a whistleblower) were published online.

### Policy recommendations

See TI Ireland's [submission on the EU Whistleblowing Directive](#), from July 2020.

See also TI Ireland's [Speak Up Report 2020](#), from December 2020.

## ITALY

Dedicated whistleblower legislation since 2017.<sup>44</sup>

### **Status of the transposition process: minimal or no progress**

In Italy, the transposition process of the Directive is still in its very inception phase and will therefore likely involve a significant delay, especially in light of the resignation and change of government in February 2021. Like any transposition in the country, the process starts in Parliament, with the adoption of a law delegating the transposition to the government. The Senate [completed](#) this step in October 2020; the delegation bill is now with the [House of Representatives](#). According to our information, the transposition process will be co-led by the Ministry of Justice and the Department for European Policies within the Prime Minister's Office.

### **Policy recommendations**

See TI Italy's report, [Whistleblowing 2019](#), from 2020 (in Italian).

## LATVIA

Dedicated whistleblower legislation since 2018.<sup>45</sup>

### **Status of the transposition process: moderate progress**

In Latvia, the transposition process started in July 2020 with a short public consultation inviting first reactions to a draft bill to amend the current whistleblowing legislation. The draft was then revised and submitted at the meeting of State Secretaries in August 2020. Additional stakeholder consultations took place, and the State Chancellery is now planning to submit a revised draft bill to the Cabinet of Ministers in spring 2021.

### **Transparency and inclusiveness**

So far, the transposition process has been transparent and inclusive, with a [public consultation](#) open to all interested parties. Regarding the rest of the process, the State Chancellery officially stated that "public participation will continue until the projects are approved by the Cabinet of Ministers", and that "representatives of the public who have applied for participation will be informed about further participation opportunities". The TI chapter in Latvia was invited to provide feedback on the second draft, but it is unclear so far whether, how and which other stakeholders were consulted at that stage.

### **Policy recommendations**

See the [comment on amendments to the Whistleblowing Law](#), by Delna (TI Latvia), from September 2020 (in Latvian).

## LITHUANIA

Dedicated whistleblower protection legislation since 2017 (entered into force in January 2019).<sup>46</sup>

### **Status of the transposition process: minimal or no progress**

In Lithuania, no information has so far been published on transposition of the Whistleblower Directive. It appears that that Ministry of Justice, which is in charge of the transposition, has drafted amendments to the current legislation and is now reviewing its draft bill.

No timeline is currently publicly available. However, a Ministry of Justice representative stated during a Whistleblower Protection Forum organised by TI Lithuania and the Prosecutor General's Office in February 2021 that the EU Directive will be transposed on time.

### **Transparency and inclusiveness**

So far, the transposition process has been neither transparent nor, it seems, inclusive.

No information has been made publicly available by the government. The Ministry of Justice informed TI Lithuania that it intends to publish a draft bill. The ministry plans to share the draft bill with the

Prosecutor General's Office and the Special Investigation Service (Lithuania's anti-corruption agency) for their review. However, it remains unclear whether and when it will invite feedback from other stakeholders. If it decides not to consult with other key interested parties, the process will lack inclusiveness.

### Policy recommendations

See TI Lithuania's report, [Protection of Whistleblowers in Lithuania 2019-2020](#) (in Lithuanian, with a short summary in English on p.14).

## LUXEMBOURG

No comprehensive whistleblower protection legislation.

### Status of the transposition process: minimal or no progress

Very little is known about the transposition process in Luxembourg, beyond the fact that, [according to](#) the Minister of Justice in February 2020, "the work is underway".

### Transparency and inclusiveness

If the transposition process has indeed started, it has so far been neither transparent nor, it seems, inclusive.

No information has been made publicly available by the government, and it is unknown whether stakeholders have been consulted.

## MALTA

Dedicated whistleblower legislation since 2013.<sup>47</sup>

### Status of the transposition process: minimal or no progress

In Malta, it appears that in January 2021 the transposition process had not yet started. On 11 January 2021, the Minister of Justice [stated](#) that the current whistleblower protection law will be amended in line with the European Directive by

December 2021. However, it will be difficult to meet that deadline and still conduct a transparent and inclusive process, which should be the priority.

