



WHISTLEBLOWERS
AUTHORITY

ANNUAL REPORT

Annual Report
Whistleblowers Authority
2020

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FOREWORD

What do the coronavirus outbreak and the allowance affair at the Tax and Customs Administration have in common? They were two major incidents that happened in 2020. Moreover, they both highlighted how tremendously important integrity is in relationships - particularly working relationships.

Not surprisingly, in the first months following the coronavirus outbreak, here at the Whistleblowers Authority, we received questions and reports from worried employees. They were concerned about the issues of social distancing in the workplace, the layout of their workplace and travelling together for business. And elsewhere, during the inquiry into the allowance affair, it emerged that employees had already reported potential wrongdoing at the beginning of the affair - what would have happened if they had been taken seriously? In my view, these two incidents in 2020 make it clearer than ever how important it is to have a recognisable, central point of expertise and reporting centre for whistleblowers, a place where whistleblowers of potential wrongdoing will be taken seriously and given help and support.

Support and protection

The Whistleblowers Authority is that place. This Annual Report is evidence of what we have achieved in the past year. As an authority on integrity and whistleblowing, we are there to help workers who report potential wrongdoing that could harm the public interest. We advise them on the steps they need to take, refer them to other authorities, inform employers of the importance of treating whistleblowers decently and we investigate suspected wrongdoing and potential adverse treatment. We are sorry to say that people who suspect wrongdoing often turn to us at a late stage. In many cases, the harm has already been done: people have been fired or suspended, their jobs have been filled by others and irreparable damage had been done. That is why I am convinced that whistleblowers need our support from the earliest possible moment - and should have continuous protection. This conviction is also key to our future vision for the Whistleblowers Authority that we published in 2020.

A stronger position

Once suspected wrongdoing has been reported, it sets off processes that are often difficult, far-reaching and long drawn-out, and take a heavy toll on people. Society as a whole should accept it as normal to relieve this burden from those who denounce wrongdoing in the belief that it is in the public's interest. It means that the Whistleblowers Authority should have a stronger position. That message is part of our future vision, one that we communicated to the politicians in 2020. And at this very moment, the European whistleblowers directive is being implemented in the Netherlands. Thanks to this amendment to the legislation, there are now several authorities in our country where people can report breaches of EU law and/or potential wrongdoing. We aim to be a powerful, national knowledge organisation within that network, a unifier for integrity issues.

More authority

To that end, it is also important that we are given more authority to protect whistleblowers. We can offer whistleblowers much better protection if we are given the authority to 'freeze' a situation at an early stage so worse can be prevented, or if it is obvious that a sanction will follow employers' retaliation against people who report wrongdoing in good faith. In addition, we advocate setting up a fund to support whistleblowers with legal aid, psychosocial help, etc.

In recent years, more and more recognition has arisen for workers who report wrongdoing in good faith. Now, the time has come to go ahead and make sure that people who believe they have observed wrongdoing and want to blow the whistle on it receive the support and protection they deserve. In 2020, we focused on laying solid foundations for that task.

On behalf of the Whistleblowers Authority's Board and Directors,

Wilbert Tomesen, Chair

SUMMARY

The Whistleblowers Authority is an authority for integrity and whistleblowing. This is the objective we laid down in our future vision in February 2020: '*Van Huis voor Klokkenluiders naar een autoriteit voor Integriteit en Klokkenluiden*' (From a House for Whistleblowers to an authority for integrity and whistleblowing). To achieve the ambitions laid down in our future vision, it is important that we can quickly assess requests for advice and/or investigation at an early stage. Accordingly, in 2020, we had a good look at our internal working procedures.

In addition, in 2020, we gave advice on implementing the EU directive, the evaluation of the Whistleblowers Authority Act and the corresponding amendments to that Act. We also advocated things such as more authority for investigation and sanctioning and setting up a fund to support whistleblowers with legal aid, psychosocial help, etc.

Advice

As an authority on integrity and whistleblowing, the Whistleblowers Authority aims to offer a more tailored approach when wrongdoing is reported, with more options for creating a fairer playing field between employers and workers. Our advisory work - providing explanations and information and making referrals where we can - is also aimed at that fairness. In addition, wherever possible, we focus on de-escalation and dispute resolution to prevent further harm to both the whistleblower and the employer. The Whistleblowers Authority's advisors handled more than 430 requests for advice in 2020, of which 250 were received in the past twelve months.

Investigation

By streamlining the working process, introducing a focus on a tailored approach and reinforcing the investigation team, in 2020 we more or less caught up on the backlog of work. We asked external advisors to help us take a good look at things like the number of current investigations dating from before 2019. We also improved expectation management regarding the investigation process among the parties involved.

The Investigation Department started out the year with 12 investigations; by the end of 2020, there were 8. In 2020 we published 3 reports. A large-scale investigation by the Whistleblowers Authority is not always the most suitable way forward to achieving a solution. Accordingly, in the second half of 2020, we launched a process in conjunction with an employee who had made a report, to see how the suspected wrongdoing and his situation could, as yet, be resolved in a satisfactory manner. This approach achieved encouraging results in 2020, from which it emerged that the public recognition of the whistleblower by the employer as a 'good whistleblower' is often an important key to repairing the relationship.

Knowledge and prevention

The Whistleblowers Authority has an important part as a central knowledge institute and hub within the Dutch integrity system. In that context, we spoke to, and answered questions from, stakeholders, organisations, individual employers, etc about the best way to help whistleblowers and to prevent wrongdoing. The process of internal investigation into wrongdoing in organisations is an important topic and one that the Whistleblowers Authority focused on heavily in 2020, which resulted in the guide '*Integriteit in de praktijk - Intern onderzoek*' (Integrity in Practice - Internal Investigation).

This guide contains instructions for employers on how to organise an internal investigation following a report. In the spring of 2019, the Dutch Whistleblowers Authority took the initiative to set up a Network of European Integrity and Whistleblowing Authorities (NEIWA). At present, the NEIWA has 25 members from 21 member states and met several times, in virtual sessions, in 2020 to discuss the implementation of the EU directive. The NEIWA's publications are available on the website of the Whistleblowers Authority.

