



Southeast Europe
**COALITION ON
WHISTLEBLOWER
PROTECTION**



PROTECTING WHISTLEBLOWERS IN SOUTHEAST EUROPE

**A REVIEW OF POLICIES, CASES
AND INITIATIVES**



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AND INITIATIVES**

AUTHORS

Mark Worth
Arjan Dyrnishi

PUBLISHERS

Southeast Europe Coalition on Whistleblower Protection
(<https://see-whistleblowing.org>)
Blueprint for Free Speech (<https://blueprintforfreespeech.net>)
Romanian Academic Society (<http://sar.org.ro>)



SENIOR EDITORS

Suelette Dreyfus, PhD
Mark Worth

DESIGN

Bethany Grace
<http://design.bethany-grace.co.uk>

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FOREWORD

*By Oliver Vujovic
Secretary General, South East Europe Media Organization*

Recently a court case was filed against a journalist for publishing “state secret information.” At the same time he filed a lawsuit seeking access to a public document. The journalist won both cases but the reality did not change: state authorities described him in several public statements as a “spy.” And, despite a legal decision in his favor, he did not receive the document he needed for his work.

This exemplifies how freedom of press has proven, time and time again, to be an unpredictable and tumultuous factor in Southeast Europe, and how journalists are obstructed in their daily work. The same can be said for whistleblowers, who must endure all manner of legal and career threats for speaking out against crime and corruption.

Political, economic and social changes in Southeast Europe have affected human rights in ways no one thought possible. This process has helped some countries reach a high level of stability and democratic practices. Others have had a more difficult time with their transitions into a more humane, tolerant and corruption-free society.

Yet, regardless of their differing levels of freedoms and democracy, all countries in the region are dealing with almost exactly the same challenges and hardships in the spheres of media freedom and human rights.

Through the work of civil society groups, activists and media workers, experiences have been compiled over the years and the conclusions are invariably similar: in most countries we still have many media outlets with non-transparent ownership leading back to ties with politicians, businessmen and tycoons. Most countries have a sharp divide between “pro-government” and “opposition” media outlets. In most cases, opponents of the ruling party find it hard to survive.

Legislative instruments have become the censoring tool of the government, utilized to prosecute media workers and outlets. Journalists are intimidated, attacked, threatened and cornered into succumbing or losing their job. Self-censorship is a reality in all countries.

Whistleblowers very often face the same challenges as journalists and media workers, and the assaults against them are frequently even more volatile than what the media has experienced. They are being persecuted by the very institutions that are supposed to protect them, and there is no praise for their courage. Their reputations are damaged, the legitimacy of their work questioned, and their decision to reveal the truth is undermined.

The fight to provide safe working conditions and eliminate censorship does not apply to media workers and whistleblowers as separate groups, but rather as one entity that has the same objective in mind: to provide factual information relevant to the public, without attempting to misconstrue or conceal the truth. Whistleblowers deserve good, wholesome laws, safe environments, and restitution for the sacrifices they make.

CONTENTS

Be it a journalist or a whistleblower, they all have one goal in common: the protection of citizens' rights. They also have common problems. Through their shared ambitions and challenges, a symbiosis emerges that can benefit journalists and whistleblowers alike.

PROTECTING WHISTLEBLOWERS IN SOUTHEAST EUROPE: A REVIEW OF POLICIES, CASES AND INITIATIVES

EXECUTIVE SUMMARY

In the two years since the first edition of this report was released, Southeast Europe has continued to see progress toward protecting whistleblowers from retaliation and harness their disclosures to fight crime and corruption. As in all regions, however, much work is needed to ensure that citizens and employees who report misconduct are not punished as a result.

Of the 10 countries profiled here, seven now have in place some form of legal protections for whistleblowers. This is up from four countries in mid-2015, thanks to laws passing or taking effect in Albania, Macedonia and Montenegro.

This number could rise soon, with policy-makers and activists working to develop new laws in Croatia and Moldova. Among the 10 countries, only in Bulgaria is there little momentum to strengthening whistleblower rights.

Along with the work of policy-makers and elected officials to pass new laws, activists and advocacy groups are expanding their political and public campaigns. In 2016 and 2017, NGO working groups were formed in Croatia, Macedonia and Moldova to advocate for new or improved laws. Campaigners are working to fix the laws in Kosovo and Serbia, and to pass entity-level laws in Bosnia and Herzegovina.

In countries where laws recently were passed – particularly in Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia – activists and journalists are closely monitoring whether whistleblowers are benefiting from their enhanced rights.

In several countries, research and anecdotal evidence show that new laws do not always protect citizens and employees from being fired, demoted, harassed, sued or even prosecuted. These findings are being leveraged to close dangerous legislative gaps that expose whistleblowers to career, personal and financial ruin.

Representing a major victory for activists, spurious criminal charges filed against whistleblowers at the Tuzla Kvarc mining company in Bosnia and Herzegovina were dropped in December 2016. This followed an 18-month campaign that made headlines across the country and the region.

In Kosovo, Murat Mehmeti remains in his job at the Tax Administration after exposing a massive tax scam involving shell companies that his managers had been covering up.

In another hopeful trend, the region's growing number of non-profit newsrooms is providing new outlets for whistleblowers to report corruption, and new platforms for their evidence to be published. These include, regionally, the Organized Crime and Corruption Reporting Project (OCCRP), Balkan Investigative Reporting Network (BIRN) and Balkan Leaks. At the national level, nearly every Southeast European country has an independent investigative journalism group; some have two or more.

EXECUTIVE SUMMARY

This report is being released as the Southeast Europe Coalition on Whistleblower Protection completes its second year in operation. The Coalition is comprised of more than 30 NGOs in 13 countries that receive and investigate whistleblower disclosures and complaints, advise and support whistleblowers, and advocate for stronger whistleblower laws. This report is an update of a 2015 report published by the Regional Anti-Corruption Initiative.

Mark Worth and Arjan Dyrmishi
Co-coordinators, Southeast Europe Coalition on Whistleblower Protection
May 2017

KEY TO RATINGS FOR WHISTLEBLOWER PROTECTION LAWS



The country has essentially no legal protections for whistleblowers



The country has very few legal protections for whistleblowers and no designated whistleblower protection law



The country has a designated whistleblower protection law or other legislation that includes a small number of essential European and international standards



The country has a designated whistleblower protection law that includes a moderate number of essential European and international standards



The country has a designated whistleblower protection law that includes most essential European and international standards



The country has a designated whistleblower protection law that includes all essential European and international standards

ALBANIA



OVERVIEW

Albania adopted the Law on Whistleblowing and Protection of Whistleblowers in June 2016.¹ Prior, Albania had a legal framework to promote reporting of wrongdoing and corruption but the adoption of this law is the first comprehensive approach to provide for whistleblower protection.²

In the past few years, as anti-corruption rose in prominence on Albania's EU integration agenda, international pressure to adopt a dedicated whistleblower law increased. The European Commission identified the lack of a law as an omission to Albania's preparedness to fight corruption and recommended that the government adopt a whistleblower law in its 2014 and 2015 progress reports.³

The new law provides for a phased approach to implementation. In the first phase, from when the law was passed until 1 October 2016, the implementation focused on drafting and adopting bylaws. The law went into full force 1 October 2016 for the public sector and is scheduled to take effect for the private sector on 1 July 2017.

Despite the commitment of the Albanian government and support provided by international institutions, the implementation of the law is expected to face challenges. These include cultural prejudices, an insufficient and often biased understanding of whistleblowing by the Albanian media, and generally insufficient and inadequate institutional capacities.⁴

Civil society organizations and media activists have increased efforts to promote whistleblowing and the implementation of the law, but whistleblowing remains far from becoming a mainstream issue.

ALBANIA

CURRENT LEGISLATION AND REGULATIONS

Albania's Law on Whistleblowing and Protection of Whistleblowers includes the three fundamental elements of a comprehensive whistleblower law: channels for reporting wrongdoing, procedures for investigating disclosures, and procedures for protecting whistleblowers from retaliation, as well as the institutions for implementation and oversight.⁵

The law applies to all persons working in the public and private sectors, though the material scope of the law is limited to reporting acts of corruption.⁶

The law includes many European and international standards, such as:

- confidentiality protection⁷
- protection against unconventional harassment⁸
- a ban on “gag orders”⁹
- a transfer option if a whistleblower chooses to not go back to the same position due to retaliation fears¹⁰
- personal accountability for reprisals against whistleblowers.¹¹

Apart from this law, other laws grant employees freedoms and rights to report wrongdoing, including:

- the Labour Code, which was amended in 2008 to provide protection for employees who report corruption from unjustified sanctions;
- the Law on Civil Servants, which gives civil servants the right to disobey an illegal order but does not provide protection from retaliation if they so disobey;
- the Law on the Prevention of Conflict of Interest, which allows disclosures to be made to government regulators or through external channels such as the media; and
- the Code of Administrative Procedure, which allows any person to complain about any administrative act, and gives civil servants the right to request the revocation or amendments of an act.¹²

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

The High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) is the main institution in charge of implementing the law.

HIDAACI's competences include:

- issuing instructions to monitor implementation of internal and external disclosure;
- inspecting the functioning of internal reporting mechanisms;
- investigating administrative offenses and issuing fines under the law;
- receiving and investigating requests for protection from retaliation and protecting whistleblowers from retaliation;
- drafting assessments and recommendations for implementing the law on the basis of annual reports from disclosure units;
- providing advice and support on implementing the law; and
- raising public awareness of whistleblowing and protecting whistleblowers, and enhancing the cultural acceptance of whistleblowing.¹³

HIDAACI also serves as a disclosure channel for public and private organizations with fewer than 80 and 100 employees, respectively; if internal reporting mechanisms do not function; or if there are impartiality concerns or fears that evidence may be

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destroyed.¹⁴ HIDAACI is in charge of producing and issuing an annual report on the implementation of the law.¹⁵

In addition to HIDAACI, other institutions that have a role include the Council of Ministers and the Information and Data Protection Commissioner, which are responsible for issuing regulations on the structure and criteria for selecting employees within internal reporting units in public organizations, and guidelines on the criteria for processing and retaining personal data related to whistleblowing.¹⁶

RECENT AND PENDING INITIATIVES

Since the law was adopted, the legislative focus has been on adopting bylaws and harmonizing the law on HIDAACI with the competences and tasks provided by the whistleblower law.

The harmonization of the HIDAACI law has been introduced in the National Plan on European Integration 2017-2020.¹⁷ As of spring 2017 the draft was pending discussion in parliamentary committees.¹⁸

WHISTLEBLOWER CASES

Cases of corruption and wrongdoing of various magnitudes frequently have been reported basis by Albania media and civil society activists.

In 2015 Dritan Zagani, a senior Albanian policeman claimed he discovered an airborne drug trafficking route between Albania and Italy that was managed by an Albanian criminal organization. He said some of the Albanian Interior Minister's cousins were involved and that senior police officers were aware of the route.¹⁹ The Interior Ministry investigated Zagani on allegations of selling information to Italian law enforcement agency Guardia di Finanza, and accused him of being manipulated by the opposition.²⁰ Fearing possible attempts on his life, Zagani sought political asylum in Switzerland.²¹

In 2008 Kosta Trebicka was found dead after he exposed evidence of corruption related to the export of weapons to the US. Official investigations concluded he died of a car accident, but this has been questioned. Trebicka said his life was in danger due to his disclosure, but he was never granted protection.^{22,23}

DATA AND STATISTICS

There are no specific data or statistics on whistleblowing in Albania.

Statistics from the General Prosecution Office may provide an indication on the level of corruption and who is reporting it. The Office's Joint Investigative Units processed 3,113 referrals for investigation in 2015, a 26 percent increase over the 2,476 referrals processed in 2014. Of these, 2,268 referrals were made by prosecutors, police, the State Audit Institution, HIDAACI, and the anti-money laundering and tax/customs offices, while 845 referrals were made by citizens and public administration officials.²⁴

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

Although reporting wrongdoing is a well-known practice in Albania that is addressed in several laws and regulations, it has not been closely associated with the concept of whistleblowing. Rather, it is linked to denunciation (*denoncim*), a term that continues

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to carry a negative connotation due to the association with citizen surveillance activities carried out during the communist period.^{25,26}

Given the lack of a centralized institution to report wrongdoing and the overall failure of the disclosure channels before the whistleblower law was passed in 2016, the media has become a common outlet for exposing crimes and misconduct.^{27,28}

Paradoxically, however, the media generally is not well acquainted with whistleblowing in its genuine meaning, as became evident by its coverage of the drafting and adopting of the whistleblower law. With very few exceptions, the media reported law's adoption as the return of spies and snitches.²⁹

The past legacy and the overall failure to successfully introduce the concept of whistleblowing as a broadly accepted practice have contributed to shaping public opinion on the issue.