## THE NETHERLANDS

Dedicated whistleblower legislation since 2016.<sup>48</sup>

### Status of the transposition process: moderate progress

In the Netherlands, the transposition process is relatively advanced, but it might become significantly delayed, due to the fall of the government in January 2021 and resulting general elections in March 2021. The process began in spring 2020, and a public consultation was held on a draft bill during the summer. A further draft was sent to the Council of State for advice in December 2020.

### Transparency and inclusiveness

The transposition process has so far been transparent and inclusive.

The process has a [dedicated webpage](#) with basic information on the main steps taken and relevant documents.

The Ministry of Interior, in charge of the transposition process, conducted a [public consultation](#) on a draft bill. In addition to details being published online, a number of stakeholders received email invitations to participate in the consultation. Responses are published on the consultation webpage. A [report](#) on the public consultation was published in February 2021, indicating that the ministry is addressing at least one of issue raised by several stakeholders.

This is a positive development compared to a previous [statement](#) by a ministry representative that amending the draft was "unfortunately impossible" as the Directive should be transposed into national legislation within a year. It is still unknown to what extent stakeholder feedback was incorporated, as the draft sent to the Council of State is not publicly available.

## Policy recommendations

The Netherlands already has a whistleblower protection law, with advanced provision and a broad scope. However, difficulties in its implementation have revealed important shortcomings.

Instead of an overall reform of the current legal framework, the Dutch government issued a draft bill that creates a special reporting regime – running parallel to the existing one – for beaches of EU law in the areas covered by the Directive, with different reporting procedures and obligations.

This approach falls short of best practice, as it will create complexity for potential whistleblowers and stakeholders implementing reporting procedures.

For additional and more detailed recommendations, see TI Netherlands' [official response to the public consultation on the draft bill](#), from September 2020 (in Dutch).

See also TI's Blog, "[The Netherlands are showing other EU countries what not to do when transposing the EU Directive on Whistleblower Protection](#)", from January 2021.

## POLAND

No comprehensive whistleblower protection legislation.

### Status of the transposition process: minimal or no progress

In Poland, the transposition process is very delayed. The first known step was the [designation](#), in December 2020, of the Ministry of Development, Labour and Technology as responsible for it.

## Policy recommendations

See Marcin Waszak's report, "Guardians of democracy – [New perspectives on whistleblowers' protection](#)", for the Stefan Batory Foundation, from 2020 (in Polish).

See the 2018 [Citizen's Draft Law on Whistleblower Protection](#) by the Stefan Batory Foundation, Institute of Public Affairs, Helsinki Foundation for Human Rights, and trade union "Solidarity '80".

## PORTUGAL

No comprehensive whistleblower protection legislation.

### Status of the transposition process: minimal or no progress

In Portugal, there is limited information regarding the transposition of the Whistleblower Protection Directive. In January 2020, the Justice Minister [announced](#) that the transposition of the Directive would take place "later this year" and that officials were "working to transpose the Directive, together with all the legislation on the anti-corruption package and anti-corruption strategies". However, while a public consultation was held on the [National Strategy against Corruption](#) in September 2020, there was no further communication regarding the transposition of the Directive until November 2020. Responding to a request for information submitted by one of the parties sitting in Parliament, the Minister of Justice then [confirmed](#) that the work of transposing the directive is "well advanced" and announced the objective of having a law ready by the end of the year.

## Transparency and inclusiveness

So far, the transposition process has been neither transparent nor, it seems, inclusive.

No information beside the two announcements mentioned above has been made publicly available by the government, and it is unknown whether stakeholders have been consulted.

## Policy recommendations

See TI Portugal's report, [Whistleblower Protection in Portugal: State of the Art](#), from 2018 (in Portuguese).

See also TI Portugal's [Contributions to a National Strategy against Corruption 20.24](#) – Response to the public consultation, from 2020 (in Portuguese).

## ROMANIA

No comprehensive whistleblower protection legislation.<sup>49</sup>

### Status of the transposition process: minimal or no progress

In Romania, little information was available on the transposition process until the end of 2020. According to the Ministry of Justice, in charge of the process, an internal working group was formed at the beginning of 2020. In March 2021, the ministry [launched](#) a public consultation on a draft bill.<sup>50</sup>

### Transparency and inclusiveness

So far, the transposition process has been opaque. At the beginning of 2021, it became inclusive.