1. 2020 ANNUAL OVERVIEW

1.1 LOOKING OUTWARDS: THE MOVE FROM A HOUSE FOR WHISTLEBLOWERS TO AN AUTHORITY FOR INTEGRITY AND WHISTLEBLOWING

The Whistleblowers Authority aims to be an authority for integrity and whistleblowing: a competent, committed knowledge organisation that supports persons who report wrongdoing by giving advice and with the competence to conduct investigations. The Whistleblowers Authority also stimulates integrity in Dutch working relationships by contributing to the prevention of, identification of, and response to, wrongdoing. This is the objective we laid down in our future vision in February 2020: [‘Van Huis voor Klokkenluiders naar een autoriteit voor Integriteit en Klokkenluiden’](#) (From a House for Whistleblowers to an authority for integrity and whistleblowing).

Wrongdoing that is harmful to the public interest is not merely the whistleblower’s problem: it concerns all of society.

Initially, the Whistleblowers Authority provides the whistleblower with information and advice about the next steps. If the organisations involved do not respond adequately to the internal reports, the Whistleblowers Authority serves as society’s representative. To that end, the Whistleblowers Authority has opted for a wide range of interventions. We can, for instance, create a fairer relationship between the whistleblower and the organisation at a personal level.

At the organisational level, we can promote integrity; at societal level, we can send out major alerts about reporting wrongdoing. This means that persons who report wrongdoing will be protected and employers can turn to the Whistleblowers Authority with questions about integrity issues.

GUIDING PRINCIPLES IN OUR FUTURE VISION

The Whistleblowers Authority wants:

- to assume a more clear-cut role and position for advice and investigation;
- the competence to intervene early, with a tailored approach;
- to be a central knowledge institute for the Dutch integrity system with respect to working relationships.

1.2 LOOKING INWARDS: THE CONSEQUENCES FOR OUR OWN ORGANISATION

To be able to achieve the ambitions laid down in our future vision, it is important that we can quickly assess requests for advice and/or investigation at an early stage. Accordingly, in 2020, we had a good look at our internal working procedures. By improving those procedures, we hope to be able to focus more, and more efficiently, on de-escalation and dispute resolution, preventing further harm to both the whistleblower, or whistleblowers, and the employer, or employers, and contribute to an effective strategy for responding to wrongdoing.

At a whistleblower's request and after checking whether that request satisfies a number of criteria, the Whistleblowers Authority can launch an investigation into reported wrongdoing. Moreover, we can investigate any adverse treatment of the whistleblower by the employer following the report. In both situations, it is important that as little time as possible is lost. However, an investigation carried out by the Whistleblowers Authority will be both large-scale and labour-intensive, so it is not always the most suitable instrument. Accordingly, in the second half of 2020, we started on a course of action, in conjunction with the whistleblower, to see how an awkward situation could be resolved in a satisfactory manner. Without becoming an actual representative, the Whistleblower assumes an active part in that process.

We expect that, by acting quickly and actively, we can prevent or contain the damage caused by wrongdoing and/or adverse treatment of an employee.

In such cases, we may speak to the employer about their part and responsibility to follow up a received report. In other cases, we might facilitate consultations, by helping the parties find help from an independent mediator, for example.

1.3 THE EUROPEAN DIRECTIVE FOR THE PROTECTION OF WHISTLEBLOWERS

The EU Directive on the protection of persons who report breaches of Union law (hereinafter: the EU directive) was adopted in late 2019 and must be transposed to national legislation by 17 December 2021 at the latest. In the Netherlands, the Ministry of the Interior and Kingdom Relations is in charge of the implementation process for the EU directive, which includes amending the Whistleblowers Authority Act. To that end, we gave the Ministry advice on setting up internal and external reporting channels, etc and on the Whistleblowers Authority's tasks. There has - as yet - been no response to our arguments in favour of sanctioning authority for the Whistleblowers Authority and for support measures for whistleblowers.

One reporting centre

We also argued in favour of setting up one reporting centre for both breaches of Union law (EU directive) and for other suspected wrongdoing that could harm the public interest to the Ministry, because a whistleblower does not always know whether their report involves a breach or wrongdoing. The Whistleblowers Authority is of the opinion that a whistleblower does not need to know. There should, therefore, be no difference as to how the report is made.

Sanctioning authority

Furthermore, we told the Ministry of the Interior and Kingdom Relations that we are in favour of administrative sanctioning authority. The present system of legal and judicial options is, in the Whistleblowers Authority's opinion, not enough to meet the requirements of the directive. By giving the Whistleblowers Authority the option of sanctioning breaches of law, action can be taken without involving the whistleblower.

1.4 EVALUATION OF THE WHISTLEBLOWERS AUTHORITY ACT

Five years after the Whistleblowers Authority Act came into force, the Minister of the Interior and Kingdom Relations, pursuant to the Whistleblowers Authority Act, must report to the States General on its effectiveness and its effects. Accordingly, an evaluation of the Whistleblowers Authority Act began in early 2020. On 30 June 2020, a report was published by ¹ an external research agency, KWINK Groep. In response to questions addressed to the Minister of the Interior and Kingdom Relations at the General Consultation of the permanent Committee of the Ministry of the Interior on 4 March 2020, an additional report was published on 11 September 2020 ².

Within the context of the evaluation of this legislation, we are arguing in favour of a name change for the organisation, additional authority for investigations and sanctions, clarification of the law with respect to the two different kinds of investigation (adverse treatment and wrongdoing investigations) and a legal basis for our prevention task. In addition, we are also in favour of setting up an independent fund for subsidised, specialist help for persons who report wrongdoing.

On 21 December 2020, the Minister of the Interior and Kingdom Relations replied to the House of Representatives about the evaluation of the legislation, stating that she would start preparations for the bill, in response to the evaluation. According to the Minister, it was not possible to include any amendments to the Act that sprang from the normal evaluation of the legislation in the bill for the implementation of the EU directive, which is why there are now two separate processes.

