


ECE Real Estate Partners	
01. Compliance	
01.05. Whistleblowing Policy	

VERSION		
Approved by:	AIFM Board	On Date: 26 March 2026

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1. Legal Framework

The law dated 16 May 2023 (the “**Whistleblowing Law**”) implements Directive (EU) 2019/1937 of the Parliament and of the Council of 23 October 2019 on the protection of persons who report violations of Union law (the “**Directive**”) into Luxembourg law.

The Whistleblowing Law was published in the Official Gazette on May 17, 2023, and entered into force on the fourth day after its publication.

The Whistleblowing Law guarantees effective and balanced protection for whistleblowers by granting them genuine whistleblower status, with clearly defined rights and obligations. As a result, it reduced the legal uncertainty to which whistleblowers are currently exposed.

Prior to this Whistleblowing Law, apart from a few scattered references, there was no specific general legislation providing for whistleblower protection until May 16, 2023.

Despite the absence of a real legislative framework for the protection of whistleblowers, there were some specific provisions establishing the obligation for certain persons to report certain facts or acts and, at the same time, the protection measures from which they should benefit, as for example:

- Law of 12 November 2004 on the fight against money laundering and terrorist financing transposing Directive 2001/97/EC of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering;
- Law of 5 April 1993 on the financial sector, as amended. The Financial Sector Law is also supplemented by certain provisions, such as Article 8(2) of Law of 23 December 2016 on Market Abuse, as amended;
- Provisions set forth in the Labor Code (the “**Labor Code**”) on the security at work aspects, providing that an employee has the right to report any security issue and to formulate recommendations (Art. L.312-7 (1) and (2) of the Labor Code);
- Provisions set forth in the Labor Code on moral harassment (Livre II, Titre IV, Chapitre VI, Articles L.246-1 to Articles L.246-7 as well as in Articles L.521-4 and Articles L.614-13. of the Labor Code), topic which is also covered by the Moral harassment policy;
- Provisions set forth in the Labor Code on sexual harassment (Article L.245-5 of the Labor Code);
- Provisions set forth in the Labor Code on equal treatment between employees (Article L.241-8 of the Labor Code).

Where **conditions for the application of a specific mechanism for reporting breaches and protecting the whistleblower** provided for by law or by sector-specific European Union legislation are met, and provided that said mechanism is no less favourable, these provisions shall apply.

- The **above mentioned** law of 5 April 1993 on the financial sector as amended, for example, already contains its own tried and tested whistleblowing procedures, offering similar guarantees to whistleblowers (Articles 58-1).
- The same applies to the fight against money laundering and the financing of terrorism (Article 8-3 of the law of 12 November 2004 as amended).

2. Scope and Definitions

The key aim of the Whistleblowing Law is to guarantee effective and balanced protection for whistleblowers through clearly defined rights and obligations, to reduce the current legal insecurities to which whistleblowers are exposed and, in so doing, to help increase respect for the rule of law.

2.1. What is whistleblowing

A Whistleblower is a person who, in the course of an employment or business relationship or, more generally, a personal relationship (provided that these relationships take place in a professional context), obtains in good faith information or documents which he or she has good reason to believe reveal a Violation in the course of the activities of a private or public legal entity.

In this context, the said person will then take the decision to reveal this information and/or documents on these illegal, immoral, illicit, dangerous or fraudulent activities using a or several communication channels.

2.2. The ECE Code of Conduct and the Code of Conduct ECE REP

At ECE Real Estate Partners S.à r.l., (the “**Company**” or “**Employer**”) we are guided by our company values.

These values are our guidelines in how we act and interact with each other but also toward our clients, members, suppliers, shareholders and other stakeholders.

The Company is committed to ensuring corporate compliance and promoting ethical corporate culture by observing the highest standards of fair dealing, honesty and integrity in our business activities.

