



WHISTLEBLOWING LAW HAS ENTERED INTO FORCE IN SPAIN

The Law 2/2023 regulates the protection of those who report regulatory and anti-corruption violations, by transposing the Directive (EU) 2019/1937, better known as the Whistleblowing Directive.

I. What does it consist of?

With the entry into force of the law certain companies operating in Spain are obliged to implement a whistleblowing canal, allowing workers, suppliers, customers and third parties, to report in a safe, confidential and anonymous, any actions or omissions that may constitute a criminal or administrative infraction.

II. Which subjects are obliged?

- Individuals and legal entities with 50 or more employees
- Companies belonging to a group, where the Spanish company has 50 or more employees
- Companies operating in specific sectors (financial services, money laundering prevention, and environmental protection-even if they are not domiciled in Spain but operate there), regardless of the number of employees
- Political parties, trade unions, business organizations and foundations that receive or manage public funds
- Spanish public entities

III. Internal or external management of the whistleblowing channel?

The outsourcing of the whistleblowing channel is highly recommended, as stated in Circular 1/2016 of the Fiscalía general del Estado: "higher is the level of outsourcing, more effective it will be, as in the case, for example, of (...) whistleblowing channels, which are more used and effective if managed by an external company, which can guarantee greater levels of independence and confidentiality."

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IV. What should the whistleblowing channel include?

According to Article 5 of Law 2/2023, the channel shall "include the various internal channels of information established in the company." Let's note that many Spanish companies are required to have the following channels:

Criminal Compliance/ Mobbing /Anti-Money Laundering/ RGPD

V. Why should a company implement a whistleblowing channel?

- It is a tool that reduces risk and provides greater reliability, as it allows companies to detect infractions in a timely manner.

- Without the whistleblowing channel, the application of the mitigation factor/exemption from criminal liability of legal persons provided by Article 31 bis of the Spanish Criminal Code could be questioned

- Penalties of up to €1,000,000 are avoided

ESCURA HAS IMPLEMENTED WHISTLEBLOWING CHANNEL FOR ITS CLIENTS

What we offer:

- A secure and anonymous channel, in compliance with the GDPR
- Adaptation of the company website
- Development of internal policy by highly qualified lawyers
- Management of the whistleblowing channel in coordination with the company
- We inform the client within 24 /48 hours of receiving the whistleblower complaint
- Our records are encrypted and highly secure



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