



## More options for whistleblowers

*Royal Decree 1101/2024 of 29 October approving the Statute of the Independent Authority for the Protection of Whistleblowers*

### Background

On 31 October, Royal Decree 1101/2024 came into force, creating the Independent Authority for the Protection of Whistleblowers (“AIPI”, by its Spanish acronym) and approving its statute. The creation of this body had been expected since the approval of Law 2/2023 on the protection of persons who report breaches of the law and on fight against corruption, which transposes Directive (EU) 2019/1937 in Spain.

The Royal Decree fulfills the requirement of Law 2/2023, which mandated the establishment of the AIPI within one year of its enactment. This Royal Decree recognizes the AIPI as a crucial component for ensuring the effective operation of the whistleblower protection system. The AIPI is set up as an autonomous public body with its own legal personality, with organic and functional independence, and will begin operating on the date to be established by ministerial order.

### External complaints channel

The AIPI will function as an external reporting channel. This means that individuals will be able to turn to this Authority to report suspected criminal offences and administrative infringements, either directly or after having used the company’s internal channel, also known as the Internal Reporting Channel. The Royal Decree obliges companies to inform, in their Internal Reporting Channels, about the possibility of filing a complaint with the AIPI.

Thus, the AIPI is a new external channel available to whistleblowers, in addition to those regional

bodies already existing in some Spanish autonomous regions. Similar channels currently exist in the Andalusian Office against Fraud and Corruption, the Anti-Fraud Office of Catalonia, the Valencian Anti-Fraud Agency, the Office of Good Practices and Anti-Corruption of Navarra, the Independent Authority on Corruption of Castilla y León, the Galician Authority for the Protection of Whistleblowers and the Office for the Prevention and Fight against Corruption in the Balearic Islands.

### Protection and support measures

The AIPI may also take measures to protect and support the whistleblower. Support measures include free, full and independent information and advice on the procedures and remedies available, protection against retaliation and the rights of the whistleblower; assistance before relevant authorities to protect against retaliation; legal support in cross-border criminal and civil proceedings; or, financial and psychological support, on an exceptional basis, as determined by the AIPI after assessing the circumstances of the case (Article 37 of Law 2/2023).

### Internal Reporting Channel Officers

Companies must notify the AIPI of the appointment and dismissal of the person responsible for their Internal Information Channel, whether this is a single person or a collegiate body. The deadline for this notification shall be two months from the date the AIPI begins to operate.



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### Circulars and recommendations

The AIPI may issue circulars and recommendations on good practices and appropriate criteria for its correct operation, as well as crime prevention models in the public sphere. These circulars may be useful, not only for the interpretation of Law 2/2023, but also as a reference to validating the existing risk prevention and compliance model in the company.

### Sanctioning powers

The AIPI may initiate, investigate and rule on sanctioning proceedings against companies for potential breaches of Law 2/2023. The behaviors that constitute infringements are outlined in its Article 63, which classifies certain violations as very serious: the adoption of reprisals; violating the guarantee of confidentiality and anonymity of the whistleblower; violating the duty of secrecy; and failure to comply with the obligation to have an Internal Reporting Channel in accordance with the requirements of the law.

The AIPI will have jurisdiction over offences committed in the public and private sector, throughout the territory of Spain, except in cases where regional regulations grant this authority to the respective regional bodies within their territorial scope.

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