





# **Whistleblower Protection in Southeast Europe**

An Overview of Laws, Practice, and Recent Initiatives

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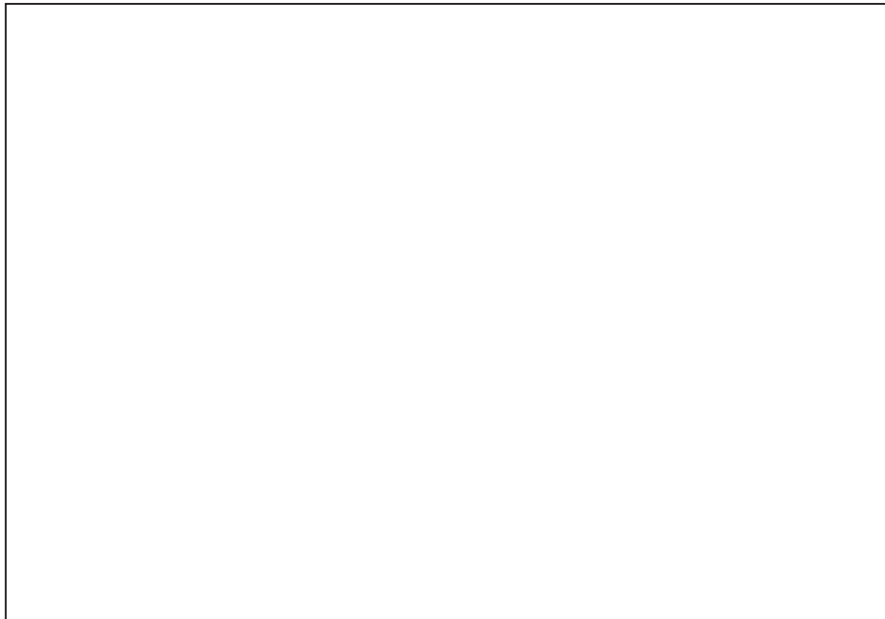
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\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence



## Abbreviations

ACA:	Anti-Corruption Agency (Serbia)
ALAC:	Advocacy and Legal Advice Centre
ANI:	National Integrity Agency (Romania)
APC:	Administrative Procedure Code (Bulgaria)
APIK:	Agency for Prevention of Corruption and Coordination of Fight against Corruption (Bosnia and Herzegovina)
BiH:	Bosnia and Herzegovina
BIRODI:	Bureau for Social Research (Serbia)
CAPC:	Center for the Analysis and Prevention of Corruption (Moldova)
CEDEM:	Centre for Democracy and Human Rights (Montenegro)
CPD:	Commissioner for Protection against Discrimination (Albania)
DACI:	Directorate for Anti-Corruption Initiative (Montenegro)
MANS:	Network for Affirmation of NGO Sector (Montenegro)
NAC:	National Anticorruption Centre (Moldova)
OECD:	Organisation for Economic Co-operation and Development
SCPC:	State Commission for Prevention of Corruption (Macedonia)
SELDI:	Southeast Europe Leadership for Development and Integrity
SIPA:	State Investigation and Protection Agency (Bosnia and Herzegovina)
SRI:	Romanian Intelligence Service
TI:	Transparency International
UNDP:	United Nations Development Programme



## Executive Summary

Whistleblowing has been demonstrated to be among the most effective ways to expose and fight crime and corruption. During the past decade, new whistleblower laws and practices have been conceived in all regions of the world. Southeast Europe is no exception.

Backed by growing public support, efforts by governments and NGOs throughout the region to combat corruption and make public administrations more transparent have opened meaningful opportunities to improve legal protection for whistleblowers. At the same time, government agencies, NGOs and journalism organisations are developing new expertise in receiving whistleblower disclosures and complaints, and acting upon these reports.

Additionally, some employees who faced retaliation for exposing misconduct have successfully used the courts and other means to prevent further reprisals; regain their jobs; receive financial compensation; and fend off charges of defamation. The public and the media are starting to recognise the value of whistleblowers and are approaching them with less scepticism.

Still, most Southeast European countries are at the beginning stages of assembling reliable and responsive whistleblower protection mechanisms. As evidence of this, government and corporate whistleblowers in the region continue to be exposed to many types of retribution, from harassment and ostracism to dismissal and physical threats.

To gain insights into these and other issues, this report provides an overview of the whistleblower frameworks in 10 Southeast European countries.

In all but one of these countries, some concrete progress has been made over the past five years. Since 2011 three countries – Bosnia and Herzegovina, Kosovo\* and Serbia – have passed designated whistleblower laws. In five other countries, proposed laws or legislative options have been developed since 2013. All the while, many government institutions and NGOs have broadened their work on a range of whistleblower issues.

Taken together, this progress makes Southeast Europe one of the most active regions in the world on this emerging public policy and citizen participation issue.

Here is a sample of recent developments in each country.

**Albania** developed a proposed whistleblower law in 2014 that would cover public and private sector employees; give them the option to contact the media; and pay financial rewards.

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\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence



**Bosnia and Herzegovina** passed a designated whistleblower protection law in December 2013 that covers public employees at the state level. Thus far, the government has provided protection to two employees who exposed financial misconduct at state institutions.

**Bulgaria** in 2014 produced options for what would become the country's first national whistleblower law. A local whistleblower system was set up in Sofia in 2013 to receive and respond to reports of wrongdoing in the city's administration.

**Croatia** considered a proposed whistleblower law in Parliament in 2013. In 2014 the Ministry of Justice released whistleblower guidelines and was analysing the country's current legal framework.

**Kosovo\*** adopted a law in 2011 that seeks to protect public and private sector employees who report unlawful acts. Though a stand-alone piece of legislation, it excludes many provisions considered to be international best practice.

**Macedonia** proposed improvements to its anti-corruption law in 2014 that would set up a whistleblower system for government and company employees.

**Moldova** enacted a framework in 2013 to protect public employees from retaliation and provide channels to disclose misconduct. Also that year, the government's anti-corruption agency adopted whistleblower regulations for its own staff.

**Montenegro's** new anti-corruption law, adopted in 2014, includes provisions to protect whistleblowers in the public and private sectors. In 2013, retaliating against a whistleblower was made a criminal offence.

**Romania** has not undertaken efforts to improve the public sector legislation it passed in 2004, which was the first such law in continental Europe. The government regularly tracks cases as well as its own implementation efforts.

**Serbia** adopted a wide-ranging law in November 2014 that seeks to protect all employees from retaliation. The culmination of a two-year effort by government officials, NGOs, and European and international experts, the law includes many best practices.

This report provides an overview of each country's whistleblower framework and does not present specific recommendations. However, some important observations emerge:

- Though there is a sense that some institutions are endeavouring to better protect and compensate whistleblowers, retaliation is still considered commonplace.
- Insufficient information is available on corrective actions taken in response to whistleblower disclosures, and on the procedures for following up on them.
- There are not enough publicly available statistics on disclosures and retaliation complaints, and on the outcomes of cases.
- Designated whistleblower institutions are lacking.

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- Not enough information is available on public attitudes toward whistleblowing, which can hamper the development of laws and procedures that can work in practice.
- The laws and procedures of many countries do not adequately distinguish employees who report wrongdoing in the workplace (“whistleblowers”) from citizens who report crime (“witnesses”).
- NGOs are devoting more resources to support and advise whistleblowers, investigate their disclosures, advocate for stronger laws, and work with governments to improve protections.





## Country Profiles

### Albania

#### Overview

Though Albania lacks a stand-alone whistleblower law, several pieces of legislation include certain legal protections for those who report corruption and other misconduct to the authorities. The main such law, however – the Law on Cooperation of the Public in the Fight against Corruption – is generally seen as ineffective, both in terms of its provisions and implementation.

To remedy this, the government developed a draft Whistleblowing Act in 2014 in consultation with whistleblower experts, NGOs and business organisations. The proposed law has yet to be presented to Parliament.

A number of whistleblower cases have been reported in the media in recent years. Still, whistleblowing is a new concept in Albania, and the public generally lacks trust in official channels to report corruption and other crimes. Some whistleblowers have faced retaliation. Government institutions and the courts have little practical experience investigating and responding to whistleblower disclosures and complaints.

#### Current Legislation and Regulations

The primary law related to whistleblowing is the Law on Cooperation of the Public in the Fight against Corruption. Passed in 2006, the law was intended to enhance public awareness and the role of citizens and civil servants in exposing government corruption. The law has been ineffective for a variety of reasons, and only a few resulting cases have led to prosecutions.<sup>2</sup>

Among its shortcomings, the law only covers reports of corruption, but not other types of misconduct; it does not adequately protect civil servants from retaliation; and it does not distinguish between citizens and civil servants who expose wrongdoing.<sup>3</sup> Additionally, by-laws that were needed to enforce the law properly have not been passed.<sup>4</sup>

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<sup>2</sup> Personal communication, Albania Ministry of State for Local Government, 30 Sept. and 20 Oct. 2014.

<sup>3</sup> Reed, Quentin. "Facilitating and Protecting Complaints of Alleged Official Corruption and Malpractice in Albania: The Current System and Recommendations for Improvements," Technical Paper, Project against Corruption in Albania, June 2012; [www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/Albania/Technical Papers/TP 2012/1917 PACA TP 11 2012-COMPLAINTS August 2012.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/Albania/Technical%20Papers/TP%2012/1917PACA%20TP%2011%2012-COMPLAINTS%20August%202012.pdf)

<sup>4</sup> Personal communication, Albania Ministry of State for Local Government, 30 Sept. and 20 Oct. 2014.