1.5 THE WHISTLEBLOWERS AUTHORITY AND STAKEHOLDERS

The House of Representatives

We keep the House of Representatives regularly informed of developments concerning the Whistleblowers Authority. For example, we attended the General Consultation of the permanent Committee for the Ministry of the Interior and Kingdom Relations on 4 March 2020, at which the Minister of the Interior and Kingdom Relations gave an explanation about the state of affairs. On 30 June 2020, we sent a letter with an overview of recent developments to the Parliamentary Committee with an updated overview of recent developments.

On 2 December 2020, we sent the Senate and the House of Representatives an overview of the follow-up to the investigation reports published by the Whistleblowers Authority in 2019. We also provided information to the permanent Committee of the Ministry of the Interior and Kingdom Relations on 17 December 2020 about accepting the Network of European Integrity and Authorities (NEIWA)'s Brussels Declaration.

¹ *Rapport Evaluatie Wet Huis voor klokkenluiders* (Report on the Evaluation of the Whistleblowers Authority Act), Bill van Mil, Fritzi Reijerman & Frederique Uyterlinde, 30 June 2020.

² *Bijlage bij Evaluatie Wet Huis voor klokkenluiders* (Appendix to the Evaluation of the Whistleblowers Authority Act) Bill van Mil & Fritzi Reijerman, 11 September 2020.

In a letter addressed to the permanent Committee for the Ministry of Justice and Security on 24 September 2020, the Whistleblowers Authority's Board called attention to the arrangement of a provision, which meant that confidential telephone conversations with the Whistleblowers Authority could not be tapped by investigative services. A previous request for such a provision had already been made in 2019 to the Minister of Justice and Security, and on 4 March 2020, MP Van Nispen (SP) tabled a motion of similar import. That motion was carried by the House of Representatives on 29 September 2020.

Other stakeholders

The Whistleblowers Authority wants to contribute to the sharing of relevant knowledge with a varied range of organisations and society. To that end, we maintain very close contacts with a range of stakeholders. However, due to the coronavirus pandemic, many meetings in 2020, both national and international, were cancelled. Instead, as the year went on, fortunately new (virtual) meetings were held. Partly because of those meetings, in 2020, the Whistleblowers Authority managed to stay actively in contact with various ministries (the Interior and Kingdom Relations, Justice and Security, Social Affairs and Employment) and with bodies such as ICC Netherlands, Transparency NL, the National Ombudsman, Landelijke Vereniging van Vertrouwenspersonen (National Association of Confidence Counsellors) and the Labour Foundation. We contributed to conferences and meetings of Transparency International, ICC Netherlands and the Academy of European Law (ERA). We also provided input for the United Nations' anti-corruption convention and an evaluation of the OECD's anti-corruption convention.

We can also enlighten society with our knowledge and information through the media, which is how we made an appeal for heightened awareness of integrity during the 2020 coronavirus pandemic. In addition, we paid attention to the practicalities of whistleblowing, the publication of our investigation reports, the Whistleblowers Authority's future vision and the quality of internal investigations by employers.

European cooperation in NEIWA

The Network of European Integrity and Whistleblowing Authorities (NEIWA), set up on the initiative of the Dutch Whistleblowers Authority in May 2019, now has 25 members from 21 EU member states. The purpose of this network is to share knowledge and experience related to reporting wrongdoing and integrity in a European partnership. In addition, we try to work as a united front within the context of the implementation of the EU directive.

In 2020, the NEIWA hosted two (virtual) meetings. One was organised in June by the Italian Anti-Corruption Authority, and in December, the Belgian Federal and Flemish Ombudsmen hosted the second one. At the meetings, the items on the agenda included topics like sanctioning authority, setting up competent authorities and arranging support measures. The results of those meetings have been incorporated into the NEIWA's Rome and Brussels Declarations, respectively.

On 24 September 2020, the Whistleblowers Authority's Chair held a speech, at a Whistleblower Protection Event in Brussels, about the implementation of the EU directive; the NEIWA's role in the implementation was also discussed. He also spoke about this subject at a Riga-based virtual conference.

2. ADVICE

2.1 ADVISING WORKERS

ADVICE

The Whistleblowers Authority advises and supports workers - and former workers - who have reported, or want to report, suspected wrongdoing that could harm the public interest at their employer's company or organisation. The Whistleblowers Authority carries out these tasks by providing information, education and referrals wherever possible. That advice is confidential. The Advisory Department's work is split into an analysis phase and advisory phase.

The analysis phase

When a worker gets in touch asking for advice, the advisor who handles the case checks whether there is any suspected work-related wrongdoing that could harm the public interest. Not everything that goes wrong at an employer is 'wrongdoing that is harmful to the public interest'. It could be a labour dispute or a one-off incident, for example. In that case, the advisors provide information about possible follow-up steps, such as calling in a legal advisor, or refer the worker to the right authority.

Often, it is not immediately clear whether the case concerns suspected wrongdoing harmful to the public interest. The advisors then ask for more information and documents from the person asking them for advice. This process usually takes a few weeks and sometimes even a few months. The decision as to whether it is an instance of suspected work-related wrongdoing harmful to the public interest is based on the information provided. If that is the case, the worker receives a letter in which we confirm that we shall advise them. In the meantime, we offer a sympathetic ear and provide information: no one appeals to the Whistleblowers Authority in vain.

WRONGDOING OR NOT WRONGDOING?

Examples of requests for advice related to reporting suspected wrongdoing in 2020: misappropriation of government funds by a municipality, a culture of fear at a secondary school, large-scale non-observance of CLA provisions in ICT, misappropriation of funds in healthcare by a private institution, suspicion of inadequate security supervision at a transport company, an unsafe situation while a bridge is in operation, inadequate investigation into medical errors at a hospital.

The advisory phase

The purpose of the advisory process is to provide advice and support to the whistleblower as much as possible as to how to make an internal report of wrongdoing with due care. We provide that support and advice during all phases of the process, from the first time someone thinks about reporting suspected wrongdoing. The Whistleblowers Authority Act prescribes a number of steps for the whistleblowing process:

- Someone must first make a report to their own employer.
- If the internal report does not result in a solution for the suspected wrongdoing, someone can report it to an inspectorate or supervisory body that has competence in that kind of suspected wrongdoing.
- If that does not solve the suspected wrongdoing, the whistleblower can submit a request for investigation to the Whistleblowers Authority's Investigation Department.