The Code of Conduct of ECE applies to the whole ECE group (“**ECE**”), e.g. to all companies in Germany and abroad being part of ECE’s company group. The Code of Conduct of ECE is the basis and at the same time the road map for the conduct of all employees, both internally and also vis-à - vis our business partners and competitors. The expressly declared goal of the Management of ECE in the Code of Conduct of ECE is not to tolerate any infringements of the Code of Conduct of ECE.

In addition, the Company has implemented its own Code of Conduct (“**Code of Conduct ECE REP**”), which complements the Code of Conduct of ECE and ensures the ECE standards are compliant with the Luxembourg legal requirements.

The Company through the present policy (the “**Policy**”), wants to present the different reporting channels available, the violations which can be reported as well as the related protection granted by the Whistleblowing Law.

2.3. Scope of the Policy

The Policy has been implemented to ensure any concerns raised regarding any misconduct or improper management of in relation to the Company’s business are dealt with effectively, securely, appropriately, objectivity, confidentiality and in accordance with the laws and regulations.

The Company encourages the reporting of any suspected unethical, illegal, corrupt, fraudulent or undesirable conduct involving the Company's business and will, in accordance with the Whistleblowing Law, provide protections and measures to the person who makes a disclosure in relation to such conduct without fear of victimization or retaliation.

This Policy is available on the Employer's website (cf. URL: [Who we are - ECE Real Estate Partners \(ecerep.com\)](http://www.ecerep.com)) and shall be uploaded every time his Policy is updated.

2.4. Definitions

In this Policy:

- **"Board Members"** means any member of the board of Managers of the Company;
- **"Employee"** means any employee bound by a employment contract to the Employer, but also any student, pupil, trainee or apprentice contractually bound to the Employer;
- **"Facilitator"** means a natural person who assists the Whistleblower during the reporting process in a professional context and whose assistance should be confidential;
- **"Person Concerned"**: a natural or legal person who is mentioned in the report or public disclosure as the person to whom the violation is attributed or with whom that person is associated;
- **"Shareholders"** means any shareholders of the Company;
- **"Violation"** has the meaning set forth in Section 2.6;
- **"Whistleblower"** means a natural person who reports or publicly discloses information on violations obtained in the course of his or her professional activities;

2.5. Who can report?

The Whistleblowing Law applies to whistleblowers who have obtained information on breaches in a professional setting. This includes, for example:

- Employees,
- Shareholders of the Company
- Board members as well as the non-executive members,
- Paid or unpaid volunteers and interns,
- persons working under the supervision and direction of contractors, subcontractors and suppliers,
- whistleblowers whose employment relationship has not yet begun in cases where information on breaches has been obtained during the recruitment process or other pre-contractual negotiations,
- Third parties who are **related to whistleblowers**, such as colleagues or relatives.

2.6. Which violations can be reported?

According to the Whistleblowing Law, the Whistleblower can report any **acts or omissions which are:**

- **are unlawful;**

or

- are **contrary to the object or purpose of directly applicable provisions of national or European law**: In such aim, it is important to note that the notion of national law covers all national laws, regulation but also circulars issued by administrations and the notion of European law covers all the European legislation.

However, to benefit from the protective status provided by the Whistleblowing Law, following criteria must be cumulatively met:

- the information reported must have been obtained in a **professional context**: this means that the Whistleblower may report information obtained during past or present professional activities, regardless of the nature of these activities.

Example 1: An employee replaces a colleague during his or her holidays and notices that the absent employee has diverting company funds for personal use. This Violation can be reported.

Example 2: An Employee sees outside work one of the board members of his or her Company handing over an important sum in cash to the president of the local tax administration. This event cannot be reported since the information has not been obtained in a professional context.

- the report must be made through the **appropriate channel**: Please refer to Section 4, detailing the escalation process and the available channels.
- the Whistleblower must be acting in **good faith**: The report must be based on serious and reasonable grounds. Should a person alleges false and inaccurate information, for example to harm to his or her Employer and cause him a financial or reputational damage, the investigation will conclude to a non-report and the Employer will reserve to take any appropriate measure.