No information had been made publicly available in 2020, other than a mention of the creation of the working group in the Ministry of Justice [Progress Report on the Implementation of the National Anti-Corruption Strategy](#), in April 2020.

In December 2020, the Ministry of Justice organised a meeting with CSOs that are members of the Platform for the Implementation of the National Anti-Corruption Strategy to discuss the transposition process and the most challenging issues for the new law. At the meeting, CSOs were informed that the ministry had also contacted business associations and public authorities about these topics.

In March 2021, in accordance with Romanian law, the ministry launched a public consultation on a draft bill, giving interested stakeholders three weeks to respond.

### Policy recommendations

See TI Romania's contribution to the public consultation on the draft law on the protection of whistleblowers in the public interest, from March 2021 ([forthcoming](#)) (in Romanian).

See also TI Romania's report, [Business Integrity Country Agenda](#), from 2020 (in Romanian).

## SLOVAKIA

Dedicated whistleblower protection legislation since 2014.<sup>51</sup>

### Status of the transposition process: minimal or no progress

There is currently no information available on the transposition process in Slovakia. It has either not started or, if it has, is opaque and non-inclusive.

## SLOVENIA

No comprehensive whistleblower protection legislation.<sup>52</sup>

### Status of the transposition process: minimal or no progress

In Slovenia, the transposition process seemed to begin early, with the Ministry of Justice [stating](#) in January 2020 that a special working group would be formed. It also stated that it intended to have a draft bill by the end of 2020, with consultations launched at the beginning of 2021. However, this was before the change of government in March 2020. In July, the new Minister of Justice [explained that](#) the government was "intensively preparing a draft bill", but by February 2021, no draft had been issued. The status of the draft is unknown, but it appears that the process is running behind its original schedule.

### Transparency and inclusiveness

So far, the transposition process has been rather opaque and not very inclusive.

The Minister of Justice has discussed the issue with the [Commission for the Prevention of Corruption](#) and [TI Slovenia](#), but it is unclear whether similar conversations were held with other stakeholders.

Before the change of government, the ministry [announced](#), for the beginning of 2021, a "broad professional discussion and substantive coordination with all institutions that are in any way related to the protection of whistleblowers". In March 2020, the new Minister of Justice [declared](#) that the transposition process will involve "a lot of stakeholders".

To improve the transparency and inclusiveness of the process, in November 2020, TI Slovenia [called on](#) the Minister of Justice to present a plan for the transposition of the Directive to the public as soon as possible, and to set up a working group of experts to take part in drafting the bill.

# SPAIN

No comprehensive whistleblower protection legislation.

## ● Status of the transposition process: limited progress

In June 2020, the Ministry of Justice, in charge of the transposition process, created a working group to develop a draft bill by December 2020. However, the process seems behind schedule, as the Ministry launched a public consultation “prior to the elaboration of text” in January 2021.

In parallel to this process, three bills on whistleblower protection were introduced into Parliament by Members of Parliament in 2019. One was rejected in June 2020. The other two are still going through the parliamentary process.<sup>53</sup>

## Transparency and inclusiveness

So far, the transposition process in Spain has been opaque. At the beginning of 2021, it became inclusive.

The only publicly available information was the [order](#) creating the working group, describing its mandate and listing its members.

The working group includes representatives from academia, local government, the private sector and the media. However, key stakeholders, including CSOs and trade unions, are not represented. Following [pressure](#) from CSOs to open up the process, the working group invited them to a meeting in October 2020, but did not share any information or ask specific questions.

In January 2021, the process opened up with a [public consultation](#), which foresees publication of the responses received. However, the window to provide comment was scheduled for less than three weeks.

## Policy recommendations

See TI Spain’s [position paper on whistleblower protection](#), from 2017 (in Spanish).

See also TI Spain’s [contribution to the public consultation on the transposition of the Directive](#), January 2021 (in Spanish).

See Xnet’s [Template for a Law on Full Protection of Whistleblowers](#), from 2019.