As of early 2017, no public opinion data on Albania was available. A regional survey on attitudes to whistleblowing conducted in 2016 in seven Southeast Europe countries, including Albania, shows that only one-third of respondents in the region consider whistleblowing to be acceptable.³⁰

ADVOCACY AND ACTIVISM

The process of the adoption of the law provided the opportunity for civil society to become active in advocating and providing expertise for the improvement of the draft law.³¹

Following the adoption of the law, civil society and media activists collaboratively organized a television talk show to discuss the law and whistleblowing as an internationally recognized practice in fighting corruption and malpractice.³²

A video spot prepared with the support of the Dutch Embassy in Tirana was broadcast online.³³ The Tirana EU Info Center and Partners Albania for Change and Development organized an event with Tirana University students at which the whistleblower law was presented and discussed.³⁴

CAPACITIES AND KNOWLEDGE CENTERS

HIDAACI is the main institution in charge of implementing the whistleblower law. Due to its lack of previous expertise with whistleblowing, HIDAACI has been supported by the Dutch Embassy in Tirana in drafting bylaws and preparing the monitoring mechanisms on the law's implementation.³⁵

The Dutch Embassy also helped to coin the term “sinjalizues”, a translation for whistleblower in Albanian, through an open competition organized by the Embassy.³⁶

No NGOs in Albania are known to specialize in whistleblowing or support whistleblowers. The Institute for Democracy and Mediation released an in-depth study on Albania's whistleblower-related laws in 2013,³⁷ provided detailed input on the proposed whistleblower law, and advocated for its passage in 2016 in cooperation with the Southeast Europe Coalition on Whistleblower Protection.



BOSNIA AND HERZEGOVINA

OVERVIEW

A two-year effort by government and NGOs led to the unanimous passage of a whistleblower protection law that covers state-level employees in December 2013. The law permits external disclosures, penalizes non-compliance, and protects state employees who release official secrets while reporting corruption. Unique to Europe, the law grants pre-emptive protection to employees – before retaliation has occurred.³⁸

In terms of institutions and practice, whistleblowing is a relatively new issue in Bosnia and Herzegovina (BiH). Still, the law has begun to work in practice: two state employees were granted whistleblower protection in the first year,³⁹ and a total of four employees have been protected as of the end of 2016.

Bosnia has seen many high-profile cases in recent years, including two that led to the death of the whistleblower. The Tuzla Kvarc bribery and whistleblower retaliation case, which reached a culmination in February 2017, is one of the most significant cases in Europe in recent years.

In December 2016 a proposed law was under formal consideration in the Republika Srpska that, if passed, would become among the strongest whistleblower laws in the region.

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CURRENT LEGISLATION AND REGULATIONS

A comprehensive law aiming to protect state employees who report corruption from retaliation took effect in December 2013. The Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina passed both houses of Parliament unanimously. The measure is the product of a two-year campaign that included parliamentarians from various political parties; several NGOs; and representatives of state institutions.

The law grants protection from a wide range of reprisals – including declaring an employee’s position redundant – to public servants and officials who report corruption or bribery. Many types of disclosures are protected, including those made to relevant authorities; filing a lawsuit or complaint; reporting a crime; testifying in court or to an administrative authority; and cooperating in investigative proceedings.

State employees may report corruption externally – to the police or the public – under certain circumstances, including if internal reporting procedures are irregular, or if the person responsible for receiving the disclosure is involved with the corruption.

The law is the first in Europe that allows employees to receive whistleblower status before being exposed to retaliation.⁴⁰ Employees may apply for pre-emptive protection with the Agency for Prevention of Corruption and Coordination of Fight against Corruption (APIK), which has 30 days to respond to the request. The status legally prevents a state institution from retaliating against an employee who has reported corruption under the law.

Employees who disclose an official secret in the course of reporting corruption are protected from material, criminal, or disciplinary liability. Individuals may be fined up to €10,000 for not setting up required internal whistleblower procedures, not following an order to stop retaliation against a whistleblower, or for knowingly submitting a false report of corruption.

The law does not apply to the private sector or to public employees of the two entities within BiH – the Federation of Bosnia and Herzegovina and the Republika Srpska. Though no law was in place as of March 2017, the Republika Srpska’s Strategy for Fight against Corruption includes a definition of whistleblowing within public institutions.^{41,42}

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

Under BiH’s law, state employees may apply for whistleblower status from APIK regardless of whether they have suffered reprisals or only suspect they could occur. There must be at least an “objective prospect” of retaliation. Following the employee’s application to APIK, the Ministry of Justice conducts an investigation to determine if the request for whistleblower protection is legitimate.⁴³

If the application is approved, APIK can order the employer to stop the retaliation or reinstate the person if he or she has been fired or demoted. Employers must follow this order within three days, lest they personally face fines of €5,000 to €10,000. The status does not protect employees from disciplinary and other measures that are not related to their act of whistleblowing. The status can continue indefinitely, but may be revoked if it is found that the employee knowingly submitted a false report.⁴⁴

BOSNIA AND HERZEGOVINA

In order to report misconduct, APIK has opened a toll-free hotline for whistleblowers who work in state-level institutions. Reports may be made anonymously. In order to enhance responses to corruption reports, APIK has worked with UNDP to develop a database and software for reporting corruption and whistleblower protection.⁴⁵

Additionally, the State Investigation and Protection Agency (SIPA) is a government institution that prevents and detects corruption and financial crimes. Set up in 2005, the agency's "Krimolovci"⁴⁶ ("Crime Stoppers") system allows people to report cases of organized crime and corruption, anonymously or otherwise. SIPA also conducts awareness raising programs within the public and the media.^{47,48}

In order to enhance public awareness of whistleblower protection, APIK has prepared promotional leaflets and materials in cooperation with Analitika—Center for Social Research.⁴⁹

RECENT AND PENDING INITIATIVES

Since the whistleblower law took effect in December 2013, APIK has worked with all state-level institutions to coordinate the adoption of whistleblower procedures. As of the end of 2016, they had been set up in 64 institutions and posted on the institutions' websites. Instruction for implementing the law have also been prepared.⁵⁰

In December 2016 a wide-ranging whistleblower protection law was introduced in the National Assembly of Republika Srpska, one of two legal entities within BiH. Public hearings on the Law on Protection of Persons who Report Corruption were scheduled to be held in spring 2017. This would be Republika Srpska's first whistleblower law, and the first in BiH to protect employees in both the public and private sectors.^{51,52}

Among its many components, the law includes financial penalties ranging from €250 to €5,000 for failing to:

- act in a timely manner after a corruption report is made
- protect a whistleblower's identity
- protect a whistleblower's rights
- stop retaliation of a whistleblower
- inform a whistleblower of the outcome of an investigation
- hold guilty parties to account.

Several public events have been held recently to inform various constituencies on Bosnia's whistleblower provisions. These include an April 2016 lecture for students at University Džemal Bijedić in Mostar. Students learned about all aspects of reporting corruption, processing reports, the online system, and measures to protect whistleblowers from retaliation.⁵³

Several companies and institutions, including the Ministry of Defense and the Clinical Center of the University of Sarajevo, recently began using the "Eticka linija" ("Ethic Line") system for their employees to report wrongdoing.⁵⁴

WHISTLEBLOWER CASES

One of the Europe's most significant whistleblower cases broke into the headlines in 2015 in Tuzla, Bosnia's third-largest city. Smail Velagić, the director of the family-run mining company Tuzla Kvarc, faced dubious criminal charges after the company

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reported a local mining official demanded a bribe in exchange for granting a license. On top of this, tax officials seized company's property, police carried out nuisance inspections, and the company's administrative offices were burned, ransacked and demolished by unknown perpetrators.

The 18-month ordeal came to an end in December 2016 when a judge dropped the charges against Velagić and Tuzla Kvarc. They were charged with mining sand without a license, even though the reason the company did not have a license was because Velagić refused to pay the bribe. Two months later the mining official, Bahir Imamović, was sentenced to 20 months in prison on bribery and extortion charges.^{55,56} The case was profiled in the documentary "Cijena Pravde" ("The Price of Justice").⁵⁷

In another high-profile case, accountant Višnja Marilovic was fired from the Skenderija cultural and sports center in Sarajevo in 2011 after reporting financial misconduct by the center's director. The wrongdoing, which totaled €1.5 million, included using the center's money to furnish the director's private hotel; support a football team of which he was the president; and to pay for shopping, entertainment and accommodation. An indictment for economic crimes filed against the former director was upheld by a Sarajevo Court in October 2014. A court has found that Marilovic's dismissal was unlawful.^{58,59,60}

In June 2015 Bosnia's Indirect Taxation Authority reinstated whistleblower Danko Bogdanović, who was fired in 2013 after revealing a large-scale bribery scheme that allowed companies to pay lower import and export fees. Bogdanović was reinstated with the support of the Center for Responsible Democracy-Luna, which informed the agency's director that he could be personally fined under the whistleblower law for not reinstating Bogdanović.⁶¹

In 2014 a court ruled in favor of Irina Lovric, who claimed she had been mobbed and discriminated against after exposing financial wrongdoing at the BiH Return Fund. Lovric had reported five years earlier that money intended to pay for housing for returning refugees and displaced persons was being spent on improper projects instead. Lovric obtained whistleblower status from APIK in April 2014, and a court awarded her €15,000 in damages the following October.^{62,63,64}

Milan Vukelic, a construction engineer at the Banja Luka Town Planning Institute, was killed on 7 November 2007, after he publicly accused officials of corruption and the police of threatening him. Vukelic was killed, and two passengers were injured, when their car exploded as it passed by the Interior Ministry. Previously, another car owned by Vukelic had been bombed and his mother's home set on fire.^{65,66,67}

Zelimir Rebac, the former director of the Federation of BiH's Customs Office, committed suicide in October 2006, after enduring threats to himself and his family. Rebac had exposed officials who allegedly helped the meat industry import their products without paying customs fees.^{68,69,70}

DATA AND STATISTICS

As of the end of 2016, 18 people had applied to APIK for whistleblower status and protection. Four requests were granted; 14 were denied because the applicants were not state-level employees and not covered by the law.⁷¹

BOSNIA AND HERZEGOVINA

Two of cases were referred to prosecutors, and in one case, several arrests were made related to improper tax refunds. Though whistleblower status has been granted to both employees, APIK is still considering whether protection should continue. The five other applications were submitted by people not covered by the law, including non-state employees and one retired person.^{72,73}

SIPA regularly reports the number of calls to its “Crime Stopper” system. In 2015, 4,084 reports were made to the agency, 11 percent contained “useful information.” Both of these figures are five-year lows.⁷⁴

In 2016 APIK received 135 reports submissions by mail, e-mail, by phone or in person. Valid reports were referred to judicial and police authorities.⁷⁵

In March 2014 the Ministry of Defence said that since the previous December, it had received 28 anonymous reports of irregularities within the Ministry and Armed Forces. Nineteen cases were concluded, including one referred to SIPA regarding the acceptance of money for admission to the Armed Forces. The 28 reports fall into the following categories: abuse (8); personnel and recruitment irregularities (7); violation of internal procedures (4); corruption (3); financial and accounting irregularities (1); procurement irregularities (1); theft (1); hate speech (1); and other (2).^{76,77}

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

The Bosnian public generally considers people who report misconduct in a negative light. Beyond this, there is a sense that many people may be willing to speak about government and corporate wrongdoing in a broad manner, but they are unwilling to report specific cases of wrongdoing. Many citizens lack trust in the police and other authorities. They fear that reporting crimes will cause problems for themselves, and that little or nothing will result from their disclosures.⁷⁸

In a 2013 survey, people in seven Western Balkan countries were asked why they would not report their personal corruption experiences to authorities. In BiH, the top reason given – by 44 percent of respondents – was the belief that nobody would care. This ranked highest among the seven countries. Also, about 60 percent of business people surveyed in BiH said they consider complaints about the public administration not worthwhile – ranking among the highest in the seven countries.^{79,80}

ADVOCACY AND ACTIVISM

The Tuzla Kvarc whistleblower retaliation case was at the center of national, regional and international campaigns to stop the retaliation against the company and its director Smail Velagić. The national campaign was led by Center for Responsible Democracy–Luna. The Southeast Europe Coalition on Whistleblower Protection supported its campaign with an international action alert that drew more than 12,000 e-mails from citizens worldwide to Bosnian Prime Minister Denis Zvizdic. The action alert was conducted by the US-based NGO Roots Action.⁸¹

The Center for Responsible Democracy publicly advocates on behalf of victimized whistleblowers, investigates their disclosures and advocates for stronger whistleblower rights and protections at all levels in Bosnia.

BOSNIA AND HERZEGOVINA

CAPACITIES AND KNOWLEDGE CENTERS

The main government institutions that deal with whistleblowing issues are APIK, which grants whistleblower protection and receives reports of corruption; the Ministry of Justice, which investigates retaliation complaints; and SIPA, which investigates and raises public awareness of corruption and financial crimes.⁸²

The Centre for Responsible Democracy–Luna is an NGO that assisted in the development of BiH’s whistleblower law, and provides support to whistleblowers and policy assistance to government institutions. The NGO is a founding member of the Southeast Europe Coalition on Whistleblower Protection.

Transparency International BiH has operated an Advocacy and Legal Advice Centre (ALAC) since 2003, and has received more than 10,000 complaints and reports of wrongdoing.^{83,84}



BULGARIA

OVERVIEW

Despite several pledges and attempts to strengthen whistleblower rights, Bulgaria has yet to develop or pass a comprehensive law to protect whistleblowers from retaliation. The first known legislative proposals were introduced in 2015, but these provisions – limited as they were – died in Parliament in late 2016. As a result, Bulgaria’s whistleblower system remains among the weakest in Europe.

