

**Providing an Alternative to Silence:**

**Towards Greater Protection and Support for  
Whistleblowers in the EU**

**COUNTRY REPORT: FINLAND**

This report belongs to a series of 27 national reports that assess the adequacy of whistleblower protection laws of all member states of the European Union. *Whistleblowing in Europe: Legal Protection for Whistleblowers in the EU*, published by Transparency International in November 2013, compiles the findings from these national reports. It can be accessed at [www.transparency.org](http://www.transparency.org).

All national reports are available upon request at [ti@transparency.org](mailto:ti@transparency.org).

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## **Providing an Alternative to Silence:**

### **Towards Greater Protection and Support for Whistleblowers in the EU**

#### **Research methodology for cataloguing and assessing whistleblower legislation in the EU-27**

**May 2012**

#### **I. Research objectives**

This research project aims to identify and inventory whistleblower (WB) legislation (laws, rules, regulations, frameworks, etc.) in each EU country, and to assess them against the latest international best practices.

The goals are to:

- pinpoint legislative and regulatory gaps around which advocacy efforts can be planned and implemented;
- highlight best practices currently being utilised and under consideration; and
- identify opportunities where the perception of whistleblowing and whistleblowers can be enhanced.

The research findings will support broader efforts to implement and strengthen WB protection laws, empower whistleblowers to come forward, help to ensure that they are adequately protected from retaliation, and enhance the official and cultural appreciation of whistleblowing and its role in raising accountability in the public and private sectors.

#### **Questionnaire**

Depending on your country's situation, not all of the questions will apply. Please note where a question does not apply or no information is available. Unless stated otherwise, these questions apply to laws and regulations for the public and/or private sector (some laws may apply to one or the other, or both, depending on the context). If needed, provide the information separately, depending on the sector to which it applies.

#### **Legislation, oversight and enforcement**

**Do any specific laws or regulations (e.g. anti-corruption, civil service, witness protection, labour law) contain WB provisions? If so, do they cover the public sector, private sector or both – or portions of these?**

Finland does not have any stand-alone WB law or similar law.

No specific whistleblower protection system is in place in Finland. To protect persons reporting offences from retaliation, Finnish authorities rely on the provisions concerning victims and witnesses as well as provisions of administrative and labour law. The report of the UNCAC of Finland stated that fact that there are no specific rules for the protection of whistleblowers in labour and administrative law is a concern.

(<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1183525e.pdf>)

As stated in the OECD 3<sup>rd</sup> monitoring report on Finland regarding corruption: ‘Concerning the detection and reporting of foreign bribery, the Working Group is concerned by the lack of reporting mechanisms within key government agencies, including FINNVERA<sup>1</sup>, Ministry of Foreign Affairs and the Tax Administration. It recommends that Finland introduce appropriate measures to facilitate reporting by public officials to law enforcement authorities. Noting the absence of whistle bower protection, the Group further recommends that Finland introduce mechanisms to ensure that public and private sector employees who report in good faith and on reasonable grounds are protected from discriminatory or disciplinary action.’

(<http://www.oecd.org/daf/briberyininternationalbusiness/anti-briberyconvention/46212643.pdf>)

In OECD 3<sup>rd</sup> monitoring report on Finland regarding corruption, the OECD stated as following: ‘There is no specific whistleblower protection system in Finland to protect from discriminatory or disciplinary action public or private sector employees who report in good faith and on reasonable grounds suspected acts of foreign bribery to competent authorities. Finnish authorities rely on the existence of some limited levels of witness protection, and the ability of employees who are dismissed without cause from employment to bring action against employers under labour laws in Finland and as a result of the strong union movement in Finland. Authorities further stated that corporate codes of conduct usually contain some form of accommodation for whistleblowers. The lead examiners also heard from civil society representatives that there is not a strong culture of blowing the whistle in Finland, and that there is instead a preference for the internal resolution of issues.’