Together with other laws, Albania's whistleblower protection landscape is considered fragmented, unclear and generally inadequate.<sup>5</sup> These other laws include:

- Labour Code, which was amended in 2008 to provide protection for employees who report corruption from unjustified sanctions;
- Law on Civil Servants, which gives civil servants the right to disobey an illegal order but does not provide protection from retaliation if they so disobey;
- Law on the Prevention of Conflict of Interest, which allows disclosures to be made to government regulators or through external channels such as the media; and
- Code of Administrative Procedure, which allows any person to complain about any administrative act, and gives civil servants the right to request the revocation or amendments of an act.<sup>6</sup>

### Institutions, Frameworks and Procedures

The Law on Cooperation of the Public in the Fight against Corruption is seen as being unevenly enforced, as many civil servants who reported corruption have faced reprisals. The organisational culture within the public sector does not adequately support whistleblowing.<sup>7</sup>

Reporting channels are lacking within public institutions that are empowered to receive and follow up on civil servants' disclosures of wrongdoing. Albania has no designated whistleblower authority and no institution charged with investigating whistleblower complaints.<sup>8</sup> In some scenarios, the same officials who were responsible for wrongdoing have also handed down decisions on whistleblower cases.<sup>9</sup>

To date, attempts to establish hotlines for whistleblowers to report wrongdoing have been inadequate. The prime minister issued an order in 2005 to establish toll-free telephone numbers for the prime minister's office and five ministries. However, the system never became fully functional.<sup>10</sup> Currently, an effort is being made to develop a centralised reporting hotline.<sup>11</sup>

Independent Oversight Bodies have some oversight functions, and in one instance assumed a role in a whistleblower case (see "Whistleblower Cases," below).<sup>12</sup>

<sup>5</sup> Dyrnishi, Arjan et al, "Whistleblowers protection in Albania: An assessment of the legislation and practice", Institute for Democracy and Mediation, November 2013; [http://idmalbania.org/wp-content/uploads/2014/11/whistleblowers\\_final\\_tetor-nentor\\_2013\\_anglisht.pdf](http://idmalbania.org/wp-content/uploads/2014/11/whistleblowers_final_tetor-nentor_2013_anglisht.pdf)

<sup>6</sup> Dyrnishi et al, op cit.

<sup>7</sup> Shentov, Ognian et al (Eds.), "Anti-Corruption Reloaded: Assessment of Southeast Europe," Southeast Europe Leadership for Development and Integrity (SELDI.net), 2014; [www.tacso.org/doc/AntiCorruption\\_Reloaded.pdf](http://www.tacso.org/doc/AntiCorruption_Reloaded.pdf)

<sup>8</sup> Dyrnishi et al, op cit.

<sup>9</sup> Personal communication, Arjan Dyrnishi, Institute for Democracy and Mediation, 16 Sept. 2014.

<sup>10</sup> Reed op cit.

<sup>11</sup> Personal communication, Albania Ministry of State for Local Government, 30 Sept. and 20 Oct. 2014.

<sup>12</sup> Dyrnishi et al, op cit.



## Recent or Pending Initiatives

Beginning in October 2013, the government began an effort to develop a designated whistleblower protection law. The resulting proposed Whistleblowing Act of 2014 was drafted by the Ministry of Local Affairs in consultation with the Justice Ministry, the National Coordinator for Anti-Corruption, NGOs and business representatives.<sup>13</sup>

The first draft of the law includes a number of international best practices, including coverage for public and private sector employees; protection from a wide range of workplace retaliation; designated intake points to receive reports; the option for whistleblowers to contact the police or the media; establishment of a dedicated whistleblower agency; financial rewards if appropriate; and physical protection if needed.<sup>14</sup>

Consultations on the draft law were expected to continue until summer 2015, before being submitted to the government and Parliament.<sup>15</sup>

## Whistleblower Cases

In 2012, the Commissioner for Protection against Discrimination (CPD), an Independent Oversight Body, investigated a case in the Fier region concerning a Regional Health Directorate staffer who disclosed information about an unfair appointment to the media. She experienced retaliation, including a denial of sick leave, and being fired and reassigned to a lower position. She filed a complaint with the CPD, which recommended she regain her job and fined the head of the Directorate 30.000 lek (€200). The District Court upheld the decision.

In 2010, Dritan Hila, a diplomat at the Ministry of Foreign Affairs, sent an open letter to the media reporting the questionable appointment of a judge's daughter to an ambassadorship. Hila was fired, but began a legal case to win reappointment and financial compensation. He became politically active and is currently Albania's deputy minister of defence.

In 2008, Kosta Trebicka was found dead after he exposed evidence of corruption related to the export of weapons to the US. Official investigations concluded that he died of a car accident, but this has been questioned. Trebicka said his life was in danger due to his disclosure, but he was never granted protection.<sup>16</sup>

## Data and Statistics

No specific statistics on whistleblowing in Albania are available, including statistics of the number of public employees who have been retaliated against.<sup>17</sup>

<sup>13</sup> Personal communication, Albania Ministry of State for Local Government, 30 Sept. and 20 Oct. 2014.

<sup>14</sup> First Draft Albanian Whistleblowing Act 2014.

<sup>15</sup> Personal communication, Albania Ministry of State for Local Government, 4 May 2015.

<sup>16</sup> Dymishi et al, op cit.

<sup>17</sup> Personal communication, Albania Ministry of State for Local Government, 30 Sept. and 20 Oct. 2014.



Statistics from law enforcement and the judiciary do not necessarily relate to whistleblowing, but they may provide an indication as to how wrongdoing is reported. Of the 677 cases registered in the prosecutor's office in 2013, 364 were referred by organisations, institutions and citizens. Only 26 were initiated by the prosecutor's office.<sup>18</sup>

### Public Perceptions of Whistleblowing

Whistleblowing is a relatively new concept in Albania. The public often associates reporting wrongdoing with citizen surveillance activities carried out during the communist period. Whistleblowers therefore can be viewed as "snitches" or "spies" with questionable motives.

The government has conducted no public opinion surveys about attitudes towards whistleblowing.<sup>19</sup>

Due to the lack of official disclosure channels, the media has become a common method for exposing crimes and misconduct. The media, in fact, is viewed by the public as a key player in the fight against corruption.<sup>20</sup>

There is no literal translation for "whistleblower" in Albanian, so the English word is commonly used in the media. In law, the English word for denouncer (*denoncues*) is used, which carries a negative connotation dating to the communist period.

### Capacities and Knowledge Centres

The only government institution currently with a mandate related to whistleblowing is the High Inspectorate for the Declaration and Audit of Assets, which investigates reports of conflicts of interest committed by public officials.

No NGOs in Albania are known to specialise on whistleblowing or to support whistleblowers. In terms of research, the Institute for Democracy and Mediation released an in-depth study on Albania's whistleblower-related laws in 2013.<sup>21</sup>

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<sup>18</sup> Albania Ministry of State for Local Government.

<sup>19</sup> Personal communication, Albania Ministry of State for Local Government, 30 Sept. and 20 Oct. 2014.

<sup>20</sup> Dymishi et al, op cit.

<sup>21</sup> Dymishi et al, op cit.



## ***Bosnia and Herzegovina***

### **Overview**

A two-year effort by government and NGOs led to the unanimous passage, in December 2013, of a dedicated whistleblower protection law that covers state. The law allows reports to be made in many forms; permits external disclosures; penalises non-compliance; and protects state employees who release official secrets while reporting corruption. Unique to Europe, the law grants pre-emptive protection to employees – before retaliation has occurred.

In terms of institutions and practice, whistleblowing is a relatively new issue in Bosnia and Herzegovina (BiH). Still, the law has begun to work in practice: two state employees were granted whistleblower protection in the first year.

There have been several high-profile cases in recent years, including two that led to the death of the whistleblower.

### **Current Legislation and Regulations**

A comprehensive law aiming to protect state employees who report corruption from retaliation took effect in December 2013. The Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina passed both houses of Parliament unanimously. The measure is the product of a two-year campaign that included parliamentarians from various political parties; several NGOs; and representatives of state institutions.

The law grants protection from a wide range of reprisals – including declaring an employee's position redundant – to public servants and officials who report corruption or bribery. Many types of disclosures are protected, including those made to relevant authorities; filing a lawsuit or complaint; reporting a crime; testifying in court or to an administrative authority; and cooperating in investigative proceedings.

State employees may report corruption externally – to the police or the public – under certain circumstances, including if internal reporting procedures are irregular, or if the person responsible for receiving the disclosure is involved with the corruption.

The law is the first in Europe that allows employees to receive whistleblower status before being exposed to retaliation.<sup>22</sup> Employees may apply for pre-emptive protection with the Agency for Prevention of Corruption and Coordination of Fight against Corruption (APIK), which has 30 days to respond to the request. The status legally prevents a state institution from retaliating against an employee who has reported corruption under the law.

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<sup>22</sup> "Handbook for Enforcing the Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina," Centre for Responsible Democracy–Luna, March 2014.



Employees who disclose an official secret in the course of reporting corruption are protected from material, criminal, or disciplinary liability. Individuals may be fined up to €10,000 for not setting up required internal whistleblower procedures, not following an order to stop retaliation against a whistleblower, or for knowingly submitting a false report of corruption.

The law does not apply to the private sector or to public employees of the two entities within BiH – the Federation of Bosnia and Herzegovina and the Republika Srpska. Though no law is in place, the Republika Srpska's Strategy for Fight against Corruption includes a definition of whistleblowing within public institutions.<sup>23</sup>

### **Institutions, Frameworks and Procedures**

Under BiH's new law, state employees may apply for whistleblower status from APIK regardless of whether they have suffered reprisals or only suspect they could occur. However, there must be an "objective prospect" of retaliation. The status does not protect employees from disciplinary and other measures that are not related to their act of whistleblowing.<sup>24</sup>

Following the employee's application to APIK, the Ministry of Justice conducts an investigation to determine if the request for whistleblower protection is legitimate.<sup>25</sup> The status can continue indefinitely, but may be revoked if it is found that the employee knowingly submitted a false report.

