



BRIEFING PAPER
WHISTLEBLOWER PROTECTION IN THE EU

Whistleblower Protection in Italy

Introduction

As an element of expanded efforts in recent years to curb political and private sector corruption, Italy has recently also improved its rights for whistleblowers. Limited provisions were passed in 2012 for public sector employees as part of a new Anti-Corruption Law.

Following the widely publicized case of whistleblower Andrea Franzoso, the provisions have also been made applicable to employees in the private sector in 2017.

Laws, Institutions and Procedures

Passed in 2012 following a lengthy public debate, the Anti-Corruption Law contains Italy's first whistleblower provisions. Public employees are legally protected from dismissal, disciplinary actions and reprisals if they report illicit activities to managers, the Judicial Authority or the Court of Auditors. Employees are not protected if they commit libel or defamation, or invade a person's privacy.

In 2017, the government finally introduced a law that extends protection measures foreseen in the Anti-Corruption Law to public sector employees. Furthermore, the new legislation does not limit protected disclosures to cases of corruption; instead, protection is granted for the reporting of actions or behavior that hinges on the integrity of the public administration or private entities. The Anti-Corruption Agency ANAC has a central role in receiving and following up on complaints, together with other institutions.

While the law grants confidentiality of identity, anonymous disclosures will not be protected. It also lacks awareness regarding organized crime and weakly penalizes people who retaliate against whistleblowers.

Recent or Ongoing Initiatives and Trends

In 2015 the Bank of Italy introduced whistleblower regulations for the banking sector in accordance with a new EU Directive covering financial institutions. The measures seek to protect whistleblowers from retaliation, shield their identity and establish independent reporting channels.

In 2013 Milan passed a measure to protect city employees who report corruption, following an initiative by Milan's Anti-Mafia Committee and Transparency International Italia.

Whistleblower Cases

The recent case of Andrea Franzoso has received widespread international attention. In 2013 Franzoso was working in the audit unit of Ferrovie Nord Milano, an Italian public transport company and the country's

second-largest railway company, when he discovered that the then president of the company was using company funds for personal use (including for clothes, vacations, online poker, porno movies, and to buy a Renaissance-era painting for himself). After managers within Ferrovie Nord Milano ignored Franzoso's report describing the above fraud, he began recording conversations with his mobile phone, which he turned over to the police. As a result of his testimony, the company's president was forced resign, and a fraud and embezzlement investigation was opened. Franzoso was shunned, given a job with no actual duties and driven from the company.

In 2017, Franzoso published an autobiography recalling his experiences as a whistleblower, titled "Il Disobbediente".

Other prominent cases include Enrico Ceci, who disclosed information about fraud at the Bank of Parma, Raphael Rossi, who reported being offered a bribe in exchange purchasing unnecessary equipment at a waste disposal company in Turin, and the former professional footballer Simone Farina, who reported being offered a bribe to influence the outcome of an Italian professional football match and whose disclosure led the Italian police to uncover a complex gambling system involving criminal figures with interest in fixing football games all over Europe.

Data and Statistics

Because Italy has no designated whistleblower agency, the total number of cases filed each year and their outcomes are not known. Since 2014, more than 290 instances of corruption have been reported through the newly established Allerta AntiCorruzione (*Advocacy and Legal Advice Centre*), a digital tool set up by the Italy chapter of Transparency International that offers a mechanism for citizens to pursue corruption-related complaints and provides free and confidential advice to witnesses and victims of corruption.

Public Perception of Whistleblowing

Due to a variety of cultural and historical factors, whistleblowing is a relatively new phenomenon in Italy that only recently has grown in political and social acceptance. Among the barriers that discourage employees from stepping forward are the strong sense of duty to employers and inconsistency of the courts in ruling on whistleblower retaliation cases.

Prominent cases, media coverage and pressure from civil society and international organizations have contributed to growing awareness. The role of whistleblowers in fighting corruption has also served to enhance public perceptions.

Capacities and Knowledge Centers

A growing number of government institutions and NGOs in Italy specialize in corruption and related issues. Autorità Nazionale Anticorruzione (ANAC) is the main public agency involved in fighting corruption. Civil society organizations active in the field include Libera, Gruppo Abele and Riparte il Futuro (Restarting the Future), which have significantly contributed to the introduction of the law in 2017. Transparency International runs an Italian chapter.