

**Providing an Alternative to Silence:**

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

COUNTRY REPORT: HUNGARY

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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## 1. Legislation, oversight and enforcement

***Does the country have a stand-alone WB protection law? If so, does it cover the public sector, private sector or both – or certain portions of these?***

Yes, it does have a stand-alone act. Before 2010, generally, anyone might have gotten redress for their complaints and announcements of general interest filed to state or local organs by Act XXIX of 2004; the only exceptions were complaints that fell under judicial or public administrative procedures. An announcement of general interest attracted the attention to circumstances that were to be diminished for the sake of a community or the society and might also contain recommendations concerning the question. The regulation had its historical roots, the Act I of 1977 that aimed to protect the announcers and obliged the organs to solve the cases lodged to them.

A new whistleblowing regulation, the Act on the Protection of Fair Procedures (hereinafter APFP)<sup>1</sup> entered into force on 1 April 2010 with the aim to provide effective protection for employees submitting information about violations of public interest. The scope of the law embraces

- a) procedures covered by Act CLXXXI of 2007 on transparency of subsidies provided from public funds
- b) administrative procedures
- c) public procurement procedures
- d) management and disposal of public and municipality funds.

The law does not differentiate between public and private sector employees when they report on wrongdoings related to any of these procedures. It has to be noted too, that protection is provided only in those cases when a whistleblower reports on wrongdoings concerning public interest, thus in those cases when an employee reports on a wrongdoing which concerns purely private interest (e.g. of shareholders of a private company) no protection is provided by this law.<sup>2</sup>

As to the original governmental goals the Act was accompanied by another act aiming to set up an institution called the Public Interest Protection Office (hereinafter: PIPO) to handle procedures deriving from breaches of fair procedures and coordinate a comprehensive anti-corruption policy in general.[6] The establishment of the office was heavily criticized by the parliamentary opposition parties, the parliamentary commissioner for civil rights[7] and non-governmental organizations.[8] The President of the Republic vetoed the law on the new office on various grounds and it eventually never came into force. Consequently, now the Act on the Protection of Fair Procedures stands alone with no established institutional background to provide the protection guaranteed in the law, neither is any convincing sign of willingness shown to enforce it in practice. **As the PIPO has never been established the**

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<sup>1</sup> Act No. CLXIII of 2009 on the protection of fair procedure and its related amendments to acts, at [http://jogszabalykereso.mhk.hu/cgi\\_bin/njt\\_doc.cgi?docid=124798.579134](http://jogszabalykereso.mhk.hu/cgi_bin/njt_doc.cgi?docid=124798.579134)

<sup>2</sup> Act No. CLXIII of 2009, Art 20

**below references to the PIPO show only the legal provisions of the law in force that should be, but in practice cannot be implemented.**

***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?***

There is no single anti-corruption Act in Hungary. The above two acts were planned to be introduced as a comprehensive 'Anti-corruption package'. The governmental initiative failed, while the subsequent government – as of May 2010 – formed by the Hungarian Civic Union (Fidesz) and Christian Democratic People's Party (KDNP) has not adopted any new legal instrument to complement the unenforceable law.

There are no special provisions on whistleblowing in the Labour Code, though there are some very general rules, which may foster reporting and provide some protection to whistleblowers. The law prescribes with regard to reporting that 'in the course of exercising rights and fulfilling obligations one shall act in the manner required by good faith and fairness, and they shall be obliged to cooperate with one another and no one shall engage in behaviour that inflicts upon rights or lawful interests of others'.<sup>3</sup> Furthermore 'everybody under the scope of this law shall inform each other on all facts, data or circumstances or any changes therein, which are of importance from the point of view of establishing of employment relationship, exercising rights and fulfilling obligations'.<sup>4</sup> The law also provides for 'exercise of rights shall be construed improper if such is intended for or leads to the injury of the rightful interests of others, restrictions on the assertion of their interests, harassment, or the suppression of their opinion'.<sup>5</sup>

According to the Labour Code: 'employees shall refuse compliance with an instruction if it would result in direct and grave risk to the health of others or to the environment' and 'the employee can refuse compliance with an instruction, if such would violate a regulation pertaining to employment or carrying out an instruction would result in direct and grave risk to life, physical integrity or health of the employee'.<sup>6</sup> Although there are no explicit provisions on the way of reporting such illegalities, still, these sections of the law may instruct employees how to act when one is aware of wrongdoing.