2.2 DEVELOPMENTS AT THE ADVISORY DEPARTMENT IN 2020

In 2020, some changes to the staff were made in our Advisory Department: in November 2020, three new advisors (2.5 FTEs) joined the department. Our Advisory Department now has a group of six advisors and is continuing to build a permanent team.

As an authority on integrity and whistleblowing, the Whistleblowers Authority aims to offer a more tailored approach when wrongdoing is reported, with more options for creating a fairer playing field between employers and employees.

In addition, wherever possible, we focus on de-escalation and dispute resolution to prevent further harm to both the whistleblower and the employer.

Confirmation to the whistleblower

As in the previous year, in 2020 we presented letters to whistleblowers in which we confirmed that those persons had called attention to suspected wrongdoing that could harm the public interest on reasonable grounds and correctly. The whistleblowers took heart from those letters. The whistleblowers can present those letters to their employers, so that the employers realise that the issue in question is serious. Furthermore, the employers are made aware of the prohibition of retaliation (adverse treatment) with respect to the whistleblower.

Contact with the employer

In 2020, having obtained the whistleblowers' explicit consent, we approached their employers a number of times. The aim was to find faster solutions to suspected wrongdoing or any adverse treatment after a report. The initial results of this strategy are encouraging. In a case in which no progress had been made for some years, the employer and employee in question started talking again about the adverse treatment experienced. In a number of cases, we asked the employer about the state of affairs in the handling of a report, so that there was clarity on the status of the reporting process. Whistleblowers often tell us that their employers do not, or only sporadically, keep them abreast of what is being done with their reports. The lack of a reporting procedure also makes it difficult to report wrongdoing correctly. It still happens that whistleblowers turn to us because they do not hear anything about the handling of their reports once they have been made.

Referrals to specialists

To prevent adverse treatment, it is important that whistleblowers have good legal aid at their disposal, for example a lawyer specialised in employment law. Where necessary, we always make referrals to specialists in that area. As finding the money for legal aid is often a problem for whistleblowers, in 2020 we once again advocated setting up a fund for whistleblowers that could help cover the costs.

Psychosocial support

A report can also have serious psychosocial repercussions. Accordingly, the Whistleblowers Authority can help look for adequate psychosocial support. In 2019 we launched a pilot project in conjunction with the Altrecht psychodiagnostic centre in Utrecht. Whistleblowers could talk to someone there and if needed, could follow a psychodiagnostic procedure so that they could find more mental aid if they wanted. Two whistleblowers made use of that offer in 2020. Our advisors teamed up with one of Altrecht's psychologists to run through anonymised cases and questions. We decided, on the basis of the good experiences of both the whistleblowers involved and the advisors, to continue this collaboration with Altrecht.

EXAMPLES OF ADVERSE TREATMENT (RETALIATION):

Examples of adverse treatment of whistleblowers:

- being transferred against their wishes;
- no renewal of a contract;
- being suspended;
- receiving a poor assessment;
- being dismissed.

Adverse treatment is covered by the scope of the prohibition of retaliation if that retaliation is a consequence of a report of suspected wrongdoing that could harm the public interest. The prohibition of retaliation also remains in force if, after investigation - including internal investigation - it can be established that there was nonetheless no instance of wrongdoing that could harm the public interest.

2.3 ADVICE IN PRACTICE IN 2020

In 2020, our advisors received 250 new requests for advice (cases). There were 182 cases from previous years still pending. In all, the advisers handled 432 cases in 2020. In 355 cases, the case could be closed, because it proved not to be suspected wrongdoing that could harm the public interest, because the wrongdoing had been resolved in the meantime or because the whistleblower had terminated the case for other reasons. We were able to settle many cases that dated from before 2019. All the cases dating from 2016 and 2017 and practically all the cases from 2018 are now closed.

In 2020, suspected wrongdoing harmful to the public interest (whistleblower cases) was established in 19 of the 250 requests for advice, which is approximately 8% of the number of requests for advice. Taken with the 19 whistleblower cases from previous years that were still being processed, there were, in all, 38 cases being processed in 2020 involving suspected wrongdoing harmful to the public interest. In 2020, 37% of whistleblower cases concerned the public sector, 37% were connected to the private sector and 26% occurred in the semi-public sector.

The impact of the coronavirus

During lockdown, particularly in the first quarter of 2020, we regularly received questions about the coronavirus measures. The questions pertained to whether or not employees - must - go into work and maintain social distancing. Our impression was that it was mainly to do with the unfamiliarity of the situation. As time went by, there were increasingly fewer questions about the matter.

CULTURE OF FEAR

In 2020 we were asked about a culture of fear several times. Those cases mostly occurred in the education sector. The numbers were too low to call it a trend, but it was noticeable. Often, it is not immediately clear whether a culture of fear involves suspected wrongdoing that could harm the public interest. In such cases, there must be a culture of fear that is widely recognised within an organisation, or part of the organisation, that has been occurring for a long time and has been tolerated or even supported by the organisation’s management, or part of the management.

In other words, an individual experience of a culture of fear does not yet constitute suspected wrongdoing that could harm the public interest. To qualify a culture of fear as ‘suspected wrongdoing that could harm the public interest’, it is also important to consider whether the quality of the organisation’s products or services is obstructed, or whether there is a risk of that happening. For example, it might involve a poorer quality of education for pupils, or the risk of poorer quality.

2.4 ADVICE IN FIGURES

NUMBER OF CASES IN WHICH ADVICE IS SOUGHT PER YEAR

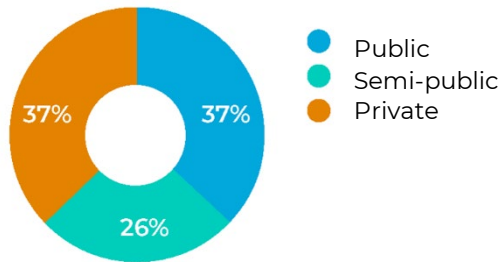
	Beginning of year	Received	Closed	End of year
2020	182	250	355	77
2019	148	331	297	182
2018	179	367	398	148
2017	175	473	469	179
2016	0	531	356	175

Notes: 38 of the 77 cases in which advice was sought by the end of 2020 involved suspected wrongdoing. 39 cases in which advice was sought were still at the intake stage, or we were investigating whether it was a case of suspected wrongdoing.

