



BRIEFING PAPER
WHISTLEBLOWER PROTECTION IN THE EU

Whistleblower Protection in Spain

Introduction

There is no specific law on whistleblower protection for employees in Spain, and current legislation only indirectly refers to whistleblowing. While widespread corruption and systematic government failures contributed to the country's economic collapse during the financial crisis, and international organizations including the OECD have urged Spain to introduce stronger whistleblower protections, political will to do so has not yet lead to noteworthy improvements.

In comparison with other European countries, civil society is very active in lobbying for legislation and supporting Spanish whistleblowers.

Laws, Institutions and Procedures

While all Spanish citizens technically are obliged to report criminal activities to the relevant authorities, they must personally come forward in order for their claim to be investigated, which is seen as a deterrent to whistleblowing. The lack of protective mechanisms is seen by many as a deterrent in complying with this obligation.

The only legislative regulation loosely related to whistleblowing is a provision allowing citizens to anonymously report conflicts of interest of high-ranking officials and members of Parliament. Witnesses in criminal proceedings may receive protection.

Recent or Ongoing Initiatives and Trends

Spain introduced a whistleblower e-mail hotline in 2014 that allows anonymous reporting of anticompetitive behavior.

The new political parties Ciudadanos and Podemos have adopted the defense of whistleblowers in their discourse due to pressure applied by civil society, and a draft whistleblower law presented by Ciudadanos is currently being discussed. The proposal has received a rather critical review from many civil society organizations.

The organization Plataforma X La Honestidad has presented several amendments to the draft focused in the protection of whistleblowers. The Barcelona-based NGO XNet is currently working with the local Catalan government to introduce regional legislation. Furthermore, XNet was instrumental in the introduction of a regional leaking box in the municipality of Barcelona.

Whistleblower Cases

As there is an underdeveloped culture of whistleblowing in Spain that would motivate employees in the private sector to come forward about misconduct in their workplace, most whistleblower cases relate to instances of corruption in the public sector, political parties, the government and financial institutions.



One example is Fernando Urruticoechea, who worked as a public auditor in several cities for 30 years before blowing the whistle on a number of financial crimes and illicit acts. His disclosures, which involved all political parties as well as businessmen and civil servants, led to various indictments and lawsuits, including the conviction of a former mayor of Castro Urdiales. The Union of Valencian Journalists bestowed Urruticoechea with the Freedom of Expression Award 2016.

One of Spain's most famous whistleblowers is Ana Garrido, who filed a complaint in the sensational "Gürtel" case that revealed corruption in the highest ranks of Spanish government. Her disclosures and collaboration with the justice system was key to uncovering a national conspiracy. Following her reports, she suffered harassment at work in her position at the Boadilla del Monte town council. Although the Supreme Court ruled against the town council for workplace harassment, Garrido so far has not been able to return to her position.

In 2017, the Spanish Supreme Court ruled in her favor and convicted the Boadilla del Monte town council to pay a significant fine in reparations to Garrido.

Data and Statistics

As there are no public institutions or civil society organizations that track the number of whistleblower cases, data on whistleblowing in Spain is not publicly available.

Public Perception of Whistleblowing

Due to a lack of political will to strengthen the issue as well as the low number of reported cases, whistleblowers can be caught in media slander and suspicion. While corruption is still considered a crucial factor and public trust in government institutions remains low, whistleblowing is not publicly viewed as an instrument to fight these tendencies. In the past, people who came forward usually faced retaliation and rejection, which hampered the fostering of a culture of reporting misconduct.

Capacities and Knowledge Centers

The organization Plataforma X La Honestidad provides direct help to whistleblowers who have suffered from retaliation. Among the whistleblowers they are currently supporting are Ana Garrido Ramos, Luis Gonzalo Segura, Azahara Peralta and Roberto Macías. Additionally, they actively lobby for stronger whistleblower protection laws and a better social awareness of the problem.

The activist project Xnet, founded in Barcelona in 2008, engages in a number of issues concerning free speech, freedom of information and civil rights. The group provides reporting channels and legal support for whistleblowers, lobbies for stronger protective mechanisms and has initiated the "Citizen Group Against Corruption." As one result of Xnet's work, the city of Barcelona has announced plans to introduce a system to allow anonymous reporting of any form of misconduct.

Likewise, the NGO "Corruptil" lobbies for a comprehensive national framework against corruption.

Recently the NGO Fíltrala established an online disclosure portal that allows people to report wrongdoing and submit sensitive documents anonymously.