Bulgaria has only one key law associated with whistleblowing – the Administrative Procedure Code – but its legal provisions are limited. It only covers wrongdoing within government and not the private sector, and no government institution is assigned to oversee whistleblower issues.⁸⁵

A number of whistleblower-type cases have been heard in Bulgarian courts, and judges on several occasions have ruled in favour of people who suffered retaliation and faced defamation charges after reporting wrongdoing. A government agency that monitors conflict of interest has received disclosures from whistleblowers leading to the sanctioning of public officials.⁸⁶

BULGARIA

CURRENT LEGISLATION AND REGULATIONS

Passed in 2006, Bulgaria's Administrative Procedure Code (APC) enables the reporting of government wrongdoing to the proper authorities for follow-up investigations. It permits any person or organization to report a wide range of offenses, including abuse of power, corruption, mismanagement of state or municipal property, and any other illegal or inappropriate acts by public officials that affect public interests or the rights or interests of others.⁸⁷

The APC requires officials who receive disclosures to investigate the reports, but it does not name the specific institutions to which a whistleblower can submit a report.⁸⁸

Among its other limitations, the APC only applies to public sector wrongdoing, it lacks specific methods for ensuring the confidentiality of whistleblowers, and it only protects people from prosecution if they report misconduct according to the law.⁸⁹ Further, anonymous disclosures are not eligible for follow-up investigation.⁹⁰ This can greatly limit the law's effectiveness, as many whistleblowers seek to remain anonymous due to fears of retribution and threats.

Other provisions that relate to whistleblowing include:

- the Law on Prevention and Disclosure of Conflict of Interest, which includes identity and retaliation protection, and compensation for victimized whistleblowers; and
- the Administration Act, which authorises the Inspectorate to the Cabinet to investigate reports of corruption committed by certain authorities and government employees.

Neither the Civil Servants Law nor the Labour Code have specific provisions for whistleblowing,⁹¹ which is atypical within the European context.⁹²

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

Bulgaria has no institution charged with accepting, investigating or tracking disclosures and retaliation complaints filed by whistleblowers. However, several recent developments point to progress.

Due to recent anti-corruption efforts, all administrative institutions now have internal reporting procedures, though they are limited to ethical violations.

In 2015 a specialized anti-corruption unit was formed in cooperation with the Prosecutor's Office, Ministry of Interior, and the State Agency for National Security (SANS). The agency offers protection for witnesses under certain circumstances.⁹³

The Inspectorate of the Supreme Judicial Council is planning to perform integrity checks to help preserve the integrity and independence of the judiciary. These checks may be initiated in response to reports from whistleblowers, whose identity is to be protected. Anonymous alerts are not admissible.⁹⁴

In 2003 Bulgaria's Ministry of Finance developed a program to receive and investigate reports of irregularities and fraud committed in the course of EU-funded projects. A number of reporting avenues were set up.^{95,96}

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RECENT AND PENDING INITIATIVES

In September 2014 an in-depth study on Bulgaria's current legal framework was released by the government's Center for Prevention and Countering Corruption and Organized Crime. The report includes three potential legislative options for strengthening whistleblower protection, including amending the APC or passing a standalone law.^{97,98}

Following this, the goal of improving whistleblower laws and rules was included in the 2015-2020 National Strategy for Prevention of Corruption.⁹⁹

Two proposals to establish a unified anti-corruption agency were considered by Parliament, in 2015 and 2016. Both included provisions on whistleblowing – or “signals.” The first proposal was narrowly defeated in September 2015. It was resubmitted in April 2016 and defeated the following December. Given the uncertain political situation in early 2017, the proposal's future prospects are unclear.

The 2016 version contained a chapter on “signals” that detailed rules on submitting and processing reports of misconduct by high-ranking public officials. The provisions included:

- measures to protect whistleblowers from retaliation, including psychological pressure and physical threats
- compensation for dismissal, moral damage and other retaliation
- the right to submit reports anonymously to anti-corruptions officials
- the right to report to the media
- a “preliminary inquiry” to assess corruption reports within 30 days
- protection of the whistleblower's identity
- penalties for violating whistleblower confidentiality, ranging from €1,500 to €3,000 for a first violation, and €2,500 to €5,000 for repeated violations.

Encouragingly, though the overall anti-corruption law did not pass, there was general acceptance of these whistleblower provisions in Parliament.¹⁰⁰

According to the EU's 2016 progress report, Bulgaria's anti-corruption institutions remain weak and fragmented – in some measure due to the failure of the anti-corruption law to pass Parliament. Convictions for high-level corruption remain few in number, the EU said, partly due to inefficient judicial processes.¹⁰¹

WHISTLEBLOWER CASES

In July 2016 two employees at Sofia's National Art Gallery – Vladimir Rumenov and Maria Vasileva – were fired after appearing on Bulgarian National Television and speaking against new legislation on cultural heritage. Rumenov, who has worked at the gallery for 38 years, soon was reinstated following large protests and public calls for Culture Minister Vezhdi Rashidov to resign.¹⁰²

In recent years, Bulgarian courts have heard a number of cases in which whistleblowers faced charges of criminal defamation.¹⁰³

In 2011 a judge concluded that an individual who had been threatened with eviction after filing complaints about an official was protected by the APC from being prosecuted for defamation. The court found that reports made to a public institution

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could not be considered defamatory because they did not damage the honor, reputation or dignity of a particular person.¹⁰⁴

Similarly, a court ruled in 2013 that an individual could not be charged with defamation for making disclosures about the management of municipal property because “the rights of whistleblowing are constitutionally guaranteed.” And in 2011 a judge overturned a one-year censure filed against an individual who reported concerns in a police agency.¹⁰⁵

In 2011, Sofia police officer Konstantin Ivanov was forced to resign after revealing that the Ministry of Interior was receiving large cash payments from various donors, who in turn were being protected from penalties stemming from traffic violations. The scandal received widespread media attention. The Ministry pledged to stop the practice, which was criticized by the European Commission. Ivanov left his position of more than 20 years after he was disciplined for what he called minor or non-existent issues.^{106,107,108}

DATA AND STATISTICS

Bulgaria currently does not centrally collect statistics or data on whistleblower disclosures or retaliation complaints. Reports typically are directed to individual government ministries and institutions.¹⁰⁹ In 2012, for example, the Ministry of Finance received nine reports, seven of which were investigated.¹¹⁰

The government’s central administration tracks the overall number of reports of wrongdoing, by category. No additional information on these reports is available – for example, on how many were filed by government and corporate whistleblowers, and how many were filed by citizens.

The Commission for Prevention and Ascertainment of Conflict of Interest received about 1,100 reports from mid-2011 to mid-2014, which led to the dismissal of about 100 public officials. Their names are posted on the websites of the relevant public institutions.¹¹¹

In 2013 the Commission opened 355 proceedings relating to conflict of interest in government operations. Most cases were reported through whistleblowers. Thirty-seven people were found to have violated conflict of interest rules in 2013, including in state- and municipal-owned enterprises, local government, Parliament, and a health insurance fund.^{112,113}

More recent statistics, from 2014-16, are not available from government institutions.

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

Employees in both the public and private sectors generally fear dismissal or prosecution for defamation if they report misconduct. Bulgaria’s weak trade union culture, as well as the negative social attitude towards whistleblowing, also hamper the reporting of corruption, bribery and other crimes.¹¹⁴ Whistleblowers are still often perceived as “traitors” or “police informers.”¹¹⁵

According to research by Transparency International, the main reasons for the public’s reluctance to report corruption are the belief that there will be no impact and that reporting could lead to reprisals.¹¹⁶

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However, investigative journalism based on information and tips from whistleblowers has been practiced more widely in recent years. Many of these sources chose to remain anonymous.^{117,118}

ADVOCACY AND ACTIVISM

Continued government inaction to improve whistleblower rights, combined with growing public awareness and appreciation of the value of whistleblowing in fighting corruption, is stimulating increased civil society efforts on the issue. Among the NGOs active in the field are the Center for the Study of Democracy, Media Development Center (both members of the Southeast Europe Coalition on Whistleblower Protection), and the RiskMonitor Foundation.

As of early 2017, the Center for the Study of Democracy and Media Development Center were strategizing for an expanded political and public campaign to strengthen whistleblower rights. This work is enhanced by increased media coverage of whistleblower cases, both within and outside Bulgaria.

CAPACITIES AND KNOWLEDGE CENTERS

No government agencies focus specifically on whistleblower issues. Having limited roles are the Commission for Prevention and Ascertainment of Conflict of Interest, which collects reports related to conflict of interest, and the Center for Prevention and Countering Corruption and Organized Crime, which has researched Bulgaria's whistleblower-related laws.¹¹⁹

A growing number of NGOs is focusing on whistleblower and related issues, including the Center for the Study of Democracy, Media Development Center, and RiskMonitor Foundation. The Bulgarian Helsinki Committee focuses on freedom of expression issues including criminal libel and defamation, and the public information law.

Among the journalism organizations that specializes in receiving tips via encrypted channels and investigating these reports is Bivol.bg.

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OVERVIEW

Despite being the only Southeast European country that is an EU member, Croatia's whistleblower systems lag far behind those of many other countries in the region. In addition to lacking a whistleblower protection law, Croatia's policies, institutions, practice and disclosure channels are markedly underdeveloped.

Public, civil society and media attention to the issue has grown in recent years. The political debate on strengthening whistleblower rights, however, is still at the beginning stages. Policy-makers have announced plans to pass a whistleblower law by the end of 2018, but as of early 2017 no draft law was known to be in development.

Croatia has no designated law to protect whistleblowers from retaliation and provide them with adequate means to report corruption and other misconduct. There are no specialized government agencies that accept and investigate whistleblower disclosures or complaints. Various labor and criminal codes are intended to shield government and corporate whistleblowers from reprisals, but they are limited and have not been widely applied to actual cases.¹²⁰

Until recently, political will to improve whistleblower rights and protection has been lacking. In the past two years, more political and public attention has been devoted to the issue. In 2013 a proposed whistleblower law was presented in Parliament that included many internationally recognised standards. In 2014 the Ministry of Justice released guidelines on whistleblowing and began reviewing the country's current whistleblower provisions.

Croatia is the home of many prominent whistleblowers, including those who have disclosed alleged financial irregularities; wrongdoing by government officials; and public health and environmental hazards.¹²¹



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CURRENT LEGISLATION AND REGULATIONS

Croatia has developed a legal framework designed to deter corruption, but it has yet to enact a whistleblower protection law that meets European or international standards. Currently, limited legal protection for government and corporate employees is provided by several laws. These provisions only cover reports of corruption and not other crimes or wrongdoing, and they do not expressly or clearly define the concept of whistleblowing.

The Labour Act was strengthened in 2009 to ban the firing of employees who report corruption based on a reasonable belief that the information is true. The law requires employers to prove that any negative actions taken against a whistleblower were unrelated to their disclosure.

Amended in 2007 and 2008, the Civil Service Act protects civil servants who report suspicions of corruption to the appropriate individuals or authorized government institutions. Confidentiality is guaranteed if the wrongdoing is found to be “serious.” Restricting or denying a government employee’s rights is considered a serious violation.

The Criminal Code makes it illegal to fire a worker for reporting suspicions of corruption to the appropriate individuals or authorized government institutions. Violating this provision, or failing to reinstate a worker in defiance of a judicial decision, is punishable by up to three years in prison.

Despite this range of laws, the European Commission found in 2014 that in light of the outcome of recent cases, Croatia’s current legal and institutional framework appears inadequate to fully protect whistleblowers.¹²² The rights of whistleblowers in particular cases cannot be analyzed because no legally binding verdicts are known to have been issued.^{123,124}

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

No government institution in Croatia specializes in accepting and investigating disclosures or retaliation complaints from whistleblowers.

There are a number of public hotlines through which employees and citizens can report wrongdoing – including those operated by the Office for Suppression of Corruption and Organized Crime and the Ministry of the Interior. Additionally, the Ministry of Administration accepts reports and complaints from citizens and civil servants and refers them to the appropriate institutions for follow-up investigation.

Though no firm data exists, it has been reported that most people prefer to disclose wrongdoing anonymously. Some whistleblowers opt to contact NGOs such as Udruga Zvizdac and the Croatian chapter of Transparency International.^{125,126}

RECENT AND PENDING INITIATIVES

In early 2017 the government added the need to better protect whistleblowers to its anti-corruption action plan,¹²⁷ and it set a goal to pass a law by the end of 2018. Among the NGOs advancing the agenda are GONG, Centre for Peace Studies and Human Rights House Zagreb. Also scheduled to occur by the end of 2018 are training for

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judicial officials and the statistical monitoring of whistleblower cases by the Ministry of Justice.¹²⁸

A proposed whistleblower law was developed in 2013 that includes many international standards, including protections for government and corporate employees, a reasonable belief that the information disclosed is true, and an extensive range of misconduct that could be reported. These offenses include corruption; theft; abuse of position and power; waste of public funds and resources; worker or public health dangers; negligence; mismanagement in government; and actions that endanger the public interest or the public good. The proposal was not adopted.¹²⁹

In 2014 the Ministry of Justice was analyzing the implementation of current laws. Additionally, it has published guidelines on whistleblowing and the potential protection of whistleblowers.^{130,131}

The European Commission reported that Croatia's whistleblower system "appears weak."¹³² This is the case despite demonstrable signs that a whistleblower protection law could help with anti-corruption efforts. In a 2015 survey of Croatian companies, 90 percent said that close links between business and political interests lead to corruption. Three-fourths of companies – the third-largest figure in the EU – said tailor-made specifications that benefit certain bidders is widespread in public procurement. More than half said bidders themselves are involved in designing specifications

The Commission added that Croatia's 2015-20 anti-corruption action plan "provides little clarity on the main priorities and how the main risks would be specifically addressed."¹³³

WHISTLEBLOWER CASES

Croatia has seen the emergence of many high-profile whistleblower cases in recent years. The cases not only have brought wrongdoing to light, but they have also turned several whistleblowers into public activists.

