THE ROLE OF THE WHISTLEBLOWERS IN THE FIGHT AGAINST CORRUPTION

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ABSTRACT

The paper deals with one of the instruments in the fight against corruption, ie "whistleblowers". It is an immediate source of information from the place where the crime was committed - illicit behavior, which has a long history but with different treatment.

In fact, the complexity and pervasiveness of corruption require finding and applying a variety of means to tackle it, and whistleblowers can contribute at different times, both before committing harmful behavior, during execution and after completion.

Especially the last decade, internationally, a lot of attention has been paid to whistleblowers. Among the numerous laws containing provisions on this anti-corruption instrument are the G20 High Level Principles for Effective Protection of Whistleblowers - The Osaka principles adopted in June 2019 and are a catalyst for improving the position of whistleblowers and their protection, in order to effectively combat corruption.

In the same direction, at the EU level in 2019, the new EU Whistleblower Protection Directive has been adopted, which has several years of implementation in all member states. Its purpose is to increase the protection of whistleblowers and to raise awareness in the society of their meaning. Experience at EU level shows a non-uniform approach to the issue, i.e., some member states have no regulation, in other member states it is symbolically expressed, and in third member states (around ten) there is quality regulation of this anti-corruption instrument. The UK experience is particularly significant, and it is briefly contained in this paper.

The situation is similar in the United States, namely, for nearly four decades there has been continuous work to improve federal and state regulation of whistleblowers.

The paper presents the latest legal instruments for the protection of whistleblowers and guidelines for the future development of this instrument.

Keywords: corruption, whistleblowers, international acts, protection mechanisms, raising public awareness,

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1. INTERNATIONAL LEGAL INSTRUMENTS FOR PROTECTION OF WHISTLEBLOWERS

Persons employed in an institution know best about the situation inside, and therefore whether there is corruption or other illegal activities. Whether they will be encouraged to report such events depends on a number of circumstances, and in particular on the proper functioning of the law enforcement authorities. Namely, by reporting illegal acts within the institutions, these persons, also known as whistleblowers, are put in danger, that is, they run the risk of suffering some damaging consequences, related to or outside the workplace, personally for for themselves or for their family members. That is why it is necessary to have a system for the effective protection of whistleblowers.

There are several international legal instruments that form the basis for the protection of whistleblowers. Thus, article 9 of the Civil Law Convention against Corruption of the Council of Europe (https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f3f6) states: „Each Party shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities.“ This provision seeks to protect the employment, career and psychological integrity of the person reporting corruption.

The Council of Europe's Criminal Law Convention against Corruption (https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f3f5) defines the issue from a criminal-legal approach, creating a legal basis for finding legal solutions for protection of collaborators of justice, as well as for creating witness

protection programs and their families. Thus in article 22 entitled Protection of collaborators of justice and witnesses stated: „Each Party shall adopt such measures as may be necessary to provide effective and appropriate protection for: - those who report the criminal offences established in accordance with Articles 2 to 14 or otherwise co-operate with the investigating or prosecuting authorities; - witnesses who give testimony concerning these offences."

Declaration on strengthening good governance and combating corruption, money laundering and the financing of terrorism (https://www.osce.org/cio/97968?download=true) adopted at the OSCE Ministerial Council in Dublin 2012, inter alia, it also contains strong guidelines for protecting whistleblowers, as an important factor in the fight against corruption. Namely, it states: „ we recognize the importance of extending sufficient protection to whistleblowers in the public or private sector, as they play a key role in the prevention and detection of corruption, thus defending the public interest. We will intensify our efforts to take appropriate measures to put in place and implement legal mechanisms for the effective protection of whistleblowers and their close family members, from retaliation, intimidation or other psychological or physical harm, or the unwarranted loss of their liberty or livelihood. We recognize such measures to be necessary elements of an effective anti-corruption regime."

