



**BRIEFING PAPER**  
WHISTLEBLOWER PROTECTION IN THE EU

# Whistleblower Protection in Germany

## Introduction

Germany does not have a designated whistleblower protection law in place. Whistleblowers such as geriatric nurse Brigitte Heinish, who successfully appealed her unfair dismissal case to the European Court of Human Rights, have fueled political debate on the issue. The government, however, has rejected several proposed whistleblower laws in recent years.

As of now, only public employees who report corruption under very narrow circumstances are legally protected from retaliation. In other cases, whistleblowers must seek protections and remedies from the courts, which have been prone to hold employees' duty of loyalty above their free speech rights.

## Laws, Institutions and Procedures

Without a legal framework, Germany lacks specific institutions and mechanisms to receive and investigate disclosures, and to grant whistleblowers any kind of security. Neither is whistleblowing defined in German law.

Whistleblowers may be protected by certain provisions of the Employment Protection Act, which makes unfair dismissal on the grounds of "social injustice" illegal and punishable. In practice, however, labor courts frequently have ruled against whistleblowers, citing employees' duties of loyalty and secrecy towards their employer.

Conservative political parties repeatedly have opposed enacting a dedicated whistleblower law, commenting that existing protections are sufficient.

A growing number of companies have set up internal disclosure systems in recent years, though they are not guided by or monitored according to comprehensive, obligatory national standards.

## Recent or Ongoing Initiatives and Trends

Recent efforts by the social democratic, green and leftist parties to strengthen legal protections for whistleblowers have been unsuccessful. On the level of civil society, only the international solidarity movement for Edward Snowden has received notable support. There is virtually no public debate on whistleblower protection in general, and the media generally does not report on cases in an in-depth manner.

Although Germany has committed to international agreements stipulating the establishment of protections, a major change of direction currently is not expected.

In one sign of potential progress, the justice ministers of Germany's 16 states in June 2016 called for stronger protections at the federal level.

## Whistleblower Cases

Germany's most famous whistleblower case is that of Brigitte Heinisch. The geriatric nurse was fired after reporting alleged poor care at a Vivantes nursing home in Berlin to authorities in 2005. Her attempts to address the concerns internally were unsuccessful. After several levels of German courts rejected her unfair dismissal claim, she appealed to the European Court of Human Rights. In 2012 the court awarded her €90,000 in compensation and ruled that Germany violated her right to freedom of expression granted by Article 10 of the European Convention on Human Rights.

Another notable case is Miroslaw Strecker's disclosure of the illegal distribution of rotten meat in 2007. The truck driver had witnessed the relabeling of old meat and offcuts in a Bavarian food factory. He informed authorities, leading to the conviction of two employees. Strecker was not immediately dismissed but pressured into leaving his job. His actions were widely recognized, and he received four awards honoring his moral courage.

The desperate situation confronted by many whistleblowers in Germany is illustrated by the recent case of an employee in Bavaria. In 2015 the employee of a state-owned wastewater treatment plant near Munich filed a complaint against his boss, who was subsequently dismissed from his position and is now being investigated against, based on the whistleblower's information. The employee himself, however, also lost his job, was unsuccessful in seeking reinstatement and thus far remains unemployed.

## Data and Statistics

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

## Public Perception of Whistleblowing

According to the NGO Whistleblower Netzwerk, there is no reliable data on the public perceptions of whistleblowing in Germany. The organization suggests that many people, especially older generations, associate whistleblowing with a culture of denunciations for historical reasons. Younger segments of the population appear more sympathetic to whistleblowers and their actions.

A 2002 report concluded that German employees are accustomed to being bullied and harassed for raising critiques in the workplace.

## Capacities and Knowledge Centers

Few NGOs in Germany specialize in the issue. Efforts to improve the situation for German whistleblowers are being led by Whistleblower Netzwerk, which monitors cases and supports whistleblowers, and Blueprint for Free Speech, an international NGO that focuses on whistleblowing and other free speech rights.