Reports of corruption may be made directly to APIK.<sup>26</sup> These disclosures are then referred to the proper authorities for follow-up investigation.

Additionally, the State Investigation and Protection Agency (SIPA) is a government institution that prevents and detects corruption and financial crimes. Set up in 2005, the agency's "Krimolovci"<sup>27</sup> ("Crime Stoppers") system allows people to report cases of organised crime and corruption, anonymously or otherwise. SIPA also conducts awareness raising programmes within the public and the media.<sup>28</sup>

<sup>23</sup> Shentov, Ognian et al (Eds.), "Anti-Corruption Reloaded: Assessment of Southeast Europe," Southeast Europe Leadership for Development and Integrity (SELDI.net), 2014;

[www.tacso.org/doc/AntiCorruption\\_Reloaded.pdf](http://www.tacso.org/doc/AntiCorruption_Reloaded.pdf)

<sup>24</sup> "Handbook for Enforcing the Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina," Centre for Responsible Democracy–Luna, March 2014.

<sup>25</sup> Personal communication, Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, 3 December 2014.

<sup>26</sup> See: [www.apik.ba/Contact.aspx](http://www.apik.ba/Contact.aspx)

<sup>27</sup> See: [www.sipa.gov.ba/en/](http://www.sipa.gov.ba/en/)

<sup>28</sup> "Bosnian Public Anti-Corruption Initiatives," Business Anti-Corruption Portal; [www.business-anti-corruption.com/country-profiles/europe-central-asia/bosnia-and-herzegovina/initiatives/public-anti-corruption-initiatives.aspx](http://www.business-anti-corruption.com/country-profiles/europe-central-asia/bosnia-and-herzegovina/initiatives/public-anti-corruption-initiatives.aspx)



## Recent or Pending Initiatives

Since BiH's law took effect in December 2013, an estimated 95 percent of 77 ministries and other state institutions, which employ 22,000 people, have set up internal whistleblower procedures. They have also been posted on the institutions' websites.<sup>29</sup>

APIK is planning to launch a secure, online system in 2015 to enable state employees to report corruption and other misconduct.<sup>30</sup>

Whistleblower protection laws are under consideration in the Federation of BiH and Republika Srpska.<sup>31</sup>

Several companies and institutions, including the Ministry of Defence and the Clinical Center of the University of Sarajevo, recently began using the "Eticka linija" ("Ethic Line") system for their employees to report wrongdoing.

## Whistleblower Cases

One of BiH's best-known whistleblowers is Višnja Marilovic. An accountant for 12 years at the Skenderija cultural and sports centre in Sarajevo, Marilovic was fired in 2011, after reporting financial misconduct by the centre's director. The wrongdoing, which totalled €1.5 million, included using the centre's money to furnish the director's private hotel; support a football team of which he was the president; and to pay for shopping, entertainment and accommodation. An indictment for economic crimes filed against the former director was upheld by a Sarajevo Court in October 2014. A court has found that Marilovic's dismissal was unlawful.<sup>32,33</sup>

In 2014, a court ruled in favour of Irina Lovric, who claimed she had been mobbed and discriminated against after exposing financial wrongdoing at the BiH Return Fund. Lovric had reported five years earlier that money intended to pay for housing for returning refugees and displaced persons was being spent on improper projects instead. Lovric obtained whistleblower status from APIK in April 2014, and a court awarded her €15,000 in damages the following October.<sup>34,35</sup>

<sup>29</sup> Personal communication, Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, 3 December 2014.

<sup>30</sup> Personal communication, Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, 3 December 2014.

<sup>31</sup> Personal communication, Centre for Responsible Democracy–Luna, 3 December 2014.

<sup>32</sup> Personal communication, Višnja Marilović, 1 December 2014.

<sup>33</sup> Ducić, A., "Suad Dzindo optuzen za kriminal u Skenderiji!" *Dnevni Avaz*, 17 October 2014; [www.avaz.ba/clanak/141122/suad-dzindo-optuzen-za-kriminal-u-skenderiji](http://www.avaz.ba/clanak/141122/suad-dzindo-optuzen-za-kriminal-u-skenderiji)

<sup>34</sup> Dzakmić, Elvedina, "Irina Lovrić: Antologijska presuda! Prvi slučaj presuđenog mobinga i diskriminacije na državnom nivou", *Azra*, 6 November 2014;

[www.azramag.ba/intervju/irina-lovric-antologijska-presuda-prvi-slucaj-presudenog-mobinga-i-diskriminacije-na-drzavnom-nivou/](http://www.azramag.ba/intervju/irina-lovric-antologijska-presuda-prvi-slucaj-presudenog-mobinga-i-diskriminacije-na-drzavnom-nivou/)

<sup>35</sup> Dzakmić, Elvedina, "Irina Lovrić: Kad god okrenem ključ u autu, pomislim da bih mogla odletjeti u nebo", *Azra* 7 May 2014;

[www.azramag.ba/intervju/irina-lovric-kad-god-okrenem-kljuc-u-autu-pomislim-da-bih-mogla-odletjeti-u-nebo](http://www.azramag.ba/intervju/irina-lovric-kad-god-okrenem-kljuc-u-autu-pomislim-da-bih-mogla-odletjeti-u-nebo)



Milan Vukelic, a construction engineer at the Banja Luka Town Planning Institute, was killed on 7 November 2007, after he publicly accused officials of corruption and the police of threatening him. Vukelic was killed, and two passengers were injured, when their car exploded as it passed by the Interior Ministry. Previously, another car owned by Vukelic had been bombed and his mother's home set on fire.<sup>36,37</sup>

Zelimir Rebac, the former director of the Federation of BiH's Customs Office, committed suicide in October 2006, after enduring threats to himself and his family. Rebac had exposed officials who allegedly helped the meat industry import their products without paying customs fees.<sup>38,39</sup>

## Data and Statistics

In the year since BiH's law became active, seven people have applied to APIK for whistleblower status and protection. Two requests were granted in 2014 – both to employees who exposed large-scale corruption cases in state institutions. Both cases were referred to prosecutors, and in one case, several arrests were made related to improper tax refunds. Though whistleblower status has been granted to both employees, APIK is still considering whether protection should continue. The five other applications were submitted by people not covered by the law, including non-state employees and one retired person.<sup>40</sup>

SIPA regularly reports the number of calls to its "Krimolovci" system. In November 2014, 401 reports were made, 58 of which were forwarded to police investigators. The top categories of alleged crimes and misconduct were drug trafficking (11) and abuse of office or authority (9).<sup>41</sup>

In March 2014, the Ministry of Defence said that since the previous December, it had received 28 anonymous reports of irregularities within the Ministry and Armed Forces. Nineteen cases were concluded, including one referred to SIPA regarding the acceptance of money for admission to the Armed Forces. The 28 reports fall into the following categories: abuse (8); personnel and recruitment irregularities (7); violation of internal procedures (4);

<sup>36</sup> "Bosnia and Herzegovina," Whistleblower Protection in the Central and Eastern Europe Region; [www.whistleblowing-cee.org/countries/bosnia-and-herzegovina/research](http://www.whistleblowing-cee.org/countries/bosnia-and-herzegovina/research)

<sup>37</sup> "Bosnia: Protect Civil Society From Harassment," Human Rights Watch, 16 July 2008; [www.hrw.org/news/2008/07/15/bosnia-protect-civil-society-harassment](http://www.hrw.org/news/2008/07/15/bosnia-protect-civil-society-harassment)

<sup>38</sup> "Ubio se Zelimir Rebac, nekadašnji direktor carinske uprave Federacije BiH," *Jutarnji List*, 7 October 2006; [www.jutarnji.hr/ubio-se-zelimir-rebac--nekadasnji-direktor-carinske-uprave-federacije-bih/157427/](http://www.jutarnji.hr/ubio-se-zelimir-rebac--nekadasnji-direktor-carinske-uprave-federacije-bih/157427/)

<sup>39</sup> "Mostar: Bivši direktor Carinske uprave F BiH Zelimir Rebac ubio se skocivši sa Luckog mosta u Neretvu," *Kliker*, 7 October 2006;

[www.kliker.info/mostar-bivsi-direktor-carinske-uprave-f-bih-zelimir-rebac-ubio-se-skocivsi-sa-luckog-mosta-u-neretvu/](http://www.kliker.info/mostar-bivsi-direktor-carinske-uprave-f-bih-zelimir-rebac-ubio-se-skocivsi-sa-luckog-mosta-u-neretvu/)

<sup>40</sup> Personal communication, Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, 3 December 2014.

<sup>41</sup> " 'Krimolovci' u studenom: Zaprmljen 401 poziv i 58 korisnih informacija," State Investigation and Investigation Agency, 3 December 2014; [www.sipa.gov.ba/hr/cl-krim.php?full=12670](http://www.sipa.gov.ba/hr/cl-krim.php?full=12670)



corruption (3); financial and accounting irregularities (1); procurement irregularities (1); theft (1); hate speech (1); and other (2).<sup>42</sup>

### Public Perceptions of Whistleblowing

The Bosnian public generally considers people who report misconduct in a negative light. Beyond this, there is a sense that many people may be willing to speak about government and corporate wrongdoing in a broad manner, but they are unwilling to report specific cases of wrongdoing. Many citizens lack trust in the police and other authorities. They fear that reporting crimes will cause problems for themselves, and that little or nothing will result from their disclosures.<sup>43</sup>

In a 2013 survey, people in seven Western Balkan countries were asked why they would not report their personal corruption experiences to authorities. In BiH, the top reason given – by 44 percent of respondents – was the belief that nobody would care. This ranked highest among the seven countries. Also, about 60 percent of business people surveyed in BiH said they consider complaints about the public administration not worthwhile – ranking among the highest in the seven countries.<sup>44</sup>

### Capacities and Knowledge Centres

The main government institutions that deal with whistleblowing issues are APIK, which grants whistleblower protection and receives reports of corruption; the Ministry of Justice, which investigates retaliation complaints; and SIPA, which investigates and raises public awareness of corruption and financial crimes.

