

Whistleblowing

Contributing Editors

Yasmine Tarasewicz at Proskauer

Nicolas Léger at Proskauer

Marine Roussel at Proskauer

03. Is it possible to set up a whistleblowing procedure at a Group level, covering all subsidiaries?



Germany

Author: *Isabel Hexel, Johannes Peter Kaesbach*
at Oppenhoff

According to the explanatory memorandum of the Whistleblower Protection Act, it is legally permissible to implement an independent and confidential internal reporting office as a "third party" within the meaning of article 8(5) of the EU Whistleblower Directive at another group company (eg, parent company, sister company or subsidiary), which may also work for several independent companies in the group (section 14 (1) HinSchG). However, the European Commission has already announced in two statements during the legislative process that a group-wide whistleblower system does not meet the requirements of the EU Whistleblower Directive. The question of the compatibility of the regulation with EU law will only arise in practice at a later stage, provided that this question needs to be clarified in court.

The Whistleblower Protection Act in line with the EU Directive further provides that several private employers with between 50 and 249 employees employed on a regular basis may commonly implement and operate an internal reporting office to receive notifications. However, the legal obligation to take action to remedy the violation and the corresponding duty to report back to the person making the report has to remain with the individual employer.

Last updated on 28/09/2023

Contributors



Germany

Isabel Hexel
Johannes Peter Kaesbach
Oppenhoff

