

Whistleblowing as a means of employer protection

Abstract

This doctoral thesis regards the term whistleblowing, i.e. the protection of the notifier of harmful conduct. The author has chosen this topic primarily due to the current importance of this topic. The initial part of this thesis is concerned with the general themes, the explanation of the terms, and the history of whistleblowing.

In addition, this document analyzes the sources of international laws regarding this phenomenon that relate to the Czech Republic and the Czech legal order. Furthermore, this thesis discusses the European Union legislation relating to whistleblowing and focuses on 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, which can currently be considered the most important source of law regarding the whistleblowing and simultaneously to be the template for the Czech national legislation in development. This thesis analyses and documents the contents of this directive.

Although the term whistleblowing is still novel to the Czech law, its aspects can be found in several legal branches. Therefore, this thesis considers its sources not only from the perspective of the constitutional, labour, criminal, and administrative law but from additional legal branches as well.

There have been several bills that were intended to adjust the matters of whistleblowing in the past, however, none of them has successfully passed the legislative process. This thesis analyses these bills, including two current bills that have already been created as a result of the need for the transposition of the aforementioned directive.

Another significant segment of this thesis examines the relationship between whistleblowing and the matters of compliance management systems. These issues have entered the Czech environment through Czech employers with foreign parent companies. Eventually, its significance has risen due to the creation of criminal liability of legal persons. The task of the employers is to set a functional compliance management system including an internal report

structure. The goal is to comply with legislation and simultaneously protect against legal liability for the violations conducted by the employees and other members of employer.

Keywords: whistleblowing, notification, compliance