The Centre for Responsible Democracy–Luna is an NGO that assisted in the development of BiH's whistleblower law and provides policy assistance to government institutions.

Transparency International BiH has operated an Advocacy and Legal Advice Centre (ALAC) since 2003, and since has received more than 10,000 complaints and reports of wrongdoing.<sup>45</sup>

<sup>42</sup> Omeragić, Daniel, "Eticka linija MOBiH: Među prijavljenim i general Milojčić," *Oslobodjenje*, 25 March 2014; [www.oslobodjenje.ba/vijesti/bih/eticka-linija-mobih-medju-prijavljenim-i-general-milojccic](http://www.oslobodjenje.ba/vijesti/bih/eticka-linija-mobih-medju-prijavljenim-i-general-milojccic)

<sup>43</sup> "Bosnia and Herzegovina," Whistleblower Protection in the Central and Eastern Europe Region; [www.whistleblowing-cee.org/countries/bosnia-and-herzegovina/research](http://www.whistleblowing-cee.org/countries/bosnia-and-herzegovina/research)

<sup>44</sup> Bisogno, Enrico et al, "Business, Corruption and Crime in the Western Balkans: The Impact of Bribery and Other Crime on Private Enterprise," UN Office on Drugs and Crime, 2013; [www.unodc.org/documents/data-and-analysis/statistics/corruption/Western\\_balkans\\_business\\_corruption\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/statistics/corruption/Western_balkans_business_corruption_web.pdf)

<sup>45</sup> "Advocacy and Legal Advice Centres," Transparency International Bosnia and Herzegovina; [www.ti-bih.org/?projekti=centri-za-pruzanje-pravne-pomoci-u-borbi-protiv-korupcije&lang=en](http://www.ti-bih.org/?projekti=centri-za-pruzanje-pravne-pomoci-u-borbi-protiv-korupcije&lang=en)



## Bulgaria

### Overview

Bulgaria currently does not have a dedicated law to protect whistleblowers from retaliation and to provide them with reliable reporting channels. Bulgaria has only one law associated with whistleblowing – the Administrative Procedure Code – but its legal provisions are limited. Moreover, it only covers wrongdoing within government and not the private sector.

A number of whistleblower-type cases have been heard in Bulgarian courts, and judges on several occasions have ruled in favour of people who suffered retaliation and faced defamation charges after reporting wrongdoing. Additionally, a government agency that monitors conflict of interest has received disclosures from whistleblowers leading to the sanctioning of public officials. Otherwise, there is little practice dealing with whistleblower issues or cases, and no dedicated whistleblower institution within the government.

There has been little momentum behind the development of a comprehensive whistleblower protection law until recently. In September 2014, the government's Center for Prevention and Countering Corruption and Organised Crime released an in-depth report that includes options for potential legislative proposals.

### Current Legislation and Regulations

Passed in 2006, Bulgaria's Administrative Procedure Code (APC) enables the reporting of government wrongdoing to the proper authorities for follow-up investigations.

Despite the APC's noted limitations, it does cover a wide range of misconduct. It permits disclosures related to abuse of power; corruption; mismanagement of state or municipal property; and any other illegal or inappropriate acts or shortcomings by public officials that affect state or public interests, or that affects the rights or interests of others. Any person or organisation may report wrongdoing under the APC.<sup>46</sup>

The law requires the recipients of disclosures to investigate the reports, but it does not name the specific departments within public institutions to which a whistleblower can submit a report.<sup>47</sup>

Among its other limitations, the APC only applies to public sector wrongdoing, it lacks specific methods for ensuring the confidentiality of whistleblowers, and it only protects people from prosecution if they report misconduct according to the law.<sup>48</sup> Further,

<sup>46</sup> Kaneva, Nevianka, "Report on the Situation of the Protection of Whistleblowers and Suggestions for Regulations," Center for Prevention and Countering Corruption and Organized Crime, September 2014.

<sup>47</sup> Kierans, Lauren, "Providing an Alternative to Silence: Toward Greater Protection and Support for Whistleblowers in the EU. Country Report – Bulgaria," Transparency International, 2013.

<sup>48</sup> Kaneva op cit.



anonymous disclosures are not eligible for follow-up investigation.<sup>49</sup> This can greatly limit the law's effectiveness, as many whistleblowers seek to remain anonymous due to fears of retribution and threats.

Other provisions that relate to whistleblowing include:

- the Law on Prevention and Disclosure of Conflict of Interest, which preserves the confidentiality of whistleblowers who report conflict of interest, and provides protection from retaliation and compensation for damages;
- the Administration Act, which authorises the Inspectorate to the Cabinet to investigate reports of corruption committed by certain authorities and government employees.

Neither the Civil Servants Law nor the Labour Code have specific provisions for whistleblowing,<sup>50</sup> which is atypical within the European context.

### **Institutions, Frameworks and Procedures**

There is no designated government agency in Bulgaria that accepts, investigates, or tracks disclosures and retaliation complaints filed by whistleblowers.

Most federal ministries have not set up internal procedures for receiving whistleblower reports. As of mid-2014, only five ministries had developed procedures according to the APC, and only six had established departments to investigate reports of corruption and wrongdoing.<sup>51</sup>

In 2003, Bulgaria's Ministry of Finance developed a programme to receive and investigate reports of irregularities and fraud committed in the course of EU-funded projects. A number of reporting avenues were set up, and whistleblowers receive responses to their reports within 30 days.<sup>52</sup>

In May 2013, the Bulgarian NGO RiskMonitor Foundation helped launch the "NORMCORM" project in the Bulgarian capital Sofia. Co-funded by the European Commission and supported by the Sofia Development Association, the project is designed to expose and prevent corruption in the city's administration.<sup>53</sup> Citizens and organisations can report corruption through a dedicated website, and their confidentiality will be preserved.<sup>54</sup>

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<sup>49</sup> Kierans op cit.

<sup>50</sup> Kaneva op cit.

<sup>51</sup> Kaneva op cit.

<sup>52</sup> "Whistle Blowing of Irregularities Under EU Projects," Ministry of Finance;

[www.minfin.bg/en/page/375](http://www.minfin.bg/en/page/375)

<sup>53</sup> See: [www.normcorm.bg/en](http://www.normcorm.bg/en)

<sup>54</sup> See: [www.sofia.bg/corruption.asp](http://www.sofia.bg/corruption.asp)



## Recent or Pending Initiatives

In recent years, there has been little political support for enacting a strong whistleblower protection law. Following recommendations from the Council of Europe and the OECD, the government in 2006-07 considered a law to cover government and corporate employees. However, a proposal was never developed.

Interest in the issue has resurfaced. In September 2014, an in-depth study on Bulgaria's current legal framework was released by the government's Center for Prevention and Countering Corruption and Organised Crime. The report includes three potential legislative options for strengthening whistleblower protection, including amending the APC, or enacting a stand-alone law.<sup>55</sup> The government will present a project for a whistleblower protection act in the near future.<sup>56</sup>

## Whistleblower Cases

Bulgarian courts have heard a number of cases in which whistleblowers faced charges of criminal defamation.<sup>57</sup>

In 2009, a judge ruled that an individual did not commit defamation by posting on the Ministry of Interior's website information about alleged corruption committed by a Ministry official. The court found that the person "lawfully exercised a constitutionally recognised right" and was protected from prosecution under the APC.<sup>58</sup>

In 2011, a judge concluded that an individual who had been threatened with eviction after filing complaints about an official was protected by the APC from being prosecuted for defamation. The court found that reports made to a public institution could not be considered defamatory because they did not damage the honor, reputation or dignity of a particular person.<sup>59</sup>

Similarly, a court ruled in 2013 that an individual could not be charged with defamation for making disclosures about the management of municipal property because "the rights of whistleblowing are constitutionally guaranteed." And, in 2011, a judge overturned a one-year censure filed against an individual who reported concerns in a police agency.<sup>60</sup>

In 2011, Sofia police officer Konstantin Ivanov was forced to resign after revealing that the Ministry of Interior was receiving large cash payments from various donors, who in turn were being protected from penalties stemming from traffic violations. The scandal received widespread media attention. The Ministry pledged to stop the practice, which was criticised

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<sup>55</sup> Kaneva op cit.

<sup>56</sup> Personal communication, Ministry of Interior, 24 Oct. 2014.

<sup>57</sup> Only basic information on the first four cases is available.

<sup>58</sup> Kaneva op cit.

<sup>59</sup> Kaneva op cit.

<sup>60</sup> Kaneva op cit.



by the European Commission. Ivanov left his position of more than 20 years after he was disciplined for what he called minor or non-existent issues.<sup>61,62</sup>

## Data and Statistics

Bulgaria currently does not centrally collect statistics or data on whistleblower disclosures or retaliation complaints. Reports are typically made anonymously, and are directed to individual government ministries and institutions.<sup>63</sup> In 2012, for example, the Ministry of Finance received nine reports, seven of which were investigated.<sup>64</sup>

The government's central administration tracks the overall number of reports of wrongdoing, by category. The figures for 2012 and 2013 are shown below.<sup>65</sup> No additional information on these reports is available – for example, on how many were filed by government and corporate whistleblowers, and how many were filed by citizens.