(<http://www.oecd.org/daf/briberyininternationalbusiness/anti-briberyconvention/46212643.pdf>)

As stated in the OECD 3<sup>rd</sup> monitoring report on Finland regarding corruption: ‘Despite these explanations, the OECD Working Group is again concerned that Finland’s position is out-of-step with that of other Parties. The 2009 Recommendation, which reflects the development of standards by the Parties in this regard, calls on Parties to ensure that appropriate measures are in place to protect from discriminatory or disciplinary action public or private sector employees who report in good faith and on reasonable grounds to the competent authorities suspected acts of bribery of foreign public officials in international business transactions (Recommendation IX(iii)). Witness protection provides limited protection in the context of judicial proceedings only. Labour laws only protected against dismissal and do not cover other forms of discrimination that may follow a whistle bower report. Civil society representatives referred, in this regard, to a high-profile case in which a company sought to sue an employee who leaked classified information which related to foreign bribery

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<sup>1</sup> Finnvera is a specialised financing company owned by the State of Finland. It provides its clients with loans, guarantees, venture capital investments and export credit guarantees. Finnvera is the official Export Credit Agency (ECA) of Finland.

allegations. Corporate codes of conduct may assist, but this involves a deferral of responsibility by Finnish authorities which cannot guarantee a uniform and adequate level of protection. Furthermore, corporate codes of conduct do not cover the protection of public sector whistle blowers. Given the difficulties in detecting foreign bribery cases, the OECD Working Group considers this to be a significant deficiency in Finland's fight against foreign bribery.' (<http://www.oecd.org/daf/briberyininternationalbusiness/anti-briberyconvention/46212643.pdf>)

The OECD Working Group recommended that 'The lead examiners recommend that Finland introduce mechanisms that are capable of ensuring that public or private sector employees who report in good faith and on reasonable grounds suspected acts of foreign bribery to competent authorities are protected from discriminatory or disciplinary action. Once established, Finland should take steps to raise awareness of such mechanisms....Regarding whistleblower protection, the Working Group recommends that Finland introduce mechanisms to ensure that public and private sector employees who report in good faith and on reasonable grounds suspected acts of foreign bribery to competent authorities are protected from discriminatory or disciplinary action, along with appropriate measures for raising awareness of these mechanisms (2009 Recommendation IX(iii)).' (<http://www.oecd.org/daf/briberyininternationalbusiness/anti-briberyconvention/46212643.pdf>)

Depending on the matter there are some regulations in Finland which may be directly or indirectly concern the WB issue. E.g. the regulations concerning the accountants' duties to report or their regulations and practices. (Limited Liability Companies Act (separate annex), Accounting Act and Ordinance, and Auditing Act (no English translations available on these))

Civil Servant Act/Valtion virkamieslaki 750/1994 (no English translation available) Chapter 7, section 25, includes the allowed (and not allowed) grounds for dismissal for civil servants. Whistleblowing is not mentioned there.

In Finland there are some regulations concerning the protection of witnesses but there is no separate Witness Protection Law. These existing regulations in question can be found from Criminal Investigations Act/ Esitutkintalaki (449/1987) (the Ministry of Justice was not able to provide the English translation about this law). 1.1.2014 there is going to be in force a new Criminal Investigations Act (English translation is not available of it either). The regulations in Criminal Investigations Act concern the publicity of the pre-trial investigation process. Furthermore, the applicable provisions (e.g. the suppress of the contact and personal information) can be found from Population Information Act/Väestötietolaki (661/2009). Also on the basis of Act on the Publicity of Court Proceedings in General Courts/ Laki oikeudenkäynnin julkisuudesta yleisissä tuomioistuimissa (370/2007) (annexed) the publicity of the court documents may be restricted.

Act on the Publicity of Court Proceedings in General Courts (annexed) includes provisions concerning the concealment of the contact details of witnesses. Also provision (31c) in Police Act (annexed – the new Police Act comes into force 1.1.2014 and of it no English translation is available) concerning the telecommunication surveillance may be employed. The Act on the Openness of the Government Activities (annexed) includes provisions concerning the secrecy of the documents.

‘Finland does not have a witness protection programme as such. Nevertheless, a certain degree of witness protection can be afforded by relying on the nondisclosure of information concerning the identity and the whereabouts of witnesses to be heard during pre-trial investigations and in court. As a relatively small and homogenous country with an extensive degree of transparency and high technology, a witness relocation programme would be very difficult to implement. In general, a pressing need for a relocation programme has not yet arisen – albeit there have been discussions about its introduction based on the identification of good practices in the EU....Finland is currently considering the adoption of an obligation for public officials to report corruption offences, or even a more general obligation to cover all offences. More generally, no specific whistleblower protection system is in place. To protect persons reporting offences from retaliation, Finnish authorities rely on the few provisions concerning victims and witnesses as well as provisions of administrative and labour law (Employment Contracts Act – separate annex).’