This issue is also covered by the Universal Document on Fighting Corruption - UNCAC or the UN Convention against Corruption (https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf). Namely, Article 33 of the Convention entitled Protection of reporting persons and states: "Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment to any person who

reports in good faith and on reasonable grounds to the competent authorities any facts concerning offenses established in accordance with the Convention." A special act has been prepared for the implementation of the mentioned article. Namely, according to the Resource Guide on Good Practices in the Protection of Reporting Persons (UNODC, 2015, https://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf) protective measures need to match the needs and circumstances of the reporting person. The range of reportable information must be broad, including any matters of wrongdoing or harm to the public interest, in order to protect against corruption and increase public accountability. The role of institutions / individuals, who are authorized to receive information from whistleblowers, is extremely important throughout the process, so the competent authorities should have the appropriate mandate, capacity, resources and powers to receive reports, investigate wrongdoing and protect the persons reporting. In addition, the staff of the competent authorities should have adequate training and specialized skills in handling reports and protecting whistleblowers. On the other hand, the competent authorities should be protected from undue influence and be able to carry out their functions impartially.

The recommendations of the second round of evaluation conducted by GRECO in the period 2003-2007 (https://www.coe.int/en/web/greco/evaluations#{%2222359946%22:[3]}) are recommended a large number of member states to introduce or enhance the protection of whistleblowers, in particular to protect themselves from pressure and retaliation, to have reporting officers, to have confidentiality of the process, to have special access to classified data

(https://whistlenetwork.files.wordpress.com/2014/01/seventh-general-activity-report.pdf).

The importance of whistleblowers - concerned individuals alerting to unauthorized conduct that may result in corrupt behavior or other violations of the law, both in the public and private sectors, is also highlighted in Council of Europe Resolution 1729 of 2010 (http: // : //assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp? fileid = 17851). It encourages Council of Europe members to implement legal provisions on whistleblowers and their protection.

The Council of Europe has adopted Resolution 2060 of 2015 to improve the protection of whistleblowers (https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21931&lang= en). It seeks stronger protection of whistleblowers from the intelligence and security sectors, as well as the exercise of the right of asylum in any Council of Europe member state, if persecuted in their own country. In addition, it is also emphasized in Recommendation CM / Rec (2014) 7 calling on member ctates to create normative, judicial and institutional frameworks for the protection of whistleblowers (https://rm.coe.int/16807096c7).

2. THE G20 HIGH LEVEL PRINCIPLES FOR EFFECTIVE PROTECTION OF WHISTLEBLOWERS - THE OSAKA PRINCIPLES

Notable are the efforts of the G20 group (http://worldpopulationreview.com/countries/g20-countries/) to develop regulation to protect whistleblowers. Of particular importance is the G20 Osaka summit held in June 2019 (https://en.wikipedia.org/wiki/2019_G20_Osaka_summit). Namely, the

summit adopted the G20 High Level Principles for Effective Protection of Whistleblowers (https://www.g20.org/pdf/documents/en/annex_07.pdf), also welcomed by the world's most renowned anti-corruption organizations (https://www.transparency.org/news/pressrelease/new_g20_principles_on_whistleblower_protection_must_be_urgently_implemented), which apply to both the public and private sectors.

The Osaka principles specify the scope of protected disclosures should be broadly but clearly defined and protection should be available to the broadest possible range of reporting persons. In addition, the Principles require the establishment of clear and visible channels for reporting illegal activities, such as internal reporting to the organization, external reporting to law enforcement agencies, and if these two modes are not established then - public reporting. It is particularly important to ensure confidentiality of the identity of whistleblowers as well as the content of the reported information. For the purpose of greater protection of whistleblowers, the principles recommend that G20 member states also accept anonymous reporting as a relevant way of detecting corrupt activities.

The principles define retaliation against whistleblowers in a comprehensive way, and therefore their protection should be broader, in the workplace, professional protection, physical protection, psychological assistance, social inclusion, ie, not only for whistleblower but also for his family. The aim is to achieve individual and general protection, namely, if in one case of reporting, quality protection is provided to the whistleblower and his or her family, it will generally have a positive impact on other individuals reporting irregularities (knowing that they will

be protected), thereby creating a wider social action in the fight against corruption.

It is recommended to build temporary protection mechanisms, as well as a comprehensive indemnification of whistleblowers for the damage they have suffered as a result of their activity to detect corrupt behavior. It means building a robust and comprehensive protection of whistleblowers.

According to the principles, providing for effective, proportionate and dissuasive sanctions for those who retaliate against whistleblowers or jeopardizing their rights is a necessary step in fulfilling the purpose. Generally speaking, without the proper application of sanctions, no protection of any value, good or interest is possible, especially in the fight against corruption.