Type of wrongdoing	# reports, 2012	# reports, 2013
Violation of organisational rules	301	323
Breach of duty	374	483
Conflict of interest	30	109
Corruption by government officials	612	437
Corruption of authority	11	5
Other	7408	93141
<b>Total</b>	<b>8736</b>	<b>94498</b>

The Commission for Prevention and Ascertainment of Conflict of Interest has received about 1,100 reports since June 2011, which has led to the dismissal of about 100 public officials. Their names are posted on the websites of the relevant public institutions.<sup>66</sup>

In 2013, the Commission opened 355 proceedings relating to conflict of interest in government operations. Most cases were reported through whistleblowers. Thirty-seven people were found to have violated conflict of interest rules in 2013, including in state- and municipal-owned enterprises; local government; Parliament; and a health insurance fund.<sup>67</sup>

The Bulgarian chapter of the NGO Transparency International has an Advocacy and Legal

<sup>61</sup> "Traffic Police Officer Pressured to Resign After Uncovering Donations Scandal at Bulgarian Interior Ministry," novinite, 4 August 2011;

[www.novinite.com/view\\_news.php?id=130849#sthash.gBlQy6yC.dpuf](http://www.novinite.com/view_news.php?id=130849#sthash.gBlQy6yC.dpuf)

<sup>62</sup> Bulgaria's Whistle-Blowing Traffic Cop Faces Court Trial, novinite.com, 7 August 2011; [www.novinite.com/articles/130912/Bulgaria%27s+Whistle-Blowing+Traffic+Cop+Faces+Court+Trial#sthash.msF8oWzh.dpuf](http://www.novinite.com/articles/130912/Bulgaria%27s+Whistle-Blowing+Traffic+Cop+Faces+Court+Trial#sthash.msF8oWzh.dpuf)

<sup>63</sup> Personal communication, Ministry of Interior, 24 Oct. 2014.

<sup>64</sup> Kierans op cit.

<sup>65</sup> Kaneva op cit. The significant increase in the "other" category from 2012 to 2013 is due to reports from the Metropolitan Municipality. It is not clear whether the Metropolitan Municipality submitted data in previous years.

<sup>66</sup> Personal communication, Commission for Prevention and Ascertainment of Conflict of Interest, 27 Oct. 2014.

<sup>67</sup> "Annual Report," Commission for Prevention and Ascertainment of Conflict of Interest, 2014.



Advise Centre (ALAC), where people can file reports of corruption and other wrongdoing. From 2006-09, the ALAC received two whistleblowing-related reports – one from a public official and one from a person in the private sector.

### Public Perceptions of Whistleblowing

Employees in both the public and private sectors generally fear dismissal or prosecution for defamation if they report misconduct. Bulgaria's weak trade union culture, as well as the negative social attitude towards whistleblowing, also hamper the reporting of corruption, bribery and other crimes.<sup>68</sup> Whistleblowers are still often perceived as “traitors” or “police informers.”<sup>69</sup> According to research by Transparency International, the main reasons for the public's reluctance to report corruption are the belief that there will be no impact and that reporting could lead to reprisals.<sup>70</sup>

However, investigative journalism based on information and tips from whistleblowers has been practiced more widely in recent years. Many of these sources chose to remain anonymous.<sup>71</sup>

### Capacities and Knowledge Centres

There are no government agencies, NGOs or research institutes in Bulgaria that focus specifically on whistleblower protection, advocacy or policy issues.

As mentioned, the Commission for Prevention and Ascertainment of Conflict of Interest collects reports related to conflict of interest. The Center for Prevention and Countering Corruption and Organised Crime has conducted an initial research report on Bulgaria's whistleblower-related laws. And the RiskMonitor Foundation initiated the local whistleblower project in Sofia and tracks anti-corruption and transparency issues more broadly.

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<sup>68</sup> Personal communication, Center for the Study of Democracy, 10 Oct. 2014.

<sup>69</sup> Kierans op cit.

<sup>70</sup> Kierans op cit.

<sup>71</sup> Kierans op cit.



## Croatia

### Overview

Croatia has no overarching law to protect whistleblowers from retaliation and to provide them with adequate means to report corruption and other misconduct. There are no specialised government agencies that accept and investigate whistleblower disclosures or complaints. Various labour and criminal codes are intended to shield government and corporate whistleblowers from reprisals, but they are limited and have not been widely applied to actual cases.

Until recently, political will to improve whistleblower rights and protection has been lacking. In the past two years, more political and public attention has been devoted to the issue. In 2013, a proposed whistleblower law was presented in Parliament that included many internationally recognised standards. In 2014, the Ministry of Justice released guidelines on whistleblowing and began reviewing the country's current whistleblower provisions.

Croatia is the home of many prominent whistleblowers, including those who have disclosed alleged financial irregularities; wrongdoing by government officials; and public health and environmental hazards.

### Current Legislation and Regulations

Croatia has developed a legal framework designed to deter corruption, but it has yet to enact a whistleblower protection law that meets European or international standards. Currently, limited legal protection for government and corporate employees is provided by several laws. These provisions only cover reports of corruption and not other crimes or wrongdoing, and they do not expressly or clearly define the concept of whistleblowing.

The Labour Act was strengthened in 2009, to ban the firing of employees who report corruption based on a reasonable belief that the information is true. The law requires employers to prove that any negative actions taken against a whistleblower were unrelated to their disclosure.

Amended in 2007 and 2008, the Civil Service Act protects civil servants who report suspicions of corruption to the appropriate individuals or authorised government institutions. Confidentiality is guaranteed if the wrongdoing is found to be "serious." Restricting or denying a government employee's rights is considered a serious violation.

The Criminal Code makes it illegal to fire a worker for reporting suspicions of corruption to the appropriate individuals or authorised government institutions. Violating this provision, or failing to reinstate a worker in defiance of a judicial decision, is punishable by up to three years in prison.



Despite this range of laws, the European Commission found, in 2014, that in light of the outcome of recent cases, Croatia's current legal and institutional framework appears inadequate to fully protect whistleblowers.<sup>72</sup> The rights of whistleblowers in particular cases cannot be analysed because no legally binding verdicts are known to have been issued.<sup>73</sup>

### **Institutions, Frameworks and Procedures**

No government institution in Croatia specialises in accepting and investigating disclosures or retaliation complaints from whistleblowers.

There are a number of public hotlines through which employees and citizens can report wrongdoing – including those operated by the Office for Suppression of Corruption and Organised Crime and the Ministry of the Interior. Additionally, the Ministry of Administration accepts reports and complaints from citizens and civil servants and refers them to the appropriate institutions for follow-up investigation.

Though no firm data exists, it has been reported that most people prefer to disclose wrongdoing anonymously. Some whistleblowers opt to contact NGOs such as Udruga Zvizdac and the Croatian chapter of Transparency International.<sup>74</sup>

### **Recent or Pending Initiatives**

Croatia's official Anti-Corruption Strategy includes a number of goals related to whistleblowing, including:

- strengthening laws;
- raising public awareness of the government's responsibility to compensate whistleblowers who have suffered losses;
- granting immunity or reducing penalties for people charged with corruption who cooperate in investigations; and
- providing security to those who have yet to report corruption.<sup>75</sup>

It is expected that specific measures on whistleblowing will be included in the government's forthcoming Anti-Corruption Plan, which is an outgrowth of the Anti-Corruption Strategy.<sup>76</sup>

In terms of strengthening legislation, a proposed law was developed in 2013 that includes many international standards, including protections for government and corporate employees; a reasonable belief that the information disclosed is true; and an extensive

<sup>72</sup> European Commission, "EU Anti-Corruption Report: Annex – Croatia," February 2014; [www.ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014\\_acr\\_croatia\\_chapter\\_en.pdf](http://www.ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_croatia_chapter_en.pdf)

<sup>73</sup> Vasiljević, Snjezana, "Whistleblowing in Croatia"; [www.governmentgazette.eu/?p=5836](http://www.governmentgazette.eu/?p=5836)

<sup>74</sup> Vasiljević, Snjezana, "Whistleblower Protection in the Central and Eastern Europe Region: Croatia"; [www.whistleblowing-cee.org/countries/croatia/research/](http://www.whistleblowing-cee.org/countries/croatia/research/)

<sup>75</sup> Parliament of Croatia, "Anti-Corruption Strategy," June 2008.

<sup>76</sup> Personal communication, Ministry of Justice, 16 October 2014.



range of misconduct that could be reported. These offenses include corruption; theft; abuse of position and power; waste of public funds and resources; worker or public health dangers; negligence; mismanagement in government; and actions that endanger the public interest or the public good. The proposal was not adopted.

In 2014, the Ministry of Justice was analysing the implementation of current laws. Additionally, it has published guidelines on whistleblowing and the potential protection of whistleblowers.<sup>77</sup>

## Whistleblower Cases

Croatia has seen the emergence of many high-profile whistleblower cases in recent years. The cases not only have brought wrongdoing to light, but they have also turned several whistleblowers into public activists.

