

CERHA HEMPEL CEE NEWSLETTER *Romania*

Extended application of Law no. 361/2022 on the protection of whistleblowers in the public interest

Law no. 361/2022 on the protection of whistleblowers in the public interest entered into force on 22 December 2022 and transposed Directive 1937/2019 of the European Parliament and of the Council of 23 October 2019 on the protection of persons reporting infringements of Union Law. It aims to facilitate whistleblower reporting of breaches of the law within private entities, as well as public authorities and institutions.

Under Directive (EU) 1937/2019, Member States must make it a requirement for certain companies to establish internal whistleblowing systems.

According to Law. No 361/2022, reporting channels can be internal or external. For the internal whistleblowing system to be effective, it is also obligatory for private companies to create internal reporting channels for whistleblowers and procedures for handling reports. This obligation was applied in stages as follows:

- companies with at least 250 employees had to implement the internal whistleblowing systems upon the Romanian law entering into force (i.e. 22 December 2022);
- companies with 50-249 employees had to implement the internal whistleblowing systems by 17 December 2023.

Who can be a whistleblower?

Law 361/2022 offers protection to persons who report violations of the law that have occurred or are likely to occur in authorities, public institutions and private legal entities. Whistleblowers can be not

only employees who make reports, but also various third parties such as paid or unpaid interns, volunteers, self-employed individuals, former employees, etc. Facilitators, third persons who are connected with the whistleblower and who might suffer retaliation in a professional context, such as colleagues or relatives of the whistleblower, are also protected against retaliatory measures.

Design of the whistleblowing systems

The Romanian law defines a specific case management process. In particular, a company must establish internal whistleblowing systems and procedures to ensure the design, establishment and management of the manner in which reports are received in such a way as to protect the confidentiality of the identity of the whistleblower and any third party mentioned in the report and to prevent unauthorized staff members from accessing it. According to the Romanian law, reporting can be made in writing, on paper or in electronic format, by telephone communications or other voice messaging systems or by means of a physical meeting, at the request of the whistleblower. The legal entities must ensure that at least one means of reporting is available at all times.

Sanctions

Non-compliance with the obligation to establish channels and procedures for internal reporting and for follow-up actions constitutes a contravention and is subject to the imposition of a fine of between EUR 612 to EUR 6,124.

A stylized map of Central and Eastern Europe in shades of blue, showing country borders and names. The map is the background for the top section of the page.

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