Example 1: An Employee who is unhappy not having received a promotion and/or a raise will incorrectly allege that this is the result of a policy of discrimination implemented by the employer against him or her, or that he or she is the victim of harassment (whether sexual or not).

Example 2: An Employee falsifies some documents (deletion of certain passages in emails or correction of certain data) in order to demonstrate an alternative version of certain facts to document a Violation.

2.7. Examples of violations

All violations of the rule of law are covered. It is difficult in principle to draw up an exhaustive list. However, by way of example, the following violations can be listed on a non-exhaustive basis:

- misuse of corporate assets;
- corruption;
- rigged public contracts;
- concealed work;
- pollution or environmental damages;
- aggressive tax practices (in reference for example to DAC 6 regulations);
- harassment;

- practices dangerous to the health and/or safety of employees.

2.8. Which Violation cannot be reported according to the Whistleblowing Law?

Are not covered by the Whistleblowing Law and the relevant protection regime:

- information related to national security such as confidential and classified documents;
- Information covered by medical secrecy or lawyer-client privilege, notary or bailiff secrecy, the secrecy of judicial deliberations, as well as rules on criminal proceedings (in particular, the secrecy of investigations).

2.9. What kind of information should the Whistleblower provide according to the Whistleblowing Law?

The definition of "information" provided by the Whistleblowing Law, covers a reasonable suspicion, concerning actual or potential violations, which have occurred or are very likely to occur in the organization in which the Whistleblower works or has worked or in another organization with which the Whistleblower is or has been in contact in the course of his or her work, and concerning attempts to conceal such violations are sufficient.

A reasonable suspicion about actual or potential violations which occurred or are very likely to occur, or about attempts to conceal such Violations, is as a result sufficient to fall within the protective scope of the Law.

3. A right, not an obligation

The Whistleblowing Law establishes a right, not a general obligation, to whistle blow.

However, the Company encourage any person detecting a Violation to report through the relevant channel.

Indeed, the Company's interest is to ensure that the business and affairs are conducted in compliance with the relevant laws.

4. Reporting channels

4.1. Gradation principle

The Whistleblowing Law sets forth **three channels available** to anyone who intends to whistle blow:

- an internal channel
- an external channel
- a public channel

Whistleblowers are free to choose whether to report **internally or externally**, i.e. to a competent authority.

Internal and external channels shall strictly guarantee the confidentiality of the whistleblower's identity, except in the event of a necessary and proportionate obligation imposed by directly applicable national, or European, law during investigations, in particular, with a view to safeguarding the rights of defence of the person concerned.

Internal and external channels shall comply with legislation on personal data processing. Reports are only kept for as long as is legally necessary and proportionate.

However, the Whistleblower **must respect a gradation principle** when selecting the channel to be used.

Whistleblowing channels shall be designed, set up and managed so as to **guarantee the confidentiality of the whistleblower's identity** and that of any third party mentioned in the report and to prevent access to said channels by unauthorised personnel.

- First channel to be used: the internal channel

Whistleblowers must **first use the internal channel** when they wish to launch an alert.

However, if the Whistleblower can legitimately believe that the risk of retaliation is very high and/or that using this channel will not give rise to any consequences (this will be the case in particular if the perpetrator of the facts reported has sufficiently significant powers to stifle any investigative measures), it is then possible for the Whistleblower to turn directly to the external channel without first going through the internal channel.

- External channel:

The external report will be made in writing to the authorities listed section 4.2.

This channel should only be considered if the risk of retaliation is very high and/or that use of the internal channel will not give rise to any investigations.

- Public disclosure

Such public disclosure **should only be considered as a very last resort** where it is clearly impossible to do otherwise, as detailed in Section 4.3.

4.2. Internal reporting

The Company is using an external service provider, namely EQS Group, for its internal reporting channel.