See also Xnet’s [response to the public consultation on the transposition of Directive](#), from January 2021 (in Spanish)

# SWEDEN

Dedicated whistleblower protection legislation since 2016 (entered into force in January 2017).<sup>54</sup>

## ● Status of the transposition process: moderate progress

The transposition process in Sweden started very early and seems on track. In May 2019 (before the Directive was even formally adopted by the EU), the government [launched](#) an inquiry commission to propose how the Directive should be transposed into Swedish law, with a deadline of May 2020, later [extended](#) to June. At over 800 pages, the inquiry report includes a draft bill and extensive explanatory information, and was [published](#) at the end of June. After a public consultation from July to October 2020, the draft is now being revised.

## Transparency and inclusiveness

So far, the transposition process has been transparent, with a lot of information available online, and inclusive.

The inquiry commission includes representatives from national and local authorities, business associations and trade unions, but not from CSOs or academia. During its inquiry, the commission held meetings with at least some stakeholders, including TI Sweden.

A public consultation was then conducted on the inquiry report. The very detailed information contained in the inquiry report and the 15-week duration of the consultation allowed in-depth input. The consultation was public and open to any interested party. In addition, the Ministry of Labour invited close to [150 organisations](#) to participate, covering a very wide and diverse range of stakeholders (including public institutions, academia, CSOs, trade unions, and employer and professional associations).

All responses to the public consultation were [published](#).

## **Policy recommendations**

See TI Sweden's [response to the public consultation](#), from October 2020 (in Swedish).

# NATIONAL AND INTERNATIONAL EXPERTS

Country	Experts
Austria	Luca Mak LL.M., Executive Director, Transparency International Austria Mag. Kristof Wabl, Head of Working Group Whistleblowing, Transparency International Austria
Belgium	Guido de Clercq, Legal Counsel, Transparency International Belgium
Bulgaria	Kalin Slavov, Executive Director, Transparency International Bulgaria Ecaterina Camenscic, Political Science Expert, Transparency International Bulgaria
Croatia	Klara Horvat LL.M., Legal Officer, Human Rights House Zagreb
Cyprus	Andreas Andreou, Researcher and Project Manager, Aequitas
The Czech Republic	Jan Dupák, Lawyer, Transparency International Czech Republic Luisa Blahová, Lawyer, Oživení Lenka Svobodová, Analyst, Oživení
Denmark	Jesper Olsen, Chair, Transparency International Denmark
Estonia	Carina Paju, Executive Director, Transparency International Estonia
Finland	Miia Kannisto, Chief Legal Adviser, AKAVA Confederation of Unions for Professional and Managerial Staff in Finland
Germany	Louisa Schloussen, Head of Working Group Whistleblowing, Transparency International Germany Karsten Klaege, Project Coordinator whistleblowing, Transparency International Germany Sanders Schier, Deputy Head of Working Group Whistleblowing, Transparency International Germany
Greece	Dr. Anna Damaskou, Chair, Transparency International Greece Alexandros Melidis, Researcher & Project Manager, Transparency International Greece Antonis Baltas, Legal Advocacy Expert, Transparency International Greece
Hungary	Krisztina Zala, Project Manager, Átlátszó Tibor Sepsi, Lawyer
Ireland	John Devitt, Chief Executive, Transparency International Ireland
Italy	Giorgio Fraschini, ALAC & Whistleblowing Programme Manager, Transparency International Italia
Latvia	Inese Tauriņa, Executive Director, Transparency International Latvia Krista Asmusa, Legal Consultant, Transparency International Latvia
Lithuania	Deimantė Žemgulytė, Project Coordinator, Transparency International Lithuania Sergejus Muravjovas, Chief Executive Officer, Transparency International Lithuania



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Luxembourg	Dimitrios Kafteranis, PhD researcher, University of Luxembourg
Malta	Emanuel Delia, Journalist
Netherlands	Jeroen Brabers, Board Member, Transparency International Nederland Lotte Rooijendijk, Project Lead, Transparency International Nederland
Poland	Marcin Waszak, Senior Specialist, Stefan Batory Foundation
Portugal	Susana Coroado, Chair, Transparency International Portugal Karina Carvalho, Executive Director, Transparency International Portugal João Oliveira, Communications Officer, Transparency International Portugal
Romania	Irina Lonean, Project Coordinator, Transparency International Romania
Slovakia	Daniela Sojková, Phd Student, University of Vienna
Slovenia	Sebastijan Peterka, Project Coordinator, Transparency International Slovenia
Spain	Simona Levi, Co-founder, Xnet David Martínez García, Executive Director, Transparency International Spain
Sweden	Lotta Rydström, Executive Secretary, Transparency International Sweden
International	Anna Myers, Executive Director, Whistleblowing International Network Ida Nowers, Law & Policy Coordinator, Whistleblowing International Network

