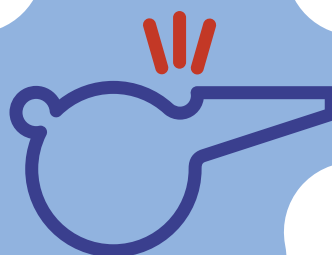


Comparative Study on Whistleblower Protection



Iceland 
Liechtenstein
Norway grants

Comparative Study on Whistleblower Protection

This comparative study was conducted under the project entitled “Strengthening the Fight against Corruption by Increasing General Awareness of the Public Sector Focusing on Judges, Prosecutors and Public Administration”, which is part of the Good Governance Programme.

The study was drawn up by **Oživení, z. s.**, an organisation that has engaged in whistleblowing for more than 10 years. It provides consultancy services to whistleblowers and local government, is a member of the Whistleblowing International Network and the UNCAC Coalition, and has long advocated for the adoption of robust whistleblower protection legislation in the Czech Republic.

Prague, 2022



Iceland
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Norway grants

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Study objectives and purpose

The study relays information on the ways in which awareness of whistleblower protection has been raised in selected countries – France, the Netherlands, Norway, the UK, Croatia and the US. The aim of the study is to compare the information obtained and to examine good practice in the use of whistleblowing awareness tools and resources. The study encompasses information provided by the respondent countries on the basis of a questionnaire, examples of how the topic of whistleblower protection has been presented, and subsequently an evaluation of the approach taken by the countries and a summary of good practice.

Methodology

The Ministry of Justice developed a specific set of information to be considered in the comparison. A questionnaire was compiled on the basis of these requirements and sent to the responsible authorities in the countries concerned.

The study starts by exploring how awareness of whistleblower protection is raised in each country. The part dedicated to the Czech Republic does not adhere to the uniform structure. This can be attributed to the fact that whistleblower protection, both institutionally and legislatively, is defined in a bill that had not been passed at the time of writing. Similarly, the Czech Republic has yet to conduct a government awareness campaign dedicated to whistleblowing. Consequently, information pertaining to the Czech Republic is based on the bill and experience gained by the NGO sector. Croatia is another outlier in the handling of this theme, with its contribution reporting primarily on whistleblowing awareness-raising plans for 2023–2024.

Data harvesting

Oživení initially drew on its membership of international whistleblower protection organisations – the Whistleblowing International Network (WIN) and UNCAC Coalition – to circulate the questionnaire. The questionnaire was later sent through official channels to the competent ministries. In cases where the feedback was insufficient, the embassies representing particular countries in the Czech Republic were also contacted.

Terms used

The study uses the terms “whistleblowing” and “whistleblower protection” as synonyms. However, it is worth pointing out here that countries with experience of whistleblowing that goes back a long way try to refrain from using this term in their communications. Instead, they attempt to replace it with less “aggressive” terms. This issue is discussed in more detail in the text below. Since this study is intended for a professional audience, there is no need to avoid the term “whistleblowing” in this paper.

The study also uses the terms “exposure of malpractice” and “malpractice”. Although the term “unlawful conduct” would be more fitting for the Czech bill, whistleblowing is used around the world in a broader context, usually couched in the form of socially accepted public interests. In this respect, individuals who report violations of ethical or moral social principles also often enjoy protection. The term “malpractice” is used in the text to refer to this broader application of whistleblowing.

Introduction

General background

Whistleblowing is the active reporting of specific malpractice occurring in the workplace. Employees are among the first to learn about malpractice and can draw attention to it. However, employees in such a situation face numerous dilemmas, notably whether to betray their loyalty and confidentiality vis-à-vis a colleague, their supervisor or their employer, thus placing their position in very real jeopardy, or whether to prioritise the protection of the public interest.

Whistleblowing is one of the most significant means of exposing and preventing fraud and corruption within public administrations and private companies. It can save or salvage considerable sums of money, safeguard security and even save lives.

In recent years, whistleblowing has become the subject of much debate at both national and European Union (EU) level. The EU discussions culminated in Directive (EU) 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 (the “Directive”).¹ This watershed moment is now being complemented by European countries’ efforts to deliver on the letter of the Directive in their national legislation.

A lot of the countries involved in this study have many years’ experience of whistleblower protection. This experience is reflected in the European Commission’s recommendation that countries sufficiently raise awareness of whistleblower protection: *Experience at national level and available evidence show that rules on whistleblower protection also need to raise awareness effectively. In addition to adopting the proposed Directive, the Commission encourages Member States to consider further measures including practical ones, such as raising awareness and general public information.*²

The fact of the matter is that raising awareness of whistleblowing is integral to the protection of whistleblowers and the associated protection of the public interest. The point is often made that increased awareness can help to alter the ambivalence that currently surrounds whistleblowing and break down the negative connotations linked to the exposure of malpractice itself. If societal perceptions of the issue remain mired in largely negative connotations, this can severely impede the application of legislation: *“only if the good intentions of any law are matched by a change in culture can a safe alternative to silence be created.”*³

Awareness-raising is also important in order for the substance of the law to be exercised: without whistleblowers, there is no one to protect, and the underlying purpose of the legislation – to prevent and expose malpractice – remains unfulfilled.

Finally, public awareness serves as important qualitative feedback on the effectiveness of legislation that has been introduced.

Cultural barriers and public perceptions will vary from country to country. They may stem from social or political circumstances, such as a Communist regime. Obstacles may also arise in the form of mistrust of the state machinery or authorities, which greatly complicates the impact of whistleblowing.

1 Directive (EU) 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.

2 <https://eur-lex.europa.eu/legal-content/CS/TXT/PDF/?uri=CELEX:52018DC0214&from=EN>

3 DAC, R. Calland, G. Dehn and Public Concern at Work (2004), *Whistleblowing Around the World: Law, Culture & Practice*, ODAC, Cape Town and Public Concern at Work in partnership with the British Council, London.

1 Czech Republic

1.1 Basic legislative framework

Efforts to legislate whistleblower protection have been under way in the Czech Republic for almost 10 years, but so far they have been unsuccessful. The only whistleblower protection regulation of any substance is Government Regulation No 145/2015 on measures related to the reporting of suspected unlawful conduct within a civil-service authority.

At the time of writing, a bill transposing the EU Directive into Czech law is pending.⁴ The Directive took effect on 17 December 2021. Because it carries direct vertical effect, certain obligations need to be met:

- a) the introduction, at public entities, of internal reporting systems (IRS) that meet the criteria prescribed by the Directive;
- b) the establishment of processes for the handling, processing and storage of reports under the IRS;
- c) the introduction of an external reporting system (ERS) that meets the criteria prescribed by the Directive;
- d) the establishment of processes for the handling, processing and storage of reports under the ERS;
- e) the preparation of methodological support for whistleblowers, central and local government authorities and other public bodies.

Tasks (c) to (e) are carried out by the Ministry of Justice.⁵

1.2 Institutional safeguards for whistleblowing

Government Regulation No 145/2015 requires civil-service bodies to establish the post of a civil servant responsible for receiving notifications and investigating the suspicions raised therein (an “investigator”); a civil-service body is also required to establish a dedicated mailbox for the receipt of reports submitted on paper and an email address for the receipt of reports submitted electronically.⁶ Recommendations on how investigators should work can be found in the Civil Service section of the Ministry of the Interior’s website.⁷

Public campaigning in the Czech Republic

The English terms “whistleblowing” and “whistleblower” are not widely recognised in the Czech Republic.⁸ Based on the literal translation, i.e. a person blowing a whistle to sound an alarm (derived from the whistle blown by a referee to indicate a foul).

Because of this lack of understanding, the most common compromise is the use of the Czech term “oznamovatel” (literally “notifier”). This solution stems in part from the fact that this is the term employed so far in the proposed Whistleblower Protection Act. This is also why the term has gradually gained currency in the Czech media.⁹

The terms “udavač”,¹⁰ “donašeč”, “práškač”,¹¹ “bonzák” and “informátor” (all translatable along the lines of “grass” or “snitch”) are commonly used pejoratively. Negatively charged terms spontaneously came to mind for respondents in a 2020 survey. The term “práškač” was mentioned by 13% of respondents, while only 7% of them suggested “oznamovatel”.¹²

4 The study reflects the situation in November 2022, with the bill awaiting government consultation.

5 https://korupce.cz/wp-content/uploads/2021/12/met-wb_aktualizace_2021-12-15.pdf

6 Government Regulation No 145/2015.

7 <https://www.mvcr.cz/sluzba/clanek/doporuceni-whistleblowing-prosetrovatel.aspx>

8 In a *Behavior survey* commissioned by Oživení, z. s., 71% of respondents said they did not know what a whistleblower was.

9 https://www.idnes.cz/finance/prace-a-podnikani/whistleblowing-platforma-nntb-oznamovani-anonymita.A220701_671690_podnikani_sov

10 <https://www.forum24.cz/novy-zakon-pro-udavace-praskej-anonymne-pripadne-ti-zaplacime/>

11 https://www.lidovky.cz/domov/ministerstvo-spravedlnosti-blazek-zakon-ochrana-praskac-whistleblower-povinnost.A220509_201426_ln_domov_lros

12 *Behavior survey*

According to a 2009 survey¹³ by Transparency International Czech Republic, two thirds of the employees surveyed (from both the public and private sectors) who had encountered serious wrongdoing in the workplace either did not report the situation or only consulted it with colleagues. The main reasons for their inaction were concerns that they might face problems and that, even if they did report the situation, no action would be taken to resolve it. A third of employees believed that management knew about the malpractice and chose not to address the problem.

A 2014 Oživení analysis of interviews with 40 whistleblowers from the V4 countries and Estonia¹⁴ found that, with one single exception, all whistleblowers had experienced various forms of retaliation. Half of them had lost their jobs. Half of the respondents stated that they had no one to turn to for protection.

In many respects, 2015 was a landmark year for whistleblower protection. One crucial milestone was the inclusion of whistleblower protection among the four anti-corruption priorities of the then government. One of the commitments it made in its policy statement was to come up with legislation on corruption reporting and whistleblower protection. This commitment was backed up with a series of public debates on whistleblower protection throughout the year, one of which was the international conference A Challenge for the Czech Republic: Whistleblowing as a Way of Protecting EU Citizens' Financial Interests, organised by the NGO Oživení. Leading international experts from academia, research institutions, and non-profit organisations, along with the government representatives, journalists and, ultimately, whistleblowers themselves descended on Prague.

Two campaigns aimed at the general public were unveiled in September 2015.

Transparency International Czech Republic initiated www.zapiskej.cz, a whistleblowing awareness campaign advocating for the enactment of a robust whistleblower protection law.¹⁵ It included a public debate together with a screening of a film on the topic. The campaign was also accompanied by a video¹⁶ built around the sports theme of fair play.



Source: Transparency International Czech Republic's YouTube channel.

13 Whistleblowing a ochrana oznamovatelů v České republice [online]. Prague: Transparency International Czech Republic, 2009 [accessed 6 June 2022]. Available at: https://web.archive.org/web/20111105082347/http://www.transparency.cz/doc/TIC_whistleblowers_2009_cz.pdf. ISBN 978-80-87123-11-9.

14 FRANKOVÁ L., PETRÁKOVÁ L. O nás s námi – Ochrana oznamovatelů (whistleblowerů) v české realitě a ve srovnání s dalšími zeměmi, Oživení, 2014. ISBN 978-80-905762-0-9 [online]. [Accessed 13 August 2022]. Available at: https://www.oziveni.cz/wp-content/uploads/2014/04/WB_CZE-FINAL_REVISED.pdf

15 <https://www.transparency.cz/minuty-ti-david-kotora-whistleblowing/>

16 <https://www.youtube.com/watch?v=mFOxB3AyLEo>

The other awareness-raising initiative was Oživení's www.piskamfauly.cz. This was a campaign that, again, tried to engage the public with sport-related slogans, and emphasised the fact that whistleblowing can affect all of us, not just those who stand out in other ways. It was launched at the aforementioned international conference and was accompanied by the roll-out of a website offering a basic guide for professionals, the general public and whistleblowers themselves. The website remains active to this day (under a different domain name).¹⁷

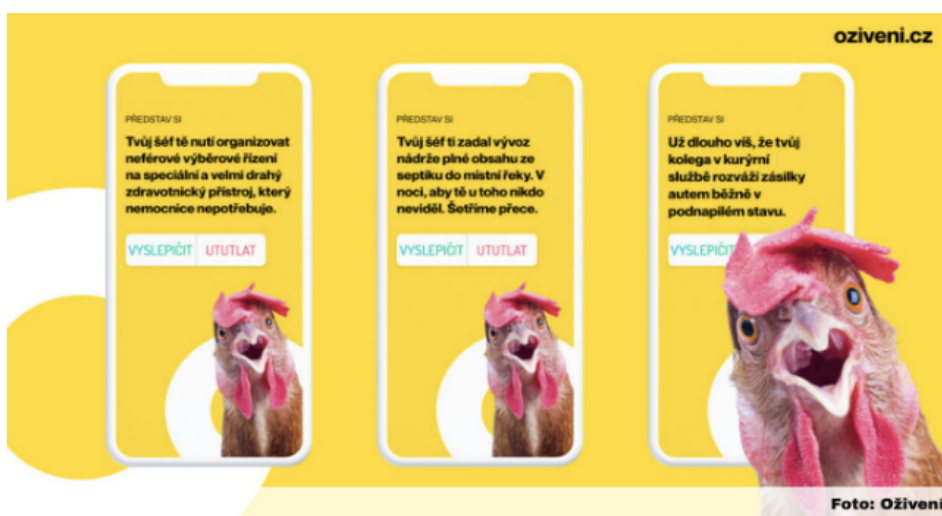


Source: Oživení archives

In 2021, Oživení mounted a new campaign called Tattle or Hush ("Vyslepičit, nebo ututlat"). This was the winning entry in Young Lions, a competition in which 30 teams of young marketing specialists were tasked with finding how the phenomenon of whistleblowing could best be communicated to the public in a way that people would understand.¹⁸

The aims of the campaign were to raise awareness of whistleblowing, spread the word about the help and protection provided by Oživení, increase traffic to the guidance website, and gain ten direct contacts for confidential online consultations. Campaign website: <https://www.oziveni.cz/vyslepicit-ututlat/>.

The winners exploited the fact that Czechs are adept at taking to Facebook and other social media to complain about and badmouth anything that displeases them. The team's campaign proposal was inspired by similar "hostile" interactions. Negative reactions, for example, to a boss forcing someone to "accidentally" set fire to an illegal dumpsite were meant to embolden whistleblowers. The "face" of the project is a hen, with the idea of helping to turn the Czech word for "tattle" ("vyslepičit" – literally "to hen out") into the more positive meaning of "speak up".



Source: Oživení

¹⁷ www.whistleblowingcenter.cz

¹⁸ <https://mam.cz/zpravy/marketing/2021-04/young-lions-digital-vyhraly-katerina-maresova-z-ami-digital-a-alexandra-denisova-z-quision/>

Campaign effectiveness

In May 2021, the communication strategy was completed, as was the design of “Tattle and/or Hush”, the awareness-raising campaign drawn up in the prestigious Young Lions competition for young marketing professionals. The campaign leveraged the novel visual of a hen combined with stories from the lives of whistleblowers. Viewers could take their pick of eight short role-play scenarios. The campaign, launched on 14 June, made use of online tools.