The admin user shall ensure at least quarterly that all employees are active in EQS and shall send a reactivation email when the user has not confirmed his or her activation.

It is the obligation of each employee to ensure its personal account is active and communicate to the admin user the status is inactive.

The employees shall connect to the EQS web site (<https://ece.integrityline.app/>) via their username and password and can report anonymously

Reporting system

In this reporting system you can quickly and easily report concerns about actual or suspected misconduct that can affect our company or the well-being of people.

The reporting system should not be used to make false accusations against others or report information that you know is untrue.

We encourage you to provide your name in the report. Regardless of whether you do so or not, please open a secure Inbox. This makes it safer and easier for us to communicate.

All reports are strictly confidential. You can find more information on this in the "Privacy policy" section above.

Reports relating to potential misconduct in member states of the European Union or identified by whistleblowers within the European Union can also be reported to external authorities. You can find an overview [here](#).



This internal whistleblowing channel EQS ensures the anonymity of Whistleblowers and the impartiality of the operators responsible for processing and transmitting Whistleblowers' reports.

Once the alert has been made, an acknowledgement of receipt will be sent to the person making the alert within 7 days of receipt.

It should be noted that this report may be made in writing and/or orally in English or German

Internally, the report will then be sent to the administrator for processing the request and, if necessary, ensuring that appropriate remedial action is taken and the Compliance function is timely informed. This department will act with impartiality and objectivity and will respect the confidentiality of the report.

At the end of the **7-day period** within which the Whistleblower must receive an acknowledgement of receipt, the Whistleblower must receive feedback within three months indicating what action will be taken /have been taken in response to his report.

The Company recommends that Whistleblowers keep the acknowledgement of receipt and the feedback carefully, this document being the proof of the filing of an alert.

4.3. Making an external report

A Whistleblower who wishes to make an external alert must turn to certain Luxembourg authorities listed exhaustively:

The Whistleblowing Law lists the competent authorities in article 18:

- The Luxembourg Financial Services Authority - CSSF
- The Luxembourg Insurance Commission - CAA
- The Luxembourg competition authority
- The Luxembourg Registration Duties, Estates and VAT Authority - AED

- The Luxembourg Inspectorate of Labour and Mines - ITM
- The Luxembourg Data Protection Commission - CNPD
- The Luxembourg Equal Opportunities Centre - CET
- The Mediator, as part of his mission to carry out external checks on places where people are deprived of their liberty
- The Ombudsman for children and youth
- Luxembourg Regulatory Institute - ILR
- Luxembourg Independent Regulator for Audiovisual Media Services - ALIA
- Luxembourg and Diekirch Bar Association
- Luxembourg Chamber of Notaries
- Luxembourg Medical Board
- Nature and Forest Administration - ANF
- Water Management Administration - AGE
- Air Navigation Administration - ANA
- National Consumer Ombudsman Service
- Order of Architects and Consulting Engineers - OAI
- Luxembourg Association of Chartered Accountants - OEC
- Luxembourg Institute of Auditors - IRE
- Luxembourg Direct Tax Administration – ACD

Each authority will have to define the procedures for external reporting to it and will in principle make those process available to any Whistleblower.

In all cases, it is possible to make such a report in one of the country's three official languages (however please note that each authority is free to accept other languages) and that the report may be made orally, in writing or in the context of an interview on request.

4.4. Making a public disclosure

In this case, the Whistleblower reveal the Violation(s) that he or she has legitimately observed in the public sphere.

This disclosure may be made via online platforms or social media, or via the media, elected representatives, civil society organizations, trade unions or professional and commercial organizations such as trade unions.

In the case of trade unions, there will be no public disclosure if the employee simply seeks advice. However, if the employee asks the trade union to intervene, there will be public disclosure.