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# ENDNOTES

<sup>1</sup> Countries with dedicated whistleblower protection legislation covering employees in both the public and the private sectors in all areas of national law.

<sup>2</sup> European Commission, Commission Staff Working Document, Impact Assessment, Accompanying the document “Proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law”, 2018, p.2.

<sup>3</sup> Until then, the protection provided by EU law was piecemeal, with some instruments providing for reporting channels and certain elements of protection in specific areas (see [Annex 5](#) of the Proposal for a Directive on the protection of persons reporting on breaches of Union law).

<sup>4</sup> See list of national experts, pp. 32-33.

<sup>5</sup> Romania’s draft bill and public consultation were launched on 5 March 2021 and are therefore not included in this snapshot.

<sup>6</sup> Denmark’s formal stakeholder consultation was launched on 23 February 2021 and is therefore not included in this snapshot.

<sup>7</sup> In this report, a “bill” is understood as a written suggestion for a new law that is presented to a country’s parliament so that members can discuss it (as per the [Oxford Dictionary definition](#)). A “draft bill” is issued for consultation before being formally introduced to parliament; see <https://www.parliament.uk/about/how/laws/bills/>

<sup>8</sup> Denmark’s formal stakeholder consultation was launched on 23 February 2021 and is therefore not included in this snapshot.

<sup>9</sup> Romania’s draft bill and public consultation were launched on 5 March 2021 and are therefore not included in this snapshot.

<sup>10</sup> “Building Political Integrity to Stamp Out Corruption: Three Steps To Cleaner Politics”, 23 January 2020, Transparency International Blog, [www.transparency.org/en/news/building-political-integrity-to-stamp-out-corruption-three-steps-to-cleaner-politics](http://www.transparency.org/en/news/building-political-integrity-to-stamp-out-corruption-three-steps-to-cleaner-politics)

<sup>11</sup> United Nations Office on Drugs and Crime (UNODC), *Resource Guide on Good Practice in the Protection of Reporting Persons* (2015), p.129

<sup>12</sup> Council of Europe, *Protection of Whistleblowers: A Brief Guide for Implementing a National Framework* (2015), p.15.

<sup>13</sup> UNODC, 2015, pp. 13-14; Council of Europe, 2015, p.15.

<sup>14</sup> Helen Darbishire, *Proactive Transparency: The future of the right to information?*, 2010, World Bank, p. 45.

<sup>15</sup> Access Info Europe, Open Knowledge, Sunlight Foundation, Transparency International, [International Standards for Lobbying Regulation – Towards greater transparency, integrity and participation](#), 2015.

<sup>16</sup> Transparency International, 2015: 13.

<sup>17</sup> Transparency International, 2015: 13.

<sup>18</sup> Transparency International, 2015: 13.

<sup>19</sup> OECD, *Better Regulation in Europe: Denmark*, 2010

<sup>20</sup> More than double the 0.5 per cent target, which no EU country has reached.

<sup>21</sup> For a more detailed analysis, see the policy recommendations in the “Country summaries” section.

<sup>22</sup> For example, at a conference organised by the French Defender of Rights in December 2019; see [www.defenseurdesdroits.fr/sites/default/files/atoms/files/actes-coll-la-en-num.pdf](http://www.defenseurdesdroits.fr/sites/default/files/atoms/files/actes-coll-la-en-num.pdf)

<sup>23</sup> “The Commission welcomes the entry into force of new rules for whistleblower protection”, *Daily News*, 16 December 2019, EU Commission, [https://ec.europa.eu/commission/presscorner/detail/en/mex\\_19\\_6782](https://ec.europa.eu/commission/presscorner/detail/en/mex_19_6782)

<sup>24</sup> “EU countries’ chance to lead on whistleblower protection”, Press Release, Transparency International, 7 October 2019, [www.transparency.org/en/press/eu-countries-chance-to-lead-on-whistleblower-protection](http://www.transparency.org/en/press/eu-countries-chance-to-lead-on-whistleblower-protection)

<sup>25</sup> According to the inquiry report, information on breaches of EU law that fall within the scope of the Directive is considered to be always of public interest. See [“Increased security for whistleblowers”](#), SOU 2020: 38, June 2020, p.35-36.