Whistleblowers may not be held liable and subject to disciplinary liability if they have made the reporting in accordance with established reporting channels and if they have reasonable grounds to believe that there has been a breach of the rules of conduct leading to corruption or other unlawful conduct. However, if the whistleblower knowingly lied at the time of reporting, he is liable for the damage suffered by third parties as a result of his actions.

The G20 High Level Principles for Effective Protection of Whistleblowers - the Osaka principles provide strong support for whistleblowers as an effective means of combating corruption. Given the global problem of corruption, the G20 member states offer technical assistance to other countries to implement and develop whistleblowers. It is an important, but also a medium-term process, which requires raising the awareness of the citizens about this anti-corruption instrument and getting acquainted with its benefits.

3. WHISTLEBLOWERS IN UK

Within the European Union, only ten countries (France, Hungary, Ireland, Italy, Lithuania, Malta, the Netherlands, Slovakia, Sweden and the United Kingdom) have a quality and comprehensive legal framework for the protection of whistleblowers (http://www.europarl.europa.eu/news/en/press-room/20190410IPR37529/protecting-whistle-blowers-new-eu-wide-rules-approved). The remaining EU countries, the protection granted is partial: it covers only public servants or only specific sectors (e.g. financial services) or only specific types of wrongdoings (e.g. corruption) (https://ec.europa.eu/info/sites/info/files/placeholder_11.pdf). Following is the UK regulation, as one of the states with an adequate approach to the issue.

Namely, as a result of a series of high profile financial scandals, as well as health and safety incidents, in 1998 UK legislation on whistleblower protection was adopted, known as The Public Interest Disclosure Act (PIDA) (https://www.gov.uk/government/publications/the-public-interest-disclosure-act/the-public-interest-disclosure-act). Prior to its adoption, the whistleblowers had no protection from the employer against termination of employment due to the publication of unlawful acts.

Generally, a distinction should be made between whistleblowing and grievance. Because whistleblowing is where an employee has a concern about danger or illegality that has a public interest aspect to it, while a grievance or private complaint is a dispute about the employee's own employment position and has no additional public interest dimension.

According to the law, whistleblower is a worker who reports certain types of wrongdoing to the authorities. The term is thought to have appeared around the 1970s, as a reference to when a referee blows the whistle during sports to indicate a foul.

The Act protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they blow the whistle on wrongdoing. The Act protects most workers in the public, private and voluntary sectors. The Act does not apply to genuinely self-employed professionals or the intelligence services.

The Act protects employees in a variety of ways, including: if an employee is dismissed because he has made a protected disclosure that will be treated as unfair dismissal; then, in any event workers are given a new right not to be subjected to any 'detriment' by their employers on the ground that they have made a protected disclosure, and to present a complaint to an employment tribunal if they suffer detriment as a result of making a protected disclosure.

Only disclosures which relate to specific categories of information are covered by the legislation. The information disclosed must, in the reasonable belief of the worker, be made in the public interest and tend to show that one of following categories of wrongdoing has occurred, is occurring, or is likely to occur (https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies) :

- a criminal offense,
- breach of any legal obligation (which can include an obligation contained in a contract of employment),
- miscarriage of justice,

- danger to the health and safety of any individual,
- damage to the environment,
- the deliberate concealing of information about any of the above.

Whistleblowers must have a reasonable belief that the information disclosed points to one or more of the relevant failures, which can relate to past, present or likely future occurrences. The belief need not be correct provided that it is honestly held in the circumstances prevailing at the time of the disclosure.

Although the law does not require employers to have a whistleblowing policy in place, the existence of a whistleblowing policy shows an employer's commitment to listen to the concerns of workers. By having clear policies and procedures for dealing with whistleblowing, an organisation demonstrates that it welcomes information being brought to the attention of management. Namely, workers are often the first people to witness any type of wrongdoing within an organisation. The information that workers may uncover could prevent wrongdoing, which may damage an organisation's reputation and/or performance, and could even save people from harm or death. There are benefits for the organisation if a worker can make a disclosure internally rather than going to a third party. This way there is an opportunity to act promptly on the information and put right whatever wrongdoing is found.

There is no one-size-fits-all whistleblowing policy as policies will vary depending on the size and nature of the organisation. Some organisations may choose to have a standalone policy whereas others may look to implement their policy into a code of ethics or may have 'local' whistleblowing procedures relevant to their specific business units.A large organisation may have a policy where employees can contact their immediate manager or a specific team of individuals who are trained to

handle whistleblowing disclosures. Smaller organisations may not have sufficient resources to do this. Any whistleblowing policies or procedures should be clear, simple and easily understood.