<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/7-9September2011/V1183525e.pdf>

‘The UNCAC recommended Finland to Consider to adopt statistical information tools to monitor the witness protection policy, and, if appropriate, establish a witness protection programme.’

<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/7-9September2011/V1183525e.pdf>

The National Bureau of Investigation has a witness protection unit. But the information about it is not public.

What comes to the witnesses in courts, Code of Judicial Procedure, Chapter 17, Section 34, states that:

*‘(1) A witness, another person heard for probative purposes and an injured party may be heard in the main hearing without the presence of a party or another person, if the court deems that this is appropriate and such hearing is necessary*

*(1) in order to protect the person being heard or a person related to said person in the manner referred to in chapter 15, section 10, subsection 2 (Failure to report a serious offence) of the Criminal Code, from a threat directed at life or health; (2) if the person being heard would otherwise not reveal what he or she knows about the matter; or (3) if a person disturbs or attempts to mislead the person being heard during his or her testimony.*

*(2) A party shall be reserved an opportunity to put questions to the person being heard.*

*(3) A witness or other person may be heard in a hearing closed to the public, as provided in the Act on the Publicity of General Court Proceedings.’*

In Finland there have been debates about possibility of the anonymous witnessing in courts, but I do not know whether there is some working group thinking this issue or not. In Finland there are security rooms in courts where the witness can be held without s/he exposing his/her faces to the defendant.

With regard to the UNCAC requirements in the area of law enforcement, the report of the UNCAC made for Finland following recommendation: Explore the possibility of establishing a comprehensive system for the protection of whistle blowers.

<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1183525e.pdf>

**Have any laws or regulations related to WB been formally proposed by, or submitted to, national legislative or administrative bodies since 2007? If so, what are their provisions, title and status?**

There is currently a working group which task is to consider the possibility to introduce some regulations relating witness protection in Finland. There are yet no documents/papers/suggestions available concerning the work of this working group. But some documents may be available to public in November 2012.

Concerning special WB laws, the OECD has recommended Finland to consider establishing some protection system for WBs. The only anti-corruption organ in Finland, the Anti-Corruption Network has discussed on the matter relating the need to establish special laws concerning WB in Finland in its meetings. On basis of this discussion the Anti-Corruption Network tried to gain the issue to the Governmental Platform of the current Prime minister Jyrki Katainen Government but this attempt failed.

**Does the country have an independent agency, authority or official that receives and investigates complaints of WB retaliation or improper investigations?**

-No independent authority of this kind in Finland.

-The local police investigates the crimes in Finland. The Police is the general criminal investigative authority and it is for the Police to detect and investigate corruption related offences (bribery, embezzlement, fraud, misuse of funds..) committed in Finland.

-The National Bureau of Investigation (NBI) is the national central authority in charge of the investigation of criminal cases having wide national significance or coverage or criminal cases with links abroad.

-The prosecutor investigates the suspected crimes committed by police.

**Are there any civil, criminal, professional or other penalties for individuals who retaliate against whistleblowers?**

Normal criminal and civil law provisions are applicable in here. Of course, there can be considered whether the provisions concerning discrimination, and also e.g. provision concerning disturbance of domestic peace (Chapter 21, sections 1-2, of the Finnish Criminal Code – annexed) could be applied here.

**Have there been any official or unofficial reviews of the effectiveness of whistleblower protection practices or agencies? If so, what are the findings? If not, how would you assess the effectiveness?**

I far as I know there has not been any reviews in Finland concerning the effectiveness of whistleblower protection practices or agencies. A private company BDO sells WB services to both private sector and public sector actors. I do not know whether they have made any reviews concerning Finland.

**Scope of application**

**What types of disclosures are covered under whistleblowing (e.g. corruption, fraud, bribery, financial waste, dangers to public health, safety or environment)?**

There is no separate law on wb in Finland, but following laws can be considered in regarding this question:

According to Finnish Criminal Code, the Chapter 15, section 10 '*Failure to report a serious offence*' (563/1998):

*(1) A person who knows of imminent genocide, preparation of genocide, breach of the prohibition of chemical weapons, breach of the prohibition of biological weapons, compromising of the sovereignty of Finland, treason, aggravated treason, espionage, aggravated espionage, high treason, aggravated high treason, rape, aggravated rape, aggravated sexual abuse of a child, murder, manslaughter, killing, aggravated assault, robbery, aggravated robbery, kidnapping, hostage taking, aggravated criminal mischief, aggravated endangerment of health, nuclear device offence, hijacking, an offence committed with terrorist intent referred to in chapter 34 a, section 1(1)(3), aggravated impairment of the environment or aggravated narcotics offence, and fails to report it to the authorities or the endangered person in time to prevent the offence, shall be sentenced, if the offence or a punishable attempt is committed, for a failure to report a serious offence to a fine or to imprisonment for at most six months.*

