



**§§ RELATIONSHIP BETWEEN
THE CULTURE OF WHISTLEBLOWING
AND THE CONDITIONS FOR
EXPOSING CORRUPTION IN THE
STATE EXECUTIVE BODIES
OF UKRAINE**



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This research is devoted to the relationship between the culture of whistleblowing and the conditions for exposing corruption and their application in the executive authorities of Ukraine. The study examines the evolution of whistleblowing culture in different countries and examines the success of different whistleblowing tools in the Ukrainian context after the adoption of legislation on the protection of whistleblowers.

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INTRODUCTION

Recently, the institution of whistleblowing has become increasingly attractive to researchers in most countries of the world. First of all, such attention is due to the high level of effectiveness of whistleblowing as a way to detect and prevent corruption and other offenses in public governing bodies. At the same time, reporting corruption by civil servants is very often accompanied by risks for the whistleblowers, including, in particular, their career, access to livelihoods, personal safety, and the safety of their relatives. Increasingly, whistleblowers of corruption and other wrongdoing are being harassed and discriminated against in the workplaces, fired, threatened, arrested, and assaulted. The sensitivity of the topic of whistleblowing and the danger of its practical implementation, on the one hand, and the public importance of exposing corruption at the state and corporate levels, on the other, actualize the need for a deeper analysis of the conditions and factors that contribute to the growth in the number of reports without a sense of danger and risks for whistleblowers.



The purpose of this study is to determine what conditions need to be created to increase the number of reports of corruption, using the case of the state executive bodies of Ukraine as an example. The purpose of the study formulated above suggests that the presence of optimal internal conditions, factors, as well as formal and informal practices, play no less significant role in the context of the formation of a culture of whistleblowing than the legislation on the protection of whistleblowers in the country.

The task of the study will be to determine what conditions reduce whistleblowers' concerns about their prosecution and, accordingly, increase the number of reports of possible facts of corruption offenses or other violations of the Law of Ukraine "On Prevention of Corruption" by civil servants.

THE PAPER'S RESEARCH QUESTION IS AS FOLLOWS: "DOES THE NUMBER OF REPORTS FROM WHISTLEBLOWERS DEPEND ON THE AVAILABILITY AND EFFECTIVENESS OF CHANNELS FOR REPORTING AND PROTECTING THE RIGHTS OF WHISTLEBLOWERS IN THE EXECUTIVE BODIES?"

In the context of this question, we propose that the presence of more high-quality and relevant conditions for reporting in a public authority contributes to an increase in the number of reports from whistleblowers of corruption in Ukraine.

This study is based on a pragmatic approach to the analysis of socio-political phenomena; the analysis will be based on the outcome-centered design, taking into account the potential and real factors influencing the culture of whistleblowing in the executive branch of state authorities. Also, such analysis methods as case studies and process tracing were used, using an array of theories to find out at what stage and what factors influence the intention and incentives to report corruption and other offenses on the part of civil servants. The case study method will be used to analyze individual executive bodies and determine the factors that influence the whistleblowing culture within them; "process tracing" method will be exploited to identify factors that influence the decision of executive bodies to create or, conversely, avoid cre-

ating specific conditions and channels for reporting corruption; comparative analysis – to compare the features of the relationship between the creation of conditions for reporting and the number of reports of corruption from whistleblowers; institutional method – for the analysis of the Law of Ukraine "On Prevention of Corruption" and the institutional features of the executive bodies that fall under the analysis; normative approach – to determine the normative principles and features of the existence of a holistic institution of whistleblowing in state executive bodies. In order to collect information, content analysis was used to study information about channels and ways of reporting corruption on the websites of executive bodies, as well as an analysis of quantitative indicators collected through inquiries to the ministries of Ukraine, central executive bodies (CEB), CEBs with a special status and the Regional State Administration (RSA). As general scientific methods, the method of searching for information in open databases, systemic and praxeological analysis, and the method of analytical generalizations based on the information received were used.