The whistleblowing theme communicated through the “Tattle or Hush” online campaign attracted attention (reach) and interest from social media visitors. Following the campaign’s launch (14 June), these short stories (five posts in total) targeted 122,138 people on Facebook in June and July.

Effectiveness of individual posts

effectiveness and reach	total users targeted	interest shown	of which clicks on the post	reactions (likes, comments, shares)
Post on 14 June	28,183	262	178	84
Post on International Whistleblower Day	8,898	244	114	130
Post on 29 June	17,291	62	53	9
Post on 12 July	12,883	116	83	
Post explaining the WB video	21,000	video viewed by 5,000 users		

Summary and identification of good practice

The Czech Republic does not yet have much experience of whistleblower protection. Although whistleblowers do exist here, general awareness of the phenomenon of whistleblowing is limited. For example, it is highly unusual for the media to refer to the source of an article as a whistleblower.¹⁹ This is a major difference from Anglo-Saxon countries, where the concept is more established in everyday discourse and is directed towards particular target groups, not just the general public. The non-profit sector has been at the forefront of campaigns and other efforts to raise awareness of whistleblower protection. Methodological support has also been put in place thanks to the partial adoption of whistleblower protection in the public sector. However, for the most part it has been confined to a simple description of rights and obligations.

¹⁹ The case of *Veronika Brožová*, a paramedic who exposed the fact that protective equipment was in short supply in the emergency services in the first covid wave and consequently had a criminal complaint filed against her by the Central Bohemian Region, was not portrayed in the media as whistleblowing. Nor was the case of the *Slunečnice* care home, where one of the nurses revealed that clients were being mistreated. *Information about the Deza incident*, which preceded the environmental disaster on the River Bečva, was also leaked by whistleblowers. Zuzana Vlasatá from the online media outlet *Deník referendum* brilliantly covered the whole of this story as a whistleblowing case.

2 Netherlands

2.1 Basic legislative framework

The Dutch Whistleblowers Authority Act (Wet Huis voor Klokkenluiders), which took effect on 1 July 2016, underlies the establishment of the Dutch Whistleblowers Authority (the “Authority”). The Act requires all organisations in the Netherlands with more than fifty employees to introduce procedure for reporting internal wrongdoings. It also prohibits the disadvantaging of employees who duly report any wrongdoing.²⁰ The Authority provides protection to whistleblowers and has been given the task of dealing with cases where it deems the reported wrongdoings to be in the public interest.

In light of the existing legislation, the European Commission identified the Netherlands as one of only nine Member States that had a comprehensive legal framework for whistleblower protection in place prior to the adoption of the Directive. The transposition of the Directive will introduce several new aspects into the Dutch system.

As outlined above, the Dutch Whistleblowers Authority Act will be amended so that the Directive can be transposed into national law, after which it will be renamed the Whistleblower Protection Act (Wet Bescherming Klokkenluiders). The bill is still being debated in the lower house of parliament. Failure to meet the transposition deadline of 17 December 2021 resulted in the Netherlands receiving a letter of formal notice from the European Commission.

2.1.1 Material and personal scope

Reporting must be in the public interest. Under the Act, notifiable wrongdoings include violations of the law, threats to human health and safety, risks to the environment, and improper acts or omissions that jeopardise the functioning of a public agency or company.

The Act applies to employees and former employees in the public and private sectors who report wrongdoings they have encountered in the course of their work.²¹

2.1.2 Internal reporting system

The Act requires all organisations in the Netherlands with more than fifty employees to introduce procedure for reporting internal wrongdoings. Whistleblowers must first raise their concerns internally, and only if their report is not handled properly within the organisation can they make an external report.²²

2.1.3 Anonymous whistleblowing

Section 5 of the Dutch Whistleblowers Authority Act provides for anonymous whistleblowing, but does not recommend this form of reporting.²³

2.1.4 Forms of protection against retaliation

The Authority is competent to receive and pursue whistleblowers’ complaints and to investigate retaliatory action taken against employees for reporting unlawful conduct.²⁴

20 <https://www.huisvoorklokkenluiders.nl/english>

21 <https://www.dlapiper.com/en/spain/insights/publications/2021/06/whistleblowing-guide/netherlands/>

22 *Ibid.*

23 <https://www.huisvoorklokkenluiders.nl/Publicaties/publicaties/2016/07/01/dutch-whistleblowers-act>

24 *Ibid.*

2.1.5 Definition of whistleblowing

The Whistleblowers Authority Act defines whistleblowing as the reporting of wrongdoings that are serious and structural and affect the organisation (employer) or society as a whole. The whistleblower must be in a working relationship with the given organisation or employer. Employees are entitled to report any reasonable suspicion of wrongdoing occurring within the company that affects the public interest (e.g. a breach of the law, a threat to public health, safety or the environment, and/or a danger to society). The general definition has been established to ensure that the accompanying exhaustive list does not leave gaps in the material scope of the law that would result in the omission of certain acts.²⁵

2.2 Institutional safeguards for whistleblowing

The Authority has been the central whistleblowing body since 2016. From the outset, its mandate has been defined more ambitiously than in other countries. Besides providing information, it also offers legal advice to some extent, helps whistleblowers to decide who it would be best to contact with their report, and has the means to arrange psychosocial support.²⁶

The Authority also investigates reported wrongdoings or disadvantages suffered by employees as a result of making a report. Finally, it provides organisations with know-how on how to improve their internal confidentiality policies. Its services are confidential, independent and free of charge.

The Authority publicises itself and its services through press releases and annual reports, and by participating in social debates,²⁷ organising and speaking at events, and publishing articles. New forms of communication – a podcast and an animated video – are currently in production.²⁸

The OECD, diverging from the European Commission's positive comments on the conformity of the Dutch law with the European Directive, finds that the work done by the Authority falls short of expectations due to its limited mandate. One of the points criticised was that, in the first four years of its existence, the Authority had not handled a single case of retaliation that was subsequently the subject of civil proceedings.²⁹ Further criticisms included the Authority's inability to order employers to reinstate or compensate aggrieved employees, and the dearth of penalties imposed on employers who punish whistleblowers. Furthermore, whistleblowers who have suffered retaliatory measures must seek redress in court, where they have to prove that they were targeted precisely for having reported a wrongdoing.³⁰

2.3 Raising awareness of the meaning of the term “whistleblowing”

The term for whistleblower (“klokkenluider” = bell ringer) has been established in the Dutch language for many years. Even so, the Authority does not consider the term to be entirely appropriate. Kristien Verbraeken from the Whistleblowers Authority explained that the term associates the whistleblower with the conduct reported.³¹ This perspective may be partly based on the most well-known cases of whistleblowing. Cambridge Analytica,³² WikiLeaks, Edward Snowden – a controversial view of the actions of the whistleblowers persists in all these cases.

25 Response from the Whistleblowers Authority. The information is taken from answers provided in the questionnaire prepared for this study.

26 The Dutch Whistleblowers Authority in an international perspective: a comparative study. Downloadable at: https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study.

27 https://twitter.com/Huis_Klok/status/1207241791306686465/photo/1

28 Response from the Whistleblowers Authority.

29 <https://www.oecd.org/corruption/anti-bribery/netherlands-phase-4-report-en.pdf>, published in 2020.

30 The Netherlands Prepares For The EU Whistleblowing Directive (integrityline.com).

31 Response from the Whistleblowers Authority.

32 <https://www.mediaguru.cz/clanky/2019/03/christopher-wylie-s-facebookem-ztracite-svobodu/>

The Authority actively promotes the term “melder” (reporter), arguing that this term better expresses the limited role of the whistleblower in any unlawful conduct.³³

There is also an evident effort not to refer directly to whistleblowing. Communication focuses primarily on “integrity in the workplace”. In its most recent annual report (2021), the Authority spells out what its ambition is: *“The Whistleblowers Authority wants to have a central position in the Dutch integrity system. Accordingly, we dedicate much effort to making ourselves more visible. In addition, we actively join, and work with, networks of politicians, stakeholder organisations, supervisory bodies and academia.”*³⁴

One example of such activity is the Authority’s involvement in the “Good Management Network” (Goed Besturen Network), which culminated in a letter to the House of Representatives calling on the government to draw up a systematic and comprehensive strategy to deal with integrity issues in the public domain.³⁵

2.3.1 Targeting publicity at specific groups

The information disseminated by the Dutch Whistleblowers Authority through its website, pamphlets, interviews, newsletters and other tools is aimed both at employees (potential whistleblowers) and at employers as entities responsible for preventing and/or addressing potential wrongdoing within their organisation.

Capacity constraints mean that it does not target students or the elderly, i.e. population groups that are not active in the labour market.³⁶

The main message conveyed to potential whistleblowers is: “If you discover unlawful conduct, please contact the Authority as soon as possible so that we can assist you confidentially.”

The main message to employers is: “Make sure your organisation addresses ethical and other workplace issues so that minor problems do not escalate into unlawful conduct involving more serious consequences.”³⁷

2.3.2 Forms of publicity used

The forms used to raise awareness of whistleblowing and the Authority’s activities are diverse and reflect current trends. For example, a new podcast series has been produced and an animated video is in the pipeline. The main communication channels are the website, social media (especially Twitter,³⁸ where the Authority has 281 followers), investigation reports,³⁹ interviews,⁴⁰ animations (currently under development) and news articles in the national media and specific specialist media.

In 2022, the Authority launched its “Het Huis Luistert” podcast series. Episode 1 addressed improvements to internal mechanisms at organisations and featured the “Integrity Guide”, a free online tool for organisations to test and enhance their integrity policies.⁴¹

33 The Authority’s views are taken from answers provided in the questionnaire prepared for this study.

34 <https://www.huisvoorklokkenluiders.nl/Publicaties/jaarverslagen/2022/03/15/annual-report-dwa-2021>

35 2021 Annual Report – <https://www.huisvoorklokkenluiders.nl/Publicaties/jaarverslagen/2022/03/15/annual-report-dwa-2021>.

36 Response from the Whistleblowers Authority.

37 Response from the Whistleblowers Authority.

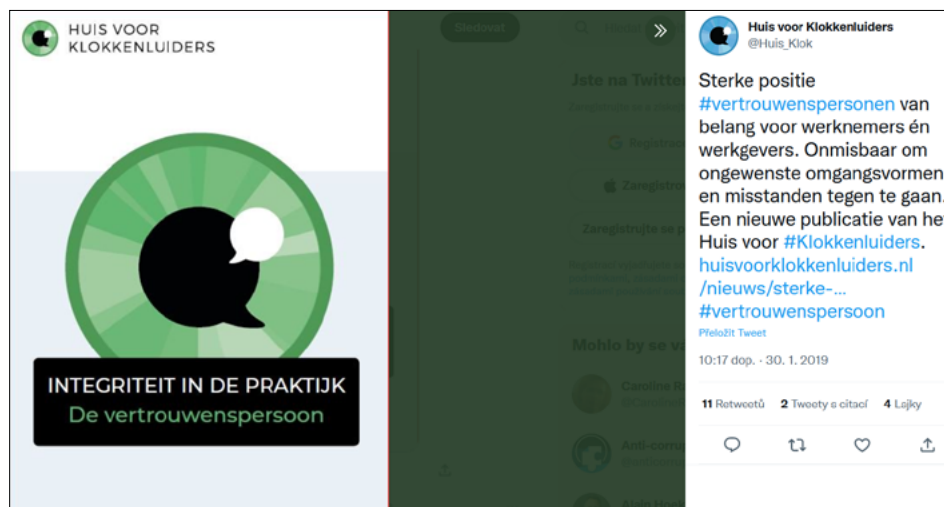
38 https://twitter.com/Huis_Klok

39 The Authority has published separate progress reports on two major cases under investigation. For more details, see the 2021 Annual Report.

40 <https://www.bnr.nl/player/audio/10202983/10454385>

41 <https://www.huisvoorklokkenluiders.nl/actueel/nieuws/2022/02/10/huis-voor-klokkenluiders-lanceert-nieuwe-podcastserie-het-huis-luistert-aflevering-1-de-integriteitswijzer>

Examples of tweets:⁴²



Examples of tweets



Examples of tweets



Example of an advertisement from 2016

⁴² Strong position of #confidentialadvisers, important for both employees and employers. Integral in combating untoward behaviour and abuse. New House of Representatives publication for #whistleblowers. <https://huisvoorklokkenluiders.nl/nieuws/sterke-positie-vertrouwenspersonen-belang-werknemers-en-werkgevers/#trustsperson>

2.3.3 Websites dedicated to whistleblowing

The Authority's website at <https://www.huisvoorklokkenluiders.nl/> is devoted to current legislation.⁴³

The new website was launched in December 2019. From 31 July 2021 to 31 July 2022, the site generated 143,758 views. According to information supplied by the Authority, the site has had 36,956 unique visitors and 54,230 sessions since its inception.

The site includes tabs with a link for filing a complaint,⁴⁴ news on the Authority's activities, detailed information on how investigations are conducted,⁴⁵ a section on internal investigations and workplace integrity,⁴⁶ an overview of relevant laws, publications, and a review of cooperation with other national and international organisations.

2.4 Raising awareness of the legislative framework

2.4.1 Raising awareness of European legislation

Information is currently disseminated primarily online on a website developed by the Ministry of the Interior at www.wetbeschermingklokkenluiders.nl.

The Ministry also has plans for other media campaigns. However, as the transposition law has yet to be adopted, it only shares general information on the European Directive, draws attention to the need to revise rules governing internal reporting systems,⁴⁷ and announces changes that are to be made, e.g. by means of infographics.⁴⁸

The key elements of the Directive are presented in a booklet entitled The EU Directive in 6 Questions and Answers, which is available on the Authority's website.⁴⁹ This document briefly describes who is protected by the Directive, which entities are subject to the obligations under the Directive, what reporting under the Directive is supposed to cover, where to submit reports and how and from what the whistleblower is protected.

The Authority's website also includes two basic subpages with information for employees (potential whistleblowers) and employers.



An overview of the EU Directive in six bullet points.

⁴³ Introduction to the website: Welcome to the website of the Dutch Whistleblowers Authority. We provide advice and support for employees who want to report a possible wrongdoing within their organisation. We also conduct investigations into wrongdoings within organisations or into the disadvantaging of employees due to reporting a wrongdoing. Finally, we also provide know-how for organisations on how to improve their internal integrity policy. Our services are confidential, independent and free of charge.

⁴⁴ https://mijn.portaal-huisvoorklokkenluiders.nl/zaak/create/webformulier/webform/?process_previous_step=1&process_step_index=0&ztc_aanvrager_type=unknown

⁴⁵ <https://www.huisvoorklokkenluiders.nl/onderzoek-door-het-huis>

⁴⁶ <https://www.huisvoorklokkenluiders.nl/integriteit-bevorderen>

⁴⁷ <https://www.wetbeschermingklokkenluiders.nl/over-deze-website>

⁴⁸ <https://www.wetbeschermingklokkenluiders.nl/wat-verandert-er>

⁴⁹ <https://www.huisvoorklokkenluiders.nl/wet--en-regelgeving/europese-richtlijn>

2.4.2 Raising awareness of national legislation

Information on current legislation is available primarily on the Authority's website. See the section above entitled "Websites dedicated to whistleblowing".