*(2) However, a person shall not be sentenced for a failure to report a serious offence, if, in order to prevent the offence, he/she would have had to denounce a spouse, a sibling, a direct ascendant or descendant, a person living in the same household or a person who is close owing to another comparable personal relationship.*

In addition journalists have the right to protect their sources based on the Freedom of Speech Act §16 and the Code of Judicial Procedure.

**What types of individuals, if any, are covered as whistleblowers – beyond traditional employees (e.g. consultants, contractors, trainees, volunteers, temporary workers)?**

There is no special WB law in Finland and thus no this kind of protection.

**Whistleblower protection provisions**

**What types of retaliation and harassment are whistleblowers protected from (e.g. demotion, firing, unwanted transfer, stripping of job duties or benefits, reduction of pay, negative evaluations – or the threat of these)?**

There is no special WB law in Finland and thus no this kind of protection. But see: Employment Contracts Act – separate annex and Civil Servant Act/Valtion virkamieslaki 750/1994.

**Are whistleblowers specifically protected if good-faith disclosures are found to be incorrect or inaccurate?**



There is no this kind of protection in Finland.

**Does the burden fall on the employer to prove that any action taken against an employee was motivated by reasons other than the employee making a disclosure?**

There is no this kind of regulation in Finland.

#### **Procedures for disclosure**

**Do any WB laws include internal or external disclosure mechanisms? Do any external disclosure mechanisms allow disclosures to be made to NGOs, the media, trade unions, business associations or other “non-official” actors?**

No this kind of regulation. However, the current legislation would enable some sort of a disclosure mechanism and the voluntary protection of WBs.

**Are certain types of disclosures prohibited or restricted (e.g. state secrets, business/trade secrets, confidential information)?**

There is no this kind of regulation in Finland.

**List any hotlines/helplines, online disclosure forms or other publicly accessible disclosure tools.**

-In the Internet site of Police of Finland, there is possibility to give tips (concerning non-emergency information relating to crimes) to police also anonymously. This site is called Nettivinkki (Net Tip). There is also an online possibility to report the offence to the Police. This can also be made anonymously. Also the Police can be telephoned and informed about the suspected crime.

There are no hotlines available to general public to report wb in Finland.

#### **Relief, remedies and participation**

**What types of remedies are available for whistleblowers (e.g. job reinstatement, lost pay, interim relief, future earnings, monetary reward, legal fees, pain and suffering)**

None. But these can be executed voluntarily. Normal regulations concerning compensation for damage can be applied if someone has caused damage.

**Are there specific mechanisms for public sector whistleblowers to participate in follow-up, corrective action or policy reforms that result from their disclosures?**

None. But these can be executed voluntarily.

**Are whistleblowers who have been retaliated against entitled to a fair hearing before an impartial forum, with full right of appeal (a “genuine day in court”)?**

There is no this kind of regulation in Finland.

#### **Public awareness and societal values**

**Briefly characterise the public and media perception of whistleblowing (i.e. “heroes” or “snitches”,**

**or somewhere in between?). What are the cultural or political barriers/deterrents to whistleblowing? Include anecdotes if any.**

The media itself (by the means of the investigative journalism) has exposed some corruption cases e.g. the case concerning the suspected bribery of foreign public officials by Finnish company in Costa Rica. Journalists have the right to protect their sources based on the Freedom of Speech Act §16 and the Code of Judicial Procedure. During the recent years Finnish media has been very active in exposing corruption related cases. The media in Finland works as a watchdog and I think that general public sees this being a good thing.

**Briefly characterise the perception of WB among political and economic leaders, and the level of political will to protect whistleblowers. Include anecdotes if any.**

In Finland there have not been much public/political debates about the need to establish a special WB protection law.

**What terms are used for “whistleblowers” or “whistleblowing” in your national language(s), what is the connotation, and how do the terms roughly translate into English?**

In Finnish language the direct translation for whistle-blower is *pillinviheltäjä* and it is used very rarely. However, wording *ilmiantaja* (direct translation: a person who finds out something) is more commonly used.