Before proceeding to the main part, it should be noted that this **study is based on empirical data obtained as part of the Monitoring Report** on the implementation of the whistleblower protection law prepared by ACREC in 2021. In particular, within the framework of the Monitoring Report, were analyzed the cases of the following executive authorities of Ukraine:

1. ministries of Ukraine (Ministry of Infrastructure of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Energy of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Culture and Information Policy of Ukraine, Ministry of Youth and Sports of Ukraine, Ministry of Defense of Ukraine, Ministry of Education and Science of Ukraine, Ministry of Development of Communities and Territories of Ukraine, Ministry of Finance of Ukraine, Ministry of Justice of Ukraine, Ministry of Health of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Veterans Affairs of Ukraine, Ministry of Digital Transformation of Ukraine);

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2. central executive bodies (State Aviation Administration of Ukraine, State Archival Service of Ukraine, State Audit Service of Ukraine, State Treasury Service of Ukraine, State Migration Service of Ukraine, State Labor Service of Ukraine, State Service of Ukraine for Emergency Situations, State Service of Geology and Mineral Resources of Ukraine, State Export Control Service of Ukraine, State Regulatory Service of Ukraine, State Financial Monitoring Service of Ukraine, State Agency for Water Resources of Ukraine, State Agency for Energy Efficiency and Energy Saving of Ukraine, State Agency for Tourism Development of Ukraine, The State Service of Ukraine for Geodesy, Cartography and Cadastre, State Forest Resources Agency of Ukraine, State Reserve Agency of Ukraine, State Fisheries Agency of Ukraine, the Ukrainian State Film Agency, the State Agency of Ukraine on Exclusion Zone Management, the State Space Agency of Ukraine, the State Agency for Infrastructure Projects of Ukraine, the State Service for the Quality of Education of Ukraine, the State Service for Food Safety and Consumer Protection, the State Service of Ukraine for Transport Safety, the State Service of Ukraine for Medicines and Drug Control, the State Inspectorate for Nuclear Regulation of Ukraine, the State Inspectorate for Energy Supervision, the State Border Guard Service of Ukraine);
3. central executive bodies with a special status (Antimonopoly Committee of Ukraine, State Property Fund of Ukraine, National Agency of Ukraine for Civil Service, Administration of the State Service for Special Communications and Information Protection of Ukraine, National Council of Ukraine on Television and Radio Broadcasting, State Statistics Service of Ukraine, Pension Fund of Ukraine);
4. regional state administrations (Vinnytsia Regional State Administration, Volyn Regional State Administration, Dnipropetrovsk Regional State Administration, Donetsk Regional State Administration, Zhytomyr Regional State Administration, Transcarpathian Regional State Administration, Zaporizhzhia Regional State Administration, Ivano-Frankivsk Regional State Administration, Kyiv Regional State Administration, Kirovohrad Regional State Administration, Luhansk Regional State Administration, Lviv Regional State Administration, Mykolaiv Regional State Administration, Odesa Regional State Administration, Poltava Regional State Administration, Rivne Regional State Administration, Sumy Regional State Administration, Ternopil Regional State Administration, Kharkiv Regional State Administration, Kherson Regional State Administration, Khmelnitsky Regional State Administration, Chernivtsi Regional State Administration, Chernihiv Regional State Administration, Kyiv City State Administration).

Using the example of the above-mentioned bodies, this study will analyze the correlation between the number of reports on corruption received from whistleblowers in 2020 and the provision of the necessary conditions for exposing corruption by the executive bodies of Ukraine. In this context, we will compare the conditions and factors that were the criteria for data collection in the previous Monitoring Report. In particular, we take into account the following conditions:

- ▶ creation and operation through the official website, means of electronic communication, and a special telephone line of internal and regular channels for reporting possible facts of corruption or corruption-related offenses, other violations of the Law, provided for in Part 4 of Art. 53, part 1 and paragraph 4, part 2 of Art. 53-1 of the Law;
- ▶ implementation of mechanisms for encouraging and fostering a culture of reporting on possible facts of corruption or corruption-related offenses, other violations of the Law, provided for in paragraph 1 of Part 2 of Art. 53-1 of the Law;
- ▶ providing employees and persons who undergo service or study or perform specific work with methodological assistance and advice on reporting possible facts of corruption or corruption-re-

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lated offenses, other violations of the Law, provided for in paragraph 2 of Part 2 of Art. 53-1 of the Law;

- ▶ determination of internal procedures and mechanisms for the acceptance and consideration of reports on possible facts of corruption or corruption-related offenses, other violations of the Law, verification, and proper response to such reports, provided for in paragraph 3 of Part 2 of Art. 53-1 of the Law;
- ▶ providing the whistleblower with detailed written information about the pre-screening results upon his/her report in the manner provided in paragraph 6 of Part 3 of Art. 53-2 of the Law, and the period during which the said information was provided to the whistleblower;
- ▶ providing the whistleblower with explanations about the competence of the state bodies or legal entities authorized to verify or investigate the relevant information on his/her reporting, if the information received does not fall within the competence of the body, in the manner provided for in paragraph 7 of Part 3 of Art. 53-2 of the Law, and the period during which the said information was provided to the whistleblower;
- ▶ the possibility of applying for protection to an authorized division (authorized person) for the prevention and detection of corruption;
- ▶ assignment by the head of the authorized division for the prevention and detection of corruption of a designated person responsible for exercising the powers to protect whistleblowers, in accordance with paragraph 8 of Part 2 of Art. 53-9 of the Law;
- ▶ availability of reporting opportunities: how easy it is to find information on how and where to report corruption;