### ***Rejection of Instructions***

The Act on Public Service Officials regulates the work of government officials and public officials (hereinafter public official). The Act stipulates the values of professional conduct of public officials and stresses the importance of 'loyalty and commitment, preference of national interests, just and fair enforcement of law, honour and integrity, absence of prejudices, impartiality, sense of responsibility and professionalism, cooperation, proportionality in actions and protection'.<sup>7</sup>

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<sup>3</sup> Act I of 2012 on Labour Code, Art 6 para 2

<sup>4</sup> Labour Code, Art 6 para 4

<sup>5</sup> Labour Code, Art 7

<sup>6</sup> Labour Code, Art 54 paras 1-2

<sup>7</sup> Public Service Officials Act, Art 83 para 1

The Act also contains similar rules to the Labour Code on following instructions and refusing to comply with illegal instructions. The public official is required to comply with the instructions of his/her superior, but 'shall refuse compliance with the instruction of the superior if thereby he/she would a) realise a criminal or an administrative offence; b) result in direct and grave risk to life, physical integrity or health of others'. Public official 'can refuse compliance with an instruction, if such would a) would result in direct and grave risk his/her life, physical integrity or health of the employee; b) violate the law or a normative instruction issued by the employer'. In the latter case the public official shall call attention of the individual giving instruction and may ask for written instruction if it is contrary to the law or its performance may cause harm and the public official might be sanctioned or would be detrimental to the legitimate interests of the individuals concerned. The superior giving the instruction shall not refuse to give instructions in writing and the public official shall not be disadvantaged for asking written instructions'.<sup>8</sup>

### ***Obligation to Report***

As to § 255/B of the Criminal Code public office holders – including public officials – who fail to report a yet undisclosed bribery are to be punished. The situation is rather controversial, Council of Europe's GRECO warned several years ago that this obligation and the absence of a reporting culture is likely to result in overreporting about all alleged violations of law.[\[14\]](#) However criminal statistics show that these offences are hardly ever registered by authorities.

### ***Protective Measures***

Witness protection is regulated by the Witness Protection Act and by the Criminal Procedure Act. Protection is provided to individuals during and after criminal procedures in cases of serious crimes, such as those related to organised crime, international crime or concerning terrorism, blackmailing, money laundering, drugs or arms trade, prostitution, paedophilia or crimes against life or limb. There is a wide range of measures which can be applied so as to protect the life, limb and personal freedom of co-operating persons, such as personal protection, change of residence, ban of providing personal data from registers, change of name, change of identity and participation in international cooperation. Though there are cases where these measures may protect whistleblowers, the law focuses mainly on most serious crimes which rarely coincide with less severe wrongdoings which typically would be reported by whistleblowers.

In addition to the obligations imposed by international instruments such as United Nations Convention against Corruption and the Council of Europe Criminal Law Convention on Corruption in Hungary, some whistleblowers protection provisions are found sporadically, but not systematically in the Hungarian legal system.

The Equal Treatment Act provides protection against negative discrimination based on 'any other status, characteristic feature or attribute (hereinafter collectively: characteristics)', however this interpretation may not be accepted in practice, as this characteristic is based on the decision of the person and cannot be considered as a constant attribute.[\[18\]](#) Pertaining to national security, 'if the members of the national security services notice that the services operate unlawfully, they may report their observation in writing to the Minister. The Minister shall conduct an inquiry based on the report, and shall inform the Committee

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<sup>8</sup> Act CXIX of 2011 on Public Service Officials, Art 78