OVERVIEW OF CASES IN WHICH ADVICE WAS SOUGHT (REFERENCE DATE 1 JANUARY 2021) ACCORDING TO THE YEAR IN WHICH IT BEGAN

	Total	2020	2019	2018	2017	2016
2021	77	45	24	8	0	0
2020	182	0	122	29	14	17
2019	148	-	0	110	20	18
2018	179	-	-	0	86	93
2017	175	-	-	-	0	175
2016	0	-	-	-	-	-

CATEGORISATION OF NEWLY RECEIVED WHISTLEBLOWER CASES ACCORDING TO SECTOR IN 2020



What stands out about the figures?

In the first year of the Whistleblowers Authority, 2016, there were 531 requests for advice. In 2017, there were 473 requests. In those years, the cases sometimes concerned matters from the past. In 2018 and 2019, we saw the figures stabilise to around 350 new requests for advice per year.

In 2020, as soon as the first lockdown started, we saw a decline in the monthly influx of requests for advice, which dropped to 250 on a yearly basis. The influx of requests for advice in the first months of 2020 was comparable to the monthly influx in 2018 and 2019. Possibly the cause of the decline is that people worked from home much more often due to the coronavirus and consequently were not as exposed, at work, to possible wrongdoing that could harm the public interest. It is also highly conceivable that people had other priorities at the time. We expect the number of requests for advice to rise again once the coronavirus measures are withdrawn.

3. INVESTIGATION

3.1 INVESTIGATION INTO WRONGDOING OR ADVERSE TREATMENT

INVESTIGATION

The Whistleblowers Authority conducts two kinds of investigation: wrongdoing investigations and investigations into adverse treatment; these two kinds of investigation can also be combined.

If the case involves an **investigation into wrongdoing**, the Whistleblowers Authority investigates an instance, reported by an employee, of suspected wrongdoing that could harm the public interest.

If the case involves an **investigation into adverse treatment**, the Authority investigates whether an employer has put an employee at a disadvantage, or retaliated, due to a report.

First of all, we ask for the relevant documents, interview witnesses or investigate the matter on location. Using that information, we make a reconstruction of the facts. We write up the analysis, the assessment and the conclusions about the reported wrongdoing and/or the employee's adverse treatment in a draft report. We publish the final, anonymised report on the Whistleblowers Authority's website. We go public with the report. A report is not legally binding for the parties involved, but they can use it for any legal proceedings or follow-up legal action.

3.2 DEVELOPMENTS IN THE INVESTIGATION DEPARTMENT IN 2020

In late 2019, two new investigators and a support officer joined our Investigation Department, which brought our effective investigation team to a total of seven employees in 2020. Thanks to these reinforcements to our team, streamlining the working process and the introduction of a focus on a tailored approach, we more or less caught up on the backlog of work.

Taking a good look at our investigation process

We decided to have a good look at our present working method, among other things, regarding the number of requests for investigation. Two independent, external specialists advised us on that matter. We also improved expectation management regarding the investigation process among the parties involved. An investigation usually takes a lot of time to conduct and could, for a variety of reasons - for example because the Whistleblowers Authority depends on the parties to supply the documents - take even longer. Accordingly, it is important that communication concerning the investigation procedure is clear.

An investigation usually takes a lot of time to conduct and could, for a variety of reasons, take - much - longer. Accordingly, it is important that communication concerning the investigation procedure is clear.

Facilitating mediation

An investigation by the Whistleblowers Authority is not always the most suitable way forward to achieving a solution. That could be because the situation has already been investigated by the employer in question or relevant supervisory body and the wrongdoing has been resolved, for example. Sometimes, the employee and the employer have already attempted to repair the damaged working relationship. Accordingly, in the second half of 2020, we started out on a course of action, in conjunction with an employee who had made a report, to see how the suspected wrongdoing and his situation could, as yet, be resolved in a satisfactory manner. We can facilitate mediation between the employer and the employee in some situations, for example. It proved that the public recognition of the whistleblower by the employer as a 'good whistleblower' is often an important key to repairing the relationship. This strategy achieved encouraging results in 2020. The Whistleblowers Authority has an encouraging, facilitating part in this type of process, while maintaining an independent position.

3.3 INVESTIGATION IN PRACTICE IN 2020

Despite the coronavirus pandemic, we continued to conduct our investigations in 2020. However, it was not always possible, or desirable, to welcome a person involved in a report in person every time. In such cases, we used a video link or other form of communication.

Three major investigations

In 2020, the Whistleblowers Authority completed three major [investigations](#) and published the final reports on them.

- The first report involved an employer who had set up a European tendering process that was in breach of the rules. Moreover, it was established that the two employees who reported the wrongdoing were threatened with dismissal due to their report.
- The second report concerned industrial espionage in an international context. In this report, it was considered plausible that a whistleblower was dismissed in the late seventies due his report about industrial espionage by a foreign power.
- The third report was about an investigation into instances of wrongdoing at a Dutch government authority. Government personnel were making improper use of an organisation's aircraft for team-building. In addition, expenses were falsely claimed for attending multiple-day courses.

Alternative courses of action

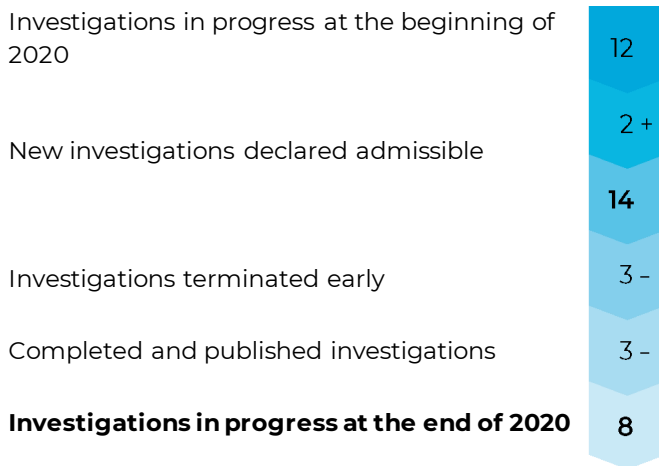
In addition, the Whistleblowers Authority set up two alternative courses of action. In these specific cases, an investigation was not immediately self-evident. A mediation process was completed, with success, in one case (of adverse treatment), which led to a solution. In the second case, the whistleblower and the employer are still negotiating.

