



June 2023

Act on the Protection of Whistleblowers 2023

The **Whistleblowers Protection Bill**, which implements Directive 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, has been signed by the President of the Republic and its **effectiveness** (including the creation of obligations on the part of the employer - see below) is thus expected **as early as 1 August 2023**.

The purpose of the proposed legislation is to **provide a guarantee to whistleblowers that** if they report, in connection with their work or other similar activity, a breach of law in certain areas **they will not be penalised in any way for such a report**.

The aim of the proposed legislation is to ensure that employees (both in public and private sector) and other persons performing work or other similar activities **may file reports within internal reporting systems** or within the **external reporting system** of the Ministry of Justice and to **ensure that they are protected from retaliation**.

Obligated entities

In addition to contracting authorities and selected public authorities, including municipal authorities with a population of over 10,000, the **obliged entities under the Whistleblowers Protection Bill** are primarily **employers** who employ **at least 50 employees as of 1 January** of the relevant calendar year.

Protection by the bill

The bill is intended to protect a wide range of private and public sector employees who are at various stages of the employment process, and its protection thus explicitly includes **employees** (both former and future), unsuccessful job **applicants**, **volunteers**, **self-employed persons**, **members of elected bodies**, **members of statutory bodies**, persons exercising rights associated with participation in a legal entity, **contractors** or their employees, as well as **persons close to the whistleblower**, colleagues of the whistleblower, persons assisting the whistleblower with the reporting, etc.

Protected reports

A protected report may relate to any criminal offence or violation of a legal regulation or a regulation of the European Union in specific areas (e.g. consumer protection, personal data protection, financial institutions, corporate income tax, food safety, competition, public procurement, etc.).

The reports may be filed **orally** or **in writing**, or, at the request of the reporting person, **in person**.

Report may be given in three ways:

- **via an internal reporting system** set up by the obliged entity (employer), in which it designates a competent person to deal with and process the report,
- **via external reporting system** (through the Ministry of Justice),
- **by public disclosure** (only under specific conditions, in urgent cases, especially if the internal reporting system is not operational).

The report **must contain information identifying the reporting person**. In the case of an anonymous report, the **identity of the reporting person must be revealed subsequently**. Until the identity of the whistleblower is known, the whistleblower cannot be protected and is also not at risk of retaliation under the bill. Even in these cases, however, it may be advisable to keep the report.

The main objective of the legislation is to protect against retaliation. The bill gives specific examples of retaliatory measures to which **the whistleblower may not be exposed**. These include, for example, **termination of employment, reduction in salary, disciplinary action, transfer, change of working hours**, etc.

Obligations of the employer

In particular, the obliged entity (employer) must **establish an internal reporting system for receiving and managing reports, provide a so-called competent person** to deal with and evaluate reports, **inform** each whistleblower of the receipt and results of the investigation of his/her report, and **ensure that no whistleblower is subjected to so-called retaliation**.

The above **should be enshrined in a separate internal regulation**.

Sanctions

In a situation where the obliged entity (employer) **does not ensure**, for example, **that the reasonableness of the report is assessed by a competent person** or does not ensure that only a competent person can see the reports submitted, it is liable to a **fine of up to CZK 400,000**.

If the obliged entity (employer) fails to designate a competent person to receive and handle the report or **allows the whistleblower to be subjected to retaliatory measures**, it is liable to a **fine of up to CZK 1,000,000**

However, the bill also protects employers. Therefore, a whistleblower who **knowingly makes a false report is not protected and faces a fine of up to CZK 50,000**

Effectiveness of the bill

Due to the rapid progress of the legislative process, where the Senate of the Parliament of the Czech Republic has expressed its will not to deal with the bill without approving or rejecting it, and the bill was signed by the President of the Republic, it can reasonably be expected to be published in the Collection of Laws in **June 2023**.

In that case, **all employers with 250 employees and above** will have to **implement the new processes by 1 August 2023**, as will contracting authorities and municipalities affected by the law. **For employers with 50 to 249 employees**, the bill provides for a delay **until December 15, 2023**.

We will be pleased to answer any queries you might have.

CZERWENKA & PARTNER v.o.s. team