[of the Parliament] and the person submitting the report about the ordering of the inquiry and the findings thereof'.<sup>9</sup> There is a public interest reporting mechanism for environmental issues, which report must be investigated environmental authorities.<sup>10</sup> Official members of the armed forces supervised by the Minister of Interior (e.g. policemen) can report to their superior, but the procedure is only superficially detailed in law.<sup>11</sup> The Labour Safety Act has very detailed rules on reporting health and safety risks, on the follow-up of the report and on protection of the whistleblowers.<sup>12</sup>

The Act on Public Finance and its executive regulations prescribe the establishment of internal audit department at nearly every public body.<sup>13</sup> However the internal auditors' scope of responsibility does not always include a role in whistleblowing systems even if there is such system. The same shortcoming characterises the internal audit offices of many companies. There is no information on whether such personnel are sufficiently resourced, but it is common both in public and private sector that the internal auditor is responsible to and dependent on the head of the agency/company, which is problematic if the whistleblower reports on high level wrongdoing.

***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?***

9 December 2010 on the International Anti-corruption Day the government issued a press release in which they declared the 'Government is committed to offer adequate protection to whistleblowers and the Ministry of Public Administration and Justice is examining how could be provided for that the bona fide whistleblower who is acting not for his/her own private interest shall be protected from harm due to reporting'.<sup>14</sup> In April 2012 the Government adopted its Anti-Corruption Programme in which 'the Government calls upon the Minister of Public Administration and Justice to review the regulation of protection of whistleblowers and make a proposal on its review as practicable as well as its complement with detailed procedural and organisational provisions', the deadline given was 30 September 2012.<sup>15</sup>

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<sup>9</sup> Section 27 para 4 of Act CXXV of 1995 on the National Security Services

<sup>10</sup> Article 35 of the Government Order 347/2006 (XII. 23.) Korm. on the selection of organs responsible for tasks related to environment protection, nature protection and water issues

<sup>11</sup> Act XLIII of 1996 on the Service of Official Members of the Armed Forces, Art 193 and 64/2011. (XII. 30.) Decree of Ministry of Interior, Art 56

<sup>12</sup> Act XCIII of 1993 on Labour Safety, Art 62 and Art 68 para 1

<sup>13</sup> Act CXCV of 2011 on Public Finance, Art 70

<sup>14</sup> Kormányzati intézkedések a korrupció ellen - Összefoglaló a december 9-i Korrupcióellenes Világnap alkalmából, 9 December 2010 at

<http://www.kormany.hu/hu/kozigazgatasi-es-igazsagugyi-miniszterium/tarsadalmi-kapcsolatokert-felelos-allamtitkarsag/hirek/kormanyzati-intezkedesek-a-korrupcio-ellen-osszefoglalo-a-december-9-i-korrupcioellenes-vilagnap-alkalmabol> (accessed on 16 August 2012)

<sup>15</sup> 1104/2012. (IV. 6.) Government Resolution on government measures against corruption and on adoption of the Corruption Prevention Programme of the Public Administration, at [http://jogszabalykereso.mhk.hu/cgi\\_bin/njt\\_doc.cgi?docid=147910.594482](http://jogszabalykereso.mhk.hu/cgi_bin/njt_doc.cgi?docid=147910.594482) (accessed on 16 August 2012)

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

There is no specialised agency for such complaints. If retaliation reaches the gravity of criminal offence, then investigative authorities have the competency.

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

The Criminal Code contains a provision on 'Persecution of a Conveyor of an Announcement of Public Concern' which stipulates 'the person who takes a disadvantageous measure against the announcer because of an announcement of public concern, commits a misdemeanour, and shall be punishable with imprisonment of up to one year, labour in the public interest, or fine'.<sup>[15]</sup> For all Purposes this is a dormant provision because since 2004 there was only one case (in 2008) in which this provision was used.<sup>[16]</sup> The basis of the criminal provision can be found in the Act XXIX of 2004, which amended more than seventy acts, and also includes legal provisions on right to petition originated from the late seventies.<sup>[17]</sup>

***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?***

As there is no practice of protecting whistleblowers and neither is there any agency responsible no review has been performed.