3.4 INVESTIGATION IN FIGURES

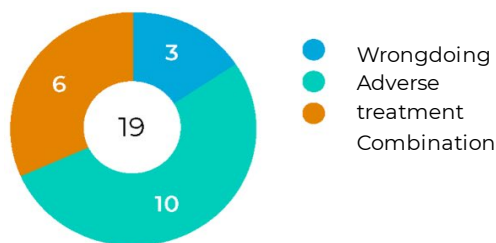
TOTAL NUMBER OF PUBLISHED INVESTIGATION REPORTS UP TO 2020 (INCLUSIVE)

	Wrongdoing	Adverse treatment	Total
2019	0	3	3
2020	1	2	3
Total	1	5	6

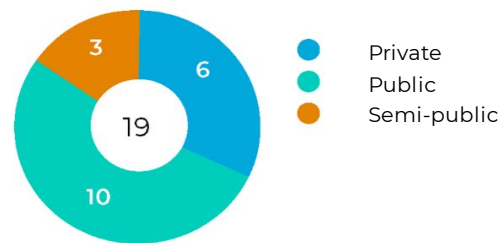
INVESTIGATIONS IN 2020



TYPE OF INVESTIGATION (2016 - 2020)



SECTOR UNDER INVESTIGATION (2016 - 2020)



What stands out about the figures?

The difference between the number of requests for advice and the investigations - that is, the number of requests for investigations - is noticeable. The Advisory Department receives many requests for advice: in 2020, there were 250 requests. The employer and the supervisory bodies are, initially, the most appropriate parties to whom suspected wrongdoing should actually be reported. There were only a very few cases in which the employer or supervisory body did not follow up the report properly. In those situations, the Investigation Department can, on request, decide to launch an investigation. The Whistleblowers Authority conducts relatively many investigations into adverse treatment, as we are the only body to conduct investigations in this area.

4. KNOWLEDGE AND PREVENTION

4.1 PREVENTING WRONGDOING AND BREACHES OF INTEGRITY

PREVENTING WRONGDOING AND BREACHES OF INTEGRITY

The Whistleblowers Authority not only aims to be an easily recognisable centre for reporting and advice for workers, but also to focus on the prevention of wrongdoing and adverse treatment of persons who report wrongdoing at, and by, employers. To that end, our Research & Prevention Department concentrates on sharing knowledge, awareness and encouraging employers to improve their integrity management.

4.2 PREVENTION IN PRACTICE IN 2020

The process of internal investigation into wrongdoing in organisations is an important topic and one that the Whistleblowers Authority focused on heavily in 2020, which resulted in the guide 'Integriteit in de praktijk - Intern onderzoek' (Integrity in Practice - Internal Investigation). This guide contains instructions for employers on how to organise an internal investigation following a report. If an internal report is made, it is important that the employer responds to it both seriously and meticulously. If the situation demands an internal investigation, it should be clear to everyone what the procedure will be and which roles, tasks and responsibilities are involved in it. An organisation can lay down these matters in advance in an internal investigation protocol. It means that the employer is thoroughly prepared for what should be done if a report presents itself (which is usually unexpected). Besides, the employee will have more confidence in the organisation, which could help lower the threshold for daring to make a report, if the employer takes a report, and responds to it, seriously.

In 2020, our Research & Prevention Department received dozens of questions from employers. Most concerned the question of how to draw up, or adapt, their internal reporting procedure, the scope of the reporting procedure and the role of the organisation's confidential counsellor.

4.3 THE WHISTLEBLOWERS AUTHORITY AS A HUB IN THE DUTCH INTEGRITY SYSTEM

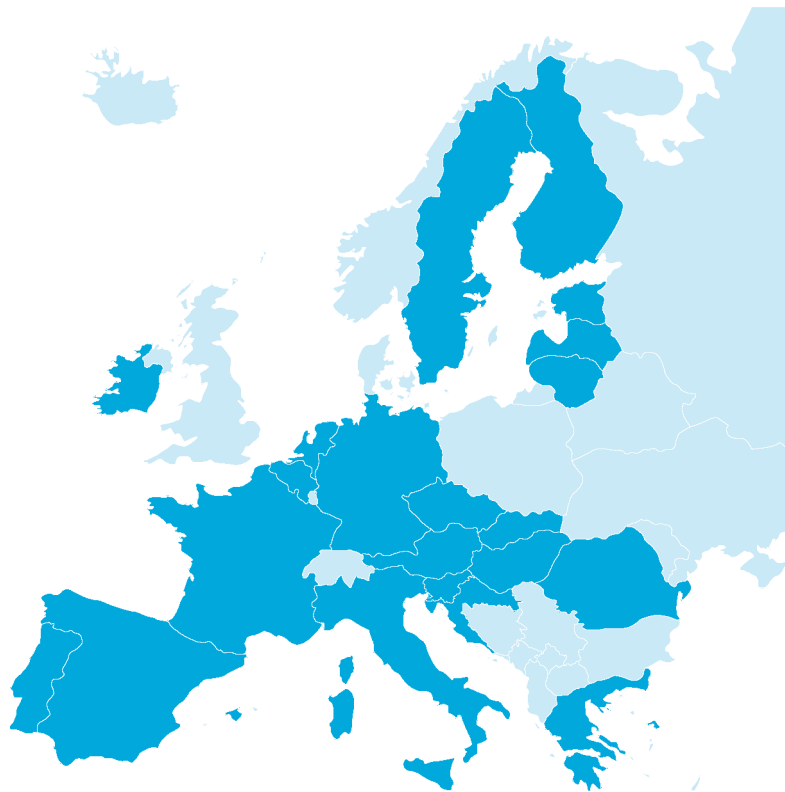
The Whistleblowers Authority has an important part as a central knowledge institute and hub within the Dutch integrity system. In that context, we spoke to stakeholders about the best way to help whistleblowers and to prevent wrongdoing. In addition, we discussed the individual roles within that system. We are following both the national and international developments and contributing suggestions for innovation. In 2020, those suggestions predominantly concerned the implementation of the EU directive and improvements to the Whistleblowers Authority Act.