In the event of a public disclosure, one of the following conditions must be met for a person who has made a public disclosure to be able to claim the protection afforded to Whistleblowers by law:

- The Whistleblower first made an internal and external report or made an external report directly, but no appropriate action was taken in response to the report within the required timeframe. appropriate action was taken.
- The Whistleblower has reasonable grounds to believe that the Violation may present an imminent or manifest danger to the public interest. This must be an emergency situation: the likelihood of an irreversible risk is required.
- The Whistleblower has reasonable grounds to believe that, in the event of an external report, there is a risk of retaliation or there is little chance that the violation will actually be remedied, due to the particular circumstances of the violation in question (collusion at the highest level, real risk of evidence being lost).

4.5. New administrative entity: the “*Office des signalements*”

To ensure the safety of the Whistleblowers, a new administrative authority is to be set up under the authority of the Ministry of Justice: the "Office des signalements".

Anyone hesitating to make a Whistleblowing report will be able to get all the information they need from this body, particularly on the procedures to follow.

However, this authority is not considered as a reporting channel, it will only assist the Whistleblower should he or she has any questions or doubts.

5. Protection of the Whistleblower

Provided the conditions laid down by the Whistleblowing Law are met, Whistleblowers are entitled to protection both in terms of their identity and against any retaliations.

Such protection also applies to:

- Facilitators;
- third parties in contact with the Whistleblower who are at risk of reprisals;
- legal entities linked to the Whistleblower (for example his/her patrimonial entity, etc.).

5.1. Protection of the identity of the Whistleblower

The first protection afforded to the Whistleblower is that of **his or her identity**.

Therefore, the Company guarantee that anyone who receives or processes an alert is bound by a strict duty of confidentiality and Whistleblowing procedures, whether for internal or external channels, are designed to guarantee confidentiality.

The identity of the Whistleblower will never be revealed without the express consent of the latter, meaning that the number of people who have access either to the identity of the Whistleblower or to information that would make it possible to determine the Whistleblower's identity is as limited as possible. In order to ensure compliance with these legal requirements, the Company has decided to entrust the management of the internal reporting channel to an external service provider.

Please note, however, that this obligation of confidentiality is not absolute and includes certain exceptions. One of the exceptions is where legal proceedings have been opened as a result of the alert, and where it is essential to know the identity of the person who issued the alert and must be waived in certain cases. In such cases, the person issuing the alert will be assured that such divulging will be done by presenting all the appropriate safeguards as prescribed by law. Furthermore, in such a case, the person issuing the alert will be sent a document explaining the reasons for the disclosure.

In any event, the personal data relating to the Whistleblower will be processed in accordance with the Regulation (EU) 2016/679 (“**GDPR**”) and applicable Luxembourg data protection law.

5.2. Protection against retaliations

Once the Whistleblower has launched the report, he or she is protected (provided he or she meets the conditions) against any retaliations.

i. Notion of retaliations

The protection afforded to Whistleblowers applies to all forms of retaliation, it being understood that Whistleblowing Law defines retaliation as *"any direct or indirect act or omission which occurs in a professional context, is prompted by an internal or external report or a public disclosure, and which causes or may cause unjustified harm to the whistleblower"*. This protection also extends to threats and attempted retaliations.

Here are a few examples of what is meant by retaliations measures:

- suspension of an employment contract, lay-off, dismissal, non-renewal or early termination of a fixed-term employment contract or equivalent measures without any real and serious grounds;
- demotion or refusal of promotion without objective grounds and reasons;
- transfer of duties, change of place of work, reduction in salary, change in working hours on a regular basis and without any justification;
- coercion, intimidation, harassment or ostracism;
- discrimination, disadvantageous or unfair treatment;
- negative performance evaluation which does not depict the reality;
- damage to the Whistleblower's reputation;
- infringement of the Whistleblower's freedom to work and do business for example for freelancers or consultants.

ii. Burden of proof

While it is up to the Employee to prove that he is entitled to Whistleblower protection and that he has been the subject of a negative measure, he will not have to prove the link between the Whistleblowing and the negative measure.