If internal reporting is not effective, or appropriate procedures are not provided, or there are other circumstances that make it impossible, the next option is external reporting. One option for external disclosures is prescribed persons. Prescribed persons are mainly regulators and professional bodies. The relevant prescribed person depends on the subject matter of the disclosure, for example a disclosure about wrongdoing in a care home could be made to the Care Quality Commission, if it concerns the judiciary could be made to the Criminal Cases Review Commission, or if it relates to education is reported to Chief Inspector of Education, Children's Services and Skills (https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies). Prescribed persons have individual policies and procedures for handling concerns and complaints.

A worker might choose to approach the media with their concerns. If a worker goes to the media, they can expect in most cases to lose their whistleblowing law rights. That can happen only if the whistleblower does not believe in acting on their employer or a prescribed person, if he / she thinks the evidence will be destroyed or something similar. In that case, the choice to make the disclosure public, through the media, would be understandable.

If a whistleblower believes that they have been unfairly treated because they have blown the whistle they may decide to take their case to an employment tribunal. The process for this would involve attempted

resolution through the Advisory, Conciliation and Arbitration Service (Acas) early conciliation service.

Reporting irregularities can be secret, anonymous, without revealing the identity of whistleblower, but it does have consequences that make it difficult the procedure for checking published information because it is not known who the whistleblower is and thus cannot be protected by the provisions for whistleblower law. Namely, workers should be made aware that making a disclosure anonymously means it can be more difficult for them to qualify for protections as a whistleblower. This is because there would be no documentary evidence linking the worker to the disclosure for the employment tribunal to consider (https://www.irs.gov/compliance/confidentiality-and-disclosure-for-whistleblowers).

4. WHISTLEBLOWERS IN USA

In the United States numerous federal and state laws address the issue of whistleblowing, including:

- The False Claims (Amendment) Act 1986 (https://bergermontague.com/federal-false-claims-act/) is an instrument for combat frauds against the US federal government.

Namely, this Act applies to any fraud committed against a federal agency, program or contract. Under the False Claims Act, whistleblowers are permitted to bring a case on behalf of the federal government to recover damages on its behalf, ie., allowing those people not affiliated with the government to file lawsuits on the government's behalf.

The False Claims Act includes a provision to protect whistleblowers from workplace retaliation, known as the Anti-Retaliation

Provision. According to this act, the whistleblowers are protected by: dismissal; suspension of employment; demotion; harassment; other discrimination in employment.

The basis of every False Claims Act case is that the federal government was defrauded in one form or another. This fraud, or "false claim," can come in many forms, such as: Inflating the price or overcharging for a product; underpaying money owed to the federal government; failing to provide or perform a service; charging for one product and delivering another; obtaining federal funds to which one may not be entitled, then using false statements or documentation to retain the money.

The whistleblower should have knowledge of the fraud, not just suspicion, then the evidence of fraud not originating from public sources and it should be fraud with federal money.

The Federal False Claims Act incentivizes whistleblowers to report fraud by offering a percentage of any reward recovered from an ensuing lawsuit, generally in the range of 15-25%. In every action, the government has the option to either step in and litigate, or decline the case. If the government declines to proceed, the whistleblower may continue on behalf of the government. If the whistleblower succeeds, they are entitled to a larger percentage of the recovery (25-30%) (https://www.justice.gov/sites/default/files/civil/legacy/2011/04/22/C-FRAUDS_FCA_Primer.pdf).

-The Whistleblower Protection Act 1989 (https://www.congress.gov/bill/101st-congress/senate-bill/20/text/enr) is a United States federal law that protects federal whistleblowers who work for the government and report the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement,

gross waste of funds, abuse of authority or a substantial and specific danger to public health and safety. A federal agency violates the Whistleblower Protection Act if agency authorities take (or threaten to take) retaliatory personnel action against any employee because of disclosure of information by that employee.

Whistleblowers are protected through two agencies, the Office of Special Counsel and the Merit Systems Protection Board. The Office of Special Counsel (https://osc.gov/) investigates federal whistleblower complaints. The primary mission of the Office is to safeguard the merit system by protecting federal employees from prohibited personnel practices, especially reprisal for whistleblowing. The Merit Systems Protection Board is an independent quasi-judicial agency established in 1979 to protect federal merit systems against partisan political and other prohibited personnel practices and to ensure adequate protection for federal employees against abuses by agency management (https://www.mspb.gov/).