The first Croatian whistleblower to attract wide media attention was Ankica Lepej, a bank employee who disclosed to the media in 1998 that the wife of Croatian President Franjo Tudjman had made a large deposit that her husband did not report. The bank offered a reward to anyone who named the whistleblower. Lepej exposed herself, and was fired and charged with disclosing business secrets, though she was never tried.^{134,135}

Vesna Balenovic reported corruption, nepotism, and public health risks in the state oil company INA in 2001. She was fired from her position. Since then, government officials and INA administrators – including INA president Tomislav Dragicevic – have filed numerous lawsuits against Balenovic, alleging slander and mental anguish.^{136,137,138} As of June 2016 she was still trying to get her job back.¹³⁹

Biologist Srečko Sladoljev, a member of the Institute of Immunology's supervisory board, was suspended in 2010 after criticizing what he called a lack of transparency in the Institute's purchase of the swine flu vaccine. Sladoljev said he feared the situation posed a public health risk.¹⁴⁰

Claudija Covic, a former auditor and the head of payments at Croatian Post, was

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fired in 2008 after revealing that the Post was reporting profits when actually it was experiencing large financial losses.¹⁴¹ Covic won a court case over the termination and has since obtained a position in a different organization.

Other cases include:

- a staffer who exposed alleged corruption by the prefect of Sisak County was fired after telling the media that the prefect ordered her to issue false bills and used county funds for personal purposes and parties;¹⁴²
- two police officers who reported alleged corruption within the Ministry of the Interior continued to be harassed because managers did not transfer them to a different department.^{143,144}

DATA AND STATISTICS

Croatia has no specific, official figures on the incidence of whistleblowing, nor has there been any formal research on the topic. There are only official figures on complaints on professional behaviour by civil servants,¹⁴⁵ which may or may not constitute whistleblowing.

About 200 whistleblowers have anonymously contacted the Udruga Zvizdac, which was founded by well-known whistleblower Vesna Balenovic. Many have contacted the organization anonymously out of fear of reprisals.^{146,147}

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

The role and public perceptions of whistleblowing in Croatia are mixed.

On the one hand, according to a study by the UN Office on Drugs and Crime, more than half of Croatians believe that people who report corruption are likely to regret it, and that nothing constructive will result.¹⁴⁸ There has been little or no political will to strengthen legal protection for whistleblowers. And government agencies do not closely track whistleblower cases, nor have they calculated the amount of public money saved due to the productive impact of whistleblowing.¹⁴⁹

On the other hand, the media increasingly portrays whistleblowers as heroes, and journalists have become more reliant on whistleblowers to expose wrongdoing.¹⁵⁰ And, according to Transparency International, two-thirds of surveyed citizens said they would report instances of corruption, and almost a third said they would utilise government hotlines.¹⁵¹

Zvizdac is the Croatian word for whistleblower. “Whistleblowing” is a relatively new term in Croatia that, though widespread, has yet to be fully understood among the public.^{152,153}

ADVOCACY AND ACTIVISM

Large-scale demonstrations were staged in January 2016 to protest the incoming government’s decision to cut funding for independent media outlets and intervene in staffing decisions at various publications.

Out of the protests, a working group of Croatian and international NGOs was formed to advocate for stronger whistleblower rights and other reforms. The group includes

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GONG, Centre for Peace Studies and Human Rights House Zagreb, which are members of the Southeast Europe Coalition on Whistleblower Protection. One of the group's first achievements was persuading the government to include whistleblower protection in its anti-corruption plan for 2018.

To support these growing civil society efforts, the annual meeting of the Southeast Europe Coalition on Whistleblower Protection was held in Zagreb in November 2016.¹⁵⁴ A press conference about the meeting and the Coalition's work in Croatia received widespread media coverage.

Accompanying the Coalition's annual meeting was the premier of the trailer for the documentary, *The Medal of the Loud*.¹⁵⁵ The film was produced by the Regional Anti-Corruption Initiative.¹⁵⁶

CAPACITIES AND KNOWLEDGE CENTERS

Currently there are no government institutions in Croatia that oversee or specialize in whistleblower protection issues.

Several NGOs work on whistleblower protection, research and advocacy, and on transparency and anti-corruption issues more broadly, including GONG, which promotes basic rights and good governance issues, including freedom of speech, voting, access to information, democratization, political party financing, and conflict of interest. In addition to GONG, the Centre for Peace Studies and Human Rights House Zagreb advocate for stronger whistleblower rights, monitor cases and raise public awareness.

Udruga Zvizdac provides advice and support to whistleblowers, and specializes in communicating with and supporting them anonymously.

The Croatia Investigative Journalism Center produces articles based on disclosures from whistleblower and other sensitive sources, and works to protect their anonymity.



KOSOVO

OVERVIEW

Kosovo became the first country in Southeast Europe to enact whistleblower protection legislation when it passed the Law on Protection of Informants in 2011.¹⁵⁷ The law contains a number of European and international standards, such as requirements for public and private sector workplaces to have whistleblower provisions, whistleblower disclosures to be investigated, and informing whistleblowers of case outcomes.¹⁵⁸

The law, however, generally has failed to protect whistleblowers effectively, nor has it served as a strong incentive for citizens to report misconduct. No whistleblowers are known to have used the law successfully to be protected from retaliation, compensated for financial losses, or reinstated to their position.¹⁵⁹

To the contrary, due to gaps in the law and poor enforcement, several whistleblowers have been dismissed from their jobs, faced court actions or suffered other types of retaliation.

Despite requests from civil society organizations and the EU to improve the law, the government has not yet acted on these concerns. In early 2017 activists and a Council of Europe expert held meetings to collect recommendations, but there is no known timeline to improve the law.

Over the past two years, civil society and investigative journalists have increased their focus on the issue whistleblowing. The major case involving tax official Murat Mehmeti received widespread national and regional attention in November 2016.

CURRENT LEGISLATION AND REGULATIONS

On paper, the Law on Protection of Informants is broadly written and covers all people working in the public and private sectors, and it allows a wide range of unlawful actions to be reported.¹⁶⁰ The law ostensibly grants protection from disciplinary actions, firing, suspension, discrimination and other forms of retaliation in the workplace.¹⁶¹

Among its significant weaknesses that can leave whistleblowers at a disadvantage, the law is vague in terms of how reports should be made, where they should be made if an employee's superior is involved in the wrongdoing, and the actual mechanisms to protect people from retaliation.¹⁶²

Another critical omission is the law's failure to designate a public institution or other organization to receive reports of misconduct outside the workplace. This gap leaves whistleblowers with the sole choice to report wrongdoing to a person within a public institution or private company who is in charge of "overseeing misconduct" or to another manager.¹⁶³

Moreover, victimized whistleblowers must seek remedies in court, in whose hands lies the decision to reinstate whistleblowers to their position and order compensation for losses and damages.¹⁶⁴ This can be costly and time-consuming. Another shortfall is the lack of penalties for failing to comply with the law.

Another weakness is the law's failure to utilize a culturally appropriate term in Albanian to define whistleblowers. In Kosovo's context "informant," which is in the title of the law, is used by police and security services to describe people recruited to provide information.¹⁶⁵ This can pose a formidable psychological barrier to whistleblowers – particularly in Kosovo's post-conflict context, as spying is negatively associated with collaborators of the Serbian regime before the 1999 armed conflict between Kosovo and Serbia.¹⁶⁶

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

The law calls on all public institutions at the central and local levels, as well as public and private enterprises, to create conditions for whistleblowers to make reports, protect their rights and interests, and save material evidence provided by whistleblowers.¹⁶⁷

The law does not designate a specific institution to issue sublegal acts or oversee the implementation of the law. Only the courts have the authority issue rulings regarding failures to comply with the law.¹⁶⁸

A study by the NGO Levizja FOL (FOL Movement) concluded that the law's failure to provide for clear institutional frameworks and responsibilities has had a negative impact how it functions in practice.¹⁶⁹

RECENT AND PENDING INITIATIVES

Though the law's weaknesses have been acknowledged by Kosovo institutions themselves, no action has been taken to amend the law or adopt a new one. Former President Atifete Jahjaga called for a change to the law and stronger legal protections for whistleblowers, but the Ministry of Justice has not followed up on the request.¹⁷⁰

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Pressure from Kosovo's civil society to improve the law has grown in recent years. The EU has endorsed these calls. In its latest progress report on Kosovo, the European Commission said the current whistleblower law is not in line with international standards, as it does not include minimum protections and other requirements.¹⁷¹

Since the law passed in 2011, no significant government initiatives related to whistleblowing have been taken. In one minor development, the government in 2014 included in its Open Government Partnership Action Plan a proposal to include the prosecutor's office and police as official reporting channels covered by the Law on Protection of Informants.¹⁷²

In 2012 the Board of Trustees of the American University in Kosovo set up an Ombudsperson's Office and appointed two trustees to jointly act as Ombudspersons. People who report to the Ombudspersons are to be protected, as is their identity.^{173,174}

WHISTLEBLOWER CASES

In August 2015 ProCredit Bank cashier Abdullah Thaci was criminally charged and fined €5,000 for disclosing information suggesting that Prizren municipal education official Nexhat Çoçaj illegally received money from the municipal budget.¹⁷⁵

In 2015 members of the trade union of Radio Television of Kosovo (RTK) and RTK employees Arsim Halili and Fadil Hoxha were fired after publicly raising concerns about censorship and financial irregularities within RTK. They were reinstated by the Labour Inspectorate, which found procedural violations conducted by RTK.¹⁷⁶

In November 2016 tax official Murat Mehmeti blew the whistle on a massive tax scam involving shell companies that managers at Kosovo's Tax Administration notably failed to investigate. Mehmeti revealed how more than 300 Kosovo businesses, many of which shared a single accountant, claimed large tax deductions by filing fake invoices issued by shell companies. Mehmeti said the scheme reached "an industrial scale" and cost the Kosovo budget an estimated €25 million.^{177,178}

DATA AND STATISTICS

There are no official or unofficial aggregated data on whistleblowing in Kosovo. Potential for whistleblowing can be inferred from statistics from the Kosovo Anti-Corruption Agency.

In 2014 the Agency conducted preliminary investigations into 304 cases; 248 were new and 56 were carried over from previous years. Of these, 131 cases were forwarded to prosecutors and police for follow-up, 11 were sent to authorities to initiate disciplinary proceedings, and 4 were sent to other authorities; 102 cases were closed, while 52 cases were still being processed at the time of reporting. The Agency processed 37 cases sent anonymously and 134 on its own initiative.¹⁷⁹

A slight increase was recorded in 2015. The Agency conducted preliminary investigations on 354 cases: 298 were new and 56 were carried over from previous years. Of these, 126 cases were forwarded to prosecutors and police for follow-up, 14 were sent to authorities to initiate disciplinary proceedings; 132 cases were closed and 82 cases were being processed at the time of reporting. The Agency processed 54 cases sent anonymously and 124 on its own initiative.¹⁸⁰

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

No recent public opinion surveys have been conducted on whistleblowing in Kosovo. In 2013, two years after the whistleblower law was adopted, a survey of public officials conducted by Levizja FOL showed only 15 percent of central- and local-level officials were well informed about the law, 60 percent were somewhat informed, 21 percent had little knowledge, and 4 percent had no information.

The survey also provides insight into the willingness of public officials to report corruption: 37 percent of respondents said they had reported corruption, while 63 percent had not. The survey also revealed the poor status of establishing internal units for making reports within public institutions: 52 percent of respondents said their institutions had set up, 22 percent said there were no units, and 26 percent did not know.¹⁸¹

ADVOCACY AND ACTIVISM

Continued government inaction to properly implement and improve the whistleblower law, combined with growing number of cases and rising awareness of the role of whistleblowing in fighting corruption, have led to significantly increased civil society efforts on the issue. Levizja FOL, the Kosova Democratic Institute, Article 10 and the anti-corruption reporting platform www.kallxo.com are among the NGOs that have become more active in the field.

In October 2016, 26 NGOs and activists signed an open letter to key Kosovo government institutions expressing concerns about how whistleblowers have been treated by public institutions. Entitled “Public institutions should stop intimidation of whistleblowers,” the letter also was sent to international organizations demanding that they monitor whistleblower laws and practices, and address whistleblower treatment in reports and international forums.¹⁸²

In December 2016 Levizja FOL bestowed Murat Mehmeti with the Civic Courage 2016 award for his role in disclosing alleged corruption within the Kosovo Tax Administration.¹⁸³

CAPACITIES AND KNOWLEDGE CENTERS

No government institutions in Kosovo are mandated by the law to focus specifically on whistleblower issues. The Anti-Corruption Agency receives and investigates reports of corruption, including anonymous reports, through a free-of-charge hotline.