The above-mentioned conditions were analyzed based on the answers to the requests of the NACP received from CEBs, as well as based on the availability of the necessary information on the official websites of the state

bodies, including the availability of information about such channels as online forms, secure e-mail boxes and special telephone lines of reporting possible facts of corruption or related corruption offenses. From the point of view of quantitative analysis, statistical data on the number of received reports of corruption, the number of explanations provided to whistleblowers of corruption, etc., were processed.

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In recent years, the protection of whistleblowers' rights has become part of the legislation of dozens of countries worldwide. At the same time, international experience shows that for creating an effective whistleblowing culture, a coherent legislative framework must be accompanied by providing appropriate mechanisms, conditions, and practices at the internal level, both within state bodies and non-governmental organizations commercial companies.

According to the academic literature, a whistleblower in an organization is a person who reports exploitation, fraud, corruption, crime, wrongdoing, and/or misconduct by other employees/management of the organization, especially on ethical and moral grounds¹. In other words, whistleblowing within an organization aims to expose illegal, corrupt, or illegitimate acts of former or current employees under the direction of employers, individuals, or organizations². In this context, it is necessary to understand that whistleblowing can be done both internally (outside the standard line of authority) and externally (reporting the wrongdoing to a third party outside the organization)³. It is interesting that according to some scholars, it is external channels for reporting corruption that make it possible to

1 Banerjee S., Roy S. Examining the Dynamics of Whistleblowing: A Causal Approach. The IUP Journal of Corporate Governance, Vol. XIII, No. 2, April 2014

2 Near J., Miceli M. Organizational dissidence: The case of whistleblowing. Journal of Business Ethics. Vol 4, 1985

3 Miceli M., Near J., & Dworkin T. Whistle-Blowing in Organizations. Psychology Press. May 16, 2008. 262 p. 8.

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avoid the lack of sensitivity of organizations to reports of corruption, as well as to reduce the restraint of potential whistleblowers who fear persecution within the organization⁴. At the same time, the use of external channels for reporting corruption is not always relevant or possible. This actualizes the need for a better understanding of the internal conditions and factors that must be carried out by the leadership of public and private organizations in order to overcome what scholar Michael Davis calls the “organizational context” that makes whistleblowing “morally problematic”⁵.

In the analysis of the theoretical and practical developments on the topic, it should be noted that the importance of ensuring the proper conditions for the formation of an effective culture of whistleblowing is difficult to overestimate, as evidenced by many scholarly papers, reports, and manuals for both public authorities and private companies. In particular, the WPAC Working Group Guidelines state that adequate whistleblower protection and an effective anti-retaliation system require, above all, responsibility and accountability from senior management. At the same time, it is argued that the prevention of sanctions and prosecution of whistleblowers should be part of a proactive and preventive approach. In particular, among the key factors contributing to the creation of an atmosphere of security and protection of whistleblowers are: the political will of the leadership; the presence of organizational culture that encourages freedom of expression; the existence of an independent and secure system for filing complaints and protection from retaliation; introduction of special training for employees and conducting training on the topic of protecting their rights; an appropriate monitoring system that does not suppress the procedure for applications and their consideration; the presence of an independent audit to verify the effectiveness of the implemented practices⁶.

Similar conditions are highlighted in the guide “What makes a good whistleblowing policy and

why it is important” prepared by Freshfields Bruckhaus Deringer, one of the world’s most recognized international law firms. The authors of the guide note that in order to form a holistic whistleblowing culture in an organization, the following conditions must be adequately met: commitment and support for the so-called “whistleblowing regime” from top management; accountability at the senior management level and responsibility for encouraging a culture of internal communications in order to uncover corruption and other wrongdoing; the presence of an appropriate communication system and mandatory training on the topic of “whistleblowing regime” for all employees of the enterprise; creation of a convenient system for providing feedback from employees on the effectiveness of the whistleblowing policy; availability of rewards to encourage a culture of compliance⁷. An interesting tip for organizations is also to avoid the words “whistleblower” and/or “whistleblower” because of their negative connotations. Instead, the authors argue, the terms “compliance” and “culture of free expression” are more neutral. This, according to the scholars, should help reduce pressure on potential whistleblowers of corruption and increase the number of appeals.