- The Sarbanes – Oxley Act of 2002 (https://pcaobus.org/About/History/Documents/PDFs/Sarbanes_Oxley_Act_of_2002.pdf) , also known as SOX, the most recent law on whistleblowing, is a United States federal law that set new or expanded requirements for all U.S. public company boards, management and public accounting firms.

SOX provides wide-ranging protection for employees of public companies who make complaints about allegedly fraudulent conduct. Section 806 of the SOX, also known as the whistleblower-protection provision, generally applies to all US and non-US companies that have securities registered with the US Securities and Exchange Commission. This section protects certain employees who disclose conduct that they

reasonably believe to breach securities law, any rule or regulation of the Securities and Exchange Commission, or federal fraud statutes. Protected employees must make their disclosure to: a supervisor or any other person working for the employer who has "authority to investigate, discover or terminate misconduct"; a federal regulatory or law enforcement agency; a member of Congress; or a congressional committee.

According to SOX employees (and even contractors) who report fraud and/or testify about fraud committed by their employers are protected against retaliation, including dismissal and discrimination (https://searchcio.techtarget.com/definition/Sarbanes-Oxley-Act).

Remedies under Section 806 include: reinstatement with the same seniority status that the employee would have had, but for the discrimination; the amount of back pay, with interest; and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

The SOX does not specify a particular method for submitting complaints. As a result, employers can establish a variety of complaints mechanisms (such as postal, telephone, fax, e-mail or "drop-box" procedures), provided that at least one confidential, anonymous method is available to employees for making complaints.

In the United States there are none restrictions on the subject matter of whistleblowing complaints. There arent any restrictions on who can receive whistleblowing complaints, namely, a complaints procedure must provide a method for complaints to be submitted to an auditing entity.

5. EU WHISTLEBLOWER PROTECTION DIRECTIVE

In order to improve the protection of whistleblowers on 16 April 2019 the European Parliament has approved the EU Whistleblower Protection Directive, after which the new law is to be approved by the EU ministers (http://www.europarl.europa.eu/doceo/document/A-8-2018-0398-AM-155-155_EN.pdf).

The EU Whistleblower Protection Directive aims at protecting and encouraging whistleblowers throughout the EU who report on misconduct in their workplace. All private and public legal entities with 50 or more employees will need to establish secure reporting channels.

Namely, until the second half of 2021 (or two years after adoption) the new law must be embedded into national law by the Member States. Organisations with 250 employees or more must be ready to comply with the new law. By the second half of 2023 (or two years after the law comes into force) legal entities with 50 – 249 employees must be ready to comply with the new law (https://whistleb.com/eu-whistleblower-protection-directive/).

The new law establish safe channels for reporting both within an organisation and to public authorities. It will also protect whistleblowers against dismissal, demotion and other forms of retaliation and require national authorities to inform citizens and provide training for public authorities on how to deal with whistleblowers. The EU Whistleblower Protection Directive introduce sanctions on retaliation against whistleblowers. The new law protects whistleblowers from liability related to reporting breaches of law in accordance with the Directive.

The EU Whistleblower Protection Directive includes a wide array of European Union law that whistleblowers may report on including anti-

money laundering and corporate taxation, data protection, protection of the Union's financial interests, food and product safety and environmental protection and nuclear safety. In addition, with a view to establishing broader frameworks for whistleblower protection, the European Commission encourages member states to provide whistleblower protection in other areas that they consider relevant.

The new EU Whistleblower Protection Directive requires the following types of organisation to establish secure reporting channels: private legal entities with 50 or more employees; private legal entities operating in the area of financial services, products and markets; private legal entities vulnerable to money laundering or terrorist financing and entities governed by public law, with possible exceptions for municipalities with less than 10,000 residents or 50 employees.

Regarding internal whistleblowing, the new EU Whistleblower Protection Directive states that the following elements should be included:

- Channels for receiving the reports, which are designed, set up and operated in a secure manner that ensure the confidentiality of the identity of the whistleblower and any third party mentioned in the report, and prevent access to non-authorised staff members. Such channels must allow for reporting in writing and/or orally, through telephone lines or other voice messaging systems, and upon request of the whistleblower, by means of a physical meeting within a reasonable timeframe.
- The designation of an impartial person or department for following up on the reports, and maintaining communication, asking for further information and providing feedback to the whistleblower.
- Diligent follow-up of the report by the designated person or department.