The Kosovo Institute for Public Administration organizes trainings for public institutions on the whistleblower law and whistleblowers’ rights. Two members of the Anti-Corruption Agency received this training in 2016.¹⁸⁴

In October 2016 Levizja FOL organized a two-day seminar on the institutional framework against corruption, with a special focus on the Law on Protection of Informants.¹⁸⁵



MACEDONIA

OVERVIEW

Macedonia adopted one of the region's strongest pieces of whistleblower legislation when it passed the Law on the Protection of Whistleblowers in November 2015.¹⁸⁶ The law took effect in May 2016. The law represents another step in the country's efforts to join the EU and is expected to contribute to improving private and public governance and human rights protection.

The law was adopted amid a deep political crisis sparked by the disclosure of government wiretapping by the opposition leader, reportedly received the wiretaps from a whistleblower within the Interior Ministry.¹⁸⁷

Given the sensitivity of the law and some of its provisions that reflected the political crisis, the Macedonian government asked for input from the Council of Europe's Venice Commission. The Commission considered the law to be a solid legal text, but called for further clarifications and institutional mechanisms for it to be implemented in practice.¹⁸⁸

Despite the law's passage, the number of whistleblower cases that have been made public remains very limited. Only a few NGOs in Macedonia actively work on whistleblowing, although there is a growing interest in the issue among civil society and investigative journalists. Activists and journalists formed whistleblower coalition in early 2017, and the first annual International Whistleblower Day was held in Skopje on 24 March 2017.

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CURRENT LEGISLATION AND REGULATIONS

Macedonia has in place a constitutional and legal framework granting citizens the freedom and right to report wrongdoing. The Constitution grants all people the right to petition the government and to receive a response without suffering “adverse consequences.” The only exception is if by doing so, a person commits a criminal offence.¹⁸⁹

The Law on Free Access to Information of Public Character protects government employees who release protected information that sheds light on abuse of power, “corruptive behavior” or serious threats to human life, public health or the environment.¹⁹⁰ The law, however, does not define the types of liability from which government employees are protected.

The Law on the Prevention of Corruption also intends to shield people who report corruption from criminal prosecution and other forms of liability. Under this law, whistleblowers and their family members are entitled to compensation for any harm suffered because of making a disclosure.¹⁹¹

However, these laws were not deemed sufficient in providing full-fledged protections for whistleblowers, and they have not sufficiently encouraged Macedonian citizens to report misconduct.¹⁹²

The idea to develop a designated whistleblower law was raised by Transparency International Macedonia in 2012. The government responded by preparing a draft law, though it did not reach Parliament. The issue was raised again in 2015 by the Social Democrats (SDSM). The wiretapping affair, coupled with strong EU pressure, contributed to persuade the government to submit the draft to Parliament.¹⁹³

The passage of the Law on the Protection of Whistleblowers in November 2015 provides a solid legal basis, as it includes many international and European standards, including:

- protection for employees of government institutions, and private companies that employ at least 10 persons;
- a broad definition of “employee” that includes volunteers, interns and job applicants;
- a broad range of offenses that can be reported, including crime; corruption; violations of citizens’ basic freedoms and rights; health, environmental, defence and security risks; threats to ownership, the free market economy and entrepreneurship; and threats to rule of law;
- the opportunity to report misconduct (under various circumstances) either within a workplace, to authorities or to the general public (if life, public health, security or the environment is at risk); and
- penalties up to €6,000 for violations including failing to maintain a whistleblower’s confidentiality and failing to submit reports on whistleblower complaints.¹⁹⁴

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

Instead of a specified government agency that receives and investigates disclosures and retaliation complaints from whistleblowers, the whistleblower law provides for a combined action by different institutions.

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The law provides for internal and external protected disclosures.¹⁹⁵ The first contact for reporting wrongdoing is within a public institution or private company. Internal disclosures can be made to a designated unit or person, or to the managing officer of the institution if it does not have designated person authorized to receive disclosures.¹⁹⁶

The institutions for external disclosures include:

- Ministry of the Interior
- Public Prosecutor's Office
- State Commission for the Prevention of Corruption (SCPC)
- Ombudsman

The SCPC, Ombudsman, Inspection Council, Ministry of the Interior, and the Public Prosecutor's Office are responsible for receiving whistleblowers in case of a failure to provide protection by the designed institutions.¹⁹⁷ The law provides for fines of €3,000 to €6,000 for the failure to receive disclosures from whistleblowers.¹⁹⁸

The SCPC is in charge of drafting secondary legislation on internal disclosures at public institutions, and the Minister of Justice is responsible for adopting it.¹⁹⁹

Both the SCPC and the Ministry of Justice are responsible to submit to Parliament annual reports on whistleblower disclosures.²⁰⁰

RECENT AND PENDING INITIATIVES

Given the highly politicized context in which the law was adopted, the Macedonian government asked for the opinion of the Venice Commission. In March 2016 the Venice Commission provided recommendations and further clarification in order to allow the law to be implemented.²⁰¹

Specifically, the Venice Commission recommended:

- designating a leading institution to review the legislation;
- designating an independent advisory body to which potential whistleblowers could turn for advice;
- further specifying protections against criminal sanctions and or civil liability;
- raising public awareness.²⁰²

These recommendations had not been implemented as of early 2017 and therefore remain part of the political and legislative agenda of the Macedonian government as well as civil society.

WHISTLEBLOWER CASES

Perhaps the most notable case in recent years was that of an anonymous whistleblower who provided the leader of the largest opposition party, SDSM, with evidence of illegal wiretapping conducted by Macedonian security services.²⁰³ Opposition leaders said they received the evidence from "patriots working for Macedonia's secret service."²⁰⁴

The revelations shook Macedonia's political establishment and led to massive anti-government protests, the dissolution of the Parliament and ultimately to new parliamentary elections. The Macedonian government arrested several people they suspected to be whistleblowers. The opposition reacted by pushing for a whistleblower

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protection law.²⁰⁵

Thanks to whistleblowers within Macedonia's farming industry, investigative journalists learned that the Ministry of Agriculture, Forestry and Water Management demanded local companies pay to renovate one of its buildings – even though the state had already funded the work. Officials at the Ministry's regional office in Kocani, in eastern Macedonia, sent letters to companies demanding money to pay for the reconstruction, even though public funds had already been spent on the project. The letter asked the companies to pay a local Kocani firm, although that company had no role in reconstructing the Ministry's building.²⁰⁶

Another case is that of journalist Zoran Božinovski, who published information from whistleblowers implicating prominent members of the Macedonian political elite in corruption and misbehavior. He was arrested and charged with spying in April 2016, sparking strong reactions within the Macedonian and the broader European journalism community.²⁰⁷

DATA AND STATISTICS

No official statistics have been collected on whistleblowing.²⁰⁸ Citizens can report complaints on corruption and other forms of misconduct mainly to the SCPC and Ombudsman, but also to other regulators.

In 2015 the Ombudsman received 4,403 complaints, the highest number in its history.²⁰⁹ The Ombudsman remarked that this indicates poor functioning of the governance system, which leads to breaches of the civil rights.²¹⁰

According to Transparency International Macedonia, more reports generally are made to its anti-corruption hotline than to the SCPC, which it says indicates a lack of trust in the government.²¹¹

According to the US State Department, the most significant human rights problems in Macedonia in 2015 stemmed from high levels of corruption and the government's failure to fully respect the rule of law, including continuing efforts to restrict media freedom, interfere in the judiciary and selectively prosecute offenders.²¹²

This deteriorating situation is reflected by Macedonia's drop from 66th on Transparency International Corruption Perceptions Index in 2015 to 90th in 2016²¹³

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

Though the concept of whistleblowing is not new to Macedonia, its practice is considered to be underperforming. This could be in part due to Macedonian citizens' reluctance to speak about issues related to private and public corruption in fear of retaliation.²¹⁴

According to a survey by Transparency International Macedonia released in February 2015, 72 percent of private sector employees and 69 percent of public sector employees said they believe they would face consequences if they reported misconduct. Among those surveyed, 37 percent feared losing their job, 21 percent feared pressures in the workplace, 7 percent feared demotion, and 3 percent feared a cut in salary. More than half – 57 percent – said people who report wrongdoing are not adequately protected.²¹⁵

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The concerns of citizens have been justified, to a great extent, by the arrest of journalist Zoran Božinovski on spying charges for publishing information provided by whistleblowers,²¹⁶ and the sentencing to four-and-a-half years in prison in 2013 of journalist Tomislav Kezarovski for revealing the name of a protected witness, which he claimed was needed in order to reveal improper police practices.²¹⁷

ADVOCACY AND ACTIVISM

An increased understanding of the role of whistleblowing in tackling corruption and malpractice has been accompanied by increased activism and advocacy by NGOs and the media in recent years.

The work of Transparency International Macedonia includes raising public and political awareness of the importance of protecting whistleblowers, publishing whistleblowers stories and cases, and proposing and successfully advocating for the whistleblower law that passed in November 2015.²¹⁸

The Skopje-based Institute for Strategic Research and Education organized a series of four roundtables at the four main university centers in Macedonia in 2016 to promote whistleblowing in the universities and explore the potential of the whistleblower law to prevent corruption in higher education in Macedonia.²¹⁹

In February 2017 nine civil society organizations formed the Macedonian coalition protecting whistleblowers: SCOOP Macedonia, Transparency International Macedonia, Transparency Macedonia, Zelena Lupa, NOVA TV, Macedonian Helsinki Committee for Human Rights, Institute for Human Rights, Civil, Silent Majority.

On 24 March 2017 in Skopje, the Southeast Europe Coalition on Whistleblower Protection and the investigative journalism organization SCOOP Macedonia organized and hosted the first annual International Whistleblower Day and Free Speech Day Macedonia. The event was attended by more than 100 activists, journalists, whistleblowers, citizens and public officials including special prosecutor Katica Janeva. The event received widespread coverage in national and local media outlets.

CAPACITIES AND KNOWLEDGE CENTRES

Since the whistleblower law was passed in 2015, several government institutions are now in charge of implementing the law, such as receiving and investigating whistleblower disclosures, providing protection, and monitoring the law. These include the Justice Ministry, Interior Ministry, SCPC, Public Prosecutor's Office and the Ombudsman.

The most active civil society organizations in the field are Transparency International Macedonia, the Institute for Strategic Research and Education, and media organizations such as SCOOP Macedonia. As of April 2017 the newly formed whistleblower coalition was planning campaign, outreach and communication strategies.

MOLDOVA

OVERVIEW

Moldova produced one of the best-known and most influential whistleblower cases in Europe: Iacob Guja. In a precedent-setting case, the European Court of Human Rights ruled in 2008 that Moldova had violated Guja's right to freedom of expression granted under the European Convention on Human Rights.

It has taken nearly a decade, however, for policy-makers to earnestly begin developing a whistleblower protection law that complies with the European Court's ruling and international standards. Work on a law began in 2016 and was continuing into 2017.

Moldova also is at the beginning stages of developing whistleblower mechanisms. Several government institutions receive and investigate reports from the public. Citizens increasingly are reporting bribery, corruption and other misconduct to authorities, and a number of arrests have been made based on these disclosures. Whistleblower disclosures and retaliation complaints, however, are not systematically tracked, and retaliation cases against civil servants who report corruption are not monitored.

The government passed a framework on whistleblowing in 2013 that intends to provide disclosure channels for public employees and protect them from retaliation. It is unclear how or whether this is working in practice. There are no legal protections for employees of private companies.

Several NGOs advocate for stronger whistleblower rights and protections, investigate cases and work on anti-corruption issues more broadly. Civil society campaigns on whistleblowing were greatly expanded in 2016, with support from the Southeast Europe Coalition on Whistleblower Protection.



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CURRENT LEGISLATION AND REGULATIONS

As of early 2017, Moldova had not passed a comprehensive whistleblower protection law. Other steps, however, have been taken.

In September 2013 Moldova's government passed a "Framework Regulation on Whistleblowers." The measure seeks to provide civil servants with opportunities to report corruption and other misconduct within public authorities and protect them from retaliation. All public authorities are required to set up internal regulations. Results of any inquiries are to be sent to whistleblowers within 30 days.

The Framework includes a wide range of disclosure channels, including managers, law enforcement, the National Integrity Commission, prosecutors, NGOs and the media. Whistleblowers must provide their name and place of employment, but confidentiality is guaranteed. Good faith is presumed unless proven otherwise. People who report knowingly false information, or who do not adequately protect a whistleblower, face disciplinary and criminal measures.

The Framework was developed following a recommendation by the Council of Europe, and is a piece of the ongoing Justice Sector Reform Strategy, which the National Anticorruption Centre (NAC) is overseeing. It is intended to implement 2011 amendments to the Law on Preventing and Combating Corruption, which installed specific legal protections for civil servants.