A lengthy list of prerequisites can also be found in **A Best Practice Guide for Whistleblowing Legislation** prepared by Marie Terracol for Transparency International in 2018. In particular, it notes that formal mechanisms for reporting corruption and other wrongdoing within a company or executive body are not always sufficient to ensure a sustainable whistleblowing culture. The effectiveness of internal mechanisms for reports directly depends on the following conditions: systematic dissemination of information about the possibility of reporting violations and the availability of training for employees; confidentiality and anonymity of channels for reporting corruption; an effective system for responding to the reports with a procedure for a timely and independent investigation of the fact of the appeal; the existence of a transparent and effective system for protecting whistleblowers from harassment and other forms of unfair treatment⁸.

4 Jian Zhang, Kurt Pany, and Philip M. J. Reckers, Under Which Conditions are Whistleblowing “Best Practices” Best? A Journal of Practice & Theory American Accounting Association. Vol. 32, no. 3. August 2013. P. 9. DOI: 10.2308/ajpt-50451.

5 Davis M. Some Paradoxes of Whistle-Blowing. URL: <https://philosophia.uncg.edu/media/phi361-metivier/readings/Davis-Paradoxes%20of%20Whistle-Blowing.pdf> (last accessed: 29.12.2021).

6 Recommendations from Work Group as amended by WPAC and transmitted to OSHA: URL: Best Practices for Protecting Whistleblowers and Preventing and Addressing Retaliation. https://www.whistleblowers.gov/sites/default/files/2016-11/WPAC_BPR_42115.pdf (last accessed: 27.12.2021).

7 Global investigations: What makes a good whistleblowing policy and why it is important. URL: <https://www.freshfields.de/49bb66/globalassets/imported/documents/980e48d6-1073-4764-98c7-db92551e9c70.pdf> (last accessed: 27.12.2021).

8 Terracol M., A Best Practice Guide for Whistleblowing Legislation. Transparency International, 2018.

In the end, according to Ukrainian expertesses Oksana Nesterenko and Elena Shostko, it can be argued that today the “gold standard” of best practices in the field of whistleblower protection has become quite firmly established; an integral part of which is to ensure anonymity, create reliable communication channels and release from liability for the disclosure of information, as well as the establishment of social guarantees in the event of mistreatment or prosecution of the whistleblower⁹.

However, is there always a correlation between implementing the above-mentioned “best practices” in building a whistleblowing culture in an organization and the actual number of employees’ corruption reports? The basis for the hypothesis of such a relationship was the article by Marcia Miceli and Janet Near **“An International Comparison of the Incidence of Public Sector Whistle Blowing and the Prediction of Retaliation: Australia, Norway, and the US”**¹⁰. In this paper, the authoresses similarly analyze the correlation between the number of offenses, the facts of reporting, and retaliation cases based on various empirical studies conducted in the United States, Norway, and Australia. The results of the comparative analysis show that, in most cases, employees who notice wrongdoings in their organizations tend to report it. Following the reporting of wrongdoing, in some cases, harassment and/or sanctions against such employees were recorded. However, it has not been proven that such misconduct against whistleblowers was always a direct consequence of their reporting of corruption and other wrongdoings. An important conclusion in this context is that cultural habits, legal frameworks that support whistleblowing, and formal and informal practices can vary widely across countries, influencing the findings¹¹. This, in turn, actualizes the need to rely on the local and organizational context, analyzing specific indicators on the example of selected cases in the structure of public authorities in Ukraine.

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Even though almost every ministry, the central executive body, and the regional council have implemented channels for reporting corruption offenses, only a minority of them have diversified the ways of obtaining information into internal and external. According to the content analysis carried out, based mainly on requests for information to these executive bodies, there is no clear correlation between diversified internal and regular communication channels and the number of reports received. For example, only 2 reports of corruption were received through clearly differentiated internal and regular channels of the Ministry of Social Policy of Ukraine. The Chernivtsi Regional State Administration, which had almost all possible communication channels, received 1 report from whistleblowers in 2020, while the State Service of Ukraine for Geodesy, Cartography, and Cadastre received 53 corruption reports without internal communication channels.

