



***EU Directive on
Anticorruption and Rule of Law reforms in Albania***



ITALY'S EXPERIENCE WITH WHISTLEBLOWING

Conference
24 June 2026

Whistleblowing: policy objective and purpose of the legislation

- ✓ Directive 2019/1937 on the protection of persons who report breaches of Union law
- ✓ Legislative Decree No. 24/2023, implementing the Directive 2019/1937 on the protection of persons reporting breaches of Union law and containing provisions on the protection of persons reporting breaches of national legislative provisions

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Unlawful activities (corruption, fraud, breaches of law, malpractices, negligence) may occur in any organisation, whether private or public, large or small. If they are not duly and timely addressed, they can result in **serious harm to the public interest**.

People who work for an organisation or are in contact with it in their work-related activities are often the first to know about such occurrences and are, therefore, in a privileged position to inform those who can address the problem. **This helps to prevent and address breaches of law.**

Accordingly, a comprehensive (normative, institutional and judicial) framework to protect “**whistleblowers**”, mainly against retaliation, is essential to encourage reporting and strengthen the effectiveness of the law.

It is also a key for safeguarding **freedom of expression** (according the Charter of Fundamental Rights of the European Union and Italian constitutional law).

Material scope

The following “violations” can be reported:

- ✓ breaches falling within the scope of the Union acts, or affecting the financial interests of the Union, or relating to the internal market;

(extended material scope of the Legislative Decree No. 24/2023)

- ✓ breaches under national law, such as administrative, accounting, civil or criminal wrongdoings;
- ✓ unlawful conducts falling within the scope of the Legislative Decree No. 231/2001 (e.g., undue receipt of funds, fraud against the State, a public body or the European Union for the purpose of obtaining public funds) or violations of the organizational and management models indicated in the Decree.

Personal scope

The following persons are entitled to report (and qualified for protection):

- ✓ persons working in the private or public sector who acquired information on breaches in a work-related context, including: (a) persons having the status of worker, including civil servants; (b) persons having self-employed status; (c) shareholders and persons belonging to the administrative, management or supervisory body of an undertaking, including non-executive members, as well as volunteers and paid or unpaid trainees; (d) any persons working under the supervision and direction of contractors, subcontractors and suppliers;
- ✓ persons who acquired information on breaches in a work-based relationship which has since ended;
- ✓ persons whose work-based relationship is yet to begin in cases where information on breaches has been acquired during the recruitment process or other pre-contractual negotiations.

In compliance with the personal scope of the Legislative Decree No. 24/2023, internal reporting channels shall be designed, established and operated by:

- ✓ legal entities in public sector (e.g., state, regional and local administrations, public institutions, agencies, entities or companies);
- ✓ legal entities in the private sector with 50 or more workers (such threshold does not apply to legal entities that fall in the scope of certain Union acts; *i.e.*: acts relating to financial services, products and markets, and prevention of money laundering and terrorist financing; transport safety, protection of the environment).

The reporting system

The whistleblower shall report to:

- ✓ the internal reporting channel, operated by the legal entity concerned (*i.e.*: the organisation where the whistleblower works or has worked, or the organisation with which the whistleblower is or has been in contact because of work-based relationship);
- ✓ the external reporting channel, operated by ANAC.

The whistleblower is allowed to report externally only when at least one of the following conditions is met:

- ✓ internal reporting channel is not available or does not comply with legal requirements, as provided under the Legislative Decree No. 24/2023;
- ✓ a previous internal report was submitted but no appropriate follow-up was given;
- ✓ the whistleblower has a reasonable ground to believe that:
 - in case of internal reporting, there is a risk of retaliation or there is a low prospect of the breach being effectively addressed;
 - the breach may constitute an imminent or manifest danger to the public interest, such as where there is an emergency or a risk of irreversible damages.