## **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)?***

The APFP (Art 2) defines protected disclosures as reports on violation of fair procedures. The 'violation is the behaviour, conduct, fulfilment of duty or exercise of authority of an individual, decision-making body or authority by

- a) failing to fulfil duty to provide information, including legal obligations concerning openness and disclosure of information of public interest or information public on grounds of public interest,
- b) abusing discretionary and equity powers,
- c) restricting rights or rightful interests of applicants or other parties beyond the extent required to protect public interest or rights or rightful interests of opposing parties
- d) discriminating or otherwise violating requirements of equal treatment
- e) performs or fails to perform procedural actions contrary to the law

if such conduct the same time aims at or results in advantage to the party to the applicant or to third person, that would not have been available in the absence of this conduct, including the case when the party or third person obtains privileged position due to the disadvantage caused to parties or third persons by this conduct'.

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

Official members of the armed forces (e.g. police); regular and contracted members of the Hungarian Armed Forces (soldiers), public service officials, public employees, judges, judicial workers, prosecutor general, prosecutors, prosecution employees, outworkers, direct agreement contractors. Practically the entire public sector is covered as well as individuals of the private sector who has relation to the public sector.

### **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)?***

According to APFP Art 22 whistleblowers shall be protected both from direct and indirect disadvantages especially concerning a) his/her employment relationship with relation to exercise of rights or performance of duties, b) trainings related to employment relationship, c) working conditions, establishment of performance requirements and provision thereof, d) definition and provision of salary and other benefits, e) work evaluation and promotion, f) disadvantageous measures of employer with regard to employment relationship, disciplinary responsibility and liability for damages, g) employer's offer on changes concerning employment relationship, h) termination of employment relationship.

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

In case of legal dispute the employee has to prove that he/she blew the whistle and the employer has to prove that its measures are not related to the whistleblowing or that the report was in bad faith.

If the Public Interest Protection Office beyond doubt confirms that the report was groundless and the whistleblower knew it or should have known it with due consideration, the whistleblower is considered as bad faith whistleblower and shall be imposed upon him/her.

### **Procedures for disclosure**

***Do any WB laws include provisions that ensure confidentiality? Are there mechanisms for anonymous disclosures?***

The APFP (Art 20 para 4) provides for confidentiality of whistleblowers, as well as Act XXIX of 2004 (Art 143 para 3) provides for confidentiality of personal data of complainants.



***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?***

The APFP (Art 21 and 21) provides for both. The whistleblower can report to the employer, to the oversight body of the employer or if there is a regulation on whistleblowing to the body that is designated therein to receive reports. If any of these bodies rejects the report or the whistleblower believes it failed to take full account of it the employer can turn to the PIPO. The employee also has the option to report directly to the PIPO or to other authority that has competence to investigate the wrongdoing.

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

The Labour Code prescribes the protection of business secrets of the employer<sup>16</sup>; the Public Service Officials Act prescribes protection of classified information<sup>17</sup>, of which details are regulated by the Act CLV of 2009 on protection of classified information. This is reinforced by the Criminal Code, which penalises breach of business secrets and all forms of unauthorised disclosure of classified information regardless of confidentiality obligations. As regards classified information the only exception is the negligent behaviour of persons not bound confidentiality obligations. In the drafting procedure of the Act on protection of classified information the text of the law contained provisions that would have prevented protection of information on wrongdoings as classified information but these were removed in the Parliamentary debate.

As regards business secrets as a definition only such information is protected by law as business secret 'of which disclosure would harm or pose danger to lawful financial, economic or market interests of the concerned', which means there is no lawful interest in hiding wrongdoings therefore such information is not protected by law.<sup>18</sup> Furthermore there are numerous sectorial provisions on insurance secrets<sup>19</sup>, banking secrets<sup>20</sup> and other professional secrets (of medical doctors, attorneys, etc). In the latter cases provisions that would allow lawful disclosure of information on wrongdoings by the whistleblower are absent. Both at banking and insurance secrets a great number of public bodies that are authorised to access such information are enlisted in the laws, but no whistleblowing provisions are present along these rules. After long years of legal battles the only positive development is that the bank secrecy provisions recognise the existence of *information of public interest* and *information public on grounds of public interest* and bank secrets in theory don't constitute absolute barriers of right of access to information.