The first Croatian whistleblower to attract wide media attention was Ankica Lepej, a bank employee who disclosed to the media in 1998 that the wife of Croatian President Franjo Tudjman had made a large deposit that her husband did not report. The bank offered a reward to anyone who named the whistleblower. Lepej exposed herself, and was fired and charged with disclosing business secrets, though she was never tried.<sup>78,79</sup>

Vesna Balenovic reported corruption, nepotism, and public health risks in the state oil company INA in 2001. She was fired from her position. Since then, government officials and INA administrators – including INA president Tomislav Dragicevic – have filed numerous lawsuits against Balenovic, alleging slander and mental anguish.<sup>80,81,82</sup>

Biologist Srecko Sladoljev, a member of the Institute of Immunology's supervisory board, was suspended in 2010 after criticising what he called a lack of transparency in the Institute's purchase of the swine flu vaccine. Sladoljev said he feared the situation posed a public health risk.<sup>83</sup>

The former auditor and the head of payments at the Croatian Post – Claudija Covic – was fired in 2008 after revealing that the Post was reporting profits when actually it was

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<sup>77</sup> European Commission, op cit.

<sup>78</sup> "Whistleblowers—Brave Men or Fame-Lusting Traitors?" *dalje.com*, 25 February 2008; [www.dalje.com/en-economy/whistleblowers-brave-men-or-fame-lusting-traitors/126592](http://www.dalje.com/en-economy/whistleblowers-brave-men-or-fame-lusting-traitors/126592)

<sup>79</sup> Mucić, Magdalena, "Ankica Lepej svoju knjigu o aferi prodaje na ulici," *24sata*, 17 May 2008; [www.24sata.hr/news/ankica-lepej-svoju-knjigu-o-aferi-prodaje-na-ulici-63005](http://www.24sata.hr/news/ankica-lepej-svoju-knjigu-o-aferi-prodaje-na-ulici-63005)

<sup>80</sup> Remiković, Drazen, "Regional whistleblowers lack protection, support," *Southeast European Times*, 14 February 2014;

[www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2014/02/14/feature-02](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2014/02/14/feature-02)

<sup>81</sup> Mazlić, Lejla, "HRH Zagreb revives the case of Vesna Balenović," 22 February 2010, Human Rights House; [www.humanrightshouse.org/Articles/13486.html](http://www.humanrightshouse.org/Articles/13486.html)

<sup>82</sup> INA Head Sues Ex Employee for Slander," 31 October 2008, *dalje.com*; [www.dalje.com/en-croatia/ina-head-sues-ex-employee-for-slander/198737](http://www.dalje.com/en-croatia/ina-head-sues-ex-employee-for-slander/198737)

<sup>83</sup> "Croatia: Unregistered swine flu vaccine – whistleblower suspended (2010)," International Trade Union Confederation; [www.survey.ituc-csi.org/Unregistered-swine-flu-vaccine.html](http://www.survey.ituc-csi.org/Unregistered-swine-flu-vaccine.html)



experiencing large financial losses.<sup>84</sup> Covic won a court case over the termination and has since obtained a position in a different organisation.

Other cases include:

- a staffer who exposed alleged corruption by the prefect of Sisak County was fired after telling the media that the prefect ordered her to issue false bills and used county funds for personal purposes and parties;<sup>85</sup>
- two police officers who reported alleged corruption within the Ministry of the Interior continued to be harassed because managers did not transfer them to a different department.<sup>86</sup>

## Data and Statistics

Croatia has no specific, official figures on the incidence of whistleblowing, nor has there been any formal research on the topic. There are only official figures on complaints on professional behaviour by civil servants,<sup>87</sup> which may or may not constitute whistleblowing.

About 200 whistleblowers have anonymously contacted the Udruga Zvizdac, which was founded by well-known whistleblower Vesna Balenovic. Many have contacted the organisation anonymously out of fear of reprisals.<sup>88</sup>

## Public Perceptions of Whistleblowing

The role and public perceptions of whistleblowing in Croatia are mixed.

On the one hand, according to a study by the UN Office on Drugs and Crime, more than half of Croatians believe that people who report corruption are likely to regret it, and that nothing constructive will result.<sup>89</sup> There has been little or no political will to strengthen legal protection for whistleblowers. And government agencies do not closely track whistleblower cases, nor have they calculated the amount of public money saved due to the productive impact of whistleblowing.<sup>90</sup>

On the other hand, the media increasingly portrays whistleblowers as heroes, and journalists have become more reliant on whistleblowers to expose wrongdoing.<sup>91</sup> And, according to

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<sup>84</sup> Kramarić, Damir, "Presuda Sanaderu: Kap U Moru Kriminala," Dnevno.hr, 21 November 2012; [www.dnevno.hr/vijesti/hrvatska/71788-hrvatska-posta-nastavlja-sudski-goniti-zvzdace-ide-li-to-milanovic-sanaderovim-stopama.html?print=1](http://www.dnevno.hr/vijesti/hrvatska/71788-hrvatska-posta-nastavlja-sudski-goniti-zvzdace-ide-li-to-milanovic-sanaderovim-stopama.html?print=1)

<sup>85</sup> Remiković, op cit.

<sup>86</sup> European Commission, op cit.

<sup>87</sup> Vasiljević, "Whistleblowing in Croatia", op cit.

<sup>88</sup> Remiković, op cit.

<sup>89</sup> European Commission, op cit.

<sup>90</sup> Vasiljević, "Whistleblower Protection in the Central and Eastern Europe Region: Croatia", op cit.

<sup>91</sup> European Commission, op cit.



Transparency International, two-thirds of surveyed citizens said they would report instances of corruption, and almost a third said they would utilise government hotlines.<sup>92</sup>

*Zvzdac* is the Croatian word for whistleblower. “Whistleblowing” is a relatively new term in Croatia that, though widespread, has yet to be fully understood among the public.<sup>93</sup>

### Capacities and Knowledge Centres

Currently there are no government institutions in Croatia that oversee or specialise in whistleblower protection issues.

Several NGOs work on whistleblower protection, research and advocacy, and on transparency and anti-corruption issues more broadly, including:

- Udruga Zvzdac, which provides direct advice and support to whistleblowers, and specialises in communicating with and supporting them anonymously;
- GONG, which promotes basic rights and good governance issues, including freedom of speech, voting, access to information, democratisation, political party financing, and conflict of interest.
- The Croatian chapter of Transparency International, which advises and assists people who report, or are considering reporting, corruption or other misconduct. People are able to report cases anonymously.<sup>94</sup>
- The Association for the Protection from Bullying of Victims, which works to protect and advise people from discrimination and harassment in the workplace, including those who face retaliation for revealing corruption and other misconduct.<sup>95</sup>

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<sup>92</sup> “Croatian Public Anti-Corruption Initiatives,” Business Anti-Corruption Portal; [www.business-anti-corruption.com/country-profiles/europe-central-asia/croatia/initiatives/public-anti-corruption-initiatives.aspx](http://www.business-anti-corruption.com/country-profiles/europe-central-asia/croatia/initiatives/public-anti-corruption-initiatives.aspx)

<sup>93</sup> Vasiljević, “Whistleblowing in Croatia”, op cit.

<sup>94</sup> Vasiljević, “Whistleblowing in Croatia”, op cit.

<sup>95</sup> Vasiljević, “Whistleblowing in Croatia”, op cit.



## Kosovo\*

### Introduction

Kosovo\* passed a whistleblower law in 2011 that covers reports of misconduct in both the public and private sectors. The law contains a number of recognised international standards, such as requirements for workplaces to have provisions to protect whistleblowers: whistleblower disclosures to be investigated; and for whistleblowers to be informed of the outcome of cases.

The law, however, is seen as being inadequately enforced, and there is a lack of awareness of the law among public officials. No whistleblowers are known to have used the law successfully to be protected from retaliation, compensated for financial losses, or reinstated to their position.

Several high-profile whistleblower cases have emerged in Kosovo\* in recent years, including those dealing with illegal pharmaceutical drugs and admission irregularities at a major university.

### Current Legislation and Regulations

The Assembly of Kosovo\* approved the Law on Protection of Informants in August 2011, which the government had presented a month earlier. The law grants protection from a range of workplace retaliation and discrimination to people who report unlawful actions occurring in the public or private sector. The law requires public institutions and private enterprises to have provisions to protect the “integrity, rights and interests” of whistleblowers, and to receive reports about potential illegalities.

Additionally, the law requires the recipient of a report to contact the appropriate institution for follow-up; to inform the whistleblower about steps taken; and to inform managers about the results and conclusions. In order to receive protection, whistleblowers must reasonably believe the information to be true; knowingly false reports are not protected. In serious criminal cases, the whistleblower and family members may receive witness protection.

Whistleblowers who are dismissed or otherwise disciplined may be reinstated and compensated, but it must be proven that they were disciplined because of reporting misconduct; the employer does not have the burden to prove that disciplinary measures were unrelated to whistleblowing.

The law is seen as being ambiguous in certain aspects, including how reports should be made; where they should be made if an employee’s superior is involved in the wrongdoing; and retaliation protection mechanisms.<sup>96</sup>

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\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence



## Institutions, Frameworks and Procedures

The Anti-Corruption Agency maintains a confidential hotline and website for the general public. Reports may also be made by mail or in person.<sup>97</sup> Reports can also be made to the police and prosecutor's office. Otherwise, official reporting channels are lacking.<sup>98</sup>

The Ministry of Justice is responsible for administering the Law on Protection of Informants, including making public officials aware of its provisions.

