

PwC Forensic Insight

Prepare. Respond. Emerge Stronger.

May 2021

On 1 February 2021, the Czech government passed a draft **Bill on protection of whistleblowers**. Do you want to know what the purpose is? What impact will it have on the business environment? Will the number of reported cases increase? Will it apply to all whistleblower reports? Find out more in the current issue of the PwC forensic newsletter.

The Bill is based on the **EU Directive 2019/1937**, which sets out minimum requirements for the protection of whistleblowers.

The Bill should come into force on 17 December 2021. It stipulates an obligation for defined entities to **introduce internal whistleblowing system by 31 March 2022**. This obligation applies to both public and private sector entities.

The text of Bill may still change. However, it is already clear that the obligations arising from the adoption of this directive will be applicable to the majority of the employers.

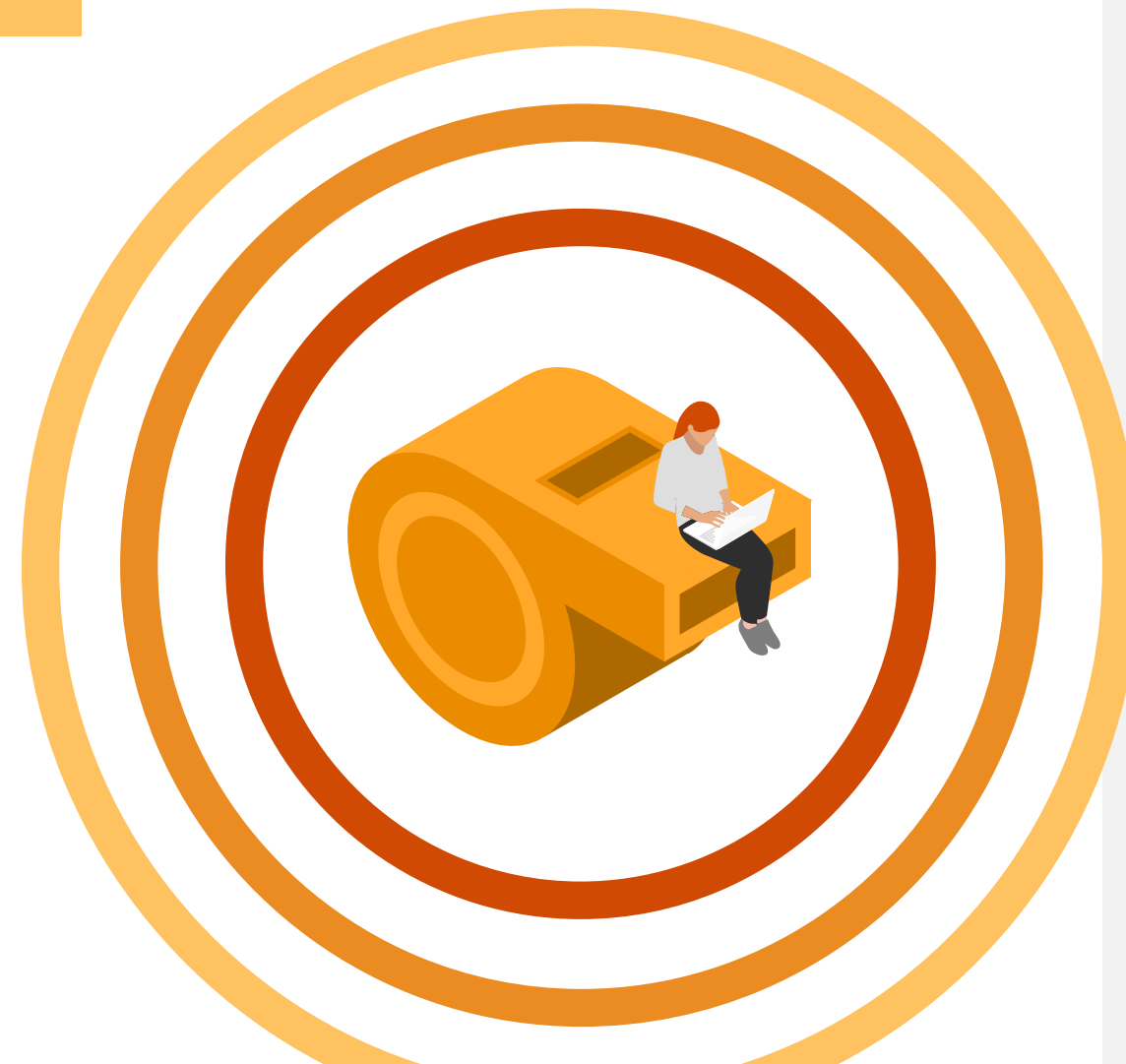
The whistleblowing protection does not have legal or cultural tradition in the Czech Republic. Reporting illegal practices is perceived rather negatively in the local environment mainly due to the historical context. What changes does the Bill bring to employees and external subjects with respect to the **reporting illegal or unethical activities**?