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

There is a Telephone Witness Programme, set up in 2001, and operated by the Crime Prevention Department of the National Police Headquarters, which took the British

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<sup>16</sup> Labour Code, Art 8 para 4

<sup>17</sup> Public Service Officials Act, Art 10 para 3

<sup>18</sup> Act IV of 1959 on the Civil Code, Art 81 para 2

<sup>19</sup> Act LX of 2003 on Insurance Institutions and the Insurance Business, Art 153-161

<sup>20</sup> Act CXII of 1996 on Credit Institutions and Financial Enterprises, Art 50-55/A

Crimestoppers as an example.<sup>21</sup> The hotline receives reports on any type of crime, the individuals do not have to identify themselves and their phone numbers are not recorded. The hotline receive approximately 10,000 calls a year, but only 10-15% is relevant for criminal investigation or crime prevention. Though an order of the national police chief prescribes that reports from anonymous sources on corruption shall be handled with special care so as to check its veracity. Unfortunately no statistics are created on corruption reports, they are handled together with crimes against property cases.<sup>22</sup>

In 2007 the National Development Agency, responsible for managing EU funds received within the framework of National Development Plan set up a website ([www.anti-lop.hu](http://www.anti-lop.hu)) for reporting abuses of EU funds provided to development projects.<sup>23</sup> Reports can be submitted anonymously with the ability to track procedures initiated by reports, through the website. In the first two months 206 abuses were reported concerning projects of 508,8 million HUF value paid to applicants with 95 million HUF being recovered. Abuses in these cases did not necessarily mean crimes because it also covered administrative errors. Additionally, 508,8 million is only 0,2 per cent of the total distributed for development projects in 2007. Since early 2008 no statistics are published on the functioning of the website.<sup>24</sup> Since 2008 no new statistics were available either on Telephone Witness or on [www.anti-lop.hu](http://www.anti-lop.hu)

## **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)***

Above all remedies may be provided through litigation initiated with regard to retaliation in employment relationship. During the litigation the PIPO provides legal advice and legal representation if needed, as well as financial support if financial damage is caused by measures of the employer. Fees of legal representation are also advanced by the PIPO. Precondition of the financial support is the initiation of a legal action against the employer in relation to measures of the employer and the related decrease in income. Near relatives are also covered by the above protective measures.

If the PIPO imposes a fine due to violation of fair procedure, the whistleblower is awarded by 10% of the fine. The fine for natural persons is 50 000 HUF as a minimum and 500 000 HUF as a maximum and for entities 100 000 HUF as a minimum and 5 million as a maximum. Bad faith whistleblowers are excluded from this reward and there are several conditions for the good faith whistleblowers too. The PIPO had not possessed the information already that was included in the report, and the whistleblower should not have been involved in the reported case as a party who failed to seek remedy in the original administrative procedure.

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

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<sup>21</sup> <http://www.police.hu/megelozes/telefonanu> (accessed on 16 August 2012)

<sup>22</sup> 36/2008. (OT 19.) ORFK Order unified handling of public interest petitions, complaints and reports and on complaints against the police, at [http://www.police.hu/data/cms520677/36\\_2008\\_orfk\\_ut.pdf](http://www.police.hu/data/cms520677/36_2008_orfk_ut.pdf) (accessed on 16 August 2012)

<sup>23</sup> Anti-lop is a word play, it means if translated literally anti-theft, but antilop means the animal antelope.

<sup>24</sup> Szemérmesen nyúlják a magyar EU-pénzeket, origo.hu, 16 January 2008, at <http://www.origo.hu/itthon/20080115-508-millio-forint-unios-palyazati-penzt-erint-a-szabalytalansag.html>

The whistleblower shall be informed on all actions and decisions of the investigation.

***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')?***

Within the framework of employment relationship litigation whistleblowers have a fair hearing before the court.