The law also requires employers to inform their employees, by means of a printed document or electronically, of the process for submitting a report via the internal reporting system, the conditions under which a report may be made, and information on legal protection.

2.4.3 Publicity for whistleblowing through internal channels

The Dutch Whistleblowers Authority advises employers of factors that are crucial to the success of an internal reporting system. Drawing on a recent Utrecht University study⁵⁰ commissioned by the Authority itself, it advises employers to work on transparency, the prompt and professional handling of reports, and the expertise and skills of those involved in the whistleblowing process. It also recommends clear communication, reliability and assertiveness, coordination of key participants in the whistleblowing process, and psychological and social safety in the workplace.⁵¹

According to the Authority, the government has not yet established any specific procedure for the promotion of internal reporting systems. This is because the transposition law has not yet been passed.

2.5 Methodological work

The Authority's methodological work is primarily aimed at employers. The law applies to both the private and the public sector. Since its establishment, the Authority has published 127 studies, pamphlets and other documents. Some have also been published in English, though most remain available only in Dutch.⁵²

2.5.1 Guidelines for prosecutors, courts, bodies in misdemeanour proceedings, and police authorities

Published documents include the Coordination Protocol of the Public Prosecutor's Office and the Whistleblowers Authority, which contains agreements on cooperation and the exchange of information between these agencies in cases where both organisations are investigating the same incident. No other guidelines for prosecutors, courts and police authorities are publicly available and the Authority has no record of such documents.

2.5.2 Internal reporting system guidelines

One example of methodological support is a guide for employers so that they can prepare for adjustments to internal reporting channels in accordance with the Directive.⁵³ Other methodological materials include studies on how to improve workplace integrity⁵⁴ and on the process underlying the internal investigation of reports.⁵⁵

2.5.3 Data harvesting and statistics

In its 2021 Annual Report,⁵⁶ the Authority reports that an increasing number of organisations are drawing on its expertise. In that year, it answered 179 enquiries about how to improve internal reporting systems, more than double the number in 2020.

In 2021, the Authority's staff received 208 new written complaints of malpractice, and had a further 81 cases pending from the previous period.

50 *The Dutch Whistleblowers Authority in an international perspective: a comparative study.*

51 *Response from the Whistleblowers Authority.*

52 <https://www.huisvoorklokkenluiders.nl/Publicaties>

53 <https://www.huisvoorklokkenluiders.nl/wet--en-regelgeving/documenten/brochures/2021/10/29/aanpassingen-voor-uw-meldregeling>

54 *Integrity Management and the Integrity Manager – Current status and possibilities for development:* https://www.huisvoorklokkenluiders.nl/Publicaties/publicaties/2022/05/02/dwa_integrity-management-and-the-integrity-manager.

55 <https://www.huisvoorklokkenluiders.nl/Publicaties/publicaties/2020/04/01/integrity-in-practice---internal-investigation>

56 <https://www.huisvoorklokkenluiders.nl/Publicaties/jaarverslagen/2022/03/15/annual-report-dwa-2021>

The Authority singles out expert advice provided by telephone as particularly effective. In 2021, the Authority responded to 249 malpractice-related enquiries.

The Authority is also responsible for investigating reported complaints of malpractice and retaliation. In 2021, it received 21 requests for investigations, resulting in the initiation of eight investigations.

The Authority also keeps statistics on complaints received by sector. In 2021, 55% of enquiries came from the private sector, 27% from the public sector and 18% from the semi-public sector.⁵⁷

Figures show that the Authority is succeeding in its advisory role, but that the number of complaints investigated is quite low.

2.6 Summary and identification of good practice

Although the Netherlands did not manage to pass the transposition law on time, its original legislation is close to the requirements of the Directive in its basic outline. The principal institution responsible for raising awareness of whistleblowing is the Authority. The intended scope of the Authority is ambitious, but some of the information available indicates that it has yet to achieve its objectives in practice. In 2019, the Authority was criticised for not being effective enough in the media,⁵⁸ and the OECD's 2020 monitoring report makes a similar finding.⁵⁹

As this study focuses primarily on how awareness of whistleblower protection is raised, it does not aim to assess the effectiveness of individual pieces of legislation. From the perspective of communication, the Authority does not focus so much on factual information under the law. Instead, much of its output relates to workplace integrity and enforcement thereof.

Good practice identified:

- The central Authority's well-organised website, with information for both whistleblowers and employers.
- The drive to use new formats of communication, including podcasting and a social media presence.
- Guidance manuals are clear and easy to understand. For example, the investigations guide attempts to cover the entire process and also suggests possible points that the investigator should or may wish to explore. However, the guide is concise and should ideally be accompanied by training.
- Embedding in the broader framework of workplace integrity – whistleblowing is communicated as part of the improvements to workplace culture.

⁵⁷ Semi-public sector. In Dutch law, this term denotes privately established entities, in most cases foundations or associations, which are responsible for carrying out a public task, often with public funds. These include schools and healthcare facilities.

⁵⁸ <https://www.bd.nl/binnenland/huis-voor-klokkeluiders-kostte-negen-miljoen-en-loste-nul-zaken-op~a0e6d73f/?referrer=https%3A%2F%2Fduckduckgo.com%2F>

⁵⁹ <https://www.oecd.org/corruption/anti-bribery/netherlands-phase-4-report-en.pdf>

3 Norway

3.1 Basic legislative framework

Norway adopted the Working Environment Act (“WEA”) in 2005. This law was last amended in 2020, with comprehensive whistleblower protection having been introduced in 2017. The relevant WEA provisions require most businesses to establish internal reporting systems, which must be readily accessible to all employees. The 2017 amendment stipulated that businesses with more than five employees must have an internal reporting channel.⁶⁰ The WEA has always been managed by the Norwegian Ministry of Labour and Social Inclusion.

According to that ministry, whistleblower protection has a constitutional basis in article 100 of the Norwegian Constitution, which establishes freedom of expression. Beyond that, whistleblowing is also regulated in other specific legislation, such as the Medical Staff Act and the Money Laundering Act.⁶¹

According to the OECD’s 2018 assessment, while Norway had a robust legislative framework, this has failed to translate into real whistleblower protection in the workplace, at least in cases involving the detection of foreign fraud.⁶²

Other studies, too, mention the fact that whistleblowers in Norway experience bullying and retaliation. Experts say that this stems from cultural aspects, notably strong loyalty to one’s employer. There is also a trend where the more serious the wrongdoing reported, the more frequent the retaliation.⁶³ Retaliatory measures are more common in the public sector.⁶⁴

3.1.1 Material and personal scope

Both the definition of whistleblowing and the material scope of the law are broad. Under the WEA, whistleblowing is taken to mean the reporting, by employees, of wrongdoings that have occurred in their employer’s business. They can report on wrongdoings that are in breach of the law, written ethical guidelines within the company, or ethical standards that are widely agreed upon within society, in areas such as:⁶⁵

- a) threats to life or limb;
- b) threats to the climate and the environment;
- c) corruption or other economic crime;
- d) abuse of power;
- e) an inadequate working environment;
- f) breaches of personal data security.

The WEA applies to employees working in either the private or public sector, as well as to the self-employed, albeit with certain exceptions. The WEA applies to board members, shareholders and volunteers only if they are considered employees of a company. Job applicants, terminated employees, and persons supervised or managed by a subcontractor or supplier cannot be whistleblowers.⁶⁶

60 <https://www.oecd.org/corruption/anti-bribery/Norway-Phase-4-Report-ENG.pdf>

61 *Response from the Ministry of Labour and Social Inclusion.*

62 <https://www.oecd.org/corruption/anti-bribery/Norway-Phase-4-Report-ENG.pdf>

63 *Culture Eats Control for Breakfast: The Difficulty of Designing Management Systems for Whistleblowing*, p. 207 Doornich, June Borge. “Culture Eats Control for Breakfast: The Difficulty of Designing Management Systems for Whistleblowing.” *Whistleblowing, Communication and Consequences*. Routledge, 2021. 201–213.

64 https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study, p. 102.

65 <https://www.arbeidstilsynet.no/en/laws-and-regulations/laws/the-working-environment-act/3/section2a-1/>

66 <https://www.dlapiper.com/en/spain/insights/publications/2021/06/whistleblowing-guide/norway/>

3.1.2 Internal reporting systems

Employers in both the public and private sectors are required to establish confidential internal whistleblowing processes. The law does not elaborate on the form they should take.

3.1.3 Anonymous whistleblowing

While the law does not provide for anonymous whistleblowing, this may be accepted by the employer.⁶⁷

3.1.4 Forms of protection against retaliation

It is prohibited to retaliate against an employee⁶⁸ who files a report under section 2A-1 of the WEA. Protection extends to all forms of retaliation, including threats and attempts to retaliate. When employee presents information that provides reasonable cause to believe that the employer has violated the prohibition against retaliation, the reverse burden of proof applies.

3.1.5 Definition of whistleblowing

The WAE defines whistleblowing as the reporting of wrongdoings that have occurred in the business run by the whistleblower's employer.

3.2 Institutional safeguards for whistleblowing

Information on institutional safeguards varies. According to *The Dutch Whistleblowers Authority in an international perspective: a comparative study*, which also covers Norway, only two whistleblower institutions were operational in 2018 – the courts and a psychosocial clinic funded by the Ministry of Health.⁶⁹ This study reports that institutional changes were under discussion at the time, with a formal and central role to be assigned to the labour inspectorate. However, other sources, such as research by the Trade Union Movement's Centre for Research, Investigation and Documentation (Fagbevegelsens senter for forskning, utredning og dokumentjon, or "FAFO"), have treated the labour inspectorate as the responsible authority since 2018.⁷⁰

The Norwegian Labour Inspection Authority (Arbeidstilsynet, henceforth the "Authority") is currently the main promoter of information on whistleblower protection. It has set up an information service, open daily, which can be contacted by telephone, chat or a contact form.

As in the Netherlands, state-funded psychosocial support for whistleblowers has been available in Norway. It has been provided by the Ministry of Health since 2012, but it is unclear whether this service is still included in the care on offer.^{71 72}

67 <https://www.dlapiper.com/en/spain/insights/publications/2021/06/whistleblowing-guide/norway/>

68 Under the WEA, aside from employees, whistleblowers may include students, military personnel, prisoners, patients, persons who are placed in businesses for training purposes without being classified as employees, and others.

69 https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study, p. 104

70 Fafo Institute of Labour and Social Research in Oslo <https://fafo.no/en/publications/english-summaries/whistleblowing-in-norwegian-working-life-2018>

71 https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study

72 <https://www.helsedirektoratet.no/tema/psykososial-oppfolging-ved-ulykker-kriser-og-katastrofer>

3.3 Raising awareness of the meaning of the term “whistleblowing”

In Norway, whistleblowing has always been predicated on, and is communicated as, the constitutional right to freedom of speech under article 100 of the Norwegian Constitution. On its website, the Authority states: *Freedom of expression and whistleblowing are closely interlinked. The aim of whistleblowing regulations is to contribute to a good and constructive environment for expression in which employees can speak up and express themselves critically without risking any form of punishment or negative reactions.*⁷³

The goal of whistleblowing, or rather the work of the labour inspectorate, is to improve the working environment. Therefore, communication is not framed in a negative way, it is not aimed at promoting whistleblowing as a way of exposing criminal activity.⁷⁴

Nevertheless, it is evident from the sources available that awareness of the meaning of the term has been raised among the public in recent years. At the turn of 2019, there was an intense public debate in Norway about the fact that only negative cases of whistleblowers who faced retaliation made it into the media.⁷⁵

3.3.1 Targeting publicity at specific groups

In Norway, whistleblowing is closely linked to trade unions, which also figure as recipients of reports and are likely to communicate the subject of whistleblowing in some fashion. Certain studies have shown that employee representatives and those who are represented by them can raise issues more effectively and are less at risk of retaliation.⁷⁶

However, trade union websites do not offer any information on whistleblowing.⁷⁷

3.3.2 Forms of publicity used

The Authority makes use of Facebook, where it has 38,000 followers. However, its profile is not limited to whistleblowing, with posts also relating to workplace safety, bullying and other labour-law obligations and workers' rights.

The way in which information on whistleblowing is communicated in relation to environmental protection and occupational safety is illustrated, for example, by this post from 7 October: <https://fb.watch/grvo9ImErn/>.⁷⁸ The post has been viewed more than a thousand times.

73 <https://www.arbeidstilsynet.no/tema/varsling/#Vernmotgjengjeldelse>

74 *Freedom of expression and whistleblowing are closely interlinked. The aim of whistleblowing regulations is to contribute to a good and constructive environment for expression in which employees can speak up and express themselves critically without risking any form of punishment or negative reactions.*

75 *Fafo Institute of Labour and Social Research in Oslo* <https://fafo.no/en/publications/english-summaries/whistleblowing-in-norwegian-working-life-2018>.

76 https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study, p. 103

77 <https://www.fagforbundet.no/>

78 *Translation of the post from 7 October: “As chemicals can pose a risk to health and safety, employers are required to conduct risk assessments of the chemicals that employees work with.*

This also means that employers must consider measures to avoid or reduce contact with chemicals. Employers should ensure that a safety data sheet and a factsheet on hazardous substances used on the premises are available. These contain information on hazardous properties and the protective measures recommended. In all cases, employees must be made aware of the risks of using hazardous chemicals at work.

You have alerted your employer to breaches of these rules, but we understand that this has not helped. You can therefore make a complaint to us (anonymously). As an employee, it is your right and duty to interrupt your work if you believe it cannot be continued without endangering life and limb. This is specified in section 2–3(2)(c) of the Working Environment Act.

Remember that:

There are many ways you can come into contact with harmful chemicals – by inhalation, through the skin or by ingestion. Certain chemicals may have acute effects, while others may cause health problems or illness only after many years, often decades.

Information about the safety database can be viewed on the Labour Inspection Authority website at: <https://www.arbeidstilsynet.no/.../sikkerhetsdatablad/>.”



The Authority also has a Twitter account with 3,153 followers, but the most recent post was published in mid-2021 and the account appears to have been inactive since then.⁷⁹ It also runs a YouTube channel, where, for example, visitors can watch a short whistleblowing film that explains the practicalities behind various sections of the law.⁸⁰

3.3.3 Websites dedicated to whistleblowing

The primary source of information on whistleblowing is the Labour Inspection Authority's website.

The site offers general information and displays the full text of the law in a clear and user-friendly format.⁸¹ In the whistleblowing section, information is broken down into subpages: Employee, Employer, Whistleblowing Procedures, What is Whistleblowing?, Obligations and Rights, FAQs.⁸² The end of each page features a signpost to other subpages, the structure of which replicates the individual sections of the law.

The FAFO website is another source of information on whistleblowing. FAFO is an independent foundation that promotes an understanding of working life, the activities of organisations, society and politics. Its 2019 report explores whistleblowing in Norwegian working life and provides statistics. It includes a summary in English.⁸³

Dialogue box for submitting a complaint to the Authority

79 https://twitter.com/Arbeidstilsynet?s=20&t=C5JiuwJBqLktIX_jdLxV-A

80 <https://youtu.be/IMg80pKZKLU>

81 <https://www.arbeidstilsynet.no/en/laws-and-regulations/laws/the-working-environment-act/>

82 <https://www.arbeidstilsynet.no/tema/varslings/>

83 <https://fafo.no/zoo-publikasjoner/summaries/whistleblowing-in-norwegian-working-life-2018>

3.4 Raising awareness of the legislative framework

The Norwegian Authority operates an information service that can be contacted daily via telephone, chat or a contact form.⁸⁴ It also provides information on various whistleblowing topics in English on its website.⁸⁵

3.4.1 Raising awareness of European legislation

Being a non-EU country, Norway is not required to transpose the Directive and does not report on its aspects.