The NAC has succeeded in having certain laws amended to enact the Framework, which the agency acknowledges provides only minimal protections.²²⁰

In 2013 the NAC approved whistleblower regulations for the Centre's staff. NAC employees may report corruption, illegalities and violations of certain rules. The procedures and protections are similar to those included in the Framework.²²¹

Currently there are no specific legal protections for whistleblowers in the private sector.

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

Several government institutions as well as NGOs deal with whistleblowing and anti-corruption more broadly.

Most public institutions have set up internal security departments to which people can report corruption.²²² By 2009 nearly all central and many local public institutions had set up hotlines for reporting misconduct. At that time, the Ministry Health was receiving more than 1,200 calls per month, reflecting the high corruption risks present in the country's health-care sector. The Customs Service and the Ministry of Internal Affairs have also received disclosures from whistleblowers.²²³

The NAC maintains a hotline²²⁴ to which people can report corruption. Additionally, the NAC in 2014 signed an agreement to carry out a public awareness campaign with three NGOs: Transparency International Moldova, Anticorruption Alliance and the Center for the Analysis and Prevention of Corruption.²²⁵

MOLDOVA

RECENT OR PENDING INITIATIVES

In 2016 the government's National Anticorruption Centre began an effort to draft and pass a comprehensive whistleblower protection law. The project is in cooperation with the UNDP.²²⁶ Several consultations and briefings have been held with government institutions and officials, as well as with civil society, including members of the Southeast Europe Coalition on Whistleblower Protection.

A working group to support the development of the law was formed in November 2016. As of early 2017 the draft law was progressing.

A whistleblower law developed in 2008, which included many international standards, failed to pass due to budgetary restraints and concerns it may have been unrealistic.²²⁷

In 2013-14 the government conducted numerous anti-corruption training sessions for government employees, including a course on whistleblowing. In 2013, 774 people attended 25 sessions on legal provisions, protective measures and civil servants' right to report wrongdoing. From January to June 2014, 878 people attended 25 sessions with the theme, "Conceptual considerations on integrity: Whistleblowers."^{228,229}

Corruption in its various forms persists as a significant problem. "Moldova's political and economic development continued to be hampered by systemic and high level corruption," the European Commission reported in 2015. "Corruption still remained a major cause of concern, with the sectors most vulnerable to corruption including the judiciary, customs, public procurement, health, the social sphere and education." The Commission cautioned that the NAC and National Integrity Commission must be "fully independent."²³⁰

The European Commission noted in March 2017, "The business environment was still affected by wide-spread corruption and inconsistent policies."²³¹

WHISTLEBLOWER CASES

The first-ever exposé on whistleblower cases in Moldova was published in January 2017. "Whistleblowers on Their Own" was researched and written by the Resource Centre for Human Rights (CReDO) and the Anticorruption Alliance. The article documents the cases of Veaceslav Ionita, Sajin Iurie, Nicolae Petrovici and Doina Ioana Străisteanu.²³²

In cooperation with Curaj.TV, CReDO and the Anticorruption Alliance also produced the Moldova's first documentary on whistleblowing, "Avertizori de integritate pe cont propriu" ("Whistleblowers on Their Own"). Released in February 2017, the film chronicles several dramatic cases.²³³

Moldova is the home of one of Europe's most important whistleblower cases. Iacob Guja was the head of the Prosecutor General's press office when he was fired in 2003 for revealing evidence of political interference in a criminal case. A year earlier four police officers were investigated for poorly treating and illegally detaining criminal suspects. The then-Deputy Speaker of Parliament wrote a letter to prosecutors asking if they were "fighting crime or the police" and to "personally to intervene in this case." The investigation of the four police officers was then dropped. Guja sent this and another letter to a newspaper, for which he was fired.

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In 2008 the European Court of Human Rights ruled Guja's right to freedom of expression granted under the European Convention on Human Rights was violated. He was awarded EUR €10,000. The court said that interfering with Guja's right to freedom of expression was not "necessary in a democratic society." In this landmark case, the court established six principles to determine under what circumstances a person's right to free expression could be justified.²³⁴

In September 2014 Parliament Member Veaceslav Ioniță was expelled from the Liberal Democratic Party faction after releasing documents to the media alleging that the party had fraudulently obtained 450 million lei (€24 million) from the Banca de Economii (Savings Bank of Moldova).^{235,236}

The NAC has documented many other cases of whistleblowing and reporting of misconduct, including:

- A surgeon was arrested in 2014 after being caught asking for a bribe to operate on a 15-year-old patient with a broken leg
- A government engineer was arrested in 2013 for seeking a bribe from a truck driver to obtain a professional certificate
- A driving instructor was arrested in 2014 for soliciting bribes to ensure that students passed driving exams and obtained a driver's license
- An attorney who previously was prosecuted and sentenced for passive corruption and abuse of office was detained in 2014 for influence peddling^{237,238}

DATA AND STATISTICS

The government does not track the number or outcome of whistleblower disclosures or complaints of retaliation. There is no mechanism to monitor of number of reports made to other public institutions. The government does not track whistleblower cases reported according to the law on civil servants.^{239,240}

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

Whistleblowing generally is negatively perceived and not commonly practiced in Moldova, and there have been cases of reprisals against people who reported wrongdoing.

The term "whistleblowing" is not well known and is confused with "witness." This can deter people from coming forward out of the concern they will become involved with court proceedings.²⁴¹

According to Transparency International Moldova, information submitted by some whistleblowers to public authorities has been forwarded to the very public official who was accused of wrongdoing. Some of its clients have declined to appear as witnesses in corruption cases, and some have given Transparency International Moldova false names and addresses of out fear of reprisals. Anonymous reports typically are not investigated thoroughly by the authorities.²⁴²

In a 2010 survey by Transparency International Moldova of 418 representatives of 15 central institutions, 34 percent said they would not report corruption to their managers even if it were a concrete case.²⁴³ Among companies and households surveyed by Transparency International Moldova in 2012, very few had attempted to

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report corruption because they felt nothing would change or that doing so create more problems.²⁴⁴

In a demographic study of people who report wrongdoing, the NAC found that the typical whistleblower is male, aged 30-40, with a secondary education and likely to be unemployed. According to the NAC, given the “general reluctance” of most people to cooperate with law enforcement, it is unclear why young unemployed people would report corruption.²⁴⁵

Historically the media has not been known for reporting on whistleblower cases, though increasingly it is conducting investigations based on whistleblower disclosures.²⁴⁶ RISE Moldova, an affiliate of the Organized Crime and Corruption Reporting Project, a key source of independent investigative journalism.^{247,248}

ADVOCACY AND ACTIVISM

Many NGOs in Moldova have increased their public and political advocacy toward strengthening whistleblower rights and protections. Among them are CReDO, Centre for the Analysis and Prevention of Corruption (CAPC) and the Anticorruption Alliance. The organizations have produced articles, videos and other public outreach materials, and have held numerous consultations with policy-makers and officials. The three groups are members of the Southeast Europe Coalition on Whistleblower Protection, which has included Moldova as a priority in its activism and outreach.

In March 2017 a large coalition of civil society organizations, the National Platform of the Eastern Partnership Civil Society Forum, issued a statement to “express their concern about worsening environment for civil society organizations and respect of fundamental the rule of law principles.”

“We express our disappointment that the dialogue between national authorities and civil society is strongly affected by mistrust, inconsistency and harmful rhetoric,” the Platform said. “The cases when collaboration with civil society is being used by the government as a facade for legitimization of its own actions are on the increase.”

The Platform added that government intimidation of journalists and denial of public information requests are on the rise. In 2016 investigative journalist Mariana Rata was questioned by prosecutors about an article she wrote on the assets of a former police official. No charges were filed.²⁴⁹

CAPACITIES AND KNOWLEDGE CENTERS

Moldova has numerous government institutions and NGOs that focus on issues related to whistleblowing, and crime-fighting and anti-corruption more broadly. Government institutions include the NAC, General Prosecutor’s Office, Anticorruption Prosecutor’s Office, Chamber of Accounts and the Ministry of Internal Affairs.

Among the NGOs that research and track whistleblower issues are CReDO, CAPC and the Anticorruption Alliance. In 2013 Transparency International Moldova, CAPC and Fundația Soros-Moldova released an in-depth report on the anti-corruption efforts of the country’s public authorities. The report includes a range of recommendations for improvement.^{250,251}



MONTENEGRO

OVERVIEW

Whistleblower protections were included in Montenegro's new anti-corruption law that took effect in January 2016. Though not a standalone whistleblower law, the Law on Prevention of Corruption contains a number of European and international standards, including coverage of public and private sector employees, penalties for failure to protect whistleblowers, and financial rewards for whistleblowers whose disclosures lead to monetary recoveries.

Other laws provide additional protection for government and company whistleblowers, including a 2013 law that criminalizes retaliating against a whistleblower. This charge reportedly has been brought against 17 people, though all of these cases have been dropped.

The issue of whistleblowing has received special attention by NGOs, journalists, the European Commission and US State Department in recent years. Several high-profile cases have surfaced, with mixed results and outcomes for the whistleblowers. Among these is the 2016 case known as "The Invoice."

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CURRENT LEGISLATION AND REGULATIONS

The Law on Prevention of Corruption was passed in 2014 and took effect on 1 January 2016. It seeks to protect public and company employees from retaliation if they report threats to the public interest, including violations of regulations and ethical rules causing or threaten to cause danger to life, public health, public safety or the environment; human rights violations; or damage to people, legal entities or the state.

Reports can be made the Agency for Prevention of Corruption, business owners, business organizations and other legal entities. Business and legal entities are required to appoint a person to receive and act upon whistleblower reports, and recommended any corrective actions. This person must inform whistleblowers of any outcomes within 45 days. Employees may contact the Agency if they are not satisfied with internal follow-up measures.

The Agency maintains a telephone hotline, to which employees can make reports with their names or anonymously. The law and its procedures are explained on the Agency's website.²⁵²

The Agency is responsible for protecting whistleblowers, as well as people who assist them and others who may suffer damage. Victimized whistleblowers must file protection requests within six months of the retaliatory act. They can ask the Agency for assistance with their compensation claims in court.

Whistleblowers whose disclosures lead to the recovery of public funds are may receive 3-5 percent of these funds. People who violate whistleblower protections can be fined €500 to €20,000, and legal entities can be fined €1,000 to €20,000.²⁵³

In June 2013 Montenegro's Criminal Code was strengthened toward meeting standards of the Council of Europe and the European Court for Human Rights. It is now a criminal offence, punishable by up to three years in prison, to break an employment contract of a person who reported corruption to authorities.

The European Commission said in 2016 that the Agency must ensure effective whistleblower protection and investigations of cases, and be more proactive in its approach to the issue.²⁵⁴ The US Department of State has cited several cases of people being fired or harassed for reporting corruption. In particular, some whistleblowers within police agencies have not been well protected. Citizens have been reluctant to report police misconduct for fear of reprisal, and the courts typically find that use of force by the police is reasonable.²⁵⁵

According to a 2013 NGO report, civil servants and company employees are reluctant to report wrongdoing due to a lack of responsiveness by the courts and senior officers.^{256, 257}

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

In addition to the Agency for Prevention of Corruption, many other government authorities have complaint procedures and hotlines for whistleblowers and the public, including the Customs Administration, Ministry of Health, Police Administration, Judicial Council and the Ministry of Education. Each agency is to assign staff to

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receive and act upon disclosures, and whistleblowers are to be informed of any measures taken.²⁵⁸

Hotlines also have been set up by the Supreme State Prosecutor, Public Procurement Office, Tax Administration, Investment Development Fund, Administration for Games of Chance and the National Commission for the Monitoring of Implementation of the Strategy for Combating Corruption and Organized Crime.^{259, 260}

RECENT OR PENDING INITIATIVES

The Agency for Prevention of Corruption has opened a telephone hotline for employees to make reports, and its website has information on reporting and follow-up procedures.²⁶¹ In December 2016 the government published a rulebook on how whistleblower reports and requests for retaliation protection will be maintained.²⁶²

Public authorities have engaged in a variety of citizen awareness campaigns in recent years. In July 2014, the former Directorate for Anti-Corruption Initiative (DACI) continued its “Not a Cent for Bribe” campaign, which was initially launched in 2012. The DACI produced leaflets with hotline numbers, billboards, TV videos, posters, and audio spots, as well as “zero currency banknotes” to discourage bribery.