Indeed, in such a case it will be up to the Employer to demonstrate the real reasons for the negative measure, in other words, that the negative measure is in no way a retaliation following the employee's whistleblowing.

iii. Sanctions in case of unjustified retaliations

In cases where the Whistleblower proves that he or she has been the subject of retaliation measures on the part of the Company, he or she may, in the case of an employee, request that the

measures be declared null and void and, more generally, claim damages from the Company to compensate for the harm suffered.

5.3. Conditions to be fulfilled to be protected

In order to be protected, the Whistleblower must make a report under the conditions laid down by the Whistleblowing Law and must act in good faith. The Whistleblowing Law establishes the status of the “whistleblower”, who enjoys protection under the following conditions:

i. Existence of a report or a public disclosure

To qualify for the protection afforded to Whistleblowers under Whistleblowing Law, the Whistleblower must have complied with the rules applicable to the various reporting channels, particularly those concerning the hierarchy between them.

It will therefore be very important for the Whistleblower to keep both the acknowledgement of receipt of the report and the feedback sent to the Whistleblower within three months of the report being made.

ii. Whistleblower must act in good faith

In the case of whistleblowing, good faith will be assessed subjectively. In other words, in order to rely on good faith, the Whistleblower must prove that he or she had reasonable grounds to believe that the information reported on the violations was true at the time of reporting and that this information fell within the scope of Whistleblowing Law.

granting protection will be granted to malicious, fanciful or abusive Whistleblowers and of focusing protection on Whistleblowers if, following investigations, the information communicated by the Whistleblower proves to be inaccurate or even reveals no Violation.

iii. Burden of proof

In principle, the Whistleblower will be presumed to be acting in good faith. However, third parties, in particular the Employer, will be authorized to challenge the Whistleblower's good faith, but they will then have to provide evidence.

On the other hand, in the event of a challenge relating to the very existence of the report, it will be up to the Whistleblower to prove that he or she has indeed made a report or public disclosure and will therefore be advised to provide evidence of his or her actions.

6. Exclusion of liability

Insofar as the author of a whistleblowing report can benefit from the protection afforded to Whistleblowers under the Whistleblowing Law, the criminal and civil liability of the said Whistleblower is excluded or limited, whether in relation to obtaining the information or revealing it.

However, this exemption is not absolute, as the Whistleblowing Law sets certain limits to the principle of the Whistleblower's non-liability:

- Whistleblowers must limit their actions to what is necessary to reveal what they consider to be a Violation. For example, a Whistleblower could be held liable for disclosing documents that have no connection with the violation in question and that concern third parties, or if, despite the success of an internal or external alert, the Whistleblower makes a public disclosure;
- Whistleblower must not be guilty of any offence. Thus, however legitimate the aim, a Whistleblower who is guilty of theft, burglary, receiving stolen goods or any other criminal offence could be held criminally liable, or could not avoid criminal prosecution by invoking the protection of Whistleblowers.

7. Sanctions for malicious reporting or disclosure in bad faith

Anyone who knowingly reports or publicly discloses **false information** may be subject to a prison sentence of between 8 days and 3 months and a fine of between €1,500 and €50,000.

The Whistleblower who made a report or a public disclosure will not be protected if, at the time of the report/public disclosure, he or she did not have reasonable grounds to believe that the information reported was true. In such a case, the Whistleblower may be held criminally and/or civilly liable by third parties who have suffered damage as a result of these lies or slanderous accusations.

Furthermore, if at the time of the false report or public disclosure, the Whistleblower is an Employee and the facts reported concern the Employer, the latter may use its disciplinary powers to punish the Employee's misconduct. The entity suffering the damage may claim compensation before the competent court for the loss suffered.

Should you have any questions on the present policy and its implementation please do not hesitate to contact the Compliance Officer of the Company (compliance.ecerep.lu@ece.com).

The Whistleblowing Office ("*office des signalements*") is operational since 1 September 2023. If you have any questions, please contact:

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