3.4.2 Raising awareness of national legislation

As mentioned above, the Authority makes the text of the law available in a user-friendly form on its website. Rules and obligations under the law are also incorporated into guidance documents.

3.4.3 Publicity for whistleblowing through internal channels

It is not known whether the Authority supports internal reporting systems other than by providing informative assistance and guidance. The guidance is not as comprehensive as, for instance, in the Netherlands, but it can be assumed that consultation is available for employers if they encounter any problems when setting up internal processes.

3.5 Methodological work

3.5.1 Guidelines for prosecutors, courts, bodies in misdemeanour proceedings, and police authorities

On its website, the Labour Inspection Authority provides a guide called “How public authorities should proceed with whistleblowing”. This commentary contains only brief information. However, an e-learning course on reporting breaches of regulations to public authorities is also available. This course concentrates mainly on how public authorities and their employees should proceed when confronted with whistleblowing.

Although none of the available guidelines or other materials are aimed specifically at prosecutors, courts or police authorities, the above-mentioned documents do reflect efforts to educate public-sector employees in general about whistleblowing.

3.5.2 Internal reporting system guidelines

Guidelines for employers on how to handle whistleblowing have been published on the Labour Inspection Authority’s website. This guidance also includes an instructional video that explains an employer’s obligations.

The Authority also has an interactive web application that enables employers to structure their internal reporting system. Besides the name of the organisation, the form here requires the identification of the person concerned, the ways in which reports can be filed, a specification of whether anonymous reporting is possible, a list of cases in which internal reporting is allowed (which may cover more than the statutory scope), the way in which receipt of a report is acknowledged, the method used to address the facts reported, and more.

3.5.3 Data harvesting and statistics

Neither the Labour Inspection Authority nor the Ministry of Justice publishes whistleblowing statistics.

⁸⁴ Response from the Ministry of Labour and Social Inclusion.

⁸⁵ <https://www.arbeidstilsynet.no/en/contact/report/>

3.6 Summary and identification of good practice

Several salient statistics on the experiences of whistleblowers can be gleaned from the FAFO report:

Four out of ten whistleblower respondents report that whistleblowing has helped to rectify the situation. Psychosocial problems are the most difficult to report, and whistleblowers also view cases as more challenging where the person responsible for the wrongdoing holds a senior position within the company.

Nineteen per cent of respondents have experienced negative reactions or punitive action as a result of whistleblowing, most commonly being relieved of responsibility or reprimanded by a superior. One in five say that their career prospects have suffered as a result. Positive reactions were experienced by 33 per cent of whistleblowers. Seven out of ten whistleblowers said they would do it again. Those who experienced negative reactions and punitive action were less likely to make another report. Most whistleblowers felt that the action taken against the person responsible for the wrongdoing was insufficient considering the seriousness of the wrongdoing.⁸⁶

- As in other countries, in Norway there is no particular effort to spread the term whistleblowing. Whistleblowing and its rules are an element of activities aimed at a safer and healthier working environment.
- The Norwegian method of communicating whistleblowing primarily via workplace safety can largely be attributed to the standing of trade unions and the fact that this agenda falls within the remit of the Labour Inspection Authority. In the Czech Republic, the status of trade unions is different; whistleblowing is not perceived as an effective means of protecting employees and improving their conditions.
- The Authority also explains in great detail what the specific wording of the law means – through videos and, in particular, by creating a system of interlinked subpages.
- The approach adopted by the Norwegian authorities cannot currently be regarded as an example of good practice. Even the results of FAFO research indicate that the Norwegian approach to whistleblower protection is not entirely ideal.

86 <https://fafo.no/zoo-publikasjoner/summaries/whistleblowing-in-norwegian-working-life-2018>

4 United Kingdom of Great Britain and Northern Ireland

4.1 Basic legislative framework

As a result of Brexit, the UK is not required to transpose Community law. The Public Interest Disclosure Act (the “PIDA”), under which legal protection is provided to whistleblowers, was adopted here back in 1998.

4.1.1 Material and personal scope

Whistleblowers are entitled to report unlawful conduct that falls into one or more of the following categories:

- a) criminal acts;
- b) failure to comply with a statutory obligation;
- c) miscarriages of justice;
- d) threats to human health and safety;
- e) environmental damage;
- f) concealment of unlawful conduct in the above categories.⁸⁷

In British law, “worker” is an important term. It includes full-time employees, part-time employees, casual staff, and those on fixed-term contracts. However, certain key individuals who are protected under the Directive cannot become whistleblowers. These include: the self-employed and volunteers who usually spend their free time working for a charity or school.⁸⁸

By law, workers have the right to take a grievance to an employment tribunal if they have been a victim of retaliation at work as a result of raising a concern.⁸⁹

In 2013, amendments to PIDA removed the “good faith” requirement and replaced it with a “public interest test”.⁹⁰

Whistleblowers who do not wish to make a report internally may contact designated persons or authorities. These are listed on the government website according to the fields in which they are active. This set-up makes for a highly decentralised reporting system. Another option for workers is to file a report with their lawyer or even their Member of Parliament (MP).⁹¹

4.1.2 Internal reporting system

Whereas the EU Directive requires organisations with 50 or more employees to set up internal whistleblowing channels, there is no equivalent requirement in the UK (with the exception of certain specific companies in the financial sector).⁹²

⁸⁷ Whistleblowing: Guidance for Employers and Code of Practice (publishing.service.gov.uk).

⁸⁸ Response from Protect.

⁸⁹ Response from Protect.

⁹⁰ https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study

⁹¹ <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

⁹² <https://www.integrityline.com/expertise/blog/pida-and-uk-whistleblowing/>

4.1.3 Anonymous whistleblowing

The PIDA does not preclude anonymous whistleblowing. This can be set up as part of an internal reporting system. Its introduction is considered good practice in the guidance for employers published by the Department for Business, Energy and Industrial Strategy.⁹³

4.1.4 Forms of protection against retaliation

By law, workers have the right to take a grievance to an employment tribunal if they have been a victim of retaliation at work as a result of raising a concern. Workers must raise any claim of unfair dismissal with a tribunal within three months of their employment ending.⁹⁴

4.1.5 Definition of whistleblowing

Whistleblowing is the term used when a worker passes on information concerning wrongdoing. The wrongdoing will typically be something they have witnessed at work.⁹⁵

To be covered by legal protection, a worker who makes a disclosure must reasonably believe that they are acting in the public interest. That means that personal grievances and complaints are not usually covered by the PIDA. The second thing that a worker must reasonably believe is that the disclosure has the potential to show past, present or likely future wrongdoing falling into one or more of the areas of material scope defined in the law.

4.2 Institutional safeguards for whistleblowing

The whistleblower protection system in the UK is highly decentralised. The UK government's role in raising awareness of whistleblower protection has been limited to treating whistleblowing as a life event for UK citizens in a web-based hub of all policies.⁹⁶ It engages in no further specific activities in this area.

Awareness and advocacy of whistleblower protection is provided by non-profit organisations, in particular Protect,⁹⁷ Parrhesia⁹⁸ and the Whistleblowing International Network.⁹⁹

Similarly, many state regulators in various sectors, as well as industry and health unions, support whistleblower protection within the entities (organisations and professions) that they regulate. The most active are the National Health Service (the "NHS") and the Independent National Whistleblowing Officer (the "INWO"), the umbrella organisation for UK health and care facilities.

The proactive approach to communication may be linked to the fact that it is the healthcare sector where the most high-profile whistleblowing cases have occurred. Another active supervisory authority is the Financial Conduct Authority (the "FCA").

93 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf

94 <https://www.gov.uk/whistleblowing/treated-unfairly-after-whistleblowing>

95 *Response from Protect.*

96 <https://www.gov.uk/whistleblowing>

97 <https://protect-advice.org.uk/>

98 <https://parrhesia.org.uk/>

99 <https://whistleblowingnetwork.org/Home>

4.3 Raising awareness of the meaning of the term “whistleblowing”

The term “whistleblowing” is commonly used in the English language, but communications by both the non-profit sector and the authorities use “raising a concern”. In general, whistleblowing is part of the “speak up culture”. The aim is not to raise awareness of whistleblowing directly, but to encourage employees not to remain silent and to influence the work culture in organisations.

Following the publication of the Freedom to Speak Up Report in 2015,¹⁰⁰ an initiative called The National Guardian’s Office (the “NGO”) was set up in the healthcare sector, which is managed by NHS England, with the aim of changing the culture in healthcare workplaces. By 2020, five years after its inception, the network had more than 600 guardians in over 400 health and care organisations.¹⁰¹ In Scotland, under the INWO’s stewardship, “national whistleblowing standards” are advocated.¹⁰²



A description of The National Guardian’s Office’s mission.

4.3.1 Targeting publicity at specific groups

The targeting of specific groups stems from the nature of a decentralised system. There are advantages to such communication in that the example situations are based on activities familiar to employees, so they can relate to them more readily.¹⁰³

Health sector: Speak Up Month 2022 – October. This is a comprehensive campaign drawing on the network of participating organisations and “guardians” that is being established. The campaign is divided into four weeks, each with a different focus. Throughout the month, the NGO encouraged workers in the sector to take part in Wear Green Wednesdays to show visible support for Freedom to Speak Up. The website offers downloadable resources, guidance, an e-learning course, a newsletter subscription and more.¹⁰⁴

100 http://freedomtospeakup.org.uk/wp-content/uploads/2014/07/F2SU_web.pdf

101 National Guardian’s Office Annual Report 2020 – https://nationalguardian.org.uk/wp-content/uploads/2021/04/NGO_AR_2020_Digital.pdf.

102 <https://inwo.spsso.org.uk/national-whistleblowing-standards>

103 Oživení encountered a similar approach to awareness-raising at Czech Post, where the compliance department produces its own comics and stories from the company’s working environment, as an efficiency evaluation found this to be the most effective method for employee training.

104 <https://nationalguardian.org.uk/>

Finance sector: *In Confidence, With Confidence*. In this campaign, the FCA encourages people working in financial services to report any wrongdoing and reminds them of the procedures in place to maintain confidentiality. The Authority has published resources that businesses can share with staff and has also put together a digital toolkit – leaflets, videos and more – to boost individuals’ confidence to speak up.¹⁰⁵

4.3.2 Forms of publicity used

The NHS and Speak Up Month campaign

Website

LinkedIn: 926 followers

Podcasts: posted on LinkedIn, SoundCloud, Twitter

YouTube: 71 subscribers, channel registered in 2016, with videos receiving 22,004 views

Twitter: 4,784 followers

The Financial Conduct Authority and the In Confidence, With Confidence campaign

Video

Leaflets and posters for managers of subordinate organisations

Twitter: 69,000 followers

LinkedIn: 283,133 followers



Examples of the FCA posters.

¹⁰⁵ <https://www.fca.org.uk/news/press-releases/fca-launches-campaign-encourage-individuals-report-wrongdoing>

4.3.3 Websites dedicated to whistleblowing

The UK has put together a comprehensive website that acts as a basic hub for situations in life. It is a public conduit of essential information and links on topics of interest to the visitors.

At www.gov.uk, a search for “whistleblowing” returns 2,784 results, which can be filtered by area of interest, type of content or date of publication. The site offers statistics, research, methodologies and basic information for whistleblowers and companies.

NHS England – the site contains basic and extended information, particularly for workers. The NHS also offers post-whistleblowing support,¹⁰⁶ guidance on how to file a report, and information on related issues. Whistleblowing is conveyed as a change of culture in the workplace.

The National Guardian’s Office operates under the NHS with the aim of providing practical support in disseminating the aforementioned change in workplace culture. Again, the website contains the essential information for workers, training resources for the guardian network and pools information on campaigning and opportunities for involvement or support.

The INWO (Scotland’s equivalent of NHS England), unlike similar sites, is dedicated to the promotion of what are known as the National Whistleblowing Standards.

The FCA compartmentalises information for businesses on the one hand and consumers on the other. The whistleblowing section for businesses provides a broad outline of what whistleblowing is and how a report is made, as well as practical information and experience gained from case studies, an overview of quarterly whistleblowing statistics, and links to legal support and assistance.¹⁰⁷

4.4 Raising awareness of the legislative framework

4.4.1 Raising awareness of European legislation

The UK has no plans to transpose the Directive, the details of which are reported mainly by non-governmental organisations such as the Whistleblowing International Network, which monitors the transposition process across the EU.¹⁰⁸

4.4.2 Raising awareness of national legislation

The primary source of information is, again, the UK government’s main hub. For workers, this is once again a subpage in the hub of life situations.¹⁰⁹ There is a list of people here that workers can report to.

4.4.3 Publicity for whistleblowing through internal channels

Again, it is up to regulators to advocate for the introduction of internal reporting mechanisms. The FCA has set rules imposing the enforceable obligation on financial institutions to have whistleblowing mechanisms in place. The Civil Aviation Authority (CAA) is another body that has rules requiring whistleblowing mechanisms to be set up. In Scotland, the INWO promotes compliance with whistleblowing standards at NHS Scotland health boards. However, similar responsibilities no longer apply to the NHS England equivalent (the National Guardian’s Office). This organisation cannot enforce the rules. Instead, it only raises awareness through the network that has been built up.

Many sectors in the UK do not have such a regulator or organisation and the practice is consequently even more fragmented. It always depends on whether employers believe that providing support for internal whistleblowing makes sense.¹¹⁰

106 <https://www.england.nhs.uk/ourwork/freedom-to-speak-up/speaking-up-support-scheme/>

107 <https://www.fca.org.uk/firms/whistleblowing>

108 <https://www.whistleblowingmonitor.eu/>

109 <https://www.gov.uk/whistleblowing>

110 Answer provided in the questionnaire.

4.5 Methodological work

4.5.1 Guidelines for prosecutors, courts, bodies in misdemeanour proceedings, and police authorities

An example of a document intended for guidance is Detention Services Order 03/2020,¹¹¹ which aims to provide guidance and instructions to all staff in the immigration estate or escorting services on whistleblowing procedures.

Guidelines intended specifically for prosecutors, courts and police authorities are not publicly available and the Ministry of Justice does not maintain records of their existence.¹¹²

4.5.2 Internal reporting system guidelines

In its response, the Ministry of Justice stated that the only administrative bodies producing guidance on internal reporting systems are the Financial Conduct Authority, the Independent National Whistleblowing Officer and the Civil Aviation Authority.¹¹³

The 2015 whistleblowing guidance for employers¹¹⁴ steers employers themselves towards promoting the whistleblowing policy they have in place. Managers and senior staff within an organisation should promote the system not only through their communications, but also in the way they conduct themselves at work. The aim is to foster an open culture increasing the likelihood that workers will speak up about any wrongdoing they come across.

