

## Whistleblower Protection Act 2023

The bill for the Whistleblower Protection Act, implementing the directive of the European Parliament and of the Council of the European Union 2019/1937 of 23rd October 2019 on the protection of persons reporting on breaches of European Union law, has been signed by the president of the Czech Republic and it is expected to take effect on August 1, 2023.

The act is supposed to assure whistleblowers that they will not be sanctioned for reporting lawless behavior related to jobs or similar activities.

The aim of the act is to ensure that employees and other individuals performing work or similar activities can submit reports via internal reporting systems or the external reporting system of the Ministry of Justice and to ensure their protection against retaliatory measures.

Apart from public contract providers and selected public authorities, including municipal offices of municipalities with more than 10,000 inhabitants, the **obliged entities** under the Whistleblower Protection Act are mainly employers who employ at least 50 employees as of January 1 of the corresponding calendar year. The law intends to protect a wide range of individuals within both the private and public sectors who are at various stages of the working process, explicitly including employees (both former and future), rejected job applicants, volunteers, self-employed persons, etc.

Protected reports can relate to any crime or violation of a legal regulation or EU regulation in specific areas (e.g., consumer protection, data protection, financial institutions, corporate income tax, food safety, competition in economics, public procurement, etc.), sanctioned as a misdemeanor.

Reports can be submitted orally or in writing, or even personally if requested by the whistleblower. There are three ways to make a report:

- Through an internal reporting system set up by an obligated entity (employer), where they will designate a person responsible for processing the report.
- Through an external reporting system (via the Ministry of Justice).



- By public announcement (only under specific conditions, in urgent cases, primarily when the internal reporting system is not functional).

The report must contain information identifying the whistleblower. If an anonymous report is made, it is necessary for the whistleblower's identity to be revealed subsequently. Until the whistleblower's identity is known, they cannot be protected, but at the same time, they are not at risk of retaliatory actions defined in the bill.

The primary objective of the act is, above all, **protection of whistleblowers against so-called retaliatory measures**. The bill outlines specific examples of retaliatory measures that whistleblowers should not be exposed to, such as termination of employment, reduction in wages, disciplinary measures, transferring employees, changes in working hours, etc.

The employer must specifically establish an internal reporting system for receiving and managing reports. They must appoint a **'relevant person'** to deal with and evaluate reports, inform each whistleblower about receiving their report and results of the subsequent investigation, and ensure that no whistleblower is exposed to so-called retaliatory measures. The above should be defined in a separate internal regulation. If employers do not make sure that reports are looked into by the relevant person or if they allow unauthorized persons to see the reports, they are risking a fine up to 400,000 CZK.

If an employer does not designate a relevant person to receive and process reports or allows whistleblowers to be exposed to retaliatory measures, they are risking a fine of up to 1,000,000 CZK. The bill, however, protects employers as well. A whistleblower who knowingly makes a fabricated report will not be protected and can be fined up to 50,000 CZK.

Given the rapid progression of the legislative process, where the bill was signed by the president of the Czech Republic on June 7, 2023, it can be expected to be proclaimed in the Collection of Laws (*Sbírka zákonů*) during June 2023.

In such a case, **all employers with 250 employees or more will need to implement new processes by August 1, 2023**, as well as public contract providers and



municipalities, which the law affects. Employers with 50 to 249 employees have until December 15, 2023, to implement new processes.

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THE COMPANY IS REGISTERED IN THE COMMERCIAL REGISTER ADMINISTERED BY THE MUNICIPAL COURT IN PRAGUE, SECTION C, INSET

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