



BRIEFING PAPER
WHISTLEBLOWER PROTECTION IN THE EU

Whistleblower Protection in Austria

Introduction

Following a lengthy period of inaction, interest in better protecting whistleblowers from retaliation has risen in Austria due to international pressure and a recent string of high-profile financial and political scandals. Though Austria still lacks a designated law to protect whistleblowers, public employees were given limited protections in 2012. Other provisions that could be helpful to whistleblowers are included in the Labor Code and the Constitution.

The issue is not high on the political or public agenda. Only a few cases of whistleblowing in Austria have achieved wide public attention.

Laws, Institutions and Procedures

Austria's first-ever legal provision specifically designed to protect whistleblowers was passed in January 2012. A "Protection from Discrimination" clause was added to the Public Service Law to shield public employees who report certain offenses to their managers or the Federal Bureau of Anti-Corruption. The measure was passed in response to recommendations from the Council of Europe's Group of States against Corruption (GRECO).

Reports must be within the Federal Bureau's jurisdiction and be made in good faith. Disclosures not within the Bureau's purview can be sent to the national Ombudsman's Office.

According to the Labor Law, it is illegal to fire a whistleblower whose actions were meant to prevent threats to life or health in the workplace.

There are very few whistleblower mechanisms in the private sector, except for a requirement for banks to have internal whistleblowing systems in place, and protection for employees who report environmental misconduct. Additional protections are in the Labor Law, which protects employees from dismissals that violate their freedom of speech and other basic rights.

Recent or Ongoing Initiatives and Trends

In March 2013 the Justice Ministry launched an experimental website enabling people to send reports to the Public Prosecutor's Office against Corruption and White Collar Crime. The online platform allows anyone to report misconduct, guarantees anonymity and enables two-way communication with whistleblowers. After proving to be successful in fighting corruption and financial misconduct during a two-year test phase, the website officially went into service in January 2016.

On the other hand, civil society engagement with the issue may be in decline. The organization Whistleblower Austria, the country's only known NGO lending advice and support to whistleblowers, is no longer active.

Whistleblower Cases

In 2009 the case of a government lawyer who said he was bullied and fired after a controversy over a public contract garnered considerable public attention. The employee in the Austrian Health Department discovered that a cleaning contract for a public hospital in Vienna was awarded to a company that was not the lowest bidder, and that organized "poker nights and champagne parties" with hospital employees.

Following his disclosure to the newspaper *Die Presse*, he was harassed at work and fired for not being "capable of making decisions." The story prompted others to speak up, including a representative from another company that bid on the same contract. When he discussed the situation with the hospital's director, he was told to "stay out of it".

In 2015, three former managers involved in the bidding process were cleared of all charges.

Data and Statistics

From March 2013 to December 2015 the Justice Ministry's website received 3,512 reports, of which 2,505 were followed up on. Based on these reports, 401 preliminary proceedings were launched (as of early 2016). It is not publicly known how many of these disclosures were from whistleblowers in the workplace, and how many were from citizens reporting incidents within society in general.

Public Perception of Whistleblowing

The term "whistleblowing" holds a relatively positive connotation in Austrian society. Declining trust in the country's judiciary goes hand-in-hand with increased support for whistleblowers, who increasingly are being perceived as safeguards of democratic values. The Austrian media, however, is not considered to be consistent in evaluating the role of whistleblowers, referring to them alternately as heroes and snitches.

Whistleblowing systems increasingly are being put in place in companies that operate internationally or that have close ties with the US and other countries with strong whistleblower protections.

Capacities and Knowledge Centers

Since 2010 a working group initiated by Transparency International Austria and supported by different consultancies, among them Deloitte and PwC, has been calling for reforms and providing expertise on the issue for the government as well as business community.