It is indicative that the Administration of the State Border Guard Service of Ukraine, having only an online form for any reporting channels, received 107 reports of corruption via only one channel. Of course, it is necessary to take into account the context and profile of the work of one or another CEB, given the number of reports of corruption. In 2020, the Administration of the State Border Guard Service of Ukraine conducted 209 training sessions and adopted Methodological Recommendations for dealing with reports related to corruption. Twice as many messages (218) were received by the National Health Service of Ukraine (NHSU), which has in its arsenal an anti-corruption web interface for employees and conducting regular explanatory work at seminars, training, and strategic sessions¹². It should be noted that out of 218 messages

9 Nesterenko O., and Shostko O (ed), Whistleblower protection. Kharkiv: LLB “Human Rights Publisher”, 2016.

10 Marcia P. Miceli, and Janet P. Near, An International Comparison of the Incidence of Public Sector Whistle-Blowing and the Prediction of Retaliation: Australia, Norway, and the US. Australian Journal of Public Administration. Vol. 72, no. 4. December 2013. Pp. 433–446.

11 Marcia P. Miceli, and Janet P. Near, An International Comparison of the Incidence of Public Sector Whistle-Blowing and the Prediction of Retaliation: Australia, Norway, and the US. Australian Journal of Public Administration. Vol. 72, no. 4. December 2013. P. 444.

12 Report on the implementation of the plan of anti-corruption measures provided by NSSU Anti-Corruption Program 2019-2020. URL: https://nszu.gov.ua/storage/monitor/files/zvit-i-ii-kvartal-2020-roku.pdf?_cf_chl_f_tk=lezzJMB0_RMmnmwMPzjRh8Z1HTwKYzY3xdFp50HN7Y-1642513271-0-gaNycGzNCKU (last accessed: 03.01.2022).

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to the NHSU, only 8 were received through regular channels (all the rest were received via internal channels), which indicates a large number of reports from employees of the institution.

Methodological assistance and guidance, systematic training and strategizing, taking into account the anti-corruption context, allow employees of public institutions to expand their understanding of whistleblowing, which is not limited to purely corruption offenses, but involves violations in the areas of human rights, ecology, health, food safety, etc., provide them with the tools to work with reports, how to process them, etc. In addition, this approach is entirely consistent with the EU Whistleblower Protection Directive and best international practices.

It deserves particular attention that, despite a large number of reports to the above institutions, only 6 messages from whistleblowers were received by the State Service of Ukraine for Geodesy, Cartography, and Cadastre, and the Chernivtsi Regional State Administration received only 1. Such disappointing results are due to not only the lack of a culture of whistleblowing in Ukraine but also the lack of an open dialogue about problems, wrongdoing, and abuse in society.

Whistleblowing policy in the public sector should be oriented towards all stakeholders (stakeholders), which should be reflected in the way of its promotion.

In addition to the fact that detailed information on the processes and regulations and channels of communication should be presented on the website of the authority, a process should be established within the institution through direct communication and building transparent policies in accordance with existing regulations by the authorized division (or authorized person) for prevention and detection of corruption.

For example, the Ministry of Defense of Ukraine has a position of a designated person – the head of the department for dealing with whistleblowers, working with reports, with the assistance of whom, during 2020, methodological assistance and advice on filing reports were provided (76 cases), information support was provided to whistleblowers (10 cases). It

is noteworthy that in 2020 the institution received 212 reports of corruption, of which 109 were from whistleblowers; 3 whistleblowers asked for protection. Similarly, the Chief Corruption Prevention and Detection Specialist of the National Agency of Ukraine on Civil Service (NAUCS) provides online training for their staff on the culture of reporting possible facts of corruption offenses, provides whistleblowers with information on the results of pre-screening (1 case) and explains whistleblowers of the competence of bodies and legal entities in exposing corruption (13 cases). Of the total number of reports received by the institution, 15 came from whistleblowers. An essential aspect of the work of a designated person (division) is the availability of feedback, which allows not only to inform regularly the public and colleagues about the success of the institution in the field of uncovering corruption but also to provide comprehensive support to the whistleblowers themselves, both methodological and informational, to encourage them to report corruption offenses.

The importance of reporting corruption offenses has mainly been underestimated so far. It is a risk management tool with particular benefits for developing countries without established oversight mechanisms¹³. Whistleblowing is also a tool for early preventive action. However, whistleblowers are often perceived as disloyal to the government rather than protectors of the public interest. In many countries, they are considered unreliable sources of information¹⁴, and sometimes even spies or traitors.

