



**BRIEFING PAPER**  
WHISTLEBLOWER PROTECTION IN THE EU

# Whistleblower Protection in Denmark

## Introduction

Denmark has no designated law to protect whistleblowers from retaliation and provide them with disclosure channels to report crime and corruption.

A major principle of employment relationships is the employee's duty of loyalty, which is embedded in many laws that effectively limit an employee's freedom of speech. Given the lack of specific whistleblower legislation, cases must be evaluated in the courts, where judges weigh the competing rights of employers and employees.

Given the ambiguous position of whistleblowers under Danish law, people who face retaliation for reporting misconduct must go through lengthy procedures in order to exert their rights.

## Laws, Institutions and Procedures

Denmark's laws do not provide clear guidance regarding protections for whistleblowers. Section 77 of the Constitution grants freedom of speech to all people. However, many laws limit this freedom in the workplace.

Under their duty of loyalty, public sector employees are required to inform supervisors about misconduct. Reporting to the media is considered a breach of confidentiality and may lead to prosecution.

The Public Administration Act regulates professional secrecy for public employees, and the Penal Code penalizes public employees who breach their confidentiality duty. Public employees lawfully may disclose confidential information with obvious social interest, but this depends on trade-offs that are difficult to predict.

Despite these limitations, freedom of speech for public employees is considered to be stronger than for those the private sector.

Unfair dismissal and whistleblower retaliation claims may be filed in labor courts. But without a clear and consistent legislative framework, courts decide on a case-to-case basis.

There is no designated government agency that accepts whistleblower reports or provides procedural guidance. The Danish Data Protection Agency registers all whistleblower systems established in companies and public institutions.

## Recent or Ongoing Initiatives and Trends

In recent years, awareness of whistleblower protection mechanisms has increased. A 2013 law requires financial institutions to set up systems enabling employees to report wrongdoing anonymously within the institution. Implementation is supervised by the Data Protection Agency.

Some regional governments have formed whistleblower agencies. At the national level, a government committee concluded in 2015 that Denmark does not require specific whistleblower legislation. Instead, the panel said it should be optional for public institutions to set up whistleblower mechanisms.

A 2014 study showed that a third of members of the Danish Association of Masters and PhDs knew of “critical conditions” in their workplace the public should know about. Only one in eight went public with the information.

## Whistleblower Cases

Denmark saw its most prominent whistleblower case in 2004 in the context of the controversy on the Iraq War. Frank Grevil, a major in the Danish Defence Intelligence Service, passed on a classified report to journalists revealing that then-Prime Minister Anders Fogh Rasmussen, who openly supported the war, had grossly overstated the evidence of weapons of mass destruction in Iraq.

For breaking his duty of loyalty to his employer, Grevil was sentenced to four months in jail. His disclosure led to a public investigation into Denmark’s involvement in the war, revealing Rasmussen had openly lied about the government’s intentions to support US efforts. Rasmussen later served as 12<sup>th</sup> NATO Secretary General and so far has not been held responsible for his actions. In 2008 Grevil received the Sam Adams Award for integrity in intelligence.

In 2013 Hans Bøgesvang Riis disclosed major failings at the National Board of Industrial Injuries that caused public concern. He was dismissed, unsuccessfully fought for his reinstatement, and is currently searching for a new job.

## Data and Statistics

Because Denmark has no government agency that tracks whistleblower cases, the number of cases filed each year, and their outcomes, is not known.

## Public Perception of Whistleblowing

The impact of whistleblowers worldwide in recent years has left its mark on the public perception of whistleblowing in Denmark. Impressions of whistleblowers are gradually improving.

There is no term for whistleblower in the Danish language, and commonly used terms usually carry negative connotations. However, demands to improve whistleblower protections have grown in the wake of the financial crisis.

## Capacities and Knowledge Centers

The Danish Data Protection Agency oversees general procedures and legislation concerning data security. No public or civil society organizations specialize in whistleblower issues.