<sup>26</sup> For more detailed recommendations and best practice examples regarding the material scope of whistleblower protection legislation, see Transparency International, *Best Practice Guide for Whistleblowing Legislation*, 2018, pp 7-10.

<sup>27</sup> The criterion applied to determine whether a country has comprehensive legislation is the one used by the European Commission, i.e. whether dedicated legislation covering employees both in the public and the private sectors in all areas of national law is in place (See European Commission, Commission Staff Working Document, Impact Assessment, Accompanying the document “Proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law”, 2018, p.2).

<sup>28</sup> In the coalition agreement; see Paul Magnette and Alexander De Croo, *Verslag van de formateurs*, September 2020.

<sup>29</sup> *Proposition de loi tendant à offrir un statut légal et une protection aux lanceurs d'alerte*, Document parlementaire 55K1380, 24 June 2020.  
[www.lachambre.be/kvvcr/showpage.cfm?section=/flwb&language=fr&cfm=/site/wwwcfm/flwb/flwbn.cfm?legislist=legisnr&dossierID=1380](http://www.lachambre.be/kvvcr/showpage.cfm?section=/flwb&language=fr&cfm=/site/wwwcfm/flwb/flwbn.cfm?legislist=legisnr&dossierID=1380)

<sup>30</sup> *Proposition de résolution relative aux mesures légitimes visant à protéger les lanceurs d'alerte qui divulguent, au nom de l'intérêt général, des informations confidentielles d'organisations publiques et d'entreprises*, Document parlementaire 55K1730, 9 January 2021,  
[www.lachambre.be/kvvcr/showpage.cfm?section=/flwb&language=fr&cfm=/site/wwwcfm/flwb/flwbn.cfm?legislist=legisnr&dossierID=1730](http://www.lachambre.be/kvvcr/showpage.cfm?section=/flwb&language=fr&cfm=/site/wwwcfm/flwb/flwbn.cfm?legislist=legisnr&dossierID=1730)

<sup>31</sup> This was included in the working group draft preliminary impact assessment.

<sup>32</sup> Croatia, Protection of Whistleblowers Law, 2019, <https://www.zakon.hr/z/1927/Zakon-o-za%C5%A1titi-prijavitelja-nepravilnosti>.

<sup>33</sup> Office of the Government of the Czech Republic, Portal ODok, Legislative Helpdesk, [https://apps.odok.cz/veklep-detail?p\\_p\\_id=material\\_WAR\\_odokkpl&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-1&p\\_p\\_col\\_count=3&material\\_WAR\\_odokkpl\\_pid=KORNBR3DRSYB&tab=detail](https://apps.odok.cz/veklep-detail?p_p_id=material_WAR_odokkpl&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=3&material_WAR_odokkpl_pid=KORNBR3DRSYB&tab=detail)

<sup>34</sup> The full list is available here: <https://help.odok.cz/vykladovy-slovník/-/wiki/V%C3%BDkladov%C3%BD%20slovník%C3%ADk/P%C5%99ipom%C3%ADnkov%C3%A9%20m%C3%ADsto+povinn%C3%A9>

<sup>35</sup> Composition, record of meetings and other relevant documents are available on the official webpage of the working group: <https://korupce.cz/rada-vlady/pracovni-komise-predsedy-rady-vlady-pro-koordinaci-boje-s-korupci/komise-k-whistleblowingu/>

<sup>36</sup> Denmark's formal consultation was launched after 17 February 2021 and was therefore not included in the categorisation of progress.

