

Network of European Integrity and Whistleblowing Authorities (NEIWA)

Declaration on establishing internal reporting channels
Adopted at the virtual NEIWA meeting on 4 June 2021 in Utrecht

NEIWA currently consists of the following members:

Austria	Ministry of Justice
Belgium	Federal Ombudsman Vlaamse Ombudsman
Bulgaria	Bulgarian Commission for Anti-Corruption and Illegal Assets Forfeiture
Croatia	Ombudswoman
Czech Republic	Ministry of Justice
Estonia	Ministry of Justice
Finland	Ministry of Justice
France	Défenseur des Droits
Greece	National Transparency Authority
Hungary	Commissioner for Fundamental Rights)
Ireland	Garda Ombudsman
Italy	Autorità Nazionale Anticorruzione
Latvia	State Chancellery
Lithuania	General Prosecutor's Office
Netherlands	Huis voor Klokkenluiders
Portugal	Portuguese Ombudsman's Office Prosecutor General
Romania	Ministry of Justice
Slovenia	Commission for the Prevention of Corruption
Slovakia	Whistleblower Protection Bureau i.o.
Spain	Agencia Valenciana Antifrau Oficina Antifrau de Catalunya
Sweden	Ministry of Employment
Montenegro (observer)	Agency for Prevention of Corruption

Recalling that the Network of European Integrity and Whistleblowing Authorities (NEIWA), currently representing 21 Member States, has been established in May 2019 to offer a platform to cooperate and exchange knowledge and experiences in the field of integrity and whistleblowing.

Highlighting that NEIWA at the moment focuses its efforts on the transposition of 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 (hereafter: "the Directive") and aims at strengthening the level of protection of whistleblowers within the European Union (EU).

Recalling the previous recommendations of NEIWA in the Paris declaration of 2 December 2019, the Rome declaration of 26 June 2020 and the Brussels declaration of 17 December 2020.

Acknowledging that the Directive contains requirements for establishing internal channels which should be designed, established and managed in a secure manner that ensures the confidentiality of the identity of the reporting person and any third party mentioned in the report, and prevents access thereto by non-authorized individuals.

We, members of NEIWA, within the spirit of sharing best practices, recommend to all governments, administrations and other stakeholders involved in the implementation of the Directive to, at least, ensure the following:

1. Establishment of internal channels

1.1. Legal entities in the private and public sector should establish appropriate internal procedures for receiving and following up on reports on wrongdoings. Internal channels aim at the disclosure of wrongdoings in workplaces that would otherwise remain hidden, often due to fear of reprisals.

1.2. Entities obliged to implement internal reporting channels shall foster a culture of reporting internally and value internal reporting as an act of loyalty and as an opportunity to learn about internal wrongdoings and remedy them.

2. Confidentiality and anonymous reporting

2.1. Whistleblowers may often lack trust and confidence in the effectiveness of internal reporting channels, which may discourage them from reporting a wrongdoing. Safeguarding the confidentiality of the identity of the reporter and of the investigation therefore is a key condition for a reporting system, ensuring that filing a report does *not* lead to any professional or personal risk to the whistleblower.

2.2. The internal reporting channels must offer confidence and trust preventing unauthorized staff from having access to its content. Entities externalising their internal reporting channels should check beforehand that the third party guarantees that internal reports are kept confidential and that only authorised persons will be able to access their content.

2.3. The internal reporting channel should include that an adequate investigation regarding the report of a wrongdoing shall be carried out in a rigorous manner.

3. Procedures for internal reporting and for follow-up according to the EU Directive:

3.1. Depending on the nature and dimension of the entities, internal channels could be constituted by an impartial person or department responsible for receiving and following-up to the reports and maintaining the communication with the reporting person. In any case, their function should be such as to ensure independence, avoid conflict of interests and be trusted by employees.

3.2. Clear and defined procedures of receiving and follow-up to the report are essential for building trust in the effectiveness of the overall system of whistleblower protection. Appropriate follow-up shall be given to a report filed internally with a reasonable timeframe to inform a reporting person, in line with minimum standard in the EU Directive. The reporting person should be informed about the timeframe and procedures of feedback.

3.3. Persons who are considering reporting breaches should be able to make an informed decision on whether, how and when to report. It is essential for legal entities in the private and public sector and that have an internal reporting channel, to provide clear and easily accessible information regarding the procedures for reporting internally as well as the possibility to report externally to competent authorities.

3.4. Reporting person should be able to choose the most appropriate reporting channel (internal or external) depending on the individual circumstances of the case. However, they could be encouraged to first use internal reporting channels and report to their employer, if such channels are available to them and can reasonably be expected to function.

4. Prohibition of retaliation

4.1. Internally reporting persons should be protected against any form of retaliation, whether direct or indirect, taken, encouraged or tolerated by their employer or customer or recipient of services and by persons working for or acting on behalf of the latter, including colleagues and managers in the same organisation or in other organisations with which the reporting person is in contact in the context of his or her work-related activities.

4.2. A clear legal prohibition of retaliation will have an important dissuasive effect, and would be further strengthened by provisions for personal liability and penalties for the perpetrators of retaliation.

4.3. Granting of a protection status to a reporting person, when granting of such status is foreseen by national legislation, implies that the competent authorities must ensure that the reporting person does not suffer any direct or indirect forms of retaliation. Competent authorities should, where appropriate, have dissuasive tools to prevent any form of retaliation including the possibility to impose a sanction on the organisation taking retaliatory measures.

4.4. Even if the identity of the reporting person is not known (anonymous), nor data that allows him to be identified is available at the time, this may be revealed or deduced at a later stage. Therefore, if the reporting person has done so in line with the rules and, (s)he is still entitled to the protection measures offered by the Directive, when granting of such measures is foreseen by national legislation,.

4.5. Competent authorities and entities obliged to establish internal reporting channels shall seek to redress any situation in which the whistleblower may have been subject to any form of reprisals and assess how to prevent future similar situations.