



BRIEFING PAPER
WHISTLEBLOWER PROTECTION IN THE EU

Whistleblower Protection in Poland

Introduction

Poland lacks effective legal mechanisms to protect whistleblowers from retaliation in the workplace. A patchwork of provisions in various laws leaves the rights of employees to report crime and corruption without the fear of reprisals poorly defined.

In practice, Polish law places high thresholds on employees who report misconduct and scandal. Public support for whistleblowing, however, is comparatively high. And, despite the absence of many high-profile cases, there are signs that interest in the issue is on the rise. Still, political momentum for change is considered to be low.

Laws, Institutions and Procedures

Laws including the Labor Code, Criminal Code and the Code of Criminal Procedure tangentially address whistleblowing, though they were not specifically enacted to protect whistleblowers. This has created difficulties in protecting bona fide whistleblowers in practice.

Labor laws include employee protection from unjust dismissals. Problems can arise, however, if a victimized whistleblower takes their case to court. Judges usually base their rulings solely on termination notices, and the actual grounds for a whistleblower's dismissal may be ignored. Employees thus carry the burden of proving they were fired because of reporting misconduct, and not because of official reasons cited by an employer. As a result, most victimized whistleblowers have lost their cases in labor courts. This is seen as a major deterrent for whistleblowing in Poland.

Polish law does not include provisions to protect a whistleblower's identity, and depending on the case, disclosing a whistleblower's personal information can be seen as serving the public interest.

No government institution is responsible for protecting or supporting whistleblowers, or receiving and investigating disclosures from employees.

Recent or Ongoing Initiatives and Trends

It is doubtful whether Poland's current political climate supports the strengthening of whistleblower rights. Key players such as the The Ministry of Family, Labor, and Public Policy, as well as some trade unions and employers' organizations, have openly opposed new legislation.

One of the few initiatives in favor of whistleblower protection recently came from the Ministry of Justice, which has started a consultation process for pursuing a legislative proposal in 2016.

Among the advocates working to raise awareness of the issue are the Commissioner for Human Rights/Ombudsman and the Central Anticorruption Bureau, supported by international organizations.

Whistleblower Cases

Poland has seen a number of whistleblower cases, but few of their stories have become widely known to the public. In most cases, they faced severe retaliation and lost their court cases. Most of these disclosures are not known to have led to corrective actions or prosecutions.

This is illustrated by the case of an employee of a Polish pharmaceutical company who reported the misuse of public funds in early 2000s. As the head of clinical research, her supervisor asked her to falsify documents related to medical products at a time when the company was working to harmonize with EU regulations. The employee also became aware that public grants were being spent to develop fictitious medical products.

After informing the Central Anticorruption Bureau and revealing her own involvement in the irregularities, she was dismissed. In the following investigations, the company claimed she was responsible for the wrongdoing.

In a 2014 case, Jarek Wisniewski, a former sales representative for UK pharmaceutical company **GlaxoSmithKline**, claimed that money paid to doctors for medical training instead was used to boost sales of drugs for asthma and other maladies. Another employee said the company paid doctors to give presentations that never occurred.

Data and Statistics

Because Poland has no government agency that tracks whistleblower cases, the number of cases filed each year and their outcomes are not known.

Public Perception of Whistleblowing

Whistleblowing generally is viewed positively among the Polish citizenry. Opinion polls show 70 percent of respondents would report misconduct, though 77 percent said they would expect a negative response due to a lack of trust in the legal system as well as social factors.

According to one survey, among the main reasons people would not report misconduct, concerns of being branded a “snitch” and the attitude “It is none of my business” rank higher than the fear of retaliation at work.

Capacities and Knowledge Centers

There are no government institutions or civil society organizations in Poland exclusively engaged on the issue of whistleblower rights. The NGOs Watchdog Poland and Stefan Batory Foundation, which runs the website www.signalista.pl, lobby for improved whistleblower protections. The Institute for Public Affairs, a think-tank, conducts research on the issue.