



BRIEFING PAPER
WHISTLEBLOWER PROTECTION IN THE EU

Whistleblower Protection in Malta

Introduction

Malta's efforts to strengthen whistleblower protections, which began in 2002, culminated in 2013 with the passage of country's first comprehensive law – the Protection of the Whistleblower Act. The measure includes many European and international standards, including protection for private and public sector employees, and the right to report misconduct to contacts within or outside the workplace.

On paper the law is considered among the strongest and most thorough in Europe. Full protections, however, are not granted to everyone under all circumstances. The law does not cover disclosures to the media. External reporting channels are limited. And the law does not protect employees of the Security Service; foreign, consular and diplomatic services; or the "Disciplined Forces" (Armed Forces, Police Force, Prisons Officers and Civil Protection Officers).

Laws, Institutions and Procedures

The Protection of the Whistleblower Act bans all retaliation or other detrimental actions against an employee who reports misconduct in good faith and with a reasonable belief that the information is true. Confidentiality is protected but anonymous reports are not, and authorities may ignore defamatory or libelous reports filed anonymously.

All government ministries and all private companies over a certain size must have internal reporting procedures in place, including a "Whistleblowing Reporting Officer." Under certain circumstances employees are protected if they disclose information to designated authorities. Reports to the media or the public are not protected.

People who threaten or use violence to prevent a whistleblower from utilizing the law can be imprisoned for up to three months or fined up to €1,200, or both.

Malta has no independent whistleblower agency, but an External Disclosure Whistleblowing Unit within the Ministry for Justice, Culture and Local Government supervises external disclosures. The Ombudsman's office has the authority to investigate most matters in public agencies and can refer cases to Parliament.

Recent or Ongoing Initiatives and Trends

While Maltese society often has been described as secretive, there are hopes the new law can make way toward a new culture of openness and transparency. The effectiveness of the law, however, is not known.



Whistleblower Cases

In 2015 contractor Joseph Cauchi obtained protection under Malta's whistleblower law after reporting an alleged works-for-votes scheme by the husband of former Gozo Minister Giovanni Debono. An official at Gozo's construction agency, Anthony Debono was charged with 13 counts for his role in an operation to use public resources to benefit of individual constituents.

In 1973 the case of pharmaceutical executive Stanley Adams stirred up public debate and may have had an impact on strengthening protection measures. Adams sent documents to the European Economic Community revealing price-fixing of vitamins by Swiss pharmaceutical company Hoffmann-La Roche. The EEC disclosed Adams' identity, after which he was arrested as a spy and threatened with 20 years in prison for industrial espionage. He was released after six months, during which he lost not only the Italian company he founded after leaving Hoffman-La Roche, but also his wife, who committed suicide while he was incarcerated. In 1985 Adams received £200,000 in compensation from the EU. Fifteen years later, the US and EU fined Hoffman-La Roche \$1 billion for market abuse.

Data and Statistics

The number of whistleblower cases filed each year is not known to the public. Neither the Maltese Financial Service Authority nor the Whistleblowing Unit within the Ministry for Justice, Culture and Local Government provided data. There is no designated agency that tracks cases.

Public Perception of Whistleblowing

Civil society has been calling for stronger whistleblower protections for many years. According to a 2008 poll, 70 percent of respondents said stronger mechanisms and support for whistleblowers would help counter corruption and misconduct. Generally, whistleblowers have a rather positive image in Maltese society.

Capacities and Knowledge Centers

Though Malta lacks a designated government agency to oversee whistleblower cases and issues, the law appointed six agencies to receive reports: the Ombudsman, Malta Financial Services Authority, Commissioner of Inland Revenue, Commissioner of Inland Revenue, Commissioner for Voluntary Organisations, and Permanent Commission Against Corruption.

The Financial Services Authority has set up a "Whistleblowing Reports Unit" to receive and investigate disclosures of misconduct within the financial services industry. The Unit must inform the whistleblower of its investigation within 45 days, and determine whether the report should be referred to another agency. Citizens can file a report via an online form.

No NGOs in Malta are known to specialize in whistleblower issues.