## **2. Public awareness and societal values**

TI examined the perception Hungarian online media has of specific instances of whistleblowing and of Hungarian legislation on whistleblowing. This assessment looked at whether whistleblowing is viewed as ethical and selfless or as telling on others.<sup>25</sup>

***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.***

In the last approximately three years only eleven articles about corruption scandals that went public thanks to a whistleblower's activity, nine did not evaluate either whistleblowing, or the whistleblowers themselves, however, they made mention of the person of the whistleblower. Merely two articles made a value judgment of the whistleblower, both positively. The act of whistleblowing was evaluated more frequently, four times positively, while in one instance whistleblowing was characterized as telling on the involved party. The profile of whistleblowers emerges when evaluating these articles. Most frequently a former or subordinate coworker, not involved in the corruption case, made the report. This holds true for half of the eight cases. The following types of whistleblowers crop up once each:

- those whom the corruptor unsuccessfully aimed to make a partner in crime
- those in high ranking positions at the reported firm or institute, who were not involved in the corruption scandal,
- those in high ranking positions at the reported firm or institute, who were formerly actively involved in corruption and after a change of heart with unknown motivation, made a report,
- those anonymously reporting whose identity was never revealed.

The articles about specific cases, opinions, and official statements together form a picture of what the media presumes whistleblowers' motivation to be. Of the 45 articles, 7 concern themselves with the whistleblowers' motivation. In total, they point toward a negative motivation more often than a positive, ethical one.

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<sup>25</sup> The study was conducted using the database of K-Monitor Nonprofit Organization. Their site collects and organizes news articles, making them researchable by content, persons and firms mentioned. The 45 examined articles treated in this study were compiled under the tag „whistleblowing” from 1 September 2009 to 17 July 2012. K-Monitor searches the following websites daily for related material: NOL, MNO, Origo, Index, HVG, Magyar Hírlap, Népszava, fn.hu, Hírszerző, stop.hu, Világ gazdaság, Blikk, Magyar Narancs, Heti Válasz, K-Monitor, Figyelő – FN24 – hir24, 168 óra, napi.hu.

Commitment to honourable, professional work cropped up most often as a motivation for whistleblowers to report wrongdoings, it featured three times. Frequently, whistleblowers are portrayed as acting out of revenge or with the intent to damage or libel. First and foremost the anonymous reports are those that are often imprecise and their content reveals that they originate from an ex-spouse, a disappointed procurer or a market competitor. Two articles mention this kind of motivation. Often a party involved in corruption deems the sum of expected bribe money too large and reports his corrupt partner in business. Two articles considered this a frequent motivation.

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

The present government publicly committed itself several times that it would mend the whistleblower protection system by designating an authority to implement the law. It is quite telling that in this term the Parliament has adopted more than 450 acts or amendments to acts of Parliament but failed to deal with this issue.

Beyond the issue of political will it has to be also noted that the silence about whistleblowers (low number of article, silence of the government) is deeply rooted in the history of Hungary. The country was governed by authoritarian regimes or dictatorships between 1919 and 1989 (with the exception of three years after the World War II, but still under Soviet occupation). In this period it was very common to report to the political police, which could result in very severe consequences for the reported persons and to their families, thus reporting to authorities on other people, known to the reporting individual (such as colleagues, neighbours, etc) is considered immoral and not supported by the public. However it does not mean that the reporting culture has not survived the transition. In most cases when someone reports on another person it is used as in retaliation against personal enemies i.e. for suspected tax evasion to the tax authorities. For these reasons hardly any whistleblower will ever be a national hero in Hungary as opposed to whistleblowers in the United States after the Enron case. Different segments and groups within Hungarian society have similar views regarding this issue because everybody has a relative who was reported to the Horthy-regime, or later to the arrow-cross secret police in the 1930s and 1940s or to the communist secret police from the 1950s on.

***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?***

The term whistleblowing cannot be translated literally into Hungarian. Sport referees or policemen blow their whistle, but the meaning of blowing the whistle is different. Sounding the tocsin or alarm (kongatni a vészharangot) better describes in Hungarian blowing the whistle. Public interest reporting (közérdekű bejelentés) is a term that is generally used but it has negative connotations due the above detailed reasons.

