

Czech Republic: The Whistleblowing Act finally in effect

Whistleblowing channels must be in place from 1 August 2023

10 August 2023

Although the deadline for transposing Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law (the Whistleblowing Directive) into national law passed on 17 December 2021, the Czech Republic has been among those Member States struggling to adopt a corresponding act into local legislation. Nonetheless, after turbulent discussions and legislative proposals, the bill has finally been passed and came into force on 1 August 2023.

The Whistleblowing Act applies to most state authorities and most contracting authorities in public procurement processes, as well as to all employers (registered entities) employing 50 employees or more as at 1 January of each year unless they fall under the scope of the Czech Anti-Money Laundering Act – for instance banks and other financial institutions which were already required to set up a whistleblowing channel under existing AML legislation. There is an exception for companies with 50-249 employees that must set up a whistleblowing system by 15 December 2023.

The scope of the reporting misconduct is broader than in the Directive

Misconduct falling within the scope of the Whistleblowing Act includes all actions that would qualify as a criminal offence or as an administrative offence carrying a statutory upper rate of a fine of at least EUR 4,200. Furthermore, the whistleblowing protection applies to actions that violate the Whistleblowing Act, other legal regulations or EU regulations in selected areas, such as financial, tax or AML regulations, consumer protection, economic competition, data protection, environmental protection and many others.

Obligated entities must publish, remotely, information regarding the functioning of their whistleblowing channel, how to report, the contact details of the competent person and other related information.

Protection under the Whistleblowing Act will be provided to whistleblowers who have performed or are performing work or work-related activities for an obliged entity (including indirectly) or who have been in contact with the obliged entity in connection with the performance of work or work-related activities. Work or work-related activities covers a broad spectrum of activities including employment, freelancing, supplier relationship or volunteering.

The Whistleblowing Act does not explicitly allow for anonymous reporting. However, the obliged entity may voluntarily decide to accept anonymous reports and handle them either as prescribed by the Whistleblowing Act or in line with their internal regulations.

Nonetheless, reporting must be allowed both in writing and verbally. If the reporting person asks to report in person, the competent person must receive the report at an in-person meeting scheduled within a reasonable timeframe no later than 14 days after the reporting person's request. The Whistleblowing Act also introduces strict deadlines for confirming receipt of reports (7 days) and for the assessment and investigation of reports (30 days, which can be extended), in addition to specific confidentiality and record-keeping requirements.

Sharing of group whistleblowing channels by small companies

Firms with fewer than 250 employees can share a whistleblowing channel or use an internal reporting system that has been set up by another obliged entity, as long as they designate a competent person to acknowledge receipt of

Wolf Theiss

whistleblowing reports and give feedback to the reporting person. This 249-employee limit applies to all companies sharing the internal reporting system regardless of whether they are within the same corporate group. In companies with 250 employees or more, employees may be encouraged to use a group-wide reporting system, but a parallel local internal system must also be set up. The operation of a reporting channel may also be outsourced to a third party such as an external service provider. However, the responsibility for the actual follow-up in terms of investigating, addressing the breach and taking any appropriate measures remains with the competent person at the relevant obliged entity.

The Whistleblowing Act provides for a fine of up to EUR 2,100 for false reporting. The persons responsible for handling reports can be fined up to EUR 4,200 for breaching their duties and obliged entities subject to the Whistleblowing Act can be fined up to EUR 42,000. Further fines are:

- EUR 4,000 for anyone preventing another person from filing a report;
- EUR 4,200 for anyone retaliating or allowing retaliation against another person; and
- EUR 3,400 for providing information which is likely to defeat or undermine the purpose of the report or revealing the identity of the whistleblower or person named in the report without their consent.

About Wolf Theiss

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With more than 360 lawyers in 13 countries, over 80% of the firm's work involves cross-border representation of international clients. Combining expertise in law and business, Wolf Theiss develops innovative solutions that integrate legal, financial and business know-how.

For more information, please contact:



Sabina Krajičková

Senior Associate

E sabina.krajickova@wolftheiss.com

T +420 234 765 228



Sign up

to receive our latest updates and insights