43 %

fraud cases are detected based on the notice or tip, with half of the tips made by the employees

Global study ACFE (Association of Certified Fraud Examiners): „Report to the Nations 2020”



33 %

Czech companies have not implemented any whistleblowing system

PwC Czech Republic: „Fraud Prevention and Detection Survey in the Czech Republic 2019“



Would you like to learn more?

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What steps should companies take to implement obligations stipulated in the Bill in time? How to ensure the whistleblowing system is functional and effective? When is it time to start the implementation process?

Who has an obligation to implement an internal reporting system?

Both private and public organizations with more than 25 employees.

Public sector entities, except for the municipalities with less than 5,000 inhabitants.

Companies operating in certain industries or providing services, as, for example:

- Provision or facilitation of consumer credit
- Capital markets
- Investment companies and funds
- Insurance and reinsurance
- Civil aviation
- Maritime transport
- Oil and gas

What are the main obligations arising from the Bill?

The Bill imposes a number of obligations that are new in the Czech environment or do not have a sufficient tradition. For example:

- Appointment of a designated person fully responsible for the administration of the internal reporting system.
- Obligation to publish information on reporting channels for possible illegal activities including contact details of the designated person.
- Obligation to implement internal reporting channels for employees as well as external subjects.
- Providing protection to the whistleblower, specifically, identity of the whistleblower and identification mechanisms for any form of retaliation (dismissal, wage reduction, disciplinary action).
- Obligation to properly assess whether the whistleblower report was justified and to inform the whistleblower within the set deadlines.
- Obligation to archive relevant documentation.

What reports will the Bill cover?

The whistleblower will be protected under the Bill, if he/she learns about the possible illegal activities in connection with his/her work.

The reported conduct must have the characteristics of a criminal offence, misdemeanour or violate regulations in areas such as:

- Financial services
- Corporate taxation
- Anti-Money laundering (prevention of legalization of the proceeds from crime or terrorism financing)
- Customer protection
- Environmental protection
- Nuclear safety
- Public procurement
- Protection of the public order and internal security
- Personal data protection
- Protection of the EU's financial interest

Where can a whistleblower file the report?

According to the draft Bill, there are 3 options:

- The preferred option is for the whistleblower to use the company's internal whistleblowing system.
- An alternative would be to file a report directly with the Czech Ministry of Justice.
- The report can also be published in the media, but only in case of well-defined reasons.

What are the fines for non-compliance with the Bill?

Following fines relate to the companies as well as the whistleblowers:

- Entities will pay for certain offences a fine up to CZK 1 million or 5% of the company's net turnover.
- The designated person might be sanctioned for certain offence up to CZK 100,000.
- A whistleblower (an individual) faces a fine up to CZK 50,000 for any false or knowingly untrue reports.

What are the exceptions to the breach of confidentiality?

The Bill introduces exceptions where the breaches of confidentiality obligation (contractual or legal) are possible:

- Breaches of banking secrecy, contractual obligation of confidentiality or the obligation to maintain confidentiality under other legislation
- The exception will not apply, for example, to classified information, confidentiality of notaries, judges, lawyers, tax advisors, and confidentiality in the provision of health care services.

Tip: Did you know that some entities can share a whistleblowing system together? A shared whistleblowing platform is more efficient and can save financial and human resources.



Would you like to learn more?

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Recommended roadmap to effective implementation and operation of whistleblowing programme

Almost one year left may seem like enough time to implement an internal whistleblowing system. However, every company has a different starting point in terms of company's size, industry specifics or the cross-territory complexity as different rules for subsidiaries in different countries could apply.

Based on our experience, the implementation of an internal whistleblowing system may take approximately half a year for some companies, especially those that do not have any internal reporting channels, processes and mechanisms of whistleblowing.

Following milestones are crucial for timely and successful implementation and operation of your own whistleblowing system:



We can guide and assist your company

We offer you a free independent consultation, in which we will analyze and assess level of your readiness for the new legislation on protection of whistleblowers.

Are you unable to keep up with all the legal updates and obligations arising from the Bill to your company?
What will be the final text of the whistleblowing act?
You can find latest updates and an overview of all our services offered in one place - on our website.

pwc.cz/whistleblowing

Focus on the following

The implementation period of a suitable whistleblowing system depends on the company's specifics. It can take up to 6 months in the companies with larger and more complex internal environment. Therefore, we recommend starting the analysis and implementation in time!

The Bill imposes a number of important obligations, such as ensuring the protection of the identity of whistleblowers, the obligation to appoint a designated person responsible for the processing, and managing response channels. Timely and robust implementation will protect you from possible fines.