4.4 NEIWA

The Network of European Integrity and Whistleblowing Authorities (NEIWA) was founded on the initiative of the Dutch Whistleblowers Authority in May 2019. In 2020, two NEIWA meetings were held - online - as well as several consultation sessions. On 26 June 2020, the Italian Anti-Corruption Authority hosted the NEIWA meeting, at which the implementation of the various articles in the EU directive into national legislation was discussed. Following these discussions, a number of recommendations were laid down in a [declaration](#). The declaration appeals to the legislators to ensure that at least one competent authority is appointed. That authority needs to have sufficient capacity to carry out its tasks. Another recommendation calls for the appointment of at least one authority per nation that can provide information about whistleblowers' rights.

On 3 and 4 December 2020, the Belgian Federal Ombudsman and the Flemish Ombudsman organised the next NEIWA meeting. Once again, specifically items from the EU directive were on the agenda, and another [declaration](#) was published with recommendations for the legislators. This declaration contains an appeal to the legislations, especially to the member states that have not made any, or only a little, progress regarding the implementation (of the EU directive), to make haste. Furthermore, it reminded the legislators that effective and proportionate sanctions, among other things, are needed. Perhaps a combination of criminal-law, private-law and administrative-law provisions are needed for it.

NEIWA: COUNTRIES WITH ONE OR MORE MEMBER ORGANISATIONS



5. ORGANISATION AND OPERATIONAL MANAGEMENT

5.1 BOARD

In 2020, the Whistleblowers Authority's Board consisted of:

- Mr W.B.M. (Wilbert) Tomesen, L.L.M. - Chair
- Mr J.P. (Peter) van der Meij, L.L.M. - Vice Chair, Board Member for Advice
- Prof. M.P.A. (Martine) Bouman - Board Member for Investigation.

The Whistleblowers Authority's Director is Ms N.M. (Marlèn) Dane, L.L.M.



From left to right: Marlèn Dane (Director), Peter van der Meij (Vice Chair and Board Member for Advice), Martine Bouman (Board Member for Investigation), Wilbert Tomesen (Chair).

5.2 SOCIAL ADVISORY COUNCIL

In July 2020, the Whistleblowers Authority set up a Social Advisory Council (Dutch: MAR). The Social Advisory Council focuses on giving advice, both on request and unsolicited, contributing ideas and suggestions, offering counter arguments and serving as a sounding board. In addition, the Whistleblowers Authority's employees can call in the expertise of the Council's members. The Social Advisory Council met twice, in virtual sessions, in 2020. Themes discussed at the meetings included: the three levels at which the Whistleblowers Authority can provide added value (micro, meso and macro) and the evaluation of the Whistleblowers Authority Act. The Council consists of the following members:

- Ms I. (Inge) Brakman, L.L.M., Chair of the SER's Alliantie Medezeggenschap en Governance (Employee Participation and Governance Alliance).
- Ms A.M.C. (Angelien) Eijnsink, former member of the House of Representatives and Chair of the CAOP's Executive Board.
- Mr A. (Tuur) Elzinga, Chair of the FNV and former member of the Senate.
- Prof. A.M. (Ton) Hol, Professor of Jurisprudence and Legal Philosophy, Utrecht University.
- Prof. Z. (Zeger) van der Wal, Endowed Professor of Public Administration at the Institute of Public Administration, holder of the Ien Dales chair, Leiden University.

5.3 BUDGET AND ABSORPTION

Budget for 2020: €3,700,000

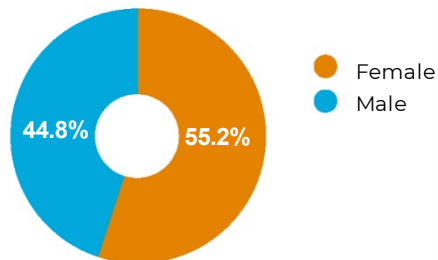
Absorption in 2020: €3,694,000

The Whistleblowers Authority completed its work in 2020 within the normal budget of €3,694,000. Moreover, the Whistleblowers Authority was confronted with unforeseen incidental costs (€1,150,000) that arose primarily from expenses for multiple legal actions and staff costs in 2019 that were processed in 2020.

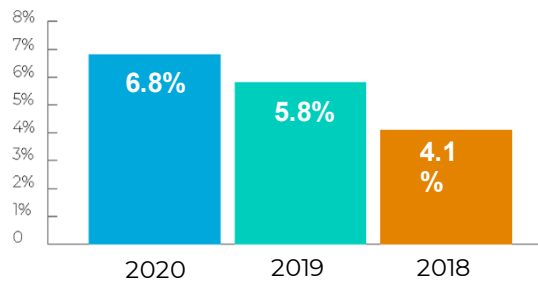
5.4 EMPLOYEES

Following a promise by the Minister of the Interior and Kingdom Relations in 2019, the Whistleblowers Authority's workforce grew from 17.6 FTEs to 24.8 FTEs.

MALE/FEMALE RATIO IN 2020:



ABSENTEEISM



In 2020, the Whistleblowers Authority was confronted with a few long-term absences due to illness.

5.5 COMPLAINTS PROCESSING

If someone does not agree with the way in which the Whistleblowers Authority - or an employee of the Authority - has behaved, they may file a complaint with the Authority. The Whistleblowers Authority's complaints procedure is available on our website.

Ten complaints were filed and eight were settled in 2020. The complaints that were filed were related to the length of the investigation, the Whistleblowers Authority's service, method of working and the Whistleblowers Authority's decision. One of the eight complaints was handled informally; two complaints were declared partially well founded and partially unfounded and five complaints were declared fully unfounded. One of the two complaints that were not settled was withdrawn by the complainant and the other was not accepted for processing pursuant to Section 9:8 of the General Administrative Law.

