REGULATORY COMPLIANCE UPDATE

ECOVIS ProventusLaw

EU WHISTLEBLOWING DIRECTIVE

Whistleblowing Directive Implementation

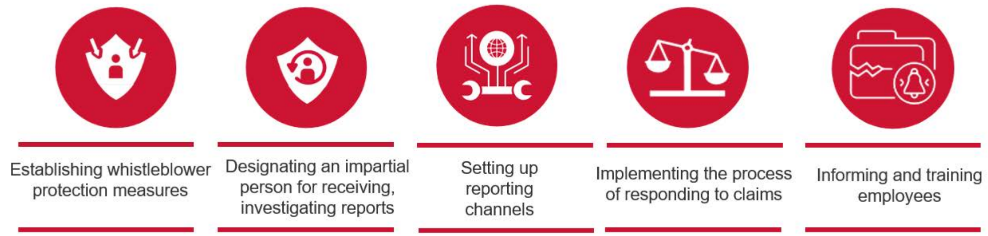
LINK

The EU Whistleblower Directive is mandatory for all organisations with more than 50 employees. **For financial institutions this legislation is mandatory regardless of number of employees** and is designed to protect individuals who report breaches of EU law. It establishes minimum standards for reporting mechanisms and safeguards against retaliation for whistleblowers across the European Union, thereby bolstering Environmental, Social, and Governance (ESG) principles. This directive underscores transparency, accountability, and responsible conduct, aligning with broader ESG objectives to promote sustainable and ethical business practices across the European Union and beyond.

This Directive introduces several key provisions, including:

1. Scope: The directive covers many areas where EU law applies, including public procurement, financial services, product safety, environmental protection, public health, consumer protection, and more.
2. Reporting Channels: Member states and certain private entities must establish secure and confidential reporting channels for whistleblowers. These channels must be easily accessible and capable of handling reports effectively.
3. Protections: The directive prohibits retaliation against whistleblowers, including dismissal, demotion, harassment, and discrimination. It also requires member states to provide effective remedies for whistleblowers who experience retaliation.
4. Confidentiality: Whistleblowers' identities must be kept confidential throughout the reporting process unless disclosure is necessary for investigation or legal proceedings.
5. Follow-Up: Once a report is submitted, the relevant authorities or organisations must acknowledge receipt and provide feedback to the whistleblower within a reasonable timeframe.

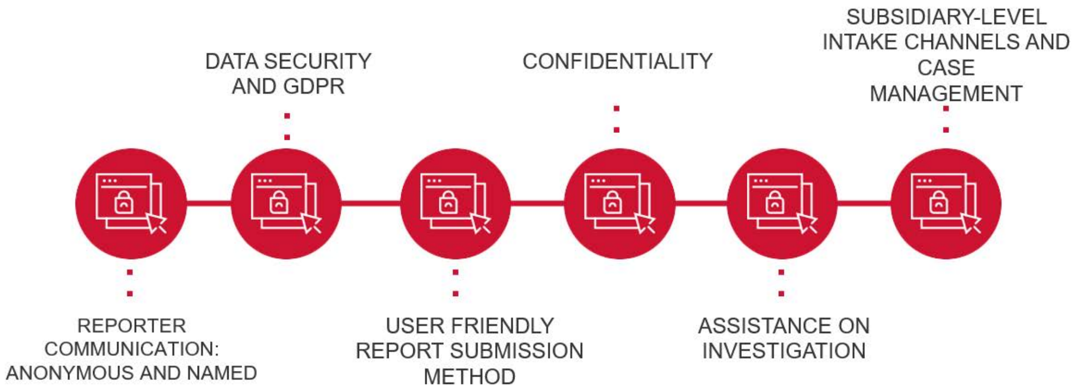
Under the EU Whistleblower Directive, organisations must establish secure and confidential reporting channels for whistleblowers. The reporting process is designed to ensure the protection of whistleblowers and the effective handling of reports of wrongdoing.



WHISTLEBLOWING SOLUTION BY ECOVIS
Outsourcing solution for companies

LINK

Ecovis provides a whistleblowing system as an outsourced channel for companies, ensuring compliance with the EU Whistleblower Directive. Our service offers a convenient solution, as we provide secure and confidential reporting channels that meet the directive's standards. By entrusting the handling of whistleblower reports to us, companies can streamline the reporting process, enhance transparency, and mitigate the risk of internal bias or conflict of interest. This allows organisations to focus on their core activities while effectively managing whistleblowing cases.