The whistleblowing guidance for employers also recommends that all staff should be trained on key arrangements. Special training should be provided to those with whistleblowing responsibilities, such as managers or designated contacts. It is also a good idea to create the option to make a disclosure online.

As mentioned above, some regulators may enforce the rules, but where regulators are absent or lack such powers, the responsibility lies with the management of the individual organisations.

The guidance for employers also recommends the following:

- organise staff training;
- appoint a whistleblowers' champion to drive the commitment to valuing whistleblowing and protecting whistleblowers within the organisation;
- use promotional posters around the building;
- include the policy in induction packs for newcomers;
- set the policy out in staff handbooks and contracts.¹¹⁵

In Scotland, the INWO promotes National Whistleblowing Standards, which include:

- **Whistleblowing principles** – these define whistleblowing and set out the principles guiding the handling of concerns and disclosures.
- **Whistleblowing procedure** – this includes a definition and explanation of what whistleblowing is, who can raise a concern and a description of the procedure for taking corrective action.
- **Whistleblowing governance** – information for NHS boards and staff on their responsibilities, how to record and report concerns and the rules for external contractors.
- **Sector information** – specific instructions for primary care providers and contracted services, health and social care partnerships (HSCPs), organisations involved in the provision of student and trainee placements, and arrangements for volunteers.¹¹⁶

¹¹¹ [https://www.gov.uk/government/publications/whistleblowing-and-the-public-interest-disclosure-act-1998-c23/whistleblowing-and-the-public-interest-disclosure-act-1998-c23-accessible-version#:~:text=The%20Public%20Interest%20Disclosure%20Act%201998%20\(%20PIDA%20\)%20protects%20whistleblowers%20from,making%20a%20public%20interest%20disclosure.](https://www.gov.uk/government/publications/whistleblowing-and-the-public-interest-disclosure-act-1998-c23/whistleblowing-and-the-public-interest-disclosure-act-1998-c23-accessible-version#:~:text=The%20Public%20Interest%20Disclosure%20Act%201998%20(%20PIDA%20)%20protects%20whistleblowers%20from,making%20a%20public%20interest%20disclosure.)

¹¹² Answer provided in the questionnaire by the Ministry of Justice.

¹¹³ <https://www.caa.co.uk/safety-initiatives-and-resources/how-we-regulate/state-safety-programme/safety-promotion/safety-culture/>

¹¹⁴ Whistleblowing: Guidance for Employers and Code of Practice (publishing.service.gov.uk).

¹¹⁵ Whistleblowing: Guidance for Employers and Code of Practice (publishing.service.gov.uk).

¹¹⁶ <https://inwo.spsa.org.uk/national-whistleblowing-standards>

4.5.3 Data harvesting

Whistleblowing data and statistics are not collected centrally and the decentralised approach makes it impossible to establish overall figures. As such, it is only possible to track the statistics of individual administrative bodies, such as the Competition and Markets Authority, which publishes the number of disclosures and the action taken.¹¹⁷

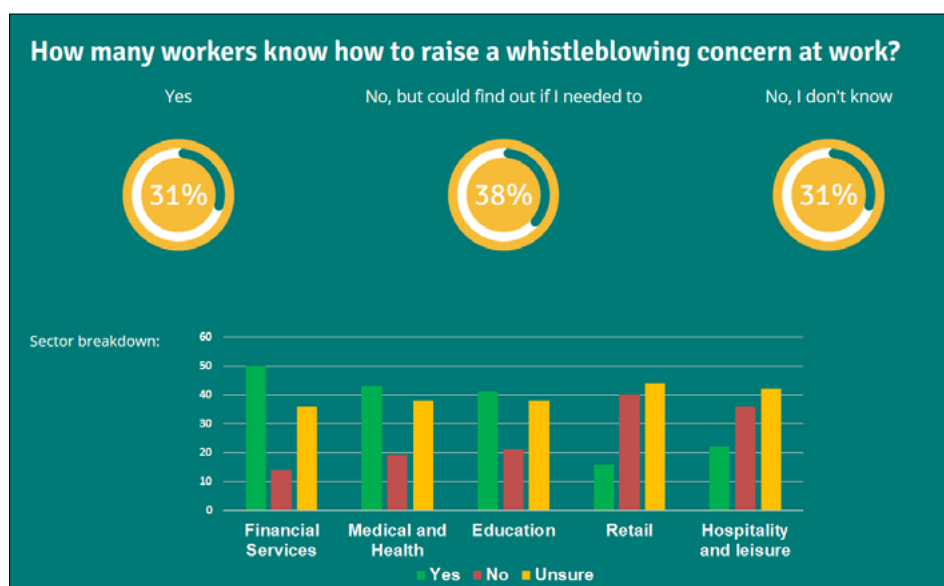
The FCA reports quarterly whistleblowing data on its website and on social media.¹¹⁸

4.6 Good practice identified

The UK has a long history of whistleblower protection. Awareness of whistleblowing is raised not by the government, but by agencies spanning the various sectors.

The most active agencies in this regard are the Financial Conduct Authority and the National Health Service, whose websites and social media offer a wealth of whistleblowing resources and information.

UK regulation may be decentralised but, particularly in certain fields, is very robust. Despite this, Protect's 2021 public opinion and knowledge survey on whistleblowing, for example, found that only a third of workers know how to make a disclosure at work.



An infographic of the Protect organization.

Good practice identified:

- Efforts not to rely solely on “top-down” communication, but to create networks of people who pass on information directly in the workplace. In addition, the individual organisations involved can provide input back to campaigns run by a central authority.
- The decentralised system creates an opportunity to engage in targeted communication and to work with employees to address issues they have or may encounter in their sector.
- The definition of whistleblowing standards.
- In the sectors that are most active, support for whistleblower protection is comprehensive, with ample online information, advice, training opportunities, and case studies.

¹¹⁷ <https://www.gov.uk/government/publications/whistleblower-statistics-2021-to-2022/whistleblowing-statistics-2021-to-2022>

¹¹⁸ <https://www.fca.org.uk/data/whistleblowing-quarterly-data-2022-q2>

5 Croatia

5.1 Basic legislative framework

In Croatia, the Whistleblower Protection Act took effect on 1 August 2019. When this law came into force, the Ombudsman's Office (Pučka pravobraniteljica) became the body responsible for external whistleblowing. The Ombudsman's Office is an independent institution acting as the Croatian parliament's agent for the promotion and protection of human rights and freedoms as enshrined in the constitution, laws and international treaties on human rights and freedoms adopted by Croatia.¹¹⁹

After Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law entered into force on 23 October 2019, Croatia started drafting a new law on the protection of persons who report malpractice. That new law entered into force on 23 April 2022.¹²⁰

5.1.1 Material and personal scope

The Croatian law expands on the ten areas defined in the Directive to include other national provisions, the breach of which would endanger the public interest. Defence and national security are excluded insofar as EU law is not affected. However, the law foresees a specific set of reporting processes in this area as well.¹²¹

- Natural persons who may submit protected reports fall into the following categories:
- individuals who have the status of employees;
- individuals who are self-employed;
- shareholders and individuals belonging to a business's administrative, management or supervisory body, including non-executive members, as well as volunteers and paid or unpaid interns;
- all individuals working under the supervision and direction of contractors, subcontractors and suppliers;
- all individuals involved in any way in the professional activities of a natural or legal person.¹²²

5.1.2 Internal reporting system

By law, employers with 50 or more employees are required to establish an internal reporting system. For employers with fewer than 50 employees, this is discretionary.

The procedure for reporting through the internal reporting system, as well as the designation of a competent person, is governed by an employer's internal regulations. This information must be readily accessible and straightforward so that the use of the internal reporting system as the primary whistleblowing vehicle is made much easier.¹²³

5.1.3 Anonymous whistleblowing

Individuals who have anonymously reported or publicly disclosed information about irregularities and whose identity has subsequently been established are entitled to protection, regardless of the fact that they submitted their report anonymously.¹²⁴

119 Response from the Croatian Ministry of Justice.

120 Ibid.

121 <https://zakon.hr/z/1927/Zakon-o-za%C5%A1titi-prijavitelja-nepravilnosti>

122 <https://www.ombudsman.hr/en/the-new-act-for-the-protection-of-persons-reporting-irregularities-whistleblowers-key-information-for-reporting-persons-and-confidential-persons/>

123 <https://www.ombudsman.hr/en/the-new-act-for-the-protection-of-persons-reporting-irregularities-whistleblowers-key-information-for-reporting-persons-and-confidential-persons/>

124 Ibid.

5.1.4 Forms of protection against retaliation

Whistleblowers may seek the ombudsman's protection if they have convincingly demonstrated that they are, or could be, subject to retaliation as a result of their whistleblowing. In these cases, the ombudswoman will review the report and take measures to protect the whistleblower that fall within her powers.

Whistleblowers may also seek judicial protection in special proceedings instituted by a whistleblower protection action. Subject to the whistleblower's consent, the ombudsman and other persons active in the protection of human rights and the fight against corruption may intervene in such legal proceedings.¹²⁵

5.1.5 Definition of whistleblowing

A whistleblower is a natural person who reports or discloses information about wrongdoings obtained in connection with his or her work. A "connection with work" is taken to mean current, past, future or planned professional activities in the public or private sector, by means of which individuals obtain information about wrongdoings and, in the context of such wrongdoings, they may be exposed to retaliation were they to report such information.

5.2 Institutional safeguards for whistleblowing

In Croatia, whistleblower support is provided by the Ombudsman's Office, which was set up in 1992. The Ombudsman's Office is an independent institution acting as the Croatian parliament's agent for the promotion and protection of human rights and freedoms as enshrined in the constitution, laws and international legal acts on human rights and freedoms adopted by Croatia.

On 1 July 2019, the Ombudsman's Office became the competent authority for external whistleblowing when the Whistleblower Protection Act took effect.¹²⁶

From the perspective of public administration, the Ombudsman's Office is the only body that deals comprehensively with the protection of whistleblowers. Beyond that, some non-profit organisations are also involved in raising awareness of and promoting whistleblowing, and assisting whistleblowers. These include: Kuća ljudskih prava Zagreb.¹²⁷

5.3 Raising awareness of the meaning of the term "whistleblowing"

Whistleblower protection is included in the 2021–2026 National Recovery and Resilience Plan (the "NRP"). The Ministry of Justice envisions an extensive media campaign to raise awareness of the harm caused by corruption and plans to inform the general public about existing whistleblowing channels and whistleblower protection mechanisms. The idea is to encourage citizens to report irregularities and to take an active part in the fight against corruption.¹²⁸

The national campaign that is to be conducted in 2023 and 2024 will draw on both on-air advertising (TV spots, internet and radio campaigns) and print advertising (leaflets, posters and other promotional items – wireless headphones, power banks, bags, water bottles, umbrellas). The campaign will also include roundtables and conferences and teaching about corruption and whistleblower protection in primary and secondary schools.

¹²⁵ *Ibid.*

¹²⁶ *Response from the Ombudsman's Office.*

¹²⁷ <https://www.kucaljudskihprava.hr/>

¹²⁸ https://ec.europa.eu/info/files/recovery-and-resilience-plan-croatia_en

Quantities of promotional items

- wireless headphones – 1,000
- power bank – 1,000
- tote bag – 1,000
- water bottle – 1,000
- umbrella – 1,000¹²⁹

There are also plans to air 40-second animated videos on four national TV stations over a six-month period. The animated video will be broadcast in three time slots and should be broadcast 30 times a day for the first 30 days and 15–20 times a day after 30 days until the airing of the commercial comes to an end.

A 20 second audio spot will be broadcast on the five most popular radio stations over a 15-month period.

The plan is also to broadcast and publish the animated video on various social media and online portals for 15 months. The online advertising campaign will run on the most frequented social networks, the four most visited national online portals, and 25 local online portals.

One anti-corruption conference will be organised for 100–120 people, with press and media coverage. There are also plans for five roundtables for central and local government officials and civic association representatives, with 30–50 participants per event.

In this context, the NRP also envisages the development of an IT platform that, among other things, will improve public awareness of anti-corruption legislation, including the Whistleblowers Protection Act. The public will be offered a kind of online virtual assistant to guide them through the legal texts and to help them in a way that is easy to understand.¹³⁰

Croatia has earmarked approximately EUR 1 million towards the execution of a national whistleblowing awareness-raising campaign within the framework of the NRP. Another allocation of some EUR 1 million is also earmarked for the development of the above-mentioned IT platform, which, among other things, will improve the effective public dissemination of information on the whistleblower protection legislation and allow for easier and more secure reporting to the Office via an external reporting system.¹³¹

5.3.1 Targeting publicity at specific groups

The Croatian Ministry of Justice believes that it is important to differentiate between certain categories when raising awareness of the meaning of the term “whistleblower”. The material presented within the scope of educational and other awareness-raising activities is adapted to the various interest groups. Thus, for example, the education of secondary school students differs from the education aimed at competent individuals, trade union representatives, and employers. Nevertheless, the aim of all awareness-raising activities is to convey the message that corruption is harmful, that it needs to be prevented and suppressed, that whistleblowing is necessary, and that there are whistleblowing channels and whistleblower protection mechanisms as an effective anti-corruption tool, i.e. to advocate for whistleblowing in the context of fostering a culture of zero tolerance towards corruption.¹³²

129 Response from the Croatian Ministry of Justice.

130 In addition, the implementation of the NRP also includes plans to develop an IT solution that will make it easier and more secure to submit reports to the Ombudsman’s Office as the agency acting as an external reporting system. In this way, the existing reporting channels prescribed by law would be complemented by an additional reporting channel enabling requests to be made securely and giving feedback to whistleblowers on the status of their reports.

131 Response from the Ministry of Justice and Public Administration.

132 Response from the Croatian Ministry of Justice.

5.3.2 Forms of whistleblowing publicity used

See the information above about the planned campaign.

5.3.3 Websites dedicated to whistleblowing

The website of the Ministry of Justice and Public Administration¹³³ features information on the Whistleblower Protection Act, a brief explanation of the basic terminology used in the Act, who is considered to be a whistleblower, the purpose of whistleblowing, how whistleblowers are protected, and other information.

The website of the Ombudsman's Office¹³⁴ as an external whistleblowing body carries all the information needed on how to make a report and on whistleblower protection. A form for whistleblowers wishing to use the external reporting system is also available on this site.

5.4 Raising awareness of the legislative framework

In its awareness-raising activities, the Ministry of Justice acquaints stakeholders and the public with the existing reporting channels and whistleblowing protection mechanisms and invites citizens to report irregularities. It also explains how a report can be made, who a whistleblower can contact, and to whom and through what channels a report can be made. It lists the most common reasons why cases of corruption are not reported. These include: lack of trust in the competent authorities, lack of conviction that the report will have an effect, fear for personal safety, not knowing who to report to.¹³⁵

5.4.1 Raising awareness of European legislation

According to the Ministry of Justice, the content of the awareness-raising activities covers, among other things, an introduction to the material scope of the Act, i.e. the fact that it is possible to report irregularities associated with EU rules, as well as all other acts and omissions that are contrary to the public interest. Awareness raising also touches on reporting methods, with an emphasis on the merits of internal reporting, which allows the employer to take action to eliminate potential damage to themselves and society. The ministry also feels it is important to explain the concept of retaliation.

