

Changes in Bulgarian whistleblowing legislation

Bulgarian whistleblowing legislation has recently undergone its first amendments in pursuit of compliance with Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law ("Directive"). We outline below the amendments to the Bulgarian Act on the protection of persons filing reports or publicly announcing information on breaches ("Act") which we consider to be the most substantial.

1. Scope of the Act

The amending law alters both the material and personal scope of the whistleblowing legislation to better reflect the provisions of the Directive.

The Act shall from now on apply also to reports on breaches of two more EU acts, namely Regulation (EU) 2023/1114 on markets in crypto-assets and Regulation (EU) 2022/1925 (Digital Markets Act). With respect to Regulation (EU) 2023/1114 it should be noted that this act has been included in Section I (B) of the Annex to the Act which means that it triggers the application of the Act also for employers whose business activities fall within the scope of the said Regulation irrespective of the number of employees.

The personal scope is widened so as to include among the categories of persons eligible to report also employees within the meaning set out in Art. 45, para. 1 TFEU, self-employed persons within the meaning of Art. 49 TFEU, both paid and unpaid volunteers and interns as well as job candidates whose employment relationship is about to start.

Respectively, facilitators who assist a reporting person in the reporting process shall only be eligible for protection if their aid is confidential, which is a straight forward transposition of the definition of "facilitator" provided in the Directive.

2. Sharing of reporting channels

It is now clear that employers with 50 to 249 employees may share not only reporting channels but resources in general for both receiving and handling reports. This important clarification reflects the respective concept set out in the Directive and ends the debate on whether such employers may also share resources regarding the handling of reports.

3. Filing of reports and provision of information

With respect to the obligation of the person responsible for the handling of reports to inform the reporting person on the results of the report review, a clarification has been made that where no information has been sent to the reporting person on the receipt of the report, the 3-month deadline for sending information to him/her on the results of the report review starts running from the date of the report's receipt.

4. Liability and Sanctions

The reporting person shall only be liable for damages caused to the person concerned if he/she intentionally files a false report or publicly disseminates false information.

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