Also in 2014, the DACI distributed 121,000 leaflets throughout Montenegro. As part of its campaign “Corruption is not an option”, the Customs Administration distributed 20,000 flyers.^{263, 264, 265}

WHISTLEBLOWER CASES

Patricia Pobric was dismissed from her sales director job at the Ramada in Podgorica in June 2016 after she reported a suspicious government payment. In a high-profile case known as “The Invoice,” Pobric revealed that Montenegro’s Directorate of Railways paid a €1,000 bill for two conferences held at the hotel by the Social Democratic Party. The Directorate falls under the Ministry of Transport and Maritime Affairs, whose head, Ivan Brajović, is the president of the Social Democrats. Pobric requested whistleblower protection from the Agency for Prevention of Corruption but the status of this is unknown. The Social Democrats and Directorate of Railways have denied wrongdoing.^{266, 267}

In 2011 Nenad Cobeljic, the president of the military trade union, was disciplined by the military authorities for publicly disclosing alleged corruption, discrimination against union members and misallocation of military housing. Cobeljic was removed from his army position and barred from promotion for two years. Following widespread publicity of the case, the disciplinary measures were dropped and Cobeljic returned to his position in 2013.^{268, 269, 270}

Police officer Goran Stankovic said that he was forced to retire after exposing the 2008 beating of a suspect in detention. Stankovic appeared as a witness against the implicated officers, who included supervising and high-ranking officers. The mistreated suspect, Aleksandar Pejanovic, had been arrested for allegedly assaulting a police officer during a protest against the government’s decision to recognize the government of Kosovo. A new police director reinstated Stankovic.^{272, 273}

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In 2013 an engineer was suspended from his job with the national railway company after reporting that some drivers were not adequately trained.²⁷⁴

An individual in Rozaje said he received death threats and was taken to Kosovo and severely beaten after disclosing cigarette smuggling between Montenegro and Kosovo. He accused business interests and the National Security Agency of being involved. Prosecutors have opened an investigation.²⁷⁵

Sandra Obradovic, leader of Trade Union of Aluminum Plant of Podgorica (KAP), was fired in 2010, after participating in a roundtable organized by the anti-corruption organization MANS (Network for Affirmation of NGO Sector). Obradovic, who spoke at the event about harassment in her workplace, was fired by managers who accused her of missing work without authorization.²⁷⁶

Five border police officers were reinstated after having been fired by the Ministry of Interior for making public statements about smuggling between Montenegro and Kosovo.^{277,278}

DATA AND STATISTICS

In the six months after the Law on Prevention of Corruption took effect in January 2016, the Anti-Corruption Agency received 40 whistleblower reports and 5 requests for protection, according to the European Commission. Eleven of the 40 reports were referred to other agencies for investigation; of the 11, five reports were forwarded to prosecutors.

The European Commission noted that in one whistleblower case, the Agency on Prevention of Corruption “was criticized for failure to show proactivity and its formalistic approach to the interpretation of the law. Political elite’s reactions to this case demonstrate lack of sensitivity and constitute undue pressure on the institutions.”²⁷⁹ The Commission did not specify the name of the case.

The Commission said that since the Criminal Code was amended in July 2013, 17 people have been charged with retaliating against a whistleblower, including 11 in 2014. All of these charged were dropped.^{280,281} The Commission offered no explanation for this, and the Agency would not respond to a request for information on the charges.

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

There is a lack of research and analysis of public attitudes in Montenegro to whistleblowers and the practice of whistleblowing. Generally, there is a belief that whistleblowers are vulnerable to negative consequences.²⁸² In most of the small number of public cases, whistleblowers have lost their jobs or experienced other forms of retribution.²⁸³

According to a public survey conducted in December 2013, slightly more than half (54 percent) of respondents said they would not report corruption to the DACI.²⁸⁴ A shift was noted when the survey was conducted a year later: 59 percent said they would report to the DACI, while 37 percent said they would not.²⁸⁵

The main reasons for this reluctance were similar in both surveys:

- lack of trust in authorities to take action

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- lack of trust that their information would remain private
- fear of revenge or reprisal
- not certain the information could be proven

According to the 2014 survey, those willing to report corruption said they would be most likely to contact the DACI, the media, and the police.²⁸⁶

ADVOCACY AND ACTIVISM

The Center for Development of Non-Governmental Organizations has campaigned on behalf of whistleblower Patricia Pobric since the case went public in 2016. Representatives of the NGO have appeared on news broadcasts and in articles in defense of Pobric.

“A Leak in Paradise: Swiss Bank Whistleblower,” a documentary on Rudolf Elmer, was shown at the Podgorica Film Festival in September 2016. In 2008 Elmer sent to Wikileaks internal documents on Swiss bank Julius Bär’s activities in the Cayman Islands and its role in alleged tax evasion.

CAPACITIES AND KNOWLEDGE CENTERS

The Agency for the Prevention of Corruption is responsible receiving and investigated disclosures and protecting whistleblowers from retaliation.

Several NGOs focus on whistleblower issues in Montenegro, including the Center for Development of Non-Governmental Organizations and Institut alternativa. Both are members of the Southeast Europe Coalition on Whistleblower Protection. Also active are MANS (Network for the Affirmation of the NGO Sector) and the Centre for Democracy and Human Rights.

ROMANIA

OVERVIEW

Romania has been the home of many high-profile and several shocking whistleblower cases in recent years – including the “Bucur” case, which reached the European Court of Human Rights. Even though Romania’s whistleblower law has been on the books since 2004, and is considered among Europe’s strongest on paper, many whistleblowers have not been adequately protected from retaliation and threats.

Many experts, including officials within the Romanian government, have said the Law on Whistleblower Protection has been poorly implemented and enforced. Studies have shown the law has produced only a few successful cases, and that not enough information on cases has been made public. Without civil society and media support, many whistleblowers would have little or chance to preserve their careers and reputation.

Adding to these concerns, among the government proposals that triggered mass street protests in January 2017 was one that would have required reports of crime and corruption to be made within six months, lest authorities could ignore them.

A month later, during a live-broadcast press conference, Internal Affairs Minister Carmen Dan personally named nine journalists as “promoting the protests through social networks.”²⁸⁷ Dan’s personalized denunciation, which has been called unprecedented, raised additional worries about the government’s views on dissent and freedom of expression.

The Romanian citizenry historically has been sceptical of whistleblowing, but opinions and perceptions slowly are moving in a positive direction. More than 700 reports of alleged wrongdoing committed by public servants were disclosed to authorities from 2006-12.²⁸⁸



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CURRENT LEGISLATION AND REGULATIONS

In 2004 Romania became one of the first countries in the world – and the first in continental Europe – to pass a standalone piece of whistleblower legislation. The Law on Whistleblower Protection is considered, on paper, to be among the strongest laws of this kind.

The law covers a wide range of public sector employees, including those working in Parliament, state-owned companies, and central, presidential and local administrations. It does not apply to private companies or the judiciary.

Many types of misconduct may be reported under the law, including corruption, abuse of office or resources, political partisanship, negligence, conflict of interest, and misconduct related to public procurement, access to information, transparency and recruitment.

In an innovative feature, whistleblowers may report wrongdoing to a wide variety of disclosure channels, including managers, disciplinary commissions, judicial institutions, the Parliament, the media and NGOs. Employees are free to choose the appropriate channel, without needing to justify their decision.

Independent experts have said the law has not been adequately implemented, its impact has been limited, and few successful cases have resulted. One expert speculates this may be due to the lack of controversy and national debate before the law was passed, which has caused it to remain relatively unknown among the public.²⁸⁹

Transparency International Romania has raised a number of critiques, including low awareness among public employees, a lack of mandatory internal policies within public institutions, and a lack of public information on whistleblower cases.^{290,291}

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

Romania has assigned no government agency to investigate whistleblower disclosures and retaliation complaints, or to handle whistleblowing issues in general.

According to the European Commission, progress in implementing whistleblower policies in the public administration was “almost non-existent” between 2007 and 2012. An exception was the Ministry of Interior, which installed a whistleblower protection mechanism. Court cases based on whistleblower reports are “very scarce,” including six from the Ministry of Defense and one from the Ministry of Interior.²⁹²

In 2013 half of the government institutions scored a “0” or “not applicable” in a self-assessment of their performance in establishing whistleblower mechanisms and procedures, and tracking cases.²⁹³

According to a 2011 study of 631 companies from 81 sectors, the most important integrity policy within the companies was establishing a whistleblower mechanism and protecting whistleblowers from retaliation.^{294,295}

Though Romania has been a member of the EU for a decade, the European Commission reported in 2016 that “corruption persists at all levels of public administration.” Corruption also exists in many sectors of the economy, and entangles

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public officials and employees at all levels.

According to the Commission, more than half of companies that participated in a public procurement procedure during a three-year period believe corruption blocked them from winning a contract. Among the irregularities reported were collusion, bribes, kickbacks, tailor-made specifications and conflicts of interest.²⁹⁶

RECENT AND PENDING INITIATIVES

In January 2017 the government of newly elected Prime Minister Sorin Grindeanu proposed an Emergency Ordinance aimed to reduce prison sentences and lower penalties for certain corruption crimes. Also included was a proposal stating that reports of crime and corruption would be valid only if made within six months of the offense.²⁹⁷ Following the largest public protests since the fall of Communism, this was rescinded along with the other proposals.

Still under consideration in the Parliament is a defamation law that has passed Senate and, as of early 2017, was in the Chamber of Deputies. Under the proposal, a person would face a fine of €220 to €6,600 for defaming an individual, or €450 to €22,000 for defaming a group of persons or community.²⁹⁸

In 2013 the government began a two-year project to develop new methods for using and protecting whistleblowers in corruption investigations. The project, which produced two in-depth documents,²⁹⁹ has not led to any substantial efforts to improve the whistleblower law or its enforcement.

WHISTLEBLOWER CASES

In July 2016 a video surfaced of maggots – fly larvae – squirming inside a patient’s bandage in a burn unit in Bucharest. The video was taken by anesthesiologist Camelia Roiu of the Clinical Emergency Hospital of Plastic Surgery and Burns. “The unit is full of flies,” she said. The patient later died, though reportedly not because of the maggots. The burn unit was shut down. Health Minister Vlad Voiculescu said the unit had no air conditioning system or insect screens over the windows.³⁰⁰

Roiu faced repercussions from superiors and colleagues, but as of early 2017 she remained on the job. Several NGOs have publicly come to her defense, including the Alliance for a Clean Romania. Activists say their campaign, which has received widespread media attention, has been a factor in Roiu keeping her job.

In another healthcare case, the media revealed in spring 2016 that hospitals were using a disinfectant that had been substantially diluted, thus reducing its effectiveness in sanitizing facilities and equipment. A former employee of the manufacturer, Hexi Pharma, passed on documents to a journalist, who then had the disinfectant, “Polyiodine Scrub” tested in a laboratory. The tests confirmed the disinfectant had been watered-down. Health Minister Achimaş-Cadariu Patriciu resigned in May 2016. As of summer 2016 anti-corruption prosecutors were investigating corruption allegation against Hexi Pharma. Company general manager Flori Dinu was arrested and charged with more than 100 offenses.^{301,302}

Yet another healthcare scandal surfaced in July 2015 when the media reported 11 pharmaceutical companies were under investigation for allegations of bribing doctors

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to prescribe cancer drugs. Shortly before this came to light, a whistleblower notified top managers at GlaxoSmithKline that the company was paying doctors for prescribing prostate and Parkinson's drugs.³⁰³

In January 2013 the European Court of Human Rights ruled the Romanian government violated the rights of Constantin Bucur. In 1998 Bucur was convicted of illegally disclosing secret information by revealing wiretapping of journalists, politicians and business people by the Romanian Intelligence Service (SRI). The Court found the public interest in disclosing illegal conduct outweighed the interest of maintaining public confidence in the SRI. The Court ruled that Bucur's right to freedom of expression, granted by Article 10 of European Convention for the Protection of Human Rights and Fundamental Freedoms, had been violated.^{304,305 306}

The real-life stories of three Romanian whistleblowers were dramatized in the play "Ordinary People," written by Gianina Carbuariu and staged in 2016. The cases are those of Alin Goga and Claudiu Tutulan, who revealed irregularities in the construction of a motorway from Sibiu to Orastie, and Liviu Costache, who discovered the theft of bridge tolls.³⁰⁷

DATA AND STATISTICS

In 2013, 191 reports were made under the Law on Whistleblower Protection. One ministry registered a complaint in court, and another recorded a case of a whistleblower experiencing retaliation in the workplace.³⁰⁸

According to an EU-funded study, a total of 732 reports of wrongdoing by public servants were reported to authorities from January 2006 to July 2012 (see chart below).^{309,310,311} More recent data from 2013-17 is not available from the government.

Type of wrongdoing reported	# reports
Corruption counterfeiting, misuse of office, work-related offences	255
Offences against the financial interests of the European Communities	8
Preferential or discriminatory practices or treatment	66
Incompatibility and conflict of interests	17
Abuse of material or human resources	24
Political bias in exercising job responsibilities	0
Access to information and decisional transparency	1
Public procurement and non-reimbursable funds	5
Professional incompetence or negligence	157
Non-objective personnel decisions	32
Procedural breaches	57
Serving special or clientelist interests	0
Faulty or fraudulent administration of the public and private patrimony of public authorities	4
Other breaches of good administration and protecting the public interest	106
Total	732

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

Whistleblowing is not widely practiced in Romania, where it faces socio-cultural barriers and a lack of public understanding and appreciation. Many civil servants are aware of the country's legal protections, but the incentives to report wrongdoing,

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compared with the potential consequences, discourage them to do so.³¹²

Many political leaders lack the will to protect whistleblowers due to a lack of resources, or they simply ignore the issue.³¹³ Employees have reported being blacklisted and having difficulties finding a new job within their industry after reporting misconduct.³¹⁴

Public perceptions of whistleblowers, once considered “informants,” are improving. Whistleblowers in Romania are known as *avertizori de integritate*, or “those who give integrity warnings.” This term is meant to portray whistleblowers as guardians of integrity rather than informants.³¹⁵

Though whistleblowers face mixed reactions, witnesses are viewed in a very positive light, as they are willing to go through judicial processes. On the other hand, there is a perception that people should attempt to deal with small-scale wrongdoing from within their organization and not report it to authorities.^{316,317}

ADVOCACY AND ACTIVISM

The mass protests of January 2017, coupled with growing international media and public attention on whistleblower cases, have begun to stimulate the whistleblower protection movement in Romania. Historically, civil society has not made the issue a high priority.