Another aspect covered as part of awareness-raising activities is whistleblower rights: protection of identity and confidentiality by all stakeholders, as well as judicial protection of whistleblowers against employer retaliation. A stress is also placed on the fact that whistleblowers have a right to damages if they are harmed by a violation of rights guaranteed by the Whistleblower Protection Act. Citizens are informed that, as potential whistleblowers, upon obtaining the information they report, they are not held liable unless such conduct constitutes a criminal offence.¹³⁶

5.4.2 Raising awareness of national legislation

The Croatian law was adopted in August 2019, and almost immediately work began on amendments following the adoption of the Directive. The Ministry of Justice has sought to raise awareness of the issue. For example, promotional materials have been created and distributed on how to report irregularities and what whistleblower protection mechanisms are in place. Events have been held to present the law to the Police Academy, the Croatian Employers' Association and the Croatian Journalists' Association. Continuous training has been provided to civil servants and confidential persons at the State School of Public Administration. Special training for judges has been provided at the Judicial Academy.¹³⁷

¹³³ <https://mpu.gov.hr/borba-protiv-korupcije/21507>

¹³⁴ <https://www.ombudsman.hr/en/>

¹³⁵ *Ibid.*

¹³⁶ *The response of the Croatian Ministry of Justice.*

¹³⁷ *The response of the Croatian Ministry of Justice.*

5.4.3 Publicity for whistleblowing through internal channels

The Ministry is keen to point out that internal reporting channels promote a “speak-up culture”, transparency in business operations and ethical standards among employees.¹³⁸

Following the adoption of the law, the Ministry of Justice and Public Administration produced a publication to advise employers of their obligations under the law. An agreement was reached with employers’ representatives that this document should take the form of a short alert briefly listing and explaining employers’ obligations. The publication was posted on the ministry’s website and distributed to employers’ representatives.¹³⁹

5.5 Methodological work

In conjunction with the new Whistleblower Protection Act, a new anti-corruption strategy was adopted on 23 April 2022. It encompasses new promotional and educational activities aimed at making mandatory entities and the general public aware of the law. The strategy introduces the ongoing training of court officials, confidants (“competent individuals”), employees and representatives of state-owned enterprises.

When the new law was being drafted, an online conference on whistleblower protection was held in December 2021. This event was jointly organised by the Ministry of Justice and Public Administration, the Ombudsman, the French Embassy in Croatia, the Human Rights House and the State School of Public Administration.¹⁴⁰ The conference discussed new legislative solutions in Croatia and France related to the obligation to transpose the Directive, as well as current whistleblower protection practices.

Since the new law was promulgated, promotional events have been held at the Croatian Chamber of Commerce, the Croatian Employers’ Association and the State School of Public Administration. The Ombudswoman, whose office is the competent authority for external whistleblowing, has also organised some activities to promote the new law.

5.5.1 Guidelines for prosecutors, courts, bodies in misdemeanour proceedings, and police authorities

Various training courses are held in Croatia for civil servants, judges and prosecutors, as well as for confidential persons managing internal reporting systems. These courses are fundamentally different from each other. The training for confidential persons places a particular emphasis on confidentiality, the preservation of the identity of the parties to the proceedings, deadlines for resolution, etc. Special training is also provided by the ombudsman as an external whistleblowing body.

5.5.2 Internal reporting system guidelines

As indicated above, following the adoption of the law, the Ministry of Justice and Public Administration produced a publication to advise employers of their obligations under the law. This publication was posted on the website of the Ministry of Justice and Public Administration and distributed to employers’ representatives.¹⁴¹

5.5.3 Data harvesting and statistics

Section 40 of the Whistleblower Protection Act requires the Ministry of Justice to present the European Commission, every year, with available statistics on irregularities reported to the ombudsman. The Ministry does not currently have statistics on claims containing false allegations. No statistics of other entities are publicly available.¹⁴²

¹³⁸ Response from the Croatian Ministry of Justice.

¹³⁹ Ibid.

¹⁴⁰ <https://mpu.gov.hr/vijesti/u-demokratskim-drustvima-zvzdaci-imaju-vaznu-ulogu-u-ocuvanju-vladavine-prava/25828>

¹⁴¹ https://transparency.hr/upload_data/site_files/podsjetnik-za-primjenu-za-poslodavce-zakon-o-zastiti-prijavitelja-nepravilnosti.pdf

¹⁴² Response from the Ministry of Justice and Public Administration.

5.6 Summary and identification of good practice

As in other EU Member States, whistleblower protection, and thus the raising of awareness of it, is still a novelty for Croatia, even though the first legislation here was already in place before the adoption of the Directive in 2019.

The main institution is the Ombudsman's Office, which is the competent authority for external whistleblowing. Besides investigating whistleblowing, the office helps to raise awareness of whistleblowing by highlighting its importance in the media, and also by participating in or providing training to relevant stakeholders (confidential persons, trade unions, employees, etc.).

In view of the new legislation, good practice and awareness raising regarding whistleblowing is currently only part of the National Recovery Plan. Here, Croatia has allocated money to fight corruption and is planning a relatively large publicity campaign on whistleblowing through the media (e.g. television and radio spots), conferences and roundtables with stakeholders, and also by developing an IT platform to facilitate whistleblowing. A total of EUR 2 million has been committed to all these activities.

- Integration of whistleblowing into the National Recovery Plan. Slovakia has chosen to pursue a similar approach. The advantage is that there is sufficient funding to run a professional campaign that can factor in those formats which are currently most effective and those messages which might work in the country concerned.
- For the Czech Republic, it may be of interest to seek information on how successful the campaign has been after it ends in 2024.

6 France

6.1 Basic legislative framework

In July 2015, finance minister Michel Sapin proposed a new law outlawing corruption and protecting whistleblowers. The law, inspired by the US Foreign Corrupt Practices Act and the UK Bribery Act, was passed in December 2016 and is known as “Sapin II”. Companies with 500 or more employees were required to introduce an internal programme to combat corruption and trading in influence, which included an internal whistleblowing system. Since January 2018, companies with 50 or more employees have been required to establish an internal reporting system under which whistleblowers are protected from retaliation. However, the law did not impose penalties for failing to have such a system in place. Another problematic issue was the requirement for whistleblowers to submit a notification first via the internal reporting system and only later via the external reporting system.¹⁴³

In January 2021, the French Ministry of Justice initiated a public consultation, which resulted in a report on how to improve the Sapin II programme. The transposition process was also seen as an opportunity to strengthen further the protection of whistleblowers in France. The transposition process was also seen as an opportunity to strengthen further the protection of whistleblowers in France.¹⁴⁴ A new law was adopted in March 2022 with the following elements:

6.1.1 Material and personal scope

The following individuals are protected:

- employees;
- former employees, when the information was obtained in the course of their employment;
- job applicants;
- shareholders or partners of the entity concerned;
- external and occasional employees of the entity, contractors and subcontractors.¹⁴⁵

6.1.2 Internal reporting system

France has introduced the obligation to establish an internal reporting system that replicates the requirements of the Directive. Companies with more than 50 employees, public-sector institutions, and municipalities with 10,000 or more inhabitants must set up internal reporting channels for whistleblowers.¹⁴⁶

6.1.3 Anonymous whistleblowing

Anonymous whistleblowing is admissible under French law. The processing of anonymous reports is subject to the same rules as for identifiable reports. However, provisions requiring feedback from the author of an internal or external report are not applicable in the case of an anonymous report.¹⁴⁷

6.1.4 Forms of protection against retaliation

Retaliation against whistleblowers is prohibited. This includes discrimination at work, disciplinary action, intimidation and harassment, defamation, financial loss, blacklisting in a business or industry that would prevent the whistleblower from finding employment, premature termination of business relationships, revocation of a licence, and the inappropriate ordering of a psychiatric or medical examination.¹⁴⁸

¹⁴³ <https://www.integrityline.com/expertise/blog/new-french-whistleblowing-law/>

¹⁴⁴ <https://www.integrityline.com/expertise/blog/new-french-whistleblowing-law/>, <https://www.whistleblowingmonitor.eu/country/france>

¹⁴⁵ <https://www.natlawreview.com/article/guide-to-whistleblowing-france>

¹⁴⁶ <https://www.natlawreview.com/article/guide-to-whistleblowing-france>

¹⁴⁷ <https://www.natlawreview.com/article/guide-to-whistleblowing-france>

¹⁴⁸ <https://www.integrityline.com/expertise/blog/new-french-whistleblowing-law/>

Transposing the EU Directive also extends certain protections offered to whistleblowers, particularly protection against reprisals, to third parties such as legal partners who assist in making the complaint. A new status has therefore been established for the “facilitators”, which makes it possible to protect unions, associations, colleagues or relatives involved in the whistleblowing report.¹⁴⁹

6.1.5 Definition of whistleblowing

Under the new law, a whistleblower will be considered a natural person who reports or discloses, without direct financial compensation and in good faith, information relating to a crime or misdemeanour, a threat or harm to the general interest, or a violation or an attempt to conceal a violation of international or European law or regulation.

There are some caveats, however. Information regarding secrecy surrounding national defence, medical affairs, confidentiality between a lawyer and client, and the secrecy of judicial deliberations are all excluded from the right to make a report.¹⁵⁰

6.2 Institutional safeguards for whistleblowing

France has only one public body that raises awareness of whistleblower protection at a grassroots level: the ombudsman (Défenseur des Droits), whose mandate is to guide to the competent authorities any person who makes a report under the conditions laid down by law and to safeguard that person’s rights and freedoms.¹⁵¹ The ombudsman’s powers have been strengthened by the new law. In a new development, a deputy ombudsman has been appointed to assist whistleblowers,¹⁵² but the changes have yet to be fully introduced and the office is still operating under the old system.¹⁵³ *Orientation and Protection of Whistleblowers*, a guide published in 2017, is available on the ombudsman’s website.¹⁵⁴

6.2.1 Raising awareness of the meaning of the term “whistleblowing”

In France, the role of advocacy and support has so far been played in particular by non-governmental organisations. The MLA is an association of seventeen organisations – including the French branches of Transparency International and Greenpeace – working to protect whistleblowers.¹⁵⁵

The French Ombudsman’s Office is only marginally involved in raising awareness of the meaning of whistleblowing; there is no systematic communication to speak of. There will presumably be an improvement in this respect now that the new position of deputy ombudsman has been created. The office has published a basic summary of the whistleblowing procedure, accompanied by an informative video, on its website.¹⁵⁶

The ombudsman is also active on social media, especially Twitter, where he has over 104,000 followers. Some of his posts advocate for whistleblower protection.¹⁵⁷

149 <https://www.integrityline.com/expertise/blog/new-french-whistleblowing-law/>

150 <https://www.integrityline.com/expertise/blog/new-french-whistleblowing-law/>

151 Response from La Maison des Lanceurs d’Alerte.

152 Mme Cécile BARROIS DE SARIGNY was appointed on 16 April 2022.

153 <https://www.defenseurdesdroits.fr/fr/institution/competences/lanceurs-alerte>

154 <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide-lanalert-num-09.12.19.pdf>

155 Response from La Maison des Lanceurs d’Alerte.

156 <https://www.defenseurdesdroits.fr/fr/lanceurs-dalerte>

157 <https://twitter.com/Defenseurdroits>



*Poster, invitation
to the seventh
annual meeting
of whistleblowers*



*Green algae,
the forbidden story*

The MLA website features an overview of whistleblowing articles that have been published in the French press.¹⁵⁸ The MLA also announces whistleblowing-related events and activities on its Facebook profile, where it has 4.700 followers.¹⁵⁹

Other bodies helping to raise awareness of whistleblowing include Lanceurs d'Alerte,¹⁶⁰ a voluntary association that organises an annual meeting of whistleblowers.

Literature and film are integral to the raising of awareness of the concept and issues of whistleblowing in France. One of the best-known publications is a comic book called *Lanceurs d'alerte* (Whistleblowers).¹⁶¹ The authors, in collaboration with whistleblowing experts, used nine examples to highlight the rules that whistleblowers need to follow in order to succeed and protect themselves from negative repercussions. The core message of the comic is: do everything you can to preserve your anonymity.

Another well-known publication is *Algues vertes, l'histoire interdite*¹⁶² (Green Algae, a Forbidden Story), a comic book that describes the years-old problem of algae in Brittany, which, due to the presence of nitrates in fertilisers from intensive farming, was responsible for the deaths not only of animals but also several people.¹⁶³ The book has won numerous awards and the story, which also draws attention to the importance of whistleblowers, is currently being adapted into a film.

The 2016 film *La fille de Brest* (The Girl from Brest) tells the story of a pulmonologist who discovered a direct link between suspicious deaths and the use of Mediator, a drug that had been marketed for 30 years. The film is based on actual events.

158 <https://mlalerte.org/la-mla-dans-les-medias/>

159 <https://www.facebook.com/mlalerte>

160 <https://lanceurs-alerte.fr/>

161 *Whistleblowers* by Bruno Loth, Flore Talamon, Corentin Loth – Album / Editions Delcourt (editions-delcourt.fr).

162 <https://www.editions-delcourt.fr/bd/series/serie-alques-vertes-l-histoire-interdite/album-alques-vertes-l-histoire-interdite>

163 <https://www.theguardian.com/environment/2019/sep/08/it-can-kill-you-in-seconds-the-deadly-algae-on-brittany-s-beaches>
<https://boutique.arte.tv/detail/la-fille-de-brest>

6.2.2 Targeting publicity at specific groups

All available resources are targeted at whistleblowers. The French ombudsman does not yet provide support in the introduction of internal reporting systems to those who are required to have such a mechanism.

6.2.3 Forms of publicity used

Government agencies do not employ special forms of publicity. The Ombudsman's Office uses social media and its website as a communication channel.

6.2.4 Websites dedicated to whistleblowing

The ombudsman's website has a section dedicated to whistleblower protection.¹⁶⁴ The website provides a brief outline of changes stemming from the transposition of the Directive – in particular a warning that they have not been fully adopted. There is one video¹⁶⁵ and a manual in French and English on the original law.¹⁶⁶

6.2.5 Raising awareness of the legislative framework

The approach to awareness-raising is minimalist in terms of providing information on the original national legislation and information on the changes brought about by the transposition law.

6.2.6 Raising awareness of European legislation

The Ombudsman's Office only briefly announces that the transposition law has been approved, mentions that a new deputy has been appointed, and notes that the changes are still being processed. The website fails to offer a detailed description of the new legislation or an overview of the changes awaiting liable entities or whistleblowers.

6.2.7 Raising awareness of national legislation

The text of the law and contact details for raising concerns are available on the website of the Ombudsman's Office.

6.2.8 Publicity for whistleblowing through internal channels

In France, the approach to internal whistleblowing is tainted by experience based on the original legislation. Specifically, the 2016 Whistleblower Protection Act required that, in cases involving whistleblowing in a professional area, the first step was to raise the concern internally. This exposed whistleblowers to a high risk of retaliation. The French experience indicates that internal systems are a good bet for companies that want to avoid the risk of external intervention and to deal with problems internally, but they can also compromise whistleblower protection. In most cases, despite union intervention, employees have been dismissed or bullied.¹⁶⁷

In response to the above concerns, there has recently been a change: the new Whistleblower Protection Act was passed in March 2022 and enacted on 1 September 2022. This law provides that whistleblowers no longer have to report breaches of the law internally, i.e. within their workplace, before approaching the authorities.¹⁶⁸

The Ombudsman's Office and the National Centre for Local Civil Service (Centre national de la fonction publique territoriale) have devised an online course on whistleblower protection for local civil servants to help them take responsibility for their internal reporting system.¹⁶⁹

¹⁶⁴ <https://www.defenseurdesdroits.fr/fr/lanceurs-dalerte>

¹⁶⁵ <https://youtu.be/6iPH-7DfrcQ>

¹⁶⁶ <https://www.defenseurdesdroits.fr/node/23949>

¹⁶⁷ From the MLA's response.

