

Selected issues of Union legislation on the protection of whistleblowers and its national implementation

Abstract

This study aims to examine the background of the evolution of the *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 motivation of the EU for adopting this specific act, as well as its legal basis. It also focuses on the protection of whistleblowers in the case-law of the European Court of Human Rights (ECHR). It aims to present the criteria provided by the ECHR's Grand Chamber in *Guja v Moldova* case and to examine their importance in ECHR's decision-making process. In order to illustrate one of the most significant financial cases (Luxleaks) that resulted in adoption of this Directive, it also presents *Halet v Luxembourg* case.

This study analyses the subject matter and the personal scope of the Directive. It shall highlight the main principles of whistleblowers' protection. It shall inform the potential whistleblowers about the role of their good faith as well as draw attention to whistleblowers' duty of checking the reliability of the facts which they intent to report, if possible. Presenting ECHR's case *Gawlik v Lichtenstein* aims to demonstrate this duty. The study also examines the forms of whistleblower's report when describing how they can report on the detected breaches. Those forms are presented in the context of the "3-tier model" of whistleblowing system that was created by Wim Vandekerckhove.

The aim of this study is also to provide a comparison between two national transposition's approaches – in the Czech Republic and in Slovakia. Therefore it provides a synopsis of those two national transpositions' evolution. Then it emphasizes the key aspects of both legal regulations. It shall demonstrate the differences between the two legal acts as well as examine the functionality of whistleblower's protection instruments in both member states.

Klíčová slova: whistleblower protection, legal basis, national transposition