Discover how Ecovis Whistleblowing's outsourced system ensures confidentiality and data security in accordance with directive standards while offering two flexible options for companies:

Option 1: Utilize our system solely as a reporting channel, receiving all reports directly without our involvement in the initial investigation process.
Option 2: Entrust us to handle the investigation process as well.

Whether companies require a reporting channel only or a comprehensive investigative service, Ecovis Whistleblowing provides a reliable solution tailored to their needs, fostering transparency and compliance with the EU Whistleblower Directive. Contact us at vilnius@ecovis.lt, and we will ensure compliance with the Whistleblowing Directive tailored to your specific situation and available resources.

REGULATORY COMPLIANCE UPDATE

AML/CTF REGULATION

05.2024

ECOVIS ProventusLaw

EBA recommends overhaul of virtual IBANs due to money laundering risks

LINK LINK

The European Banking Authority (EBA) has published a report on the issuance of what are commonly known as 'virtual IBANs' (vIBANs). Without a standard definition, the report notes that the industry issues vIBANs in varied ways for different purposes, and national authorities interpret and apply regulatory requirements differently.

The report identifies issues related to money laundering and terrorist financing, consumer and depositor protection, authorization and passporting, and regulatory arbitrage, and offers recommendations for addressing these issues.

BoL Resolution on access to financial services

LINK

The Bank of Lithuania, taking into account European Banking Authority Guidelines, prepared a Resolution regarding effective management of ML/TF risks when providing access to financial services.

Six suspects set up online cryptocurrency and collected millions from victims before performing exit scam

LINK

Law enforcement agencies from Austria, Cyprus, and Czechia have arrested six Austrians responsible for an online cryptocurrency scam. Supported by Europol and Eurojust, the investigation targeted creators of a fake cryptocurrency launched in December 2017.

Authorities seized over EUR 500,000 in cryptocurrencies, EUR 250,000 in fiat currency, and froze dozens of bank accounts. Additionally, two cars and a luxury property worth EUR 1.4 million were confiscated.

Prevention of money laundering: fines imposed for infringements of the law total almost €900,000

LINK

The Financial Crimes Investigation Service (FICIS) has announced that more than 98.5 thousand reports of suspicious monetary operations or transactions were received in Lithuania in 2023. More than EUR 895,000 in fines were imposed on obliged entities for breaches of the implementation of the prevention of money laundering and terrorist financing.

Payment and electronic money institutions submitted the highest number of STRs (suspicious monetary transactions), amounting to more than EUR 895,000. Virtual currency operators (VASPs) have also seen a significant increase in activity, with the number of STRs submitted increasing by almost 1.5 times, from 4,094 in 2022 to 6,515 in 2023.

Detailed and full Regulatory Compliance report on AML/CTF regulation can be found here:

Our recommendations and details are in this file

info@proventuslaw.lt

REGULATORY COMPLIANCE UPDATE

EMI, PI REGULATION

05.2024

ECOVIS ProventusLaw

Survey: application of best practice principles for the governance of electronic money and payment institutions

LINK

A recent survey conducted by the Bank of Lithuania has highlighted the current state of governance practices within electronic money institutions (EMI) and payment institutions (PI). The study aimed to assess the alignment of these institutions' governance with best practice principles, as well as to provide insights into their internal control systems, risk management, and compliance measures.

The survey included responses from 61 institutions, comprising 42 EMI and 19 PI. Participants were asked about various aspects of their governance, including the structure of their management systems, the competencies of their leaders, and their internal control and risk management practices.

Key Findings:

- The majority of institutions (90%) operate under a single-tier governance system with only a board of directors, while a smaller percentage have a dual-tier system that includes a supervisory board.
- Most of participating institutions have documented internal policies to ensure internal control, with 93% of EMI and 100% of PI and other payment service providers having these procedures in place.
- Most of surveyed institutions do not have an established remuneration policy. The clarity and adequacy of these policies in preventing conflicts of interest vary, with 40% of EMI and 67% of PI fully agreeing that their policies are adequate.
- A significant portion of EMI (79%) and PI (53%) review their internal control policies annually, but some do not have specific professional requirements for internal control positions.
- While all institutions have compliance officers, a notable number (31% of EMI and 47% of PI) have not conducted evaluations to determine non-compliance with criteria for fictitious companies, 26 % of EMI and 11 % of PI did it partially.

Bank of Lithuania's Q1 2024 Financial Services and Market Supervision Report

LINK

The Bank of Lithuania has published its financial services and market supervision report for the first quarter of 2024, highlighting key actions taken to oversee and regulate the financial market participants.