According to an NGO study released in 2013, there are low levels of awareness and implementation and enforcement of the law in the public and private sectors. There is also a lack of officials appointed to deal with misconduct, and there is fear of reprisals by managers. The study also found that people who revealed the names of whistleblowers were not punished, and that the law is often misunderstood because it contains the word "informants", which carries a negative connotation in Kosovo\*.<sup>99</sup>

A survey found that 26 percent of public officials were not aware of the law, and 15 percent of central- and local-level officials had a very good understanding of it. Three-fourths of respondents turned a "blind eye" to what they had seen, and half said there was no official person to deal with irregularities or they did not know of one.<sup>100</sup>

## Recent or Pending Initiatives

Since the passage of the law in 2011, there have been no significant government initiatives related to whistleblowing. In one development, the government, in 2014, included in its Open Government Partnership Action Plan a proposal to include the prosecutor's office and police as official reporting channels covered by the Law on Protection of Informants.<sup>101</sup>

In November 2012, the Board of Trustees of the American University in Kosovo\* in Pristina established its first Ombudsperson's Office and appointed two trustees to jointly act as Ombudspersons. Individuals who report to the Ombudspersons are protected, as is their identity.<sup>102</sup>

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<sup>96</sup> Shentov, Ognian et al (Eds.), "Anti-Corruption Reloaded: Assessment of Southeast Europe," Southeast Europe Leadership for Development and Integrity (SELDI.net), 2014;  
[www.tacso.org/doc/AntiCorruption\\_Reloaded.pdf](http://www.tacso.org/doc/AntiCorruption_Reloaded.pdf)

<sup>97</sup> See: [www.akk-ks.org/?cid=2,49](http://www.akk-ks.org/?cid=2,49)

<sup>98</sup> Personal communication, FOL Movement, 3 March 2015.

\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

<sup>99</sup> "Officials do not whistle corruption. Policy brief: the level of knowledge and experiences of public officials about the Law on Protection of Informants," Levizja FOL, 2013;

<sup>100</sup> "Officials do not whistle corruption. Policy brief: the level of knowledge and experiences of public officials about the Law on Protection of Informants," Levizja FOL, 2013.

<sup>101</sup> Personal communication, FOL Movement, 3 March 2015.

<sup>102</sup> Office of the Ombudsperson, American University in Kosovo;  
[www.aukonline.org/web/home/office-of-the-ombudsperson.html](http://www.aukonline.org/web/home/office-of-the-ombudsperson.html)



## Whistleblower Cases

Basri Rexha, an inspector with the Kosovo\* Agency for Medicinal Products, was suspended in 2013, after he reported a major scandal involving illegal insulin and blood protein that been imported into Kosovo\* and shipped to pharmacies. Improper customs documentation was used to bring in more than €1 million worth of illegal insulin, which diabetes patients were injected with in 2011 and 2012. Investigations into the case are continuing.<sup>103,104,105</sup>

The wife of the rector of the University of Pristina was threatened with dismissal after revealing efforts by politically connected people to win favorable treatment for students. Syzana Zejnullahu of the Faculty of Medicine disclosed two telephone messages in which requests were made for students to be admitted to the university – one on behalf of the brother of former Prime Minister Hashim Thaçi, and the other on behalf of the brother of the leader of the political party AAK. Eleven people at the university were arrested in December 2013 for misuse of official position, receiving bribes, falsifying documents and other charges. Bribes of up to €10,000 were paid for registering students. More than 680 students were illegally registered from October 2012 to February 2013.<sup>106,107</sup>

Two officials at the Kosovo\* Land Registration Agency, Ali Sefaj and Dukagjin Venari, were fired in 2012 after accusing the head of the agency, Murat Meha, with widespread abuse, including corruption, extortion, abuse of official position, manipulating a tender and striking an employee. Meha has denied the allegations.<sup>108,109</sup>

Six employees of the publicly owned waste-management company Pastrimi were fired in 2012, after they reported allegations of corruption.<sup>110</sup>

## Data and Statistics

No official data is available on whistleblowing. In 2013, the Anti-Corruption Agency conducted preliminary investigations into 319 cases: 247 were new, and 72 were carried over from previous years. Of these, 128 cases were forwarded to the prosecution and police

<sup>103</sup> "Officials do not whistle corruption. Policy brief: the level of knowledge and experiences of public officials about the Law on Protection of Informants," Levizja FOL, 2013.

<sup>104</sup> "Shpatën mbi kokën e kryeinspektorit dhe më pas thikë pas shpine!", Publiku.net. 27 January 2014; [www.publiku.net/?FaqeID=2&LajmID=4719](http://www.publiku.net/?FaqeID=2&LajmID=4719)

<sup>105</sup> Musliu, Jeton, "Mbi gjysmë milioni euro për ilaçe ilegale," gazetajnk.com, 25 March 2013; <http://gazetajnk.com/?cid=1,979,5111>

<sup>106</sup> "Officials do not whistle corruption. Policy brief: the level of knowledge and experiences of public officials about the Law on Protection of Informants," Levizja FOL, 2013.

<sup>107</sup> Kadriu, Anita, "Po amnistohen profesorët mashtrues," Zëri, 16 January 2014; <http://old.zeri.info/artikulli/24889/po-amnistohen-profesoret-mashtrues>

\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

<sup>108</sup> "Officials do not whistle corruption. Policy brief: the level of knowledge and experiences of public officials about the Law on Protection of Informants," Levizja FOL, 2013.

<sup>109</sup> "Kryeshefi i Agjencionit Kadastral akuzohet për korrupsion," IndeksOnline, 18 December 2012; [www.arkivalajmeve.com/Kryeshefi-i-Agjencionit-Kadastral-akuzohet-per-korrupsion.1047319421/](http://www.arkivalajmeve.com/Kryeshefi-i-Agjencionit-Kadastral-akuzohet-per-korrupsion.1047319421/)

<sup>110</sup> Personal communication, FOL Movement, 3 March 2015.



for follow-up, 8 were sent to administrative authorities, and 30 cases were sent to tax authorities. The cases included financial disclosure violations (the largest category); corruption; abuse of official position; falsifying official documents and fraud.<sup>111</sup> It is not publicly known which cases originated from whistleblowers.

## Public Perceptions of Whistleblowing

No public opinion surveys on whistleblowing are known to have been conducted in Kosovo\*. Generally, the notion of whistleblowing is poorly understood. Kosovo\* is a relatively small society characterised by political and family interconnections; fear of hierarchies; high levels of corruption perceptions in the public sector; and negative public attitudes toward reporting any wrongdoing – even minor cases. Investigations of whistleblower reports can be adversely affected by a culture of using political connections to obtain jobs, promotions and protection. Confidence levels between various sectors of society is very low, and there is almost no trust in the efficiency of handling criminal offences.<sup>112</sup>

A survey released in 2013, however, revealed some surprising results. Public officials working in central and local administration were asked whether they feel safe providing information to their superiors about corruption or other irregularities. Ninety-one percent said they feel somewhat or very safe; 4 percent said they do not feel safe at all. For those who had made reports, 8 said their report was taken into consideration; 3 said it was not. Seven people said they were threatened with dismissal, demotion, including salary reduction; 3 said they were not.<sup>113</sup>

Concerns have been raised about the fact that “informant” appears in the title of the whistleblower law. Typically this term refers to people who work in intelligence agencies. Moreover, whistleblowers can be confused with protected witnesses.<sup>114</sup>

## Capacities and Knowledge Centres

The Ministry of Justice is responsible for administering the Law on Protection of Informants. The Anti-Corruption Agency accepts reports of corruption via a toll-free hotline; develops procedures to detect and investigate acts of corruption; and can present criminal charges to prosecutors. Violations of human rights, such as freedom of expression, can be made to the Ombudsperson via a toll-free hotline.

<sup>111</sup> “Annual Report: January-December 2013,” Kosovo Anti-Corruption Agency, March 2014; [www.akk-ks.org/repository/docs/Raportiversionianglisht.pdf](http://www.akk-ks.org/repository/docs/Raportiversionianglisht.pdf)

\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

<sup>112</sup> Galicic, Drino, “Whistleblowers,” S/C 2.4, EU-AC Support to the Anti-corruption Institutions of Kosovo, 2010.

<sup>113</sup> “Officials do not whistle corruption. Policy brief: the level of knowledge and experiences of public officials about the Law on Protection of Informants,” Levizja FOL, 2013.

<sup>114</sup> Galicic, Drino, “Whistleblowers,” S/C 2.4, EU-AC Support to the Anti-corruption Institutions of Kosovo, 2010.



The NGO FOL Movement has conducted in-depth research on the implementation of the Law on Protection of Informants, advocates for its improved implementation and tracks whistleblower cases. It also receives reports and complaints of corruption and other misconduct, conducts investigations and refers cases to prosecutors and the Anti-Corruption Agency.<sup>115</sup> The NGO Kosova Democratic Institute (National Chapter of Transparency International) also focuses on whistleblower-related issues.

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<sup>115</sup> Personal communication, FOL Movement, 3 March 2015.



## Macedonia

### Overview

Macedonia lacks a comprehensive law to protect whistleblowers. However, its Constitution includes the right to petition the government without being retaliated against. Macedonia also has a generic law banning prosecution of people who report corruption, but its provisions are limited and are not known to having been tested in practice.

There is no government agency specifically dedicated to working on whistleblower issues, and no specific data or statistics are gathered on whistleblowing. Adequate procedures for employees to report misconduct within all public and private sector organisations have not yet been established.

In February 2014, the government proposed changes to the country's main anti-corruption law that would establish a whistleblower protection system for government and corporate employees. The proposal has yet to pass Parliament.

To date, few whistleblower cases have been made public. Only a small number of NGOs in Macedonia are actively working on whistleblowing.

### Current Legislation and Regulations

Macedonia's Constitution grants all people the right to petition the government, and to receive a response, without suffering "adverse consequences." The only exception is if by doing so, a person commits a criminal offence.

Macedonia lacks a specifically dedicated whistleblower law. However, legal provisions of various laws offer some basic protection, such as those in the Criminal Code and laws on Prevention of Corruption; Labour Relations; Protection from Harassment in the Workplace; and Public Sector Employees.

The Law on Public Sector Employees, which took effect in February 2015, provides protection to employees who report criminal acts that threaten the public interest, security or defence. Confidentiality or anonymity are guaranteed, as requested by the employee. The Law on Public Internal Financial Control requires public sector employees to report irregularities and suspicions of fraud or corruption. They are afforded identity protection and employment-related rights.