The vast majority of whistleblowers experience difficulties when they receive no feedback, are dissatisfied with the investigation, continue to experience harassment at work or where they lost their job, and are prosecuted for false testimony. This leads to a decrease in the number of reports to the competent bodies or legal entities authorized to conduct inspections and investigate corruption offenses.

In order to change this perception, it is not only the NAPC and relevant civil society organizations, but every CEB should promote

¹³ Michel Foucault's concept of supervisory authority.

¹⁴ Whistleblowing: an effective tool in the fight against corruption. URL: https://images.transparencycdn.org/images/2010_1_PP_Whistleblowing_EN.pdf (last accessed: 02.01.2022).

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whistleblowing as an effective tool for preventing corruption and protecting public interests. For example, the United States Congress authorized the Securities and Exchange Commission, the Internal Revenue Service, the Commodity Futures Trading Commission, and the US Treasury Department's Financial Crime Enforcement Network to create whistleblower programs. The Securities and Exchange Commission's program has been in place for more than a decade, and whistleblower reporting law enforcement actions have resulted in billions of dollars in financial sanctions, and whistleblowers have received over a billion dollars in rewards.

In the Ukrainian context, the introduction of mechanisms to encourage and create a culture of reporting possible facts of corruption or corruption-related offenses is a crucial aspect of both the rule-making process in the context of the creation of anti-corruption programs of institutions and relevant regulations and the activities of authorized persons or bodies.

Unfortunately, the majority of CEBs and regional state administrations implement incentive mechanisms only by posting information about the possibility of reporting corruption on official websites. Most state institutions do not have a formal document declaring the mechanisms for encouraging and building a culture of reporting corruption. For example, only Volyn and Chernivtsi Regional State Administrations have such documents among regional administrations. Some CEBs (for example, the Ministry of Defense of Ukraine) implement these practices: hold information events for employees, distribute leaflets on basic rights and guarantees for the protection of whistleblowers, and place posters in the institutions. In accordance with its regulations, the National Health Service of Ukraine implements incentives for its employees in case of reporting information, which can prevent a corruption offense. However, such incentives are implemented by the head of the NSZU, and this fact poses some additional risks. We can also note that in institutions that implement incentive policies, the number of reports of corruption violations, in particular from whistleblowers, is significantly higher.

The growing relevance of Internet tools

(anonymous online forms, electronic mailboxes, etc.) provides whistleblowers with new channels for reporting. Therefore, it creates a global platform that can increasingly help whistleblowing become an important issue beyond the public debate and in the state sector.

As we can see, not all practices that are successful in the international context or other countries are now successful in Ukrainian realities. However, this does not mean that these practices are not effective or work only in specific countries. Given that the executive state bodies have just begun to implement the provisions of the law, and the duration of their application in different bodies is relatively short, it can still be concluded that the tools provided by the legislation of Ukraine regarding the institution of whistleblowing are effective.

The responses provided by the executive bodies to the request demonstrate that the number of reports received by them is quite significant. Also, certain bodies have made great strides in awareness promotion by providing explanations and conducting pieces of training on whistleblowing. All executive bodies either have officially adopted policies for handling reports and encouraging whistleblowing or are in the final stages of developing and validating them.

Of course, there are some difficulties in this work: an attempt to introduce a division of channels into internal and regular ones in the state bodies was not successful (the issue was resolved by amending the legislation and creating a single reporting portal); often a large number of reports does not mean at all that they are reports from whistleblowers or reports of corruption itself (the Single Whistleblowing Portal should also solve this problem, it will be used to sort reports into relevant and irrelevant); there remains a high level of distrust both towards whistleblowers and the mechanisms designed to ensure their safety, etc.

However, despite the problems, there is a positive trend, in particular: the availability of appropriate procedures and methods for dealing with whistleblowers in all executive bodies, training in most executive bodies among em-

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employees on issues related to whistleblowers, the provision of methodological recommendations, and responses to requests in the context of processing reports, etc. Although the number of reports from whistleblowers remains low, it is worth noting that this is due to informal factors: the lack of political will of the body's leadership, negative perception of the institute of whistleblowing, distrust of whistleblower protection mechanisms, and the like. These factors can be neutralized by continuing systemic work on introducing whistleblowing mechanisms at all levels of government and successful work with real current cases of whistleblowers.



CONCLUSIONS

Corruption reports often involve specific risks for the whistleblowers; these risks threaten not only their work, career prospects, and income, but in some cases, the life and health of them and their families. The purpose of the study was to examine the conditions created to increase the number of corruption reports in the executive bodies of Ukraine and find out whether the presence of these conditions ensures the increase in the number of reports of corruption in these bodies. The study also considered whether it is sufficient to ensure a sustainable culture of whistleblowing in the executive bodies of Ukraine that they have implemented formal mechanisms for reporting corruption and other offenses.