- Diligent follow-up of anonymous reporting where provided for in national law.
- A reasonable timeframe for providing feedback to the whistleblower about the report follow-up, not exceeding three months from the acknowledgment of receipt.
- Clear and easily accessible information regarding the conditions and procedures for reporting externally to competent authorities.

Regarding external whistleblowing the new EU Whistleblower Protection Directive states that public authorities must establish independent and autonomous external reporting channels for receiving and handling information provided by the whistleblower. This means that such channels need to be designed, set up and operated in a manner that ensures the completeness, integrity and confidentiality of the information and prevents access to non-authorised staff members of the competent authority. Channels must enable the storage of durable information to allow for further investigations (http://www.europarl.europa.eu/news/en/press-room/20190410IPR37529/protecting-whistle-blowers-new-eu-wide-rules-approved).

The EU Whistleblower Protection Directive requires that penalties be imposed against those who attempt to hinder reporting, retaliate against whistleblowers, attempt to bring proceedings or who reveal the identity of the whistleblower. Any threats or attempts to retaliate against whistleblowers are also prohibited.

Although the new EU Whistleblower Protection Directive states that Member States are to encourage whistleblowers to use internal reporting channels first, the Directive acknowledges the necessity to allow the whistleblower to be able to choose the most appropriate channel,

depending on the individual circumstances of the case. This means that the whistleblower may report internally or externally to competent authorities, and as a last resort, whistleblowers may make a public disclosure including to the media.

The Directive does not oblige member states to accept anonymous reporting, leaving it individually to determine the issue. However, anonymous reporting, in some complicated cases, can be much more productive and efficient than non-anonymous reporting and should therefore be accepted as a form of reporting irregularities, of course with a high degree of verification of allegations.

The Directive has a very wide scope, covering all individuals and legal entities who will find out about violations of certain rules of conduct and their reporting will be grounds for action.

The Directive provides several forms of support, including:

-access to comprehensive and independent information and advice, which shall be easily accessible to the public and free of charge, on procedures and remedies available on protection against retaliation and the rights of the concerned person;

- access to effective assistance from competent authorities before any relevant authority involved in their protection against retaliation, including, where provided for under national law, certification of the fact that they qualify for protection under the Directive;

- other forms: financial support, psychological support.

The process of implementation of the Directive should be accompanied by training and public campaigns, because according to European Commission data (https://ec.europa.eu/info/sites/info/files/placeholder_11.pdf) even 49%

of EU citizens do not know where to report corruption, while only 15% know about existing rules on whistleblower protection.

CONCLUSION

Whistleblower protection is essential to encourage the reporting of misconduct, fraud and corruption. The risk of corruption is significantly heightened in environments where the reporting of wrongdoing is not supported or protected. This applies to both public and private sector environments, especially in cases of bribery: Protecting public sector whistleblowers facilitates the reporting of passive bribery, as well as the misuse of public funds, waste, fraud and other forms of corruption. Protecting private sector whistleblowers facilitates the reporting of active bribery and other corrupt acts committed by companies.

Encouraging and facilitating whistleblowing, in particular by providing effective legal protection and clear guidance on reporting procedures, can also help authorities monitor compliance and detect violations of anti-corruption laws. Providing effective protection for whistleblowers supports an open organisational culture where employees are not only aware of how to report but also have confidence in the reporting procedures. It also helps businesses prevent and detect bribery in commercial transactions. The protection of both public and private sector whistleblowers from retaliation for reporting in good faith suspected acts of corruption and other wrongdoing is therefore integral to efforts to combat corruption, promote public sector integrity and accountability, and support a clean business environment.

International instruments aimed at combating corruption have also recognised the importance of having whistleblower protection laws in place as part of an effective anti-corruption framework. Whistleblower protection requirements have been introduced in the United Nations Convention against Corruption, Civil and Criminal Law Convention against Corruption of the Council of Europe. More recently are The G20 High Level Principles for Effective Protection of Whistleblowers - The Osaka Principles, as well as the EU Whistleblower Protection Directive, both documents adopted in 2019. The above acts require the establishment of unique standards for whistleblowers and increasing their protection.

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