



**BRIEFING PAPER**  
WHISTLEBLOWER PROTECTION IN THE EU

# Whistleblower Protection in Netherlands

## Introduction

After nearly 20 years of discussion and debate, the Netherlands passed a whistleblower law in 2016 – the House for Whistleblowers Act. The law seeks to improve upon a patchwork system of self-regulation in the private sector and weakly implemented provisions in the public sector.

Despite praise in the media, the law is not comprehensive. It lacks penalties for people who retaliate against whistleblowers, as well as provisions for victimized whistleblowers to be reinstated and compensated for financial losses. Moreover, authorities lack the power to order employers to reinstate fired whistleblowers.

Despite long political deliberation on the issue, the Netherlands has not had many high-profile whistleblower cases or advocacy campaigns in recent years.

## Current Legislation and Regulations

The House for Whistleblowers Act, which took effect on 1 July 2016, established a House for Whistleblowers where public and private sector employees can report regulatory violations, health and environmental risks, and threats to the functioning of public services or companies. The law bans retaliation if an employee had a reasonable belief the report was accurate.

Private companies with at least 50 employees and all public institutions are required to set up internal reporting procedures. Judicial officers, certain intelligence and security services officials, and certain military personnel are not covered by the law's reporting provisions.

Analyses of the law suggest that victimized employees must seek remedies in the courts, which historically do not have a good record on compensating whistleblowers. Because no cases had been reported as of early 2017, it is not known whether the law's gaps will be adequately filled by the Civil Code.

In addition to this law, the Corporate Governance Code requires companies listed on the Dutch stock exchange to have whistleblower procedures in place.

## Institutions, Frameworks and Procedures

The House for Whistleblowers is based at the National Ombudsman's office. It advises and supports whistleblowers, and investigates retaliation complaints and reports of wrongdoing. It can gather evidence, hear witnesses and experts, conduct onsite investigations, and refer cases to regulators and law enforcement.

## Recent or Ongoing Initiatives and Trends

Before the whistleblower law was passed in 2016, the most significant reform was the establishment of the Advice Centre for Whistleblowers in October 2012. It was replaced by the House for Whistleblowers.

## Whistleblower Cases

In January 2014 whistleblower Arthur Gotlieb committed suicide after years of being ignored by senior managers at the National Health Authority. Gotlieb repeatedly warned about leaks and problems with the Authority's IT system,



including that the entire staff – including temporary employees – had access to highly sensitive information. In retaliation, Gotlieb received a poor job evaluation and was fired. He submitted a 600-page report that documented the problems. Soon after he committed suicide, stating he did not want to end up poverty. The Authority's board and top management resigned. Gotlieb was posthumously vindicated by the Authority. He was 50 years old.

## Data and Statistics

Prior to the House for Whistleblowers Act, whistleblower reports were accepted by the Advice Centre for Whistleblowers. According to its annual reports, 1,403 people contacted the Centre in 2013-15. Of these, 177 people – 13 percent – were considered whistleblowers.

In 2015, 85 percent of the 74 people considered whistleblowers said they suffered some adverse consequences:

- 22 percent were fired
- 9 percent went on sick leave
- 8 percent resigned
- The remainder experienced bullying, threats, isolation, suspension or denial of promotions or transfers.

In 2015 one-fourth of the whistleblowers said they decided against making or continuing with a report; most said they feared retaliation.

Most of the whistleblower reports in 2015 were from these sectors:

- healthcare: 16
- business services: 14
- central government: 8
- education: 7
- industry/construction: 5

The main forms of misconduct reported in 2015 were:

- fraud, embezzlement or theft: 28
- health, safety or environmental risks: 14
- breaches of requirements or rules: 9
- mismanagement: 8
- abuse of power: 7

## Public Perceptions of Whistleblowing

Before the new law was passed in 2016, the cultural taboo on “addressing someone,” along with the closed circuit between the political and business establishments, stifled meaningful efforts to strengthen whistleblower rights in the Netherlands.

Due to the lack of public cases, it is difficult to gauge public acceptance of whistleblowing. In a 2015 online poll, 78 percent of people surveyed in the Netherlands said they have a positive view of mass-surveillance whistleblower Edward Snowden. This was the second-lowest figure among six European countries surveyed.

## Capacities and Knowledge Centers

The House for Whistleblowers (*Huis voor klokkenluiders*) is the designated public agency that accepts and investigates whistleblower reports and retaliation complaints.

NGOs active in the field include the Expert Group on Whistleblowing (*Expertgroep Klokkenluiders*), comprised of several Dutch whistleblowers, and the Dutch chapter of Transparency International.