Among the leading voices is the Romanian Academic Society (SAR) and its Alliance for a Clean, comprised of 14 NGOs. SAR is key partner and founding member of the Southeast Europe Coalition on Whistleblower Protection.

The Romania chapter of Transparency International advises and supports whistleblowers, and has called for improvements in the whistleblower law.

CAPACITIES AND KNOWLEDGE CENTERS

Romania has no designated whistleblower agency. Among the institutions that work on anti-corruption are the Ministry of Justice, which develops and monitors the National Anticorruption Strategy; the National Anti-Corruption Directorate, which prosecutes corruption cases; and the National Integrity Agency, which monitors asset disclosures and conflict of interest.

Among the NGOs that work on whistleblowing and related issues are the Romanian Academic Society, Alliance for a Clean Romania and Expert Forum. The RISE Project is a leading investigative journalism organization that receives and pursues tips from whistleblowers and other sensitive sources. RISE is affiliated with the Organized Crime and Corruption Reporting Project.

Since 2003 Transparency International Romania has operated an Anti-corruption Assistance Center to which individuals can report corruption and other wrongdoing. The Center advises whistleblowers on legal provisions that can protect them from retaliation.³¹⁸

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OVERVIEW

In 2014 Serbia passed one of Europe's strongest and most comprehensive whistleblower protection laws. Elected officials, policy-makers, activists and international experts worked together for several years to develop the law, marking a successful and rare cooperative effort by government and civil society.

The law contains most international standards, including protection for public and private sector employees from a wide range of retaliatory acts. It protects disclosures to the public under certain conditions, permits the reporting of classified information, and penalizes the failure to protect a whistleblower and other violations.

More than 200 people reportedly have sought protection in the courts since the law took effect in June 2015. Most of the cases have been resolved, but it is not known how many people the court deemed to be whistleblowers entitled to protection. Though there is general agreement that the law has benefitted some employees, evidence has come forth of gaps in the law, conflicting court rulings, and misinterpretations by judges that have harmed whistleblowers.

Serbia has three additional laws that provide certain protections to public sector whistleblowers. Officials have been working to enhance current laws, in part because previous efforts by the government's Anti-Corruption Agency (ACA) to shield whistleblowers from reprisals were considered inadequate.

Many high-profile whistleblower cases have been reported in recent years. Several Serbian NGOs and journalism organizations actively investigate whistleblower disclosures, track cases and advocate for improved protection and awareness.³¹⁹

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CURRENT LEGISLATION AND REGULATIONS

Adopted in November 2014, the Law on the Protection of Whistleblowers provides legal protection from any type of retaliation to government and company employees who report a wide range of wrongdoing, including violations of laws or human rights, and risks to public health, security or the environment.

The law bans actions seeking to prevent whistleblowing, intentionally false reporting and demanding benefits in exchange for making a report. Organizations can be fined for failing to set up whistleblower procedures, protect a whistleblower, or act upon a disclosure within a set time period.

Representing an international standard, whistleblowers are permitted to disclose information directly to the public if they reasonably believe evidence may be destroyed, the whistleblower is in danger, or if there is an immediate threat to life, health, public safety or the environment. Interim relief in advance of court proceedings is available. Associates of whistleblowers and people mistakenly believed to be whistleblowers are also protected.³²⁰

Prior to passing the Law on the Protection of Whistleblowers, Serbia strengthened three laws that apply to whistleblowing and the reporting of wrongdoing in general:

- A provision was added to the Law on Civil Servants in 2009 to require officials to report suspicions of corruption.
- The Law on Free Access to Information of Public Importance was improved in 2009 to protect government employees from punishment if they allow access to information of public importance, or information on corruption, abuse of authority, misuse of public funds or illegal government actions.
- The Law on the Anti-Corruption Agency was amended in 2010 to provide officials with assistance and confidentiality protection.

Additionally, a law passed in 2011 requires companies to protect employees who report to authorities business secrets that reveal an illegal act.³²¹

INSTITUTIONS, FRAMEWORKS AND PROCEDURES

The Law on the Protection of Whistleblowers places the responsibility to protect whistleblowers from retaliation in the hands of the courts. Previously, this was the duty of the government's Anti-Corruption Agency.

Victimized whistleblowers may go to court for protection as soon as retaliation in the workplace begins. Employees must file their case with 60 days of being dismissed from their job, and courts must hear these cases in an expedited fashion.³²²

According to published reports, many lawyers in Serbia have not yet realized the importance of the whistleblower law and do not understand the procedures for filing for protection. Employees and citizens also are said to need better information on the law's provisions.³²³

Some government agencies run hotlines to which misconduct can be reported, among them the custom service, tax administration, and the Ministries of Education and Trade. One can report anonymously, but in practice these reports are said to not have the same impact.^{324,325}

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RECENT AND PENDING INITIATIVES

The Law on the Protection of Whistleblowers is the culmination of an initiative begun in 2012 by Serbia's Commissioner for Access to Public Information. The commissioner's draft law was referred to the Ministry of Justice, whose version was approved by the government in October 2014³²⁶ and adopted by Parliament the following month. Numerous Serbian and international anti-corruption and whistleblower experts were involved in shaping the law.³²⁷

To help ensure fair treatment of victimized whistleblowers, an estimated 1,100 judges and 200 judicial advisers have been trained on the law.³²⁸ Many public events on the law have been held, both before and after it was passed, which included participation from policy-makers, activists, whistleblowers and the public.

In 2013 the Anti-Corruption Agency ran a national public awareness campaign with the slogan, "Speak Out. Keeping Quiet about Corruption Means Approving It!" Campaign messages were seen or heard by 80 percent of the Serbian population.^{329,330}

WHISTLEBLOWER CASES

Many notable whistleblower cases have emerged in Serbia in recent years, and more since the whistleblower law took effect in June 2015.

On 5 June 2015, the very day Serbia's whistleblower law took effect, Novi Sad city employee Marija Beretka told police that her superiors were concealing information about improperly parked vehicles. Her warnings ignored, she was harassed, called a "rat" and fired. Courts have issued conflicting rulings on her case. Most recently, in July 2016, the Novi Sad Appellate Court overturned a High Court verdict ordering her to be reinstated. Two years into the case, her legal struggle is continuing.³³¹

Other employees have had better outcomes:

- In October 2015 Miloš Krstić, an elementary school secretary fired after exposing a corrupt school principal, was reinstated by the Belgrade Higher Court – becoming the first person to be protected under the new law.
- In December 2015 the Sremska Higher Court ordered Vladimir Bozic to be reinstated to his job at a car part factory where he reported that excessive and illegal overtime was causing worker fatigue.
- Belgrade police detective Slobodan Marinković, who had reported corruption by police officers and politicians in 2013, was ordered reinstated by a judge in January 2016.³³²

Many other high-profile whistleblower cases emerged before the law was passed.

Borko Josifovski, director of the Belgrade Emergency Medical Service, revealed in 2006 that funeral homes were paying doctors for the addresses of deceased patients. Josifovski claimed that some doctors did not resuscitate dying patients, in order to receive the illicit payments. Josifovski went public after the Ministry of Health did not respond. He was fired two days after announcing the scheme at a press conference. He received death threats and left the country for a year. Josifovski filed a private criminal charge, which prosecutors dismissed because he had "no personal interest" in the case. Based on Josifovski's disclosure, the ACA filed criminal charges against two of the

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doctors.^{333,334}

A worker in the national road company reported widespread abuses in the collection of road fees for trucks. Records obtained by the Information Commissioner matched the worker's videos of trucks passing the toll barrier, confirming that the tolls did not match the number of vehicles. Police uncovered and prosecuted a well-organized "road mafia." After the worker made the report, his contract was not renewed. He was out of work for three years.^{335,336,337}

Biljana Mraovic was not reappointed as a local judge in 2009, after exposing a senior judge who she said overturned Mraovic's rulings after accepting bribes from lawyers. Instead of investigating her report, the Office of the President forwarded her letter to the senior judge, who sued Mraovic for libel. The Information Commissioner filed charges against the Office of the President, which was fined. Mraovic was eventually reinstated.^{338,339}

In 2010 radiologist Bojana Bokorov exposed how the Institute of Oncology was giving priority to foreign patients to receive radiation treatment for cancer in exchange for cash. As a result, she said, some patients on the waiting list had died while waiting for treatment. Bokorov applied for, and received, whistleblower protection status from the ACA. Bokorov asked for a transfer, which was denied. Her work contract was then cancelled.^{340,341}

In 2013 prison worker Valentina Krstic was fired two days after exposing large-scale corruption in public procurement at the prison. She was threatened, harassed and disciplined. After public attention was directed to the case and the ACA became involved, the Ministry of Justice dropped the disciplinary actions against her. In November 2013, Krstic was elected to the local anti-corruption forum.^{342,343}

DATA AND STATISTICS

Disparate figures have been emerged on number of whistleblower reports and retaliation cases have been filed since the whistleblower law took effect in June 2015.

According to one media report, 157 court cases were filed under law, 89 of which were resolved, from June 2015 to September 2016.³⁴⁴ According to another report, 254 cases were filed in the law's first year in effect, with 163 of them being resolved.

In Belgrade, a High Court judge said 5 of 20 requests for temporary relief filed locally were granted from June 2015 to October 2016.³⁴⁵

It is not known in how many of these cases the judges ruled in favor of the whistleblower.

Justice Minister Nela Kuburović said in September 2016 that temporary relief for victimization is granted within an average of three days, and that 37 of 40 of these applications had been granted.³⁴⁶

As of October 2016 the largest number of whistleblower reports – 76 percent – had come from public sector. Other reports concerned the economy, health, police and the judiciary.³⁴⁷ As of September 2016 public employees had made 15 reports within their

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ministries and five reports to outside channels.³⁴⁸

In 2013, the year before the whistleblower law was passed, the Anti-Corruption Agency received 103 requests for whistleblower status, 78 of which were granted.³⁴⁹ The ACA received 31 requests in 2012,³⁵⁰ and 10 in 2011, three of which were granted.³⁵¹

In 2012 the ACA said disclosures revealed corruption risks in the health-care industry. Specifically, the agency noted unusual ties between doctors and pharmaceutical companies, and doctors overlooking Serbian patients with health insurance and instead treating foreign patients who paid full price for services.³⁵²

PUBLIC PERCEPTIONS OF WHISTLEBLOWING

Based on the many whistleblower disclosures that have become public in recent years, one expert has observed that there are brave people in Serbia willing to expose wrongdoing. If reporting internally is not successful, employees have approached public authorities. Retaliation, however, is still commonplace.

According to another expert, dozens of citizens who reported abuses were “promptly punished.” Obtaining official whistleblower status has worked against some people and worsened acts of retaliation.³⁵³

Yet, among the main reasons that people choose not to report misconduct, the fear of negative consequences ranks second behind the belief that nothing will result.³⁵⁴

A 2013 survey found that citizens believe that the top factors impeding the fight against corruption are inadequate control of state services; corruption in institutions that implement the law; using connections and bypassing laws; and lack of political will to control corruption. A lack of outlets to report wrongdoing was the least important factor.³⁵⁵

The media is seen as generally cooperative in reporting on whistleblower disclosures but gives inadequate attention to whistleblowers themselves.^{356,357}

ADVOCACY AND ACTIVISM

The NGO Pistaljka (Serbian for “whistle”) receives and investigates whistleblower reports and retaliation complaints, advocates for strong whistleblower rights, provides advice and supports to whistleblowers, and legally represents whistleblowers in certain cases.

The NGO Bureau for Social Research (BIRODI) advocates for whistleblowers, studies public opinions on the issue, and works with policy-makers to implement whistleblowing and other anti-corruption policies.

The Southeast Europe Coalition on Whistleblower Protection is advocating to strengthen Serbia’s whistleblower law by closing gaps that can harm whistleblowers. Among the gaps, the law does not place the entire burden on employers to prove any actions taken against an employee were not linked to the employee reporting corruption. This shortcoming has harmed at least one whistleblower in court.³⁵⁸

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CAPACITIES AND KNOWLEDGE CENTERS

Various public institutions work with whistleblowers, and they attempt to investigate their disclosures. These include the Anti-Corruption Agency, the Anti-Corruption Council, the Ombudsman, the Ministry of Justice, and the Commissioner for Access to Public Information and Personal Data Protection.

Several NGOs in Serbia support whistleblowers, investigate cases and work for stronger legal protections. Pistaljka documents and monitors whistleblower cases, and in 2014 launched a whistleblower hotline staffed by lawyers.

The Bureau for Social Research (BIRODI) advises and supports whistleblowers, including analyzing their disclosures, providing legal advice and referring them to the proper authorities. If a whistleblower is anonymous, BIRODI refers the information to the authorities for follow-up. The organization cooperates with the Serbian ACA.

Transparency Serbia operates an Advocacy and Legal Advice Center (ALAC) to which victims and witnesses of corruption can report cases and receive advice on filing official complaints.³⁵⁹

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