¹⁶⁸ Response from La Maison des Lanceurs d'Alerte.

¹⁶⁹ <https://www.lagazettedescommunes.com/818340/le-defenseur-des-droits-une-institution-pivot-pour-les-lanceurs-dalerte/>

6.2.9 Methodological work

The methodological work carried out by the Ombudsman's Office falls short of the standards of quality offered by other countries included in this study. The only available guide for whistleblowers¹⁷⁰ provides the very briefest information on how best to proceed. This information is limited to formal requirements¹⁷¹ and the recommendations take the form of additional obligations for whistleblowers. For example, in cases of whistleblowing at small organisations (fewer than 50 employees), if the employer fails to respond to the complaint, the recommendation is to write a second time so that the whistleblower can be sure that no one will actually respond.¹⁷²

6.2.10 Guidelines for prosecutors, courts, bodies in misdemeanour proceedings, and police authorities

Information on methodological support for courts, prosecutors and police authorities is not readily available, and even the respondents to the questionnaire assert that such support is non-existent.

6.2.11 Internal reporting system guidelines

As mentioned above, the Ombudsman's Office and the National Centre for Local Civil Service have devised an online course on whistleblower protection for local civil servants to help them take responsibility for their internal reporting system. Beyond that, there is no publicly available information on methodological support for employers when setting up an internal reporting system – not even in the 2017 Orientation and Protection of Whistleblowers, which mentions the obligation to roll out such a system only once.

6.2.12 Data harvesting and statistics

The Ombudsman's Office publishes data on the number of reports received in its role as an external reporting system in its annual reports. The office received 61 reports in 2020, rising to 86 in 2021. This uptrend is continuing, as has been evident since the beginning of 2022 according to the deputy ombudsman responsible for whistleblowers.¹⁷³

6.2.13 Summary and identification of good practice

The approach the French have taken to awareness raising to date can be described as minimalist and entirely reliant on the non-governmental sector. This implies only a very limited possibility of identifying examples of good practice that could be adopted in the Czech Republic.

170 <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide-lanalert-num-09.12.19.pdf>

171 The use of a double envelope when contacting the ombudsman is one of the main pieces of information offered by the Ombudsman's Office on the whistleblowing process, both on its website and in its guide.

172 <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide-lanalert-num-09.12.19.pdf>

173 <https://www.lagazettedescommunes.com/818340/le-defenseur-des-droits-une-institution-pivot-pour-les-lanceurs-dalerte/>

7 United States of America

7.1 Basic legislative framework

Whistleblower protection legislation in the US is fragmented. There are some 50 laws for private-sector employees and 10 additional laws governing federal public-sector employees. This has resulted in a legal framework that is so disjointed and convoluted that whistleblowers need to be represented by specialised lawyers. On the plus side, this means that whistleblowers have a multitude of specialised agencies that they can turn to, depending on which state and sector they work in.¹⁷⁴

During the Civil War, war profiteering and blatant fraud crippled both the Union and Confederate armies. To combat these illegal practices, Congress passed the False Claims Act (the “FCA”) on 2 March 1863. The FCA was further amended in 1986 in response to unfair and unscrupulous practices in the military industry. That amendment introduced more robust protections for whistleblowers.

As the FCA expressly prohibits the filing of cases based on tax fraud, in 2006 Congress passed the Tax Relief and Healthcare Act to help detect tax evasion and fraud, which is estimated to cost the government \$345 billion annually.

In the aftermath of the 2007 financial crisis, lawmakers called for increased regulation of the financial industry that had guided the stock market towards collapse. In July 2010, Congress passed the Dodd-Frank Act, which contained the most sweeping overhaul of Wall Street regulations since the Great Depression. The success of the FCA’s whistleblower programme also influenced the Dodd-Frank Act’s drafters, who wanted to create a similar programme for reporting securities violations. The result was the creation of the Securities and Exchange Commission’s Office of the Whistleblower.¹⁷⁵

7.1.1 Material and personal scope

The laws are not consistent in their material and personal scope.¹⁷⁶ The Whistleblower Protection Enhancement Act (the “WPEA”) protects all current and former federal employees and job applicants who claim they have been subjected to retaliation for raising concerns.

The WPEA has broad material scope in terms of the types of wrongdoings that can be reported. These include any violation of a law or other rule or regulation.

The Dodd-Frank Act protects anyone who reports a violation of federal securities laws.

7.1.2 Internal reporting system

The regulation of internal reporting systems varies widely in the United States. At federal level, employers are generally not required to create an internal reporting system.¹⁷⁷ Federal sentencing guidelines allow for the adoption of internal reporting systems and other measures to result in a reduced sentence. Under these guidelines, the Department of Justice considers whether an internal reporting system has been set up when deciding whether to charge a company and may, if appropriate, move to propose lower sentences for companies convicted of federal crimes if they have established such a system.¹⁷⁸

174 https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study

175 <https://www.whistleblowersinternational.com/what-is-whistleblowing/history/>

176 *Response from the US Government Accountability Project.*

177 <https://www.lawhelp.org/files/7C92C43F-9283-A7E0-5931-E57134E903FB/attachments/B2D746C6-B926-A6C3-DC91-9D2D7233A7AA/whistleblower-policy-alert-2017-update-final.pdf>

178 *Accountability in an Unequal World – Rubenstein – 2007 – Journal of Politics – Wiley Online Library*

Publicly traded companies are an exception to the general rule at federal level, as the 2002 Sarbanes-Oxley Act requires them to establish internal control mechanisms. This legal obligation has essentially spawned a whole new field of corporate compliance and ethics specialists. These people administer internal reporting systems and encourage employees to use internal whistleblowing systems.

In some US states (such as Florida, New York and Ohio), employees must report violations within the company before reporting alleged violations externally. This cascading reporting was also used until recently in France. Other US states allow for an exception to this approach if the employee believes that internal reporting would be pointless.¹⁷⁹

Although private companies are not required to establish an internal reporting system, federal law prohibits all corporations from retaliating against employees who blow the whistle on their employer's accounting practices, and there are many other laws in US states that protect against workplace reprisals. Therefore, instituting an internal reporting system helps employers to comply with federal and state laws and ensure that, if a problem does crop up, it will be investigated and fixed.

7.1.3 Anonymous whistleblowing

Private- and public-sector employees may reach out to various federal agencies to ensure that confidentiality is protected and anonymity is maintained. Some laws even allow anonymous whistleblowers to seek and receive rewards for their disclosures.¹⁸⁰

7.1.4 Forms of protection against retaliation

Employers must not retaliate against whistleblowers for exercising their rights. Examples of retaliation include dismissal, demotion, denial of overtime or promotion, or a reduction in pay or hours.

7.1.5 Definition of whistleblowing

As noted in the preceding section, the definitions of whistleblowing, whistleblower and reporting vary from one law to another. In general, whistleblowing can be defined as the disclosure of information that the whistleblower reasonably believes is evidence of illegality, gross waste or fraud, mismanagement, abuse of power, general wrongdoing, or a substantial and specific danger to public health and safety.¹⁸¹

7.2 Institutional safeguards for whistleblowing

The decentralised system of legislating is also reflected at an institutional level. The number of agencies in the US that deal with whistleblowing is relatively high, and a comprehensive description of these institutional arrangements is beyond the scope of this study. However, the key authorities include:

- The **Securities Exchange Commission** (the “SEC”), which implements the Dodd-Frank Act by reviewing and investigating allegations of corruption and violations of securities laws. The SEC is an example of an agency that can reward whistleblowers financially.¹⁸²
- The **Office of Special Counsel** (the “OSC”), which has an annual budget of approximately \$5,000,000. This agency is empowered to investigate and prosecute allegations of retaliation against whistleblowers in the federal public sector.¹⁸³

179 Response from the US Government Accountability Project.

180 <https://www.whistleblowers.org/whistleblower-confidentiality/>

181 <https://whistleblower.org/what-is-a-whistleblower/>

182 The reward can be between 10% and 30% if they have provided information and a fine of more than \$1 million is imposed in the case. The SEC decides whether a whistleblower is entitled to a reward. For more details, see: https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study.

183 https://www.researchgate.net/publication/327773995_The_Dutch_Whistleblowers_Authority_in_an_international_perspective_a_comparative_study

- The **US House of Representatives Office of the Whistleblower Ombuds**, which provides educational information on whistleblowing to staff, offices, and committees of the House of Representatives and makes this information available to the public on its website. This agency does not accept whistleblowing disclosures.
- The **Labour Department’s Occupational Safety and Health Administration** (the “OSHA”), which administers 25 private-sector whistleblower laws that prohibit retaliation against individuals who make protected whistleblowing disclosures. Some laws are sector-specific, others apply across industries, protecting those who disclose workplace health and safety concerns, for instance. This agency has the authority to investigate retaliation.¹⁸⁴
- There are many other whistleblower protection organisations, law firms, and ethics and compliance companies that provide information on the importance of whistleblowing through a variety of initiatives, including social media, their own websites, guides, leaflets, training, and webinars.¹⁸⁵

7.3 Raising awareness of the meaning of the term “whistleblowing”

According to the 2018 Dutch study, awareness and, especially, acceptance of whistleblowing has been increasing in the US in recent years, both within society in general and among managers in the private sector. According to interviews the authors conducted with major stakeholders in the US, whistleblowing also enjoys strong political backing and opposing it is “political suicide”.¹⁸⁶

7.3.1 Targeting publicity at specific groups

Leaving to one side the NGOs and private organisations that are engaged in whistleblowing, each of the agencies mentioned targets groups that fall under its remit. In the private sector, this is OSHO and the website at worker.gov.¹⁸⁷ A lot of information for whistleblowers concerns retaliation – how to fight back, which actions are protected, etc. For the public sector, information is provided in particular by the Office of the Whistleblower Ombuds and the Office of Special Counsel.¹⁸⁸

The US has a strong tradition of embedding whistleblowing into the culture, thereby raising awareness among the general public. For more than a decade, the Whistleblower Summit and Film Festival for Civil and Human Rights,¹⁸⁹ organised by Acorn 8,¹⁹⁰ has educated the public about whistleblowers’ rights

An artist named Robert Shetterly has launched a project called “Americans Who Tell the Truth”, which features hundreds of portraits of individuals, many of them whistleblowers. He engages youth through educational programmes and the public through his exhibitions and public events that encourage dialogue about citizenship, education and activism.

¹⁸⁴ https://whistleblower.house.gov/sites/whistleblower.house.gov/files/Private_Sector_Whistleblower_Fact_Sheet.pdf

¹⁸⁵ *Response from the US Government Accountability Project.*

¹⁸⁶ *Ibid.*

¹⁸⁷ <https://www.worker.gov/retaliation-rights/>

¹⁸⁸ <https://osc.gov/>

¹⁸⁹ <https://www.whistleblowersummit.com/>

¹⁹⁰ <https://acorn8.com/>



Robert Shetterly:
Americans Who Tell the Truth

There are several podcasts in the US that are dedicated to whistleblowing. This subject is also addressed by numerous academics in several fields, including law, economics, behavioural economics, management, psychology and journalism.¹⁹¹ In addition to the above, journalism and films also play an important role in whistleblowing advocacy.

The Government Accountability Project (the “GAP”) also engages the media, government, students, activists, professional associations, lawyers, academics, unions, business executives and the general public to promote whistleblowing, using the stories of whistleblowers who have been helped.¹⁹²

Federal agencies such as the Offices of Inspectors General (the “OIG”) and the Government Accountability Office (the “GAO”) submit regular reports to Congress highlighting the benefits of whistleblowing to the public, including the fact that it helps to recoup wasted taxpayer money.¹⁹³

7.3.2 Forms of publicity used

A wide range of forms are used to publicise and raise awareness of whistleblowing: leaflets, brochures, television spots, radio appearances, internet and web applications, face-to-face training, podcasts, newspaper and magazine articles, webinars, press interviews, and occasional films and plays.

- The House of Representatives Office of the Whistleblower Ombuds has a number of its own resources on its website¹⁹⁴ or on its vimeo.com channel.¹⁹⁵
- The Department of Health and Human Services Office of Inspector General posts informational videos and training on its YouTube channel,¹⁹⁶ which had 3,260 followers at the time of this study.
- Most promotional materials, however, are in text form.¹⁹⁷
- With so many federal and state agencies and organisations involved in whistleblowing, it is virtually impossible to identify all activities that are dedicated to raising awareness of whistleblowing and promoting good practice in this area.

191 Response from the US Government Accountability Project.

192 Meltdown: Three Mile Island is a case in point. This recent Netflix documentary is about Rick Parks, a nuclear safety whistleblower represented by the GAP in the 1980s. The disclosure he made ruined his career, but saved the public from imminent harm. Another example is GAP client Dawn Wooten, who, as a nurse employed by the administrator of a Georgia detention centre, blew the whistle on medical mistreatment, including involuntary hysterectomies and other gynaecological procedures conducted on immigrant women detained at the facility. She called attention to violations of health and safety regulations that endangered the health of staff and detainees, and were likely the cause of the spread of COVID-19 in the community. Ms Wooten’s disclosure triggered several investigations by federal agencies and the US Congress, a class action lawsuit on behalf of the surviving women, and a decision by the US Secretary of Homeland Security to terminate the contract and end the detention of immigrants at this facility. Yet despite her revelations, without which the abuse would likely still be ongoing, Ms Wooten has faced retaliation ranging from security threats to being blacklisted as an undesirable nurse at a time when nursing jobs are in high demand. Ms Wooten has been recognised on several occasions for her courage and her story has been widely publicised.

193 <https://www.oig.dhs.gov/reports/semiannual>

194 <https://whistleblower.house.gov/resources/all-resources>

195 <https://vimeo.com/whistleblowerombuds>

196 <https://www.youtube.com/user/OIGatHHS>

197 Response from the US Government Accountability Project.

7.3.3 Websites dedicated to whistleblowing

In the US, there are several hundred government websites providing information on whistleblowing. They include:

- **US House of Representatives Office of the Whistleblower Ombuds**
The website provides basic information for whistleblowers and helps, in particular, to navigate the complex system of laws. For example, it lists factsheets on specific industries in the private and public sector and whistleblowing issues.¹⁹⁸
- **OSC** – provides background information on its activities, with a link to submit a complaint and information on how to submit a complaint. OSC does not use new whistleblowing applications, but it is possible to fill in the form provided electronically.¹⁹⁹
- **SEC** – the site includes the option of filing a complaint,²⁰⁰ a section on requests for rewards, including a list of judgments that have resulted in monetary sanctions exceeding one million dollars, and a special section on retaliation and protection against retaliation.²⁰¹

7.4 Raising awareness of the legislative framework

Federal agencies run training programmes for employees and employers on whistleblower rights.²⁰² See the section on websites for more information.

