



Mgr. Radan Janoš  
advokát

Mgr. Ing. Martin Števko  
advokát

# Whistleblowing - protection of persons who report breaches of Union law

**Martin Števko, advokát / attorney at law**

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advokát

## HIGHLIGHTS

- 1) MAIN LEGAL REGULATION
- 2) NATURE AND AIM OF THE WHISTLEBLOWING LEGISLATION
- 3) WHISTLEBLOWER AND HIS/HER NOTIFICATION
- 4) INTERNAL REPORTING CHANNELS / SYSTEM
- 5) OTHER OBLIGATIONS OF OBLIGED PERSONS



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## MAIN LEGAL REGULATION

- DIRECTIVE (EU) 2019/1937 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PROTECTION OF PERSONS WHO REPORT BREACHES OF UNION LAW (SMĚRNICE EVROPSKÉHO PARLAMENTU A RADY (EU) 2019/1937 O OCHRANĚ OSOB, KTERÉ OZNAMUJÍ PORUŠENÍ PRÁVA UNIE)
  - Term for national implementation of directive – 17 December 2021
- Whistleblowers Protection Act (Zákon o ochraně oznamovatelů)
  - Legislation process in progress - not yet adopted
  - Parliamentary print no. 1150
  - First reading has taken place, currently in preparation for the second reading

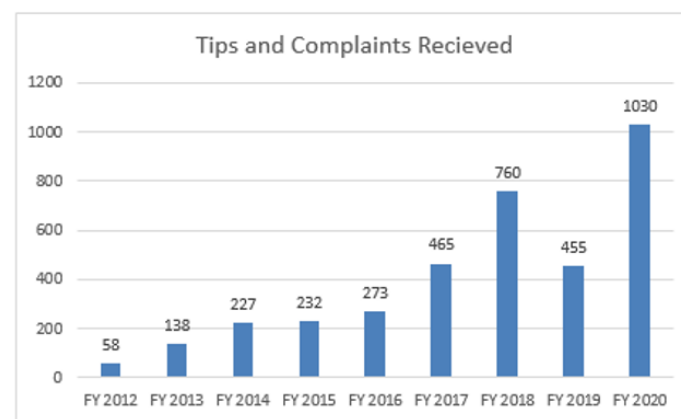
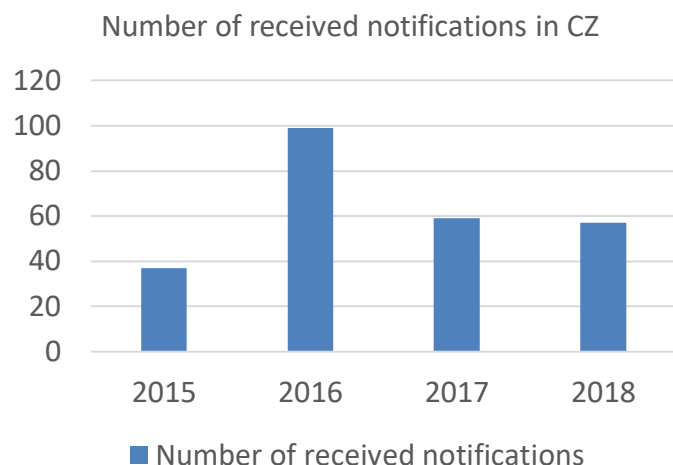


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## NATURE AND AIM OF THE WHISTLEBLOWING LEGISLATION

- The increasing number of notifications made by the whistleblowers



Source: CFTC 2020 Annual Report

Sources: CZ: <https://www.transparency.cz/wp-content/uploads/2019/09/TI-Whistleblowing-v-otázkách-a-odpověd%C3%ADch-nejen-pro-prošetřovatele.pdf>  
USA: <https://www.whistleblower-defense.com/2020/11/25/cftc-releases-2020-annual-report-on-its-whistleblower-program/>

- The matter is discussed for several years in EU and non EU countries
- Currently the legal system of the Czech Republic lacks comprehensive whistleblower protection, except in the area of service relationships or the regulated banking sector
- Problematic aspect – unwillingness of the employee's superiors to react to whistleblower notification



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## NATURE AND AIM OF THE WHISTLEBLOWING LEGISLATION

- The purpose of legislation
  - Protect potential whistleblowers – notifiers of unlawful acts
  - Enable especially to employees in the private and public sectors to submit notifications securely through the established mandatory mechanisms
  - Lay down the conditions for the submission and assessment of notifications
  - Provide protection to whistleblowers against possible retaliation by employers or other entities
  - Raise awareness of whistleblowing
  - Improve the image of whistleblowers in the eyes of the public



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## INTERNAL REPORTING CHANNELS / SYSTEM

- The internal reporting system for receiving the notification has to be established
- The system allows whistleblowers to make an announcement/notification about the illegal conduct or unethical behaviour on the part of the entity or inform that the public interest could be harmed
- Especially announcements/notifications **focused to Public procurement, Financial services, Corporate tax, Privacy protection**
- The **internal notification system** has to be **implemented** until **31 March 2022** by (Article 8 par. 1 of draft Whistleblowers Protection Act) especially by:
  - **A contracting authority under the law governing public procurement**, except for a municipality with less than 5 000 inhabitants; this does not apply if it is a municipality with extended powers
  - **Employer with more than 25 employees**
  - **Employers engaged in civil aviation, maritime transport, oil and gas, consumer credit, capital market business**, public authority exercising competence in the field of administration of corporate income tax or administration of the levy for breach of budgetary discipline, etc.



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## INTERNAL REPORTING CHANNELS / SYSTEM

- **Private sector employers with fewer than 250 employees will be able to share the internal notification system**
- Internal notification system **can be outsourced**
- The **obliged entity** is **still responsible for compliance** with the conditions for the establishment and operation of the internal notification system



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## OTHER OBLIGATIONS OF OBLIGED PERSONS

- **Many duties** of obliged persons noted in Article 9 of draft Whistleblowers Protection Act
- **To appoint a 'competent person'** who will be responsible for receiving and dealing with notifications – only competent person is authorised to be made aware of the notification
- **To inform the whistleblower** of the **progress** and results of the **assessment** of the validity of the notification
- To **keep** a **record** and **archive** of all **notifications** submitted
- To provide **remote access** to **information** on **notification** methods through the internal notification system and to the Ministry – identifying the competent person, their telephone number and email or other address for service
- To ensure that the **person has been duly informed of his rights and obligations**
- To give the **opportunity to submit a notification** through the internal notification system, both in **writing** and **orally**, and in person upon request
- **Taking appropriate measures** to remedy or prevent the infringement following the notification





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**Thank you for your attention**