In particular, the study considers the theory that the presence of formal factors contributing to the creation of an atmosphere of security and protection of whistleblowers, such as the political will of the leadership; having a culture of whistleblowing that encourages reporting; availability of an independent and anonymous system for submitting reports; providing protection from persecution; conducting special training sessions on the topic of protecting rights for employees; appropriate monitoring, reporting and response system; the presence of an independent audit to verify the effectiveness of the implemented practices is a sufficient basis for the successful development of the institution of whistleblowers in the country.

The data obtained from the responses of executive authorities to official requests shows that at present in Ukraine, there is no clear correlation between the degree of the introduction of a culture of whistleblowing, which includes all of the above measures, and the number of reports from whistleblowers.

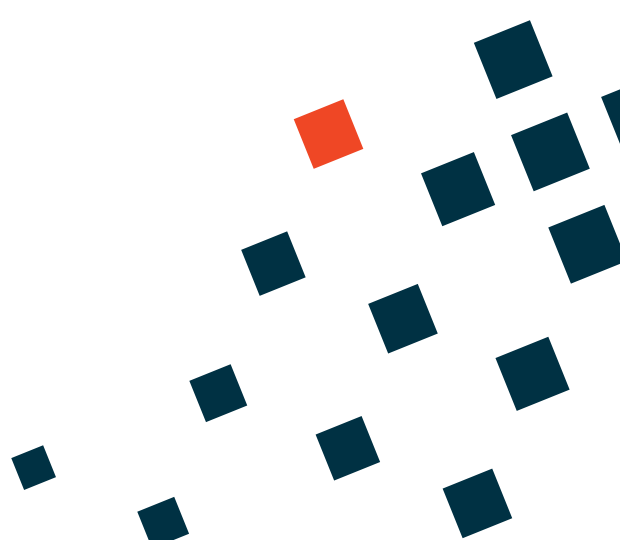
It should be emphasized that, as it was determined in the Monitoring Report on the implementation of the norms of the Law of Ukraine “On Prevention of Corruption” in terms of the protection of whistleblowers of the CEBs in 2020, the introduction of elements of whistleblowing culture by the executive bodies in

Ukraine is also far from complete¹⁵. In particular, the level of compliance with the requirements of the Law regarding the creation of separate communication channels is insufficient (the issue was resolved by the adoption of amendments to the Law of Ukraine “On Prevention of Corruption” on June 1, 2021, which provides for the creation of a Single Whistleblowing Portal). This issue is currently being handled by the National Agency on Corruption Prevention.

It should be noted that, despite the fulfillment of all the formal requirements of the Law and the introduction of whistleblowing mechanisms in government at a sufficiently high level, there are still two important factors hindering the successful development of a culture of whistleblowing, namely:

psychological barrier (an internal factor associated with the perception of the fact of whistleblowing as something negative, associating it with “squealing”, the opinion of whistleblowing as a negative process, etc.);

lack of political will of the leadership (it is an external factor: although all the formal conditions are met, at the informal level, the leadership does not encourage, and sometimes even prevents the spread of a culture of whistleblowing, which negatively affects the institution of whistleblowers as a whole).



¹⁵ Monitoring report on the implementation of the Law of Ukraine «On Prevention of Corruption» in terms of protection of whistleblowers in the central executive bodies in 2020, p. 52.

RECOMMENDATIONS

The executive bodies have already done a great job to ensure the implementation of whistleblowing mechanisms within them. However, this is not enough for the whistleblowing system to work at the level prescribed by the Law. That is why executive bodies should continue to work in this area and focus, in particular, on the following directions:

- ▶ try to develop and convey to all public servants the opinion that the whistleblowing mechanism has the full support of the top management of the bodies (one of the informal factors of the whistleblowing culture);
- ▶ conduct regular audits and monitoring at the senior management level in order to verify their understanding of the importance of the institution of whistleblowing and the development of a culture of whistleblowing in their institutions, explaining that they have a significant influence and can develop this culture, encouraging internal reports in order to uncover corruption and other offenses;
- ▶ establish proper communication systems for reporting corruption (with the option of anonymization);
- ▶ regularly conduct mandatory whistleblower-related training for both anti-corruption designated persons and all other full-time and non-staff employees;
- ▶ create an opportunity for employees to provide feedback on the effectiveness of the current whistleblowing policy;
- ▶ educate about reward opportunities to encourage a culture of whistleblowing.

