

Whistleblower Protection Bill on its way to second reading

The Whistleblower Protection Bill, which has been debated extensively over the past year, is now heading for its second reading after its consideration by the Constitutional Law Committee as a committee of guarantee. Consideration of the bill is proposed for the agenda of the 63rd session of the Chamber of Deputies, which will take place from the 4 April 2023 on.

The Constitutional Law Committee recommended the adoption of the bill and also recommended the adoption of the amendment submitted by Mgr. et Mgr. Jakub Michálek, PhD, which extends the scope of the law to all offences instead of the areas defined in the bill. This option had already appeared in the previous version of the bill, the discussion of which was terminated at the end of the last legislative term.

Opinions differ as to whether the amendment will make the work of the persons concerned, and the activities of whistleblowers, easier or more difficult. Arguments for the adoption of the amendment include, for example, the greater protection of the public interest. Furthermore, the removal of the uncertainty arising from the fact that the proposed wording of the law requires the notifier, and subsequently the person in charge, to carry out a rather complex assessment of whether or not the reported act falls under one of the areas defined in the proposal, where it must be a specific violation of legal regulation of the Czech Republic or the European Union and whether or not it is a criminal offence. In such a case, it often depends, among other things, on whether, for example, at least not insignificant damage (CZK 10,000) has been caused, which should be the activity of the criminal justice authorities.

On the contrary, the arguments against it are based on the fact that there is no need to extend the obligations and the resulting burden on obliged entities beyond the scope of the directive and thus significantly extend the scope of the law. While this would remove the problem of assessing whether the act reported is a criminal offence or other offence, the number of offences in our legal system and the hundreds or thousands of laws in which they appear hardly makes it possible to discuss simplifying the activities of the persons responsible.

The Whistleblower Protection Bill transposes Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of whistleblowers. The transposition deadline for the adoption of the corresponding national legislation already expired on 17 December 2021, more than a year ago. On 15 February 2023, the European Commission announced that it would take legal action against states, including the Czech Republic, that have not yet adopted the corresponding national regulation. The action against the Czech Republic was filed on 16 March 2023 and the adoption of the Whistleblower Protection Act can be expected soon.