



Sérvulo & Associados | Sociedade de Advogados, SP, RL

Whistleblowing: 3, 2, 1...

What are your plans
for 2022?

In view of the entry into force of Whistleblower Protection legislation, it is crucial that public and private entities adopt solid compliance systems, in order to ensure the effective and safe attainment of the legal objectives, and to reduce the financial, reputational and litigation risks.

1. What is law n.º 93/2021 about?

Law N.º 93/2021 transposing Directive (EU) N.º 2019/1937 on the protection of persons who report breaches of EU Law.

2. Who is obliged to set up internal reporting channels?

The subjective scope is comprehensive, including legal persons employing 50 (fifty) or more employees, such as private entities, the State and other public entities.

3. Which infringements and areas are covered?

A reportable infringement consists of any act or omission contrary to EU Law in practically all of areas and consisting of:

- infringement committed, in progress or whose commission can be foreseen; or
- attempt to conceal infringements.

4. Who is a whistleblower?

Reports are brought by individuals who have obtained such information in the context of their professional activity, including employees, service providers, contractors, subcontractors and suppliers, or any persons acting under their supervision and direction, shareholders and board members, volunteers and interns.

5. Requirements for the protection

The internal reporting channels must provide for the secure presentation and follow-up of reports, guaranteeing their integrity and conservation, ensuring compliance with the assessment deadlines, offering guarantees of confidentiality, and preventing unauthorised access.

6. How is the whistleblower protected?

The protection granted to whistleblowers includes the prohibition of retaliation. The practice of acts of retaliation dictates an obligation to compensate the whistleblowers.

7. And in the event of non-compliance?

Failure to comply with the new legal framework leads to liability for administrative offences, in addition to other civil and criminal sanctions that may be applicable.

8. When does the diploma enter into force?

Law N.º 93/2021 enters into force on 18TH June 2022.

Whistleblowing service

How can we help?

Our Team have several years of experience in providing legal advice to large public and private entities in the various areas covered by Whistleblowing, such as Employment, Privacy and Data Protection, European and Competition, Litigation and Compliance, Public, Financial & Governance.

The obligations imposed include, in particular, the following areas:



Public procurement



Financial services and products, anti-money laundering or terrorism financing



Product safety and compliance



Radiation protection and nuclear safety



Environmental protection



Food and feed safety, animal health and animal welfare



Public health



Consumer rights



Transport safety



Internal market rules and company taxing



Privacy and personal data protection and security of network and information systems



Financial interests of the European Union;



Violent and severely violent criminality and organised crime



Crimes foreseen in N.º 1 of Article 1 of Law n.º 5/2002, of 11TH January, establishing measures to combat organised and economic and financial crime.

Our adaptation and implementation programme



Step 1

Kick off

Setting goals

Project definition:

Tailor made approach

Scope of work
Identification of the entity`s needs

Analysis of existing reporting channels

Identification of key responsables for the reporting channel



Step 2

Gap Analysis Report

Help your business to get ready

Status report, comparing current situation with new requirements

Establishment of Action Plan



Step 3

Review & Adaptation

Preparation and structuring of a Whistleblowing Policy

Review of existing policies (ex. Codes of Ethics/ Code of Conduct/ Anti-Harassment Policies/ Anti-Money Laundering Policies/Privacy & Data Protection Policies)

Our adaptation and implementation programme



Step 4

Implementation Training*

Implementing a reporting channel

Possible partnership with a platform design company to implement a reporting system

Sérvulo's legal assistance in the use of the platform and its adaptation to Portuguese law



Step 5

Training*

Internal training actions

Organisation of training seminars on the management of the Reporting Platform

*optional



Step 6

Execution Follow Up*

Execution

Assistance in the management of complaints, audits and disciplinary procedures, elaboration of reports and recommendations

Follow-up on guidelines, official recommendations, legislation and case-law

*optional

Team

The Whistleblowing service has a multidisciplinary and business-oriented team.



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