

Russia

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1. Has the EU Whistleblowing Directive been implemented in your country? If not: At what stage is the legislative process and when do you expect the national legislation to enter into force?

The EU Whistleblowing Directive has not been implemented in Russia.

Currently, Russian legislation does not provide for any regulation with respect to whistleblowing. There are also no legislative initiatives concerning whistleblowing regulation either.

Whistleblowing is generally regulated at the level of an individual company. For this purpose, a company could adopt an internal policy and make it obligatory for employees. The Russian Labour Code stipulates that an employee must faithfully fulfil their job duties and act in compliance with an employer's internal policies. The breach of a whistleblowing policy by an employee could constitute a disciplinary matter and the employee could become subject to disciplinary action.

2. Will your national legislation apply to businesses with fewer than 50 employees?

Each company regardless of its size may introduce internal regulations related to whistleblowing. At the same time, whistleblowing procedures affect the application of other related laws, for example, the Federal Law No 152-FZ on Personal Data, since they entail the processing of personal employee data, the Russian Labour Code and provisions of the Russian Constitution related to individual rights to privacy. The national legislation applies to all businesses regardless of the number of employees.

3. Are there any additional reporting matters (other than the ones included in the EU Whistleblowing Directive)?

Any reporting matters, which do not contradict Russian law requirements, can be included in the company's local whistleblowing policy.

4. Can a grievance/an interpersonal grievance constitute a reporting matter?

Yes. As a matter of common practice, grievances/ interpersonal grievances generally do constitute a reporting matter.

5. What internal whistleblowing channels will companies need to put in place in your country?

Russian legislation does not oblige Russian companies to create internal whistleblowing channels. For this reason, companies, regardless of their size, headcount or turnover are free to choose whether to set up such a channel for whistleblowers or not.

Companies can put in place any channel they deem appropriate, as Russian authorities have not provided any specific recommendations in this respect. Usually, companies create web-based platforms, use application services, or provide employees with a special telephone number that they can use to report information.

6. Must the internal reporting channel permit oral reporting?

No.

7. Can the internal reporting channel be outsourced?

Yes. It is highly important to ensure that the respective procedures comply with the general data protection requirements with respect to processing of personal data of the data subjects.

8. Is there any statutory obligation to provide whistleblowers with any information about the internal and/or external reporting channels? If so, must this information be given in local language?

Russian legislation does not establish such an obligation. The general Russian law requirement is that all information related to employment relations be given in Russian, or at least in a bilingual fashion. This is important since the information received via the reporting channel may subsequently be used for disciplinary or termination cases, presented to authorities or in court.

9. Is there a mandatory procedure that companies will need to follow once a report is filed?

Russian laws do not provide any mandatory procedure.

10. What are the works council's or other representative bodies' participation rights in respect of whistleblowing systems?

Russian laws do not provide any specific participation rights in respect of whistleblowing, but these may be established inter alia in the company's local policies or collective bargaining agreements.

11. Which categories of persons can be whistleblowers in your country?

Companies can itself determine the respective categories in their local policies. In practice, these are generally employees or the company's counterparties, i.e., individuals whose rights and obligations may be affected by the company's, its employees' or contractors' actions or wrongdoings.

12. Can reports be anonymous?

Yes.

13. What protection will be afforded to whistleblowers under your national legislation? Does that protection still exist if the disclosure is determined to be without merit or if the report was maliciously made?

The Labour Code establishes several ways to protect labour rights, among them judicial protection. In the event of a violation of labour rights, employees have the opportunity to apply to the court and/ or state authorities (prosecutor's office, state labour inspectorate). There are no specific regulations with respect to whistleblower's protection, as well as any difference in protecting the disclosure made with/without merit or made maliciously.

14. How much compensation can be awarded to a whistleblower if they are penalised for having made a report?

The compensation is determined on the basis of the employee's claim and courts discretion in particular circumstances of the case. The court may decide in favor of the employee and oblige the employer to (i) reinstate the whistleblower in his job position with salary payment for the period of forced unemployment or (ii) to pay bonuses that the employee was deprived of; or (iii) to pay a compensation for the employee's moral damages in case the employer's actions are considered illegal and unjustified.

15. How should the employer deal with persons named in the report?

It is up to the employer to decide whether any further action or formal procedure are launched with respect to the persons named in the report. Depending on the information provided in the report, the employer can initiate the internal investigation or commence a disciplinary procedure with respect to the mentioned employees.

16. Does your national whistleblowing legislation create offences for non-compliance and what penalties do such offences attract?

Employees may be subject to material, disciplinary, administrative or even criminal liability for the revealed misconduct (including culpable actions which resulted in the company's non-compliance with applicable legislation), depending on its nature and consequences. Penalties include damages, administrative and criminal fines, disciplinary penalties (warning, reprimand, or dismissal) and other applicable measures. However, in order to bring the employee to any kind of liability, it is important to pass through legally established procedures.

17. Are there any other practical steps that companies can take to prepare for the new whistleblowing regime?

Given the absence of statutory regulations with respect to whistleblowing, the key practical approach is to develop appropriate internal regulations on whistleblowing and arrange whistleblowing processes (including whistleblowing lines, processing reports, etc) in compliance with applicable requirements inter alia to protect, process and transfer personal data in accordance with statutory requirements.