The US Occupational Safety and Health Act (the “OSH Act”) requires private-sector employers and federal agencies to have posters in their offices informing employees of their right to file a complaint of retaliation or discrimination they have faced for reporting a safety or health hazard. The poster must be posted in a prominent place where employees and job applicants can see it.

Employers covered by the Energy Reorganisation Act, which deals with nuclear safety, must also display a similar poster.

In addition, as of 2013, both the US Senate and House of Representatives have annually passed resolutions designating 30 July as National Whistleblower Appreciation Day to commemorate the passage of the very first whistleblower law, which was passed on 30 July 1778, and awareness-raising events are often held on this day.²⁰³

7.4.1 Raising awareness of national legislation

The US legal system is complicated, and the body of laws is not an ideal source of communication. There are summaries of current legislation, but these are mostly not intended for the general public. The websites of all the above-mentioned agencies also contain information on laws and regulations that apply either to a particular sector or to a particular target group.

¹⁹⁸ <https://whistleblower.house.gov/fact-sheets>

¹⁹⁹ <https://osc.gov/Documents/Resources/Forms/OSC%20Form-14.pdf>

²⁰⁰ <https://www.sec.gov/whistleblower/submit-a-tip>

²⁰¹ <https://www.sec.gov/whistleblower/retaliation>

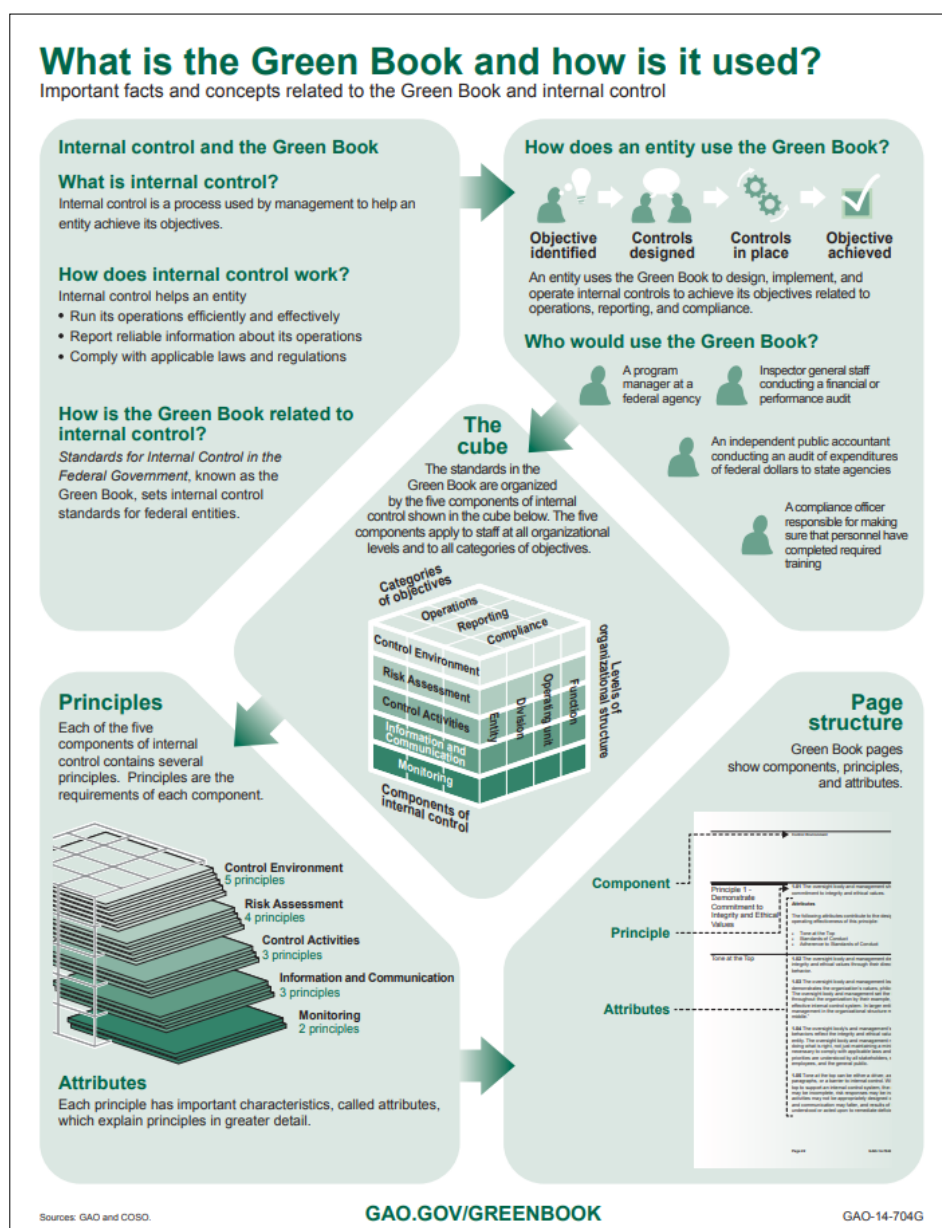
²⁰² Response from the US Government Accountability Project.

²⁰³ Response from the US Government Accountability Project.

7.4.2 Publicity for whistleblowing through internal channels

Although private companies are not required to establish an internal reporting system, federal law prohibits all corporations from retaliating against employees who blow the whistle on their employer's accounting practices, and there are many other laws in US states that protect against workplace reprisals. Therefore, instituting an internal reporting system helps employers to comply with federal and state laws and ensure that, if a problem does crop up, it will be investigated and fixed.

The GAO, in keeping with its statutory obligation, has issued Standards for Internal Control in the Federal Government (referred to as the "Green Book"). This document provides guidance on establishing and maintaining an effective internal reporting system. The Green Book is directed primarily at federal agencies, but may also be adopted by state and local entities and non-profit organisations.²⁰⁴



7.5 Methodological work

The US Office of Special Counsel (OSC) oversees the training programme on whistleblower rights and the merit system for the executive branch. The Government Accountability Project reports that this is an exception to the rule. In general, the US is said to lack adequate whistleblower rights training.²⁰⁵

The Office of the Whistleblower Ombuds offers short videos and webinars for House of Representatives staff through the Congressional Staff Academy.²⁰⁶ A library of manuals and guides, such as the Starter Pack for Working with Whistleblowers and the District Office Starter Pack for Working with Whistleblowers, is also available to them.²⁰⁷

7.5.1 Guidelines for prosecutors, courts, bodies in misdemeanour proceedings, and police authorities

The Federal Administrative Boards (FABs) have produced guides for judges that describe the legal regulation of whistleblowing and aspects of whistleblower cases.²⁰⁸

7.5.2 Internal reporting system guidelines

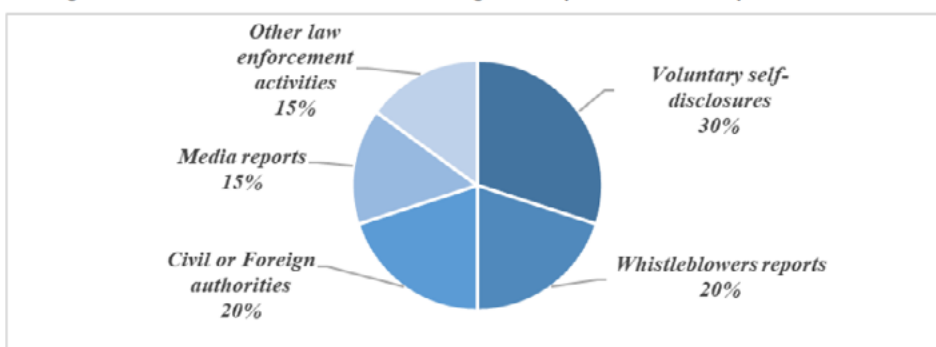
OSC offers training in the fields within its purview to federal and non-federal organisations, and also provides trainers for agencies, to which it can award certification. OSC's 2302(c) Certification Programme allows federal agencies to meet the statutory obligation to inform their workforces about the rights and remedies available to them. The programme consists of four steps: (1) registration; (2) completion of the five requirements; (3) submission of annual certification checklist; and (4) application for certification or recertification every three years.²⁰⁹

7.5.3 Data harvesting and statistics

All federal agencies responsible for receiving complaint notifications provide Congress with regular reports that are publicly available.

The OECD has produced a report on the US entitled *Implementing the OECD Anti-Bribery Convention*, which confirms that the US government publishes only limited information, data and statistics on whistleblowing. The US Department of Justice released certain statistics for this report, such as the fact that 20% of foreign bribery cases were exposed with the help of whistleblowers.²¹⁰

Figure 1. Estimated Sources of the U.S. Foreign Bribery Cases resolved by the DOJ



A chart by the United States Department of Justice.

²⁰⁵ Response from the US Government Accountability Project.

²⁰⁶ <https://whistleblower.house.gov/videos>

²⁰⁷ <https://whistleblower.house.gov/resources/guidance-documents>

²⁰⁸ <https://www.mspb.gov/appeals/files/ALJHandbook.pdf>

²⁰⁹ <https://osc.gov/Services/Pages/Outreach-2302Cert.aspx>

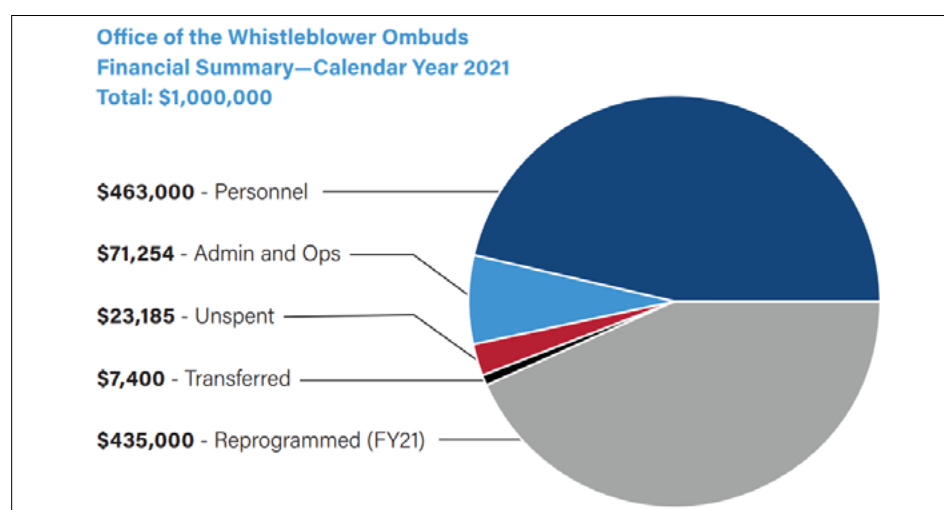
²¹⁰ <https://www.oecd.org/daf/anti-bribery/United-States-Phase-4-Report-ENG.pdf>

The GAP, in conjunction with the International Bar Association, has produced a study comparing the records of whistleblower protection laws in 38 countries in an unprecedented effort to identify the strengths and weaknesses of whistleblower protection legislation around the world.²¹¹

The Government Accountability Project's Samantha Feinstein has conducted a NATO-funded study on COVID-19 disinformation and published a report entitled *The Critical Role that Whistleblowers Play in Countering COVID-19 Disinformation*.²¹²

Funding

There is no general overview of the funding that is channelled into raising awareness of and deploying good practices in whistleblowing in the US. Annual reports containing financial data for the previous year are publicly available. One example is the Office of the Whistleblower Ombuds of the US House of Representatives,²¹³ whose 2021 budget totalled \$1 million. It should be noted that this is a non-partisan support office which advises the House of Representatives on good practice in dealing with whistleblowers from both the public and private sector.²¹⁴



The budget of the Ombudsman's Office.

7.6 Summary and identification of good practice

The United States has pioneered legal protection for whistleblowers, but this varies from state to state. Federal legislation deals primarily with the protection of federal employees and whistleblowers reporting violations of securities laws.

Internal reporting systems are not generally required by law. However, their implementation is either entirely voluntary or companies are encouraged to adopt them by the Department of Justice when it proposes penalties for violations.

In such a vast and complex system, it is difficult to identify good practice that would be transferable to the Czech Republic. Nevertheless, inspiration can certainly be drawn from the approach taken by the US to this area. Authorities and other institutions view whistleblower protection as a very important element in the safeguarding of the public interest, the effectiveness of whistleblowing is not questioned, and top government officials actively endorse it.

²¹¹ <https://www.ibanet.org/article/EE76121D-1282-4A2E-946C-E2E059DD63DA>

²¹² https://whistleblower.org/wp-content/uploads/2022/04/GAP-Disinformation-Whistleblowers-Report_26April2022.pdf

²¹³ https://whistleblower.house.gov/sites/whistleblower.house.gov/files/2021_Whistleblower_Ombuds_Annual_Report.pdf

²¹⁴ <https://whistleblower.house.gov/about/purpose>

8 Conclusion

This study examines the approaches adopted by six countries to raising awareness of whistleblowing and compares them with the situation in the Czech Republic. Three of the countries are required to transpose the EU Directive (France, the Netherlands and Croatia), while the other three are not (the USA, the UK and Norway).

The countries also report very different experiences of whistleblower protection. The US and the UK have the longest historical traditions, whereas countries such as the Czech Republic and Croatia are only now slowly incorporating the principles of whistleblowing into organisational structures in both the private and public sector.

If we focus on how we could go about identifying and comparing the experiences of such different countries, we could take as our reference point the two main objectives that awareness raising is supposed to serve: increasing the number of whistleblowing complaints/reports and raising awareness of the concept of whistleblowing itself.

In this respect, the Dutch authority, for example, has been able to communicate effectively, having received twice as many complaints in the most recent year-on-year comparison. The National Guardian's Office campaign can also be rated as effective because it is succeeding in engaging an increasing number of health organisations through the networking of "guardians" and the sharing of Speak Up Month campaigns. The US stands apart. Whistleblowing is widely known here. The legislation may be complex, but there is not the same need as in the Czech Republic to explain the underlying concepts of whistleblowing. Nor is there as much need to debunk the negative connotations or myths associated with whistleblowing. On the other hand, it is impossible to assess the effectiveness of whistleblower awareness-raising in the US on the basis of the information available.

As a general rule of thumb, basic, factual information on whistleblower protection laws and regulations is available in most states that have a longer historical tradition in this field. For the most part, they are readily available on the websites of the responsible authorities. This is the minimum information baseline that even the Czech Republic currently meets. The important question is whether this information can successfully be disseminated to the general public, i.e. potential whistleblowers. This is the objective effectively pursued in particular by UK health-sector campaigns, such as the aforementioned Speak Up Month campaign.

However, the primary focus of messages conveyed to staff and the general public is always linked to a theme that is more general than just legislative information. In Norway, there is an emphasis on safety and health in the workplace, and in the UK on fostering a culture of openness in the workplace. Similarly, in the Netherlands the main theme is workplace integrity. It is therefore worth considering whether we in the Czech Republic should also try to raise awareness of whistleblower protection through themes that people can relate to and understand.

This finding is one of the main conclusions of the study, as most of the countries compared have approached awareness raising in this way and others (e.g. Croatia) are in the process of doing so. The case of Croatia highlights, among other things, another important aspect of raising awareness about whistleblowing: the preparation of a large-scale professional campaign requires both human and financial resources in abundance.