ANAC's mandate under the Legislative Decree No. 24/2023

- ✓ Regulations and guidelines
- ✓ Handling external reports
- ✓ Protection from retaliations
- ✓ Ascertaining and sanctioning violations of the Legislative Decree No. 24/2023
- ✓ Relationships whit NGOs (support measures for whistleblowers)

Regulations and guidelines

✓ Regulations

ANAC resolution No. 301/2023

Proceedings for handling external reports, protection from retaliation and exercise of the sanctioning powers by ANAC

✓ Guidelines

ANAC resolution No. 311/2023

- whistleblowing's material and personal scope
- external reporting channels
- follow-up and feedback
- conditions for protection of the reporting persons

ANAC resolution No. 478/2025

The guidelines provide operational guidance on establishing and managing internal channels for reporting violations, with the purpose of harmonizing the application of whistleblowing legislation and promoting consistent reporting management within both public and private organizations.

External reporting channel

ANAC has implemented a secure and easy-to-use reporting channel that allows whistleblowers to submit information **confidentially**.

It consist of an on-line platform based on software that integrates **robust encryption** (which minimize the risks of cyber attacks and data breaches).

Such platform creates an identifier for each whistleblower, enabling asynchronous and secure communication with the reporting channel. This practice ensures that neither party has access to unnecessary personal data, thus complying with the principle of **data minimization**.

External reports management

The report assessment by ANAC is focused on the following essential elements:

- ✓ Information on the reporting person;
- ✓ work-related context of the reporting person;
- ✓ information on breaches.

Following the assessment of the report, ANAC does not give follow-up to it when:

- ✓ the conditions for external reporting are not met;
- ✓ the report lacks its essential elements;
- ✓ the report does not fall within the material and/or personal scope of the Legislative Decree 24/2023 (e.g.: the reported matter is not relevant for the purpose of the Decree, or the reporting person does not act as whistleblower or does not meet the relevant requirements).

Outside the cases above, ANAC transmits the information contained in the report (alternatively or cumulatively, as appropriate) to:

- ✓ its internal Offices, if the reported breach falls in the scope of the institutional competences of the Authority (transparency, anti-corruption, public procurement); and/or
- ✓ the National or European institutions, bodies or agencies, having (exclusive or joint) competence to address the breach; and/or
- ✓ the Judicial Authority or the Court of Auditors, if the reported breach may constitute a criminal offence or may amount to a damage to public funds.

The offices / entities competent to address the breach shall further investigate the matter and, if any, take the appropriate actions / measures (the UWHIB office shall give a feedback to the reporting person).

Protection form retaliation

The communication of retaliation by the whistleblower shall indicate the following essential elements:

- ✓ the identity of the person who suffered the (alleged) retaliation;
- ✓ the identity of the person who committed the (alleged) retaliation;
- ✓ information (and documentation) on the retaliation.

The competent Office of ANAC carries out a pre-investigation on the communication. The relevant proceeding is closed by the Office when the communication:

- ✓ lacks its essential elements;
- ✓ does not fall in the scope of the Legislative Decree 24/2023 (e.g. the person affected by the alleged retaliation did not previously act as whistleblower);
- ✓ is manifestly unfounded or abusive.

Outside the cases above, the UWHIB Office starts the investigation, ensuring the right of defence to the person charged of the (alleged) retaliation. At the end of the investigation, the UWHIB office submits its conclusions to the ANAC Council (which may approve them or order an additional investigation). Thus, the investigation formally concludes with a decision taken by the ANAC Council.

The decision of the ANAC Council may:

- ✓ ascertain the retaliation and impose pecuniary sanctions on the perpetrator (from 10,000 to 50,000 Euro, depending on the severity of the conduct);
- ✓ dismiss the case, when the alleged retaliation did not occur (e.g., the conduct is proven to be lawfulness, or – in any case - it is proven that the same is not related to a previous breach report).

Sanctions

Under Legislative Decree no. 24/2023, ANAC applies administrative pecuniary sanctions (also) when:

- ✓ reporting has been obstructed, or an attempt has been made;
- ✓ the obligation to ensure the protection of the identity of the reporting person has been breached;
- ✓ internal reporting channels have not been set up;
- ✓ procedures for receiving and handling reports have not been adopted, or such procedures do not comply with the legal requirements;
- ✓ the follow-up of the report was not given;
- ✓ the civil liability for calumny or defamation has been judicially ascertained on the reporting person.