<sup>37</sup> See the letter of request for an extension of the working group, 25 January 2021, <https://oikeusministerio.fi/hanke?tunnus=OM028:00/2018>

<sup>38</sup> France, Law on transparency, the fight against corruption and the modernisation of economic life, “Sapin II”, 2016, <https://www.legifrance.gouv.fr/eli/loi/2016/12/9/2016-1691/jo/texte>.

<sup>39</sup> *Avis du Défenseur des droits n°20-12*, 16 November 2020, [https://juridique.defenseurdesdroits.fr/doc\\_num.php?explnum\\_id=20315](https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=20315); *Commission Nationale Consultative des Droits de l'Homme, Avis sur la Transposition de la Directive Européenne Relative aux Lanceurs d'Alerte*, 24 September 2020, [https://www.cncdh.fr/sites/default/files/avis\\_2020\\_-\\_11\\_-\\_avis\\_transposition\\_directive\\_lanceurs\\_dalerte.pdf](https://www.cncdh.fr/sites/default/files/avis_2020_-_11_-_avis_transposition_directive_lanceurs_dalerte.pdf)

<sup>40</sup> Deutscher Bundestag, *Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten, Niema Movassat, Dr. André Hahn, Ulla Jelpke, weiterer Abgeordneter und der Fraktion DIE LINKE, Drucksache 19/21649*, 29 August 2020, <http://dipbt.bundestag.de/dip21/btd/19/219/1921941.pdf>

<sup>41</sup> Deutscher Bundestag, 2020: 35.

<sup>42</sup> Hungary, Act on Complaints and Public Interest Disclosures, 2013, <https://net.jogtar.hu/jogszabaly?docid=a1300165.tv>.

<sup>43</sup> Ireland, Protected Disclosures Act, 2014, [www.irishstatutebook.ie/eli/2014/act/14/enacted/en/print#sec5](http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/print#sec5)

<sup>44</sup> Italy, Provisions for the protection of individuals reporting crimes or irregularities that have come to light in the context of a public or private employment relationship, 2017, [www.gazzettaufficiale.it/eli/id/2017/12/14/17G00193/sg](http://www.gazzettaufficiale.it/eli/id/2017/12/14/17G00193/sg).

<sup>45</sup> Latvia, Whistleblowing Law, 2018, <https://likumi.lv/ta/en/en/id/302465>

<sup>46</sup> Lithuania, Law on the Protection of Whistleblowers, 2017, <https://prokuraturos.lt/data/public/uploads/2020/02/1.9-225-praneseju-apsaugos-istatymas-eng.pdf>

<sup>47</sup> Malta, Protection of the Whistleblower Act, <https://legislation.mt/eli/cap/527/eng>

<sup>48</sup> The Netherlands, Whistleblowers Authority Act, 2016, <https://wetten.overheid.nl/BWBR0037852/2020-01-01>

<sup>49</sup> In Romania, the law protecting personnel from public authorities, public institutes and other entities who signal legal violations applies only to the public sector, 2004, <http://legislatie.just.ro/Public/DetaliuDocumentAfis/57866?noCache=1468627200023>.

<sup>50</sup> Romania's draft bill and public consultation were launched after 17 February 2021 and were therefore not included in the categorisation of progress.

<sup>51</sup> Slovakia, Act on Protection of Whistleblowers of Anti-Social Activity, 2019 (which repealed the previous Act on Certain Measures Related to Reporting on Anti-Social Activity, 2014), <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2019/54/20190301>

<sup>52</sup> The protection of whistleblowers in Slovenia, stemming mainly from the 2010 Integrity and Prevention of Corruption Act, covers both the public and private sectors, but only in relation to a few types of wrongdoing.

<sup>53</sup> The "[Proposal of a Law for the comprehensive protection of whistleblowers](#)", presented by Joan Baldoví Roda and 15 Deputies, and based on Xnet draft law; The "[Proposal of a Law for the comprehensive protection of whistleblowers of corruption](#)", presented by the parliamentary group Vox.

<sup>54</sup> Sweden, Act on special protection against retaliation for employees who sound the alarm about serious misconduct, 2016, [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2016749-omsarskilt-skydd-mot-repressalier\\_sfs-2016-749](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2016749-omsarskilt-skydd-mot-repressalier_sfs-2016-749)

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Transparency International  
International Secretariat  
Alt-Moabit 96, 10559 Berlin, Germany

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