5.6 OTHER REPORTS AND REQUESTS

Requests under the Government Information (Public Access) Act

At the request of a citizen or organisation, the Whistleblowers Authority must, in principle, provide information about administrative processes, unless it is prohibited due to a statutory exception. This right is laid down in the Government Information (Public Access) Act (Dutch: Wob). One such request was settled in 2020 (it had been filed in 2019), as was the objection against the decision on that request under the Government Information (Public Access) Act.

Requests under the GDPR

The GDPR assigns a number of privacy-related rights to citizens. A request may be submitted to the Whistleblowers Authority to exercise those rights. The majority of the requests submitted to the Whistleblowers Authority involved a right to inspect the processing of the requesting party's personal details. In 2020, three requests under the GDPR (submitted in 2019) were settled, as were the objections against the decisions on those requests under the GDPR. Lastly, one more objection (filed in 2019) against a decision on a GDPR request was settled in 2020.

Confidential counsellor

In 2020, the Whistleblowers Authority's confidential counsellor was not contacted by any of the Authority's employees.

Internal reports

The Whistleblowers Authority's employees may report suspected wrongdoing. In principle, the Whistleblowers Authority will launch an investigation following a report, unless the report is unfounded.

In June 2020, one internal report of suspected wrongdoing was made at the Whistleblowers Authority. The report concerned the Whistleblowers Authority's functioning with respect to the execution of the Whistleblowers Authority Act in general and more specifically the functioning of the Advisory Department. The report was investigated by an external party, who concluded that there were no indications for the existence of the reported wrongdoing. The Whistleblowers Authority studied the report and adopted the carefully substantiated conclusion. The Authority also stated that it would continue the professionalisation of the Advisory Department.

GLOSSARY

In this Annual Report, we have used several terms that are related to the Whistleblowers Authority. The terms we used are explained below.

WHISTLEBLOWERS AUTHORITY ACT

The Whistleblowers Authority Act came into force on 1 July 2016. This law provides for the options and protection for workers who want to report wrongdoing.

WORKER

A worker is a person who works, or has worked (e.g. before retirement or in a former position), as a civil servant or in the business sector, with or without an employment contract.

Accordingly, self-employed professionals, volunteers, flexible workers and trainees are also workers within the meaning of the Whistleblowers Authority Act.

EMPLOYER

An employer is, according to the Whistleblowers Authority Act, every person who instructs work to be done, or has instructed work to be done.

WRONGDOING THAT COULD HARM THE PUBLIC INTEREST

If wrongdoing harms the public interest, it involves a situation that affects more than one person, occurs frequently and may have serious consequences. It is also regarded as such if it has one or more of the following characteristics:

- it is a violation of a statutory regulation;
- it poses a danger to public health;
- it poses a danger to the safety of humans;
- it poses a risk of environmental degradation;
- it poses a danger to the proper performance of a government agency or company due to an improper method of action or omissions.

REPORTING PROCEDURE OR WHISTLEBLOWERS PROCEDURE

All organisations that employ at least fifty workers must have a reporting procedure or whistleblowers procedure. That procedure must explain how the employer handles reports of suspected wrongdoing. According to the law, a reporting procedure or whistleblowers procedure must at least include the following matters:

- how an internal report must be handled;
- what constitutes wrongdoing (this should be based on the legal definition of wrongdoing);
- to which officer an internal report must be made;
- that the employer shall treat the report as confidential if the whistleblower requires that confidentiality;
- that the employee may confide in an advisor to obtain advice.

A REASONABLE SUSPICION

If a worker believes that there is wrongdoing within the organisation in which the worker is employed, or has been employed, or with which the worker has come into contact through the worker's employment, the worker may report the wrongdoing to the employer. The worker him or herself must, in that case, know something or have noticed something of that wrongdoing. The definition does not apply to reports based on rumours or other people's stories.

ADVICE

Workers may obtain advice from the Whistleblowers Authority if they suspect work-related wrongdoing. Advisors give information, explain matters and make referrals if necessary - and if possible. That advice is free of charge, independent and confidential. Advisors are never involved in an investigation by the Whistleblowers Authority, except as the whistleblower's advisor. They only give information about their advice to the investigators if the whistleblower agrees.

INVESTIGATION

In some cases, workers can ask the Whistleblowers Authority's Investigation Department to investigate. Before that can happen, a number of statutory requirements must be met. The Whistleblowers Authority conducts two kinds of investigations: investigations into the adverse treatment of a whistleblower and investigations into suspected wrongdoing.

The Investigation Department first checks whether all the statutory requirements are met before it launches an investigation. First of all, the suspicion of wrongdoing must be a reasonable suspicion. To qualify a situation as wrongdoing, the public interest must at least be at stake. Next, the Investigation Department assesses whether or not there are reasons to launch an investigation. To guarantee independence during investigations into wrongdoing, the advice to reporting workers and the investigations are strictly divided. In practice, that separation means that investigators are not involved in advising in the same case, and vice versa.

PROHIBITION ON RETALIATION

Employers may not treat workers adversely who have a reasonable suspicion of wrongdoing and who have reported that suspicion correctly because of that report. Retaliation, or adverse treatment, includes things like dismissal, forced transfer or refusing, or withdrawing, a promotion; however, it could also include things like internal harassment, isolation and intimidation.

EUROPEAN DIRECTIVE 2019/1937

The European Directive for the protection of whistleblowers was published on 26 November 2019. The directive contains new rules for whistleblowing and should have been transposed into national law by 17 December 2021 at the latest.

NEIWA

NEIWA stands for Network of European Integrity and Whistleblowing Authorities, which was set up on the initiative of the Dutch Whistleblowers Authority in May 2019 for the purpose of sharing knowledge and cooperation, within the context of the implementation of the European Directive 2019/1937.

This is a publication of the Whistleblowers Authority.

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www.huisvoorklokkenluiders.nl

The background of the page is an abstract composition of overlapping, semi-transparent blue shapes. These shapes are primarily triangles and quadrilaterals that create a sense of depth and movement, radiating from the right side towards the left. The shades of blue range from a very light, almost white hue to a deep, vibrant cyan.