Relationships with NGOs

ANAC collaborates continuously with Italian NGOs that support whistleblowers, providing information, assistance, and free consultations on reporting procedures and protection from retaliation under national and European legislation, on the rights of the person involved, and on the conditions for accessing legal aid.

ANAC has established ongoing collaboration with recognized NGOs, with particular emphasis on:

- ✓ training sessions on Italian legislation and ANAC guidelines;
- ✓ practical cases and the functioning of the ANAC Reporting Office;
- ✓ how to draft a report;
- ✓ ANAC's external channel and platform;
- ✓ psychosocial support for whistleblowers and best practices;
- ✓ reporting and privacy.

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Remarks (1)

Since the entry into force of the new whistleblowing legislation, ANAC has stepped up its efforts to:

- ✓ improve its external reporting channel (specifically by adopting a platform based on modern software that ensures the security and confidentiality of communications with whistleblowers, and by establishing clearly defined procedures for handling reports);
- ✓ provide guidance to public and private entities on complying with the new regulations (through the issuance of guidelines);
- ✓ guide whistleblowers and help them understand the importance of reporting wrongdoing, as well as the protection and support measures available to them (again, through guidelines and collaboration with NGOs);
- ✓ promote a culture of whistleblowing within civil society.

During this implementation phase, the Authority - consistent with its overarching mission to prevent corruption - has adopted a “collaborative” rather than a “punitive” approach, while still maintaining its supervisory and enforcement activities regarding serious violations of the whistleblowing regulations (particularly in cases of retaliation).

Remarks (2)

As part of its oversight activities, ANAC has observed that some decision-makers (especially in smaller public administrations or at the local level) sometimes might view the implementation of whistleblowing as a mere bureaucratic formality, intended to avoid sanctions.

ANAC considers it essential to provide training - particularly to decision-makers and officials responsible for anti-corruption matters - to ensure they really understand that reports of unlawful acts, omissions, or conduct contribute significantly to improve the organization in which they themselves work.

In this perspective, formal compliance does not meet the objectives pursued by the law. In many cases, this is evident from external reports submitted to ANAC where whistleblowers allege failure to handle internal reports, breaches of confidentiality duties, or even retaliations.

Remarks (3)

Properly managing reports and protecting confidentiality are the best mechanisms against the risk of retaliation.

Fundamental legal tools are:

- ✓ the reversal of the burden of proof

(where a report has been filed and the whistleblower alleges retaliation, the burden falls on the perpetrator of the alleged retaliation to prove that the harmful act was actually lawful and grounded on reasons other than the reporting)

- ✓ the exemption from liabilities

(if the reporting has been made in good faith, the whistleblower is exempted from liability for breaches of restrictions on disclosure of information, such as loyalty clauses or non-disclosure agreements; in legal proceedings for, among other, defamation, breach of data protection rules, the disclosure of trade secrets or compensation claims; for acts committed for the acquisition of – or access to – the information reported or publicly disclosed, unless they constitute selfstanding criminal offences).

Remarks (4)

The wrongdoings of which the whistleblower becomes aware and reports, if diligently investigated, are likely to reveal situations of illegality far more serious and widespread than originally imagined.

From this perspective, ANAC believes cooperation between the various administrative and judicial authorities is essential, and for this reason, the ANAC regulation on the management of external reports provides that, if the Authority detects possible criminal, accounting, or other wrongdoings falling within the jurisdiction of other judicial and administrative authorities, it shall promptly involve those authorities.

From another perspective, the knowledge that whistleblowing is functioning properly serves as a deterrent to the commission of wrongdoing, thereby contributing to the general efforts of public authorities regarding the prevention of corruption.

Remarks (5)

The most important lesson that can be learned from the experience of the first years of application of the new whistleblowing legislation is that its effectiveness cannot be separated from:

- ✓ the necessary **sharing of methods and objectives** between the authorities responsible for regulating and supervising the system and the organizations that must apply it;
- ✓ adequate **information and training** for public decision-makers and all those who may assume the role of whistleblower.