THUS, WE CAN CONCLUDE THAT INTRODUCING WHISTLEBLOWING MECHANISMS AND DEVELOPING A CULTURE OF WHISTLEBLOWING IN UKRAINE ARE ALREADY PRODUCING RESULTS. DEVELOPING A FULL-FLEDGED REPORTING CULTURE AND ESTABLISHING A PUBLIC OPINION OF THE IDEA THAT WHISTLEBLOWING IS A NORMAL AND POSITIVE PRACTICE WILL TAKE SOME TIME. UKRAINE IS ON THE RIGHT TRACK: ALREADY HAVING A LEGISLATIVE BASIS FOR THE PROTECTION OF WHISTLEBLOWERS, IT IS INTRODUCING FORMAL AND INFORMAL MECHANISMS TO POPULARIZE THE INSTITUTION OF WHISTLEBLOWING NOT ONLY AMONG CIVIL SERVANTS BUT ALSO AMONG THE ENTIRE POPULATION.

REFERENCES

1. Report on the implementation of the plan of anti-corruption measures provided for by NSSU Anti-Corruption Program 2019-2020. URL: https://nszu.gov.ua/storage/editor/files/zvit-i-ii-kvartal-2020-roku.pdf?_cf_chl_f_tk=lezzJMB0_RMmnwMPzjRh8Z1IHTrwKYzY3xdFp50HN7Y-1642513271-0-gaNycGzNC-KU (last accessed: 03.01.2022).
2. Monitoring report on the implementation of the Law of Ukraine «On Prevention of Corruption» in terms of protection of whistleblowers in the central executive bodies in 2020. URL: https://acrec.org.ua/wp-content/uploads/2021/08/research-nazk-v-NNNN_compressed.pdf (last accessed: 05.01.2022).
3. Banerjee S., Roy S. Examining the Dynamics of Whistleblowing: A Causal Approach. *The IUP Journal of Corporate Governance*, Vol. XIII, No. 2, April 2014
4. Davis M. Some Paradoxes of Whistle-Blowing. URL: <https://philosophia.uncg.edu/media/phi361-metivier/readings/Davis-Paradoxes%20of%20Whistle-Blowing.pdf> (last accessed: 29.12.2021).
5. Global investigations: What makes a good whistleblowing policy and why it is important. URL: <https://www.freshfields.de/49bb66/globalassets/imported/documents/980e48d6-1073-4764-98c7-db92551e9c70.pdf> (last accessed: 27.12.2021).
6. Miceli M., and Near J. An International Comparison of the Incidence of Public Sector Whistle-Blowing and the Prediction of Retaliation: Australia, Norway, and the US. *Australian Journal of Public Administration*. Vol. 72, no. 4. December 2013.
7. Miceli M., Near J., & Dworkin T. *Whistle-Blowing in Organizations*. Psychology Press. May 16, 2008. 262 p.
8. Near J., Miceli M. Organizational dissidence: The case of whistle-blowing *Journal of Business Ethics*. Vol 4, 1985
9. Nesterenko O., and Shostko O (ed.), *Whistleblower protection*. Kharkiv: LLB "Human Rights Publisher", 2016.
10. Recommendations from Work Group as amended by WPAC and transmitted to OSHA: URL: [Best Practices for Protecting Whistleblowers and Preventing and Addressing Retaliation](https://www.whistleblowers.gov/sites/default/files/2016-11/WPAC_BPR_42115.pdf). https://www.whistleblowers.gov/sites/default/files/2016-11/WPAC_BPR_42115.pdf (last accessed: 27.12.2021).
11. Terracol M., *A Best Practice Guide for Whistleblowing Legislation*. Transparency International, 2018.
12. Whistleblowing: an effective tool in the fight against corruption. URL: https://images.transparencycdn.org/images/2010_1_PP_Whistleblowing_EN.pdf. (last accessed: 02.01.2022).
13. Zhang J., Pany K., and Reckers P. Under Which Conditions are Whistleblowing "Best Practices" Best? *A Journal of Practice & Theory American Accounting Association*. Vol. 32, no. 3. August 2013.

The image features a dark teal background with a grid of lighter teal squares. A bright orange diagonal line runs from the bottom left towards the top right. Above this line, a series of small squares are scattered, mostly in dark teal, with one square being bright orange. In the center of the grid, there is a bright orange rectangular box containing the text "Kyiv, 2022".

Kyiv, 2022