The report outlines inspections, enforcement measures, and efforts to address consumer complaints, emphasizing the institution's commitment to maintaining a fair and transparent financial market.

REMINDER REGARDING REPORTING

Please make sure you have submitted the reports to the State Tax Inspectorate. As well please be aware of the upcoming deadlines for reporting to the State Tax Inspectorate.

Please note that the second quarter is coming to an end, meaning that quarterly reports will have to be submitted which includes:

- Report on statistical payment data and statistical data on fraudulent payments;
- Reports for supervision of the implementation of money laundering and terrorist financing prevention measures;
- Financial reports (at all times be aware of the capital adequacy requirements).

Please make sure the annual fees for the Bank of Lithuania are paid.

Detailed and full Regulatory Compliance Report on EMI, PI regulation can be found here:

Our recommendations and details are in this file

info@proventuslaw.lt

REGULATORY COMPLIANCE UPDATE

ECOVIS ProventusLaw

PERSONAL DATA PROTECTION REGULATION 05.2024

The State Data Protection Inspectorate Publishes Recommendations on Activity Records and Their Format

LINK

The State Data Protection Inspectorate (SDPI) has published a Recommendation on data processing activity records and updated the forms for data controllers and data processors to document their data processing activities. The recommendations address all key issues related to data processing activity records, such as the entities required to maintain these records, whether the data protection officer should prepare the records, the format in which the records should be kept, the frequency of updates, issues related to public disclosure, as well as practical tips and additional useful information about data processing activity records. Additionally, the SDPI has provided recommended forms for data processing activity records, which can be found for use when an organization acts as a data controller and when it acts as a data processor.

Changes to the Law on the Legal Protection of Personal Data of the Republic of Lithuania

LINK

The Lithuanian Parliament has adopted long-awaited amendments to the Law on Legal Protection of Personal Data, related to the processing of criminal data of candidates and employees. These changes are expected to create more favorable conditions for foreign investment and business development. The new legal regulation will allow employers to process criminal data of employees and candidates, taking into account the employer's legitimate interest, while establishing the corresponding duties of the employer and measures for the protection of the rights and freedoms of data subjects.

Finnish SA: Administrative fine of € 856,000 for failing to define storage period of customer data

LINK

The Finnish Supervisory Authority (SA) investigated the activities of the online retailer Verkkokauppa.com due to a complaint filed by a customer. The controller had required the person to register themselves as a customer before making purchases online. Shopping in the online shop was not possible without creating a customer account.

Croatian Data Protection Authority Imposes €20,000 Fine on Betting Company for Cookie Violations

LINK

The Croatian Data Protection Authority has fined a betting company €20,000 for violations related to the use of cookies. According to the supervisory authority, the data controller, operating in the gambling sector, did not provide data subjects with the opportunity to give or withdraw consent for the use of cookies in an informed and voluntary manner.

European Data Protection Board Advocates for Stronger Safeguards in Financial Data Access and Payments Package

LINK

On May 23, 2024, the European Data Protection Board (EDPB) issued a statement emphasizing the need for enhanced data protection measures within the newly proposed financial data access and payments legislative package by the European Commission. The package includes three major proposals: a framework for Financial Data Access (FIDA), a Payment Service Regulation (PSR), and a Payment Service Directive (PSD3). These proposals aim to bolster consumer protection, improve competition in electronic payments, and empower consumers to share their data for accessing a wider range of financial products and services.

Report of the work undertaken by the ChatGPT Taskforce

LINK

The European Data Protection Board (EDPB) has released an interim report from its dedicated ChatGPT Taskforce, detailing the progress of ongoing investigations into the data processing practices of ChatGPT, a language model developed by OpenAI OpCo, LLC. This report outlines the preliminary findings and significant concerns regarding compliance with the General Data Protection Regulation (GDPR).

info@proventuslaw.lt

Detailed and full Regulatory Compliance update on PERSONAL DATA PROTECTION Regulation can be found here:

Our recommendations and details are in this file

REGULATORY COMPLIANCE UPDATE

FINANCIAL AND ECONOMIC SANCTIONS 05.2024

ECOVIS ProventusLaw

United Arab Emirates urged to enforce sanctions against Russia

LINK

The US, UK, and EU are pressing the United Arab Emirates (UAE) to tighten controls on firms evading sanctions imposed on Russia over the war in Ukraine.

Last week, Western officials visited the UAE to request detailed trade information and ensure compliance with bans on dual-use goods.