## **Cases**

### **Cartel in the milling industry<sup>26</sup>**

Hungarian consumers were damaged by the cartel that operated between February 2005 and April 2008 among 17 companies in the milling industry, losing 60 billion forints. They fixed prices and pre-arranged market shares. Under the cover name T. M., a leading director of Cerbona Ltd. reported the cartel.<sup>27</sup> Of the milling industry companies, Cerbona was sanctioned to the largest fine by the Hungarian Competition Authority and is currently subject to bankruptcy proceedings.<sup>28</sup> T. M. wished to parttake in the trial as a protected witness for fear of her safety, but in her experience the protection of whistleblowers was lacking. Due to the negligence of the Competition Authority the affected companies became aware of her identity and are currently engaged in a labour litigation against her. The whistleblower suffered repeated harassment. She has since reported a further irregularity in her employer's conduct, this time about incorrect storage of product.

- **Employees of the Parking Company of the Municipality of Budapest report corrupt parking agents<sup>29</sup>**

For two years, beginning in September 2007, multiple parking agents of the Parking Company worked for their own profit, accepting bribes and not officially reporting irregularities. The abuses were reported by Attila Prohászka, a prior employee of the BÖP (Parking Company of the Municipality Budapest).

- **Ferenc Molnár Bus Conductor Blows the Whistle about Conditions at BKV, the Budapest Transport Company<sup>30</sup>**

Ferenc Molnár reported on the conditions at BKV in May 2009: the buses were in bad shape, and the income from advertising disappeared without a trace. His report addressed the role of the trade unions and Budapest politicians beside that of the management of BKV. Zsolt Balogh, prior general manager of BKV later affirmed Ferenc Molnár's statements, including the allegation that he illegitimately apportioned BKV funds to Miklós Hagyó, the socialist vice mayor, as well as to the trade unions. Ferenc Molnár was fired from BKV, officially because he received five warnings for irregular conduct. However, he acquired three of these after he had made the report and their justification is dubious. The bus conductor sued BKV.

- **Employees of MAL Zrt. Reports Against the Manager Responsible for the Dam Leakage with Environmentally Catastrophic Consequences<sup>31</sup>**

A byproduct of MAL Hungarian Aluminium Production and Trade Company Ltd., the „red sludge” deluged the surrounding settlements of the factory. Over 20 reports were made against Zoltán Bakonyi, leader of MAL Zrt., alleging that although he knew

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<sup>26</sup> Ötszázfelé hatmilliárddal tartozik a Cerbona – index, 2010-11-25  
Versenytanács előtt a malomkartellel gyanúsítottak – index, 2010-10-05  
60 milliárdot vehettek ki a zsebüinkből lisztrel – index, 2009-07-01  
Orbán, Lázár és az új keresztapák – Népszabadság, 2010-11-13

<sup>27</sup> [http://www.gvh.hu/gvh/alpha?do=2&st=2&pg=133&m5\\_doc=6781](http://www.gvh.hu/gvh/alpha?do=2&st=2&pg=133&m5_doc=6781)

<sup>28</sup> [http://ec.europa.eu/competition/ecn/brief/05\\_2010/hu\\_grain.pdf](http://ec.europa.eu/competition/ecn/brief/05_2010/hu_grain.pdf)

<sup>29</sup> Vádra várnak a csaló parkoló örök – Blikk.hu, 2011-09-19

<sup>30</sup> Kirúgták és átverték: Molnár Ferenc szomorú története – hvg, 2010-03-09

<sup>31</sup> Megfenyegették a szivárgást emlegető dolgozókat a MAL Zrt.-nél – Népszabadság, 2010-10-13

of the leakage he failed to act against it. He threatened to fire those who voiced their concern. Bakonyi was taken into custody for a disaster management plan he signed in 2009, which did not take into account solutions for catastrophes such as the above. It is yet unclear whether Bakonyi was the only party at fault.