#### **Cases**

**If information is available, briefly describe:**

- **one WB case that reveals loopholes in laws or regulations, and**
- **one “successful” case in which a whistleblower was protected and the disclosure was favourably adequately acted upon**

No information available.

**If available, include any available statistics on the number/prevalence of WB (e.g. via ALACs or WB/corruption hotlines).**

No information available.

#### **IV. Country report**

The research should be presented in a country report of approximately 8-10 pages (excluding charts). The report must include the following sections:

## **1. Introduction (1 page)**

**An overview/summary of key findings – including the general aspects, strengths and weaknesses of WB laws, regulations and protections; and perceptions of WB in the country. Very briefly include noteworthy legislation (passed, defeated, proposed), and statistics or anecdotes as appropriate.**

In Finland there is no specific whistleblower protection system in place, nor any legislation specially concerning wb. To protect persons reporting offences from retaliation, Finnish authorities rely on the provisions concerning victims and witnesses as well as provisions of administrative and labour law. There are some regulations which may be directly or indirectly concern the WB issue: e.g. the regulations concerning the accountants' duties to report or their regulations and practices.

Neither does Finland have a separate witness protection programme as such. However, a certain degree of witness protection can be afforded by relying on the nondisclosure of information concerning the identity and the whereabouts of witnesses to be heard during pre-trial investigations and in court.

There is currently a working group which task is to consider the possibility to introduce some regulations relating witness protection in Finland. There are yet no documents/papers/suggestions available concerning the work of this working group. But some documents may be available to public in November 2012.

**2. A compilation, description and assessment of WB protection laws (5-6 pages)**

A detailed description of standalone WB laws and regulations (including title and year of passage/implementation), and any specific laws and regulations that include WB provisions. Include laws or regulations that have been formally proposed and their status. Use the chart to list the key provisions of each law or regulation.

Finland does not have a stand-alone WB law.

### **3. Perceptions and political will (1-2 pages)**

**Describe the general perception of whistleblowing and whistleblowers among the general public, the media, and the public and private sectors. Describe the level of political will in protecting/supporting whistleblowers, and the willingness to carry out corrective action and policy reforms based on whistleblowers' disclosures. Are there any unique or notable cultural or political barriers to or incentives for whistleblowing? Include any information on cases here.**

The OECD has recommended Finland to consider establishing special protection for WBs. The only anti-corruption organ in Finland, the Anti-Corruption Network has discussed on the matter relating the need to establish special laws concerning WB in Finland. An on basis of this discussion the Anti-Corruption Network tried to gain the issue to the Governmental Platform of the current Prime minister Jyrki Katainen Government but this attempt failed.

It is very difficult to try to identify any cultural or political barriers for establishing the wb regulation in Finland. In Finland there have not been much public/political debates about the need to establish a special WB protection law.

The Finnish media has a strong role as a watchdog in Finnish society. The media itself (by the means of the investigative journalism) has exposed some corruption cases e.g. the case concerning the suspected bribery of foreign public officials by Finnish company in Costa Rica. Media reports actively about suspected cases of corruption. Journalists have the right to protect their sources based on the Freedom of Speech Act §16 and the Code of Judicial Procedure. During the recent years Finnish media has been very active in exposing corruption related cases. I think that general public sees this active role of media in exposing cases of corruption as a good thing.

#### **4. Strengths, weaknesses and recommendations (1-2 pages)**

**Identify best practices to be noted and potentially emulated in other countries, and weaknesses that should be addressed. Information on ongoing reform efforts and insights on routes to reform would be useful.**

In Finland there is no specific whistleblower protection system in place. Neither does Finland have a separate witness protection programme as such.

The UNCAC recommended Finland to explore the possibility of establishing a comprehensive system for the protection of whistle blowers and, if appropriate, establish a witness protection programme. Regarding whistleblower protection, the OECD Working Group recommends that Finland should introduce mechanisms to ensure that public and private sector employees who report in good faith and on reasonable grounds suspected acts of foreign bribery to competent authorities are protected from discriminatory or disciplinary action, along with appropriate measures for raising awareness of these mechanisms (2009 Recommendation IX(iii)).  
(<http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1183525e.pdf>)

In Finland there should be carefully analysed whether the current regulations indirectly concerning the wb are sufficient or whether there would be a need for separate and specific legislation concerning wb. More political and public debates are needed on the matter.