EU Council Adopts Directive on the Criminalization of EU Sanctions Violations

LINK

The European Union (EU) has taken a significant step towards reinforcing its sanctions regime with the adoption of Directive (EU) 2024/1226, which defines criminal offenses and penalties for the violation of Union restrictive measures. This Directive amends Directive (EU) 2018/1673 and must be transposed into national legislation by April 30, 2025.

The new Directive establishes minimum rules for prosecuting violations or circumventions of EU sanctions, ensuring that intentional breaches of sanctions are criminalized across Member States.

Lithuanian Customs Imposes €329,944 Fine for Sanctions Violation

LINK

On May 9, 2024, Lithuanian Customs imposed a fine of €329,944 on a company that purchased goods from individuals subject to international sanctions. The Lithuania-registered company had entered into a transaction to acquire and import goods from the Russian companies "Nizhnekamsktekhuglerod" and "Nizhnekamskneftekhim," which are subject to sanctions under the provisions of the European Council regulation.

EU extends restrictive measures against Iran over its support for Russia

LINK

The European Council has decided to broaden the scope of the EU's restrictive measures framework concerning Iran, in response to Iran's military support of Russia's war against Ukraine and its recent aggression in the Middle East.

Detailed and full Regulatory Compliance report on Financial and Economic Sanctions can be found here:

Our recommendations and details are in this file

info@proventuslaw.lt

BoL newsfeed

LINK

The Bank of Lithuania is currently evaluating planned changes by SEB Bank regarding service plans for customers. The evaluation involves intensive communication with SEB Bank to ensure compliance with legal requirements and the protection of customer interests. Gediminas Šimkus, the chairman of the Bank of Lithuania, stated that if any actions by SEB Bank are found to violate regulations or threaten customer interests, the Bank of Lithuania will take appropriate supervisory actions.

Additionally, the Bank of Lithuania is considering the necessity of legislative changes and plans to proactively propose such amendments. Customers are reminded of their right to terminate contracts without any fees if they disagree with changes to the general agreement or payment service terms before these changes take effect.

Our recommendation:

- Recommendations to regularly update service plans to comply with regulations and maintain open communication with regulatory bodies.
- Clearly communicate changes to customers in advance and provide transparent information on impacts.
- Allow customers to opt-out or terminate contracts without penalties if they disagree with changes.
- Improve customer service to assist with understanding changes and facilitate smooth transitions to new plans.

BEUC news feed

LINK

European consumer protection network BEUC has filed a complaint against Chinese retailer Temu, accused of manipulative practices in breach of EU digital services law. Temu, an e-commerce platform active on the European market since 2023, allegedly failed to provide crucial product safety information and lacked transparency in its product recommendations.
BEUC is requesting formal measures and the designation of Temu as a "very large online platform" in order to strengthen the monitoring of its compliance. Temu has responded that it takes the complaint seriously and hopes to improve its service through dialogue with stakeholders.

Our recommendation:

We recommend that you closely monitor developments in this case and check the compliance of your own business practices with European legislation on digital services, with particular emphasis on the transparency of information provided to consumers concerning product safety.

REGULATORY COMPLIANCE UPDATE

EMPLOYMENT

05.2024

ECOVIS ProventusLaw

Recommendations of the State Labor Inspectorate

LINK

Increased Workload Compensation

- Article 144(7) of the Labour Code: Employees must be paid higher wages when their workload increases. Specific rates are determined in collective agreements and employment contracts.
- Conditions: If employees perform their agreed job functions with increased volume within unchanged working hours, higher wages must be paid. The specific amount should be agreed upon in the employment or collective agreement.

Overtime Compensation

- Article 144(4) of the Labour Code: Work exceeding the set daily or accounting period's working time is considered overtime and must be paid at least one and a half times the regular wage.
- Mutual Agreement: Employers and employees can agree in the employment contract or its appendix to perform the same function with increased volume exceeding set working time, ensuring higher pay.

Substitution Duties

- Higher Wages: If substitution is listed as a job function in the employment contract or job description, higher wages are paid if the usual workload or working time norm is exceeded.

Additional Work Agreements

- Article 35 of the Labour Code: Employees can temporarily or permanently perform different functions than specified in their contract through mutual agreement, which can only be performed during the time free from the primary job function.

Combination and Project Work

- Agreement Details: Agreements can combine job functions or perform activities simultaneously with the primary job function. The agreement must specify timing, scope, wage or bonus, and other details.

Working and Rest Time Limits

- Compliance: Maximum working hours and minimum rest time requirements must be followed. Employees cannot work more than 60 hours per seven-day period with their main job and additional work combined.

Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telewor

LINK

New EU Social Insurance Procedures for Remote Workers

Minister of Social Security and Labour, Monika Navickienė, signed EU Agreement on Social Insurance for Remote Workers. Effective 1 May 2024, a new EU agreement establishes social insurance procedures for employees working remotely from abroad. This agreement is crucial for employers with remote workers operating across multiple Member States, providing clear guidelines and simplifying administrative processes

Key Provisions:

- Social Insurance Retention: Employees working re[illegible] in another Member State can retain their social insurance in the Member State where your business is registered or has its principal place of business, as long as their cross-border remote work in the state of residence constitutes less than 50% of their total working time. This ensures continuity of social insurance coverage and reduces administrative complexities for your business.
- Administrative Simplification: The agreement is designed to reduce the administrative burden on employers by simplifying the process of issuing work certificates for remote employees. This means less paperwork and more efficient management of your remote workforce.
- Mutual Agreement Requirement: The provisions of the agreement apply only if both concerned Member States have signed the agreement. Ensure to check if your employee's country of residence is part of the agreement.

Participating Countries: Austria, Belgium, Czech Republic, Croatia, Finland, France, Germany, Italy, Liechtenstein, Luxembourg, Malta, Poland, Portugal, Spain, Sweden, Switzerland, Slovenia, Slovakia.

Detailed and full Regulatory Compliance report on Employment can be found here:

Our recommendations and details are in this file

info@proventuslaw.lt

REGULATORY COMPLIANCE UPDATE

CRYPTO

05.2024

ECOVIS ProventusLaw

SMSG advice to ESMA on its consultation papers on reverse solicitation and the qualification of crypto-assets as financial instruments in the context of the Markets in Crypto Assets (MiCA) Regulation

LINK

The European Securities and Markets Authority (ESMA) has launched a consultation on reverse solicitation, seeking feedback on proposed guidance regarding the conditions and supervisory practices related to the reverse solicitation exemption. Under the Markets in Crypto-Assets Regulation (MiCA), third-country firms can provide crypto-asset services to EU clients only if such services are initiated exclusively at the client's request. The consultation aims to ensure that third-country firms do not circumvent MiCA regulations by exploiting the reverse solicitation provision. ESMA's guidance intends to clarify the application of this exemption and reinforce regulatory compliance within the crypto-asset sector.

European Parliament, Digital finance legislation: Overview and state of play

LINK

The European Parliament has released its briefing in regard to digital finance legislation. The briefing provides a high-level overview of the different kinds of initiatives launched and maintained by different EU authorities together with the national competent authorities.
It provides an examination of the potential advantages in the development of the new technologies in the context of crypto fintech and the threats and challenges that it brings.

EBA, Final Report on Draft Regulatory Technical Standards on information for application for authorisation to offer to the public and to seek admission to trading of asset-referenced tokens and Draft Implementing Technical Standards on standard forms, templates and procedures for the information to be included in the application, under Article 18(6) and (7) of Regulation (EU) 2023/1114

LINK

The EBA publishes draft RTS on the application for ART issuers with application document templates. The draft RTS covers the comprehensive list of information to be provided in an application by legal persons or other undertakings seeking to obtain the authorisation and specify the content of the information listed in Article 18(2) MiCAR, including the information requirements for which that provision cross-refers to Article 34(5) MiCAR on internal governance, that need to be submitted with the application.

Public Statement On the use of Artificial Intelligence (AI) in the provision of retail investment services

LINK

ESMA issued a Statement providing initial guidance to firms using Artificial Intelligence technologies (AI) when they provide investment services to retail clients. When using AI, ESMA expects firms to comply with relevant MiFID II requirements, particularly when it comes to organisational aspects, conduct of business, and their regulatory obligation to act in the best interest of the client.

EBA, Draft Regulatory Technical Standards on the detailed content of information necessary to carry out the assessment of a proposed acquisition of qualifying holdings in issuers of asset-referenced tokens under Article 42(4) of Regulation (EU) 2023/1114.

LINK

EBA published draft regulatory technical standards regarding the acquisition of qualifying holdings of issuers of asset-referenced tokens (stablecoins). The RTS provides for the specific rules and thresholds of information quality that need to be provided during the acquisition process and the information that the NCAs should be concerned with when monitoring the acquisition.

Detailed and full Regulatory Compliance report on Crypto Regulation can be found here:

Our recommendations and details are in this file

info@proventuslaw.lt