- **Károly Berecz Reports his Partners in Business when they Demand a Bribe, Interviews with István János Tóth, István Síklaki, Zoltán Sas<sup>32</sup>**

István Síklaki, head of the social psychology department at Eötvös Lóránd University talks about corruption from a psychological point of view. Zoltán Sas lieutenant-colonel of the police speaks of how difficult corruption is to discover. István János Tóth, one of the leaders of the Corruption Research Center at the Budapest a Corvinus University elaborates on the effects of adequate regulation on corruption. Károly Berecz entrepreneur is interviewed as well. He talks about his experience reporting the owners of a shop who demanded bribe money of him when he aimed to buy their property. Yet, on first instance, he was the one convicted for libel. He is preparing to sue the state for compensation.

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<sup>32</sup> *A korrupció terhe – Figyelő, 2010-06-03*

### 3. Charts

**Complete title of law or regulation:** Government Order 347/2006 (XII. 23.) Korm. on the selection of organs responsible for tasks related to environment protection, nature protection and water issues

	Yes	No	Partial	Notes
Broad definition of whistleblowing		x		
Broad definition of whistleblower		x		
Broad definition of retribution protection		x		
Internal reporting mechanism		x		
External reporting mechanism		x		
Whistleblower participation		x		
Rewards system		x		
Protection of confidentiality		x		
Anonymous reports accepted	x			
No sanctions for misguided reporting		x		
Whistleblower complaints authority		x		
Genuine day in court		x		
Full range of remedies		x		
Penalties for retaliation		x		
Involvement of multiple actors		x		

**Complete title of law or regulation :** Act CXXV of 1995 on the National Security Services

	Yes	No	Partial	Notes
Broad definition of whistleblowing		x		
Broad definition of whistleblower		x		
Broad definition of retribution protection		x		
Internal reporting mechanism	x			to the superior (?)
External reporting mechanism	x			by the National Security Commission of the Parliament
Whistleblower participation		x		
Rewards system		x		
Protection of confidentiality	x			
Anonymous reports accepted		x		
No sanctions for misguided reporting		x		
Whistleblower complaints authority	x			to the superior (?)
Genuine day in court		x		
Full range of remedies		x		
Penalties for retaliation		x		
Involvement of multiple actors		x		

**Complete title of law or regulation :** Act XCIII of 1993 on Labour Safety

	Yes	No	Partial	Notes
Broad definition of whistleblowing		x		
Broad definition of whistleblower		x		
Broad definition of retribution		x		



protection				
Internal reporting mechanism		x		
External reporting mechanism		x		
Whistleblower participation		x		
Rewards system		x		
Protection of confidentiality	x			
Anonymous reports accepted	x			
No sanctions for misguided reporting	x			
Whistleblower complaints authority	x			to the Health and Safety Authority
Genuine day in court		x		
Full range of remedies		x		
Penalties for retaliation		x		
Involvement of multiple actors		x		

**Complete title of law or regulation:** Act XXIX of 2004

	Yes	No	Partial	Notes
Broad definition of whistleblowing	x			
Broad definition of whistleblower		x		
Broad definition of retribution protection		x		
Internal reporting mechanism		x		
External reporting mechanism		x		
Whistleblower participation	x			
Rewards system		x		
Protection of confidentiality	x			
Anonymous reports accepted	x			

No sanctions for misguided reporting		x		
Whistleblower complaints authority		x		
Genuine day in court		x		
Full range of remedies		x		
Penalties for retaliation		x		
Involvement of multiple actors		x		

**Complete title of law or regulation:** the Regulation No. 64/2011 of the Hungarian Ministry for home affairs (BM) on Official Instructions of the Police

	Yes	No	Partial	Notes
Broad definition of whistleblowing		x		
Broad definition of whistleblower		x		
Broad definition of retribution protection		x		
Internal reporting mechanism	x			to the superior
External reporting mechanism		x		
Whistleblower participation		x		
Rewards system		x		
Protection of confidentiality	x			
Anonymous reports accepted		x		
No sanctions for misguided reporting		x		
Whistleblower complaints authority	x			to the superior
Genuine day in court		x		
Full range of remedies		x		

Penalties for retaliation		x		
Involvement of multiple actors	x			