Still, the government's State Programme for Prevention and Repression of Corruption acknowledges that current measures are "insufficient" and need to be strengthened.<sup>116</sup>

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<sup>116</sup> Macedonian Public Anti-Corruption Initiatives, Business Anti-Corruption Portal; [www.business-anti-corruption.com/country-profiles/europe-central-asia/macedonia/initiatives/public-anti-corruption-initiatives.aspx](http://www.business-anti-corruption.com/country-profiles/europe-central-asia/macedonia/initiatives/public-anti-corruption-initiatives.aspx)



The law that most closely resembles a whistleblower provision is the Law on the Prevention of Corruption. Passed in 2002, it intends to shield people who report corruption from criminal prosecution and other forms of liability. Whistleblowers, as well as their family members, are entitled to compensation for any harm they suffer because of making a disclosure.”<sup>117</sup> Among the law’s limitations are that it only applies to disclosures of corruption and that it does not specify the forms of compensation.

Representing a somewhat innovative measure in the European context, the Law on Free Access to Information of Public Character protects government employees who release protected information that sheds light on abuse of power, “corruptive behavior”, or serious threats to human life, public health, or the environment.<sup>118</sup> The law, however, does not define the types of liability from which a government employee would be protected.

### Institutions, Frameworks and Procedures

Macedonia currently lacks a specified government agency that receives and investigates disclosures and retaliation complaints from whistleblowers. The European Commission said in October 2014 that internal control systems in the central and local administrations are “weak,” and that effective whistleblower mechanisms in the public and private sectors have yet to be built.<sup>119</sup>

Macedonia has an Ombudsman that advises citizens on their rights and develops legislative proposals based on their complaints, but it has no judicial, prosecutorial or inspection authority. The Ombudsman has reported good cooperation with and timely responses from the government, but the answers frequently lack substance.<sup>120</sup> The European Commission reached a similar finding, noting that although state institutions have respected most of the Ombudsman’s recommendations, greater efforts are needed by the Ministries of Interior and Finance, local governments, and government commissions.<sup>121</sup>

Reports of corruption and violations in public procurement are widespread, but no institution presently is charged with ensuring effective and timely oversight. Penalties for violating administrative regulations, and criminal investigations and convictions for abusing public procurement rules – though on the increase – are not commonplace.<sup>122</sup>

<sup>117</sup> Speckbacher, Christophe, “The protection of whistleblowers in the light of GRECO’s work,” Secretariat of GRECO, 20 March 2009; [www.batory.org.pl/doc/Whistleblowing%20mechanisms%20REV2%20for%20Batory%20Foundation%20Conf%20of%2030March09.pdf](http://www.batory.org.pl/doc/Whistleblowing%20mechanisms%20REV2%20for%20Batory%20Foundation%20Conf%20of%2030March09.pdf)

<sup>118</sup> Davitkovski, Borce and Pavlovska-Daneva, Ana, “Law on Free Access to Information of Public Character with Comments,” Foundation Open Society Institute - Macedonia, 2006.

<sup>119</sup> European Commission, “The former Yugoslav Republic of Macedonia: Progress Report,” October 2014; [www.ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://www.ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

<sup>120</sup> Business Anti-Corruption Portal, op cit.

<sup>121</sup> Business Anti-Corruption Portal, op cit.

<sup>122</sup> European Commission, “The former Yugoslav Republic of Macedonia: 2013 Progress Report,” 16 October 2013; [www.ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mk\\_rapport\\_2013.pdf](http://www.ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf)



Concerns have been raised that the State Commission for Prevention of Corruption (SCPC) and prosecutors have not successfully concluded enough cases based on whistleblower disclosures. However, many convictions have resulted from citizens who reported large-scale theft of wood to the forestry police.<sup>123</sup>

In an example of a local whistleblower programme, Aerodrom, one of the 10 municipalities making up the capital of Skopje, began setting up integrity systems in 2012 that include an awareness campaign on whistleblowing. The municipality has set up a hotline, a box and an Internet portal for reporting misconduct.<sup>124</sup> The programme was developed by the SCPC in cooperation with the UN Development Programme.

### Recent or Pending Initiatives

In 2012-13, the SCPC developed a feasibility study with guidelines for introducing a national whistleblowing system.<sup>125</sup> This was followed, in February 2014, by the government's release of proposed amendments to the Law on the Prevention of Corruption that include "systemic, institutional and effective protection" for people who report corruption and other wrongdoing. The effort is being jointly undertaken by the SCPC, the Ministry of Justice, and the Ministry of Information Society and Administration.<sup>126</sup>

Though not suggesting a stand-alone law, the government has proposed a whistleblower system intended to protect government and corporate employees who report a broad range of misconduct. Employees would be able to report past, ongoing or potential actions that threaten the public interest, security and defence.

The proposal includes several internationally recognised best practices, including that:

- whistleblowers are not required to prove that their reports are true
- anonymity and confidentiality are guaranteed
- institutions and individuals may be fined if they fail to protect whistleblowers, or if they do not preserve a whistleblower's anonymity or confidentiality.<sup>127</sup>

Transparency International Macedonia submitted recommendations to the Ministry of Justice to amend the proposal, some of which were accepted.<sup>128</sup> As of mid-2015, the proposal remained in the drafting and inter-agency consultation phase.<sup>129</sup>

<sup>123</sup> Personal communication, Paul Stephenson, 13 November 2014.

<sup>124</sup> Stephenson, op cit.

<sup>125</sup> Personal communication, Ministry of Justice, 12 January 2015.

<sup>126</sup> "State Programme for Prevention and Repression of Corruption; State Programme for Prevention and Reduction of Conflict of Interests with Action Plans for the period 2011-2015," State Commission for Prevention of Corruption, December 2011; [www.business-anti-corruption.com/media/3944281/Policy\\_Conflict-of-interest-11-15.pdf](http://www.business-anti-corruption.com/media/3944281/Policy_Conflict-of-interest-11-15.pdf)

<sup>127</sup> Proposal - to the Law on Prevention of the Corruption, Ministry of Justice, February 2014.

<sup>128</sup> Personal communication, Transparency International Macedonia, 15 September 2014.

<sup>129</sup> Personal communication, Ministry of Justice, 4 May 2015.



## Whistleblower Cases

Simo Gruevski was dismissed from the Board of Directors of Makedonski Telekom in 2004 after he reported management irregularities to anti-corruption officials. Gruevski released documents showing what he called excessive salaries, costs and consultancy fees. He also claimed that the government, which was Telekom's second-largest shareholder, lost €75 million as a result of poor management. Telekom has filed a defamation case against Gruevski.<sup>130,131</sup>

## Data and Statistics

No official statistics have been collected on whistleblowing.<sup>132</sup> In terms of the reporting of crime and misconduct in general, the Ombudsman received 5,220 reports in 2012, the SCPC received 457 in 2010,<sup>133</sup> and 227 disclosures were made during a 12-month period in 2011-12 to an Internet platform operated by Transparency International Macedonia. An unknown number of reports have been made to other regulators, NGOs and the media. Macedonia's customs office, which maintains a hotline, reportedly receives a particularly high number of disclosures.<sup>134,135</sup>

According to the US Department of State, most complaints the Ombudsman received in 2012 involved concerns about judicial procedures, police abuses, police services, prisons, labour, and consumer or property rights.<sup>136</sup>

According to Transparency International Macedonia, more reports generally are made to its anti-corruption hotline than to the SCPC, which it says indicates a lack of trust in the government.<sup>137</sup>

## Public Perceptions of Whistleblowing

Though the concept of whistleblowing is not new to Macedonia, its practice is considered to be underperforming. According to the SCPC, a shift in public attitude is needed. Various cultural and social viewpoints continue to pose challenges to acceptance.

For example, Macedonia has traditionally hierarchical structures that can restrict information flows – even about wrongdoing – from the lower to the upper organisational

<sup>130</sup> "The procedure against Simo Gruevski should stop," Transparency International Macedonia, 15 December 2010.

<sup>131</sup> "Sendrei damages Telecom by EUR 180 million," *limun.hr*, 20 June 2007; [www.limun.hr/en/main.aspx?id=169149](http://www.limun.hr/en/main.aspx?id=169149)

<sup>132</sup> Personal communication, Ministry of Justice, 12 January 2015.

<sup>133</sup> The latest annual report posted on the SCPC website is from 2010.

<sup>134</sup> Stephenson, op cit.

<sup>135</sup> Transparency International Macedonia, op cit.

<sup>136</sup> Business Anti-Corruption Portal, op cit.

<sup>137</sup> Transparency International Macedonia, op cit.



levels. It has been observed that within these structures, loyalty to an organisation can outweigh accountability considerations.<sup>138</sup>

Some journalists say they do not feel safe.<sup>139</sup> Journalist Tomislav Kezarovski was sentenced to four and a half years in prison in 2013 for revealing the name of a protected witness, which he claimed was needed in order to reveal improper police practices.<sup>140</sup>

Encouragingly, Transparency International found, in 2013, that 61 percent of the population believes that ordinary people can make a difference in the fight against corruption.<sup>141</sup> Citizens generally are willing to get involved in anti-corruption efforts, but many fear retaliation and backlash.<sup>142</sup>

According to a survey by Transparency International Macedonia released in February 2015, 72 percent of private sector employees and 69 percent of public sector employees said they believe they would face consequences if they reported misconduct. Among those surveyed, 37 percent feared losing their job, 21 percent feared pressures in the workplace, 7 percent feared demotion, and 3 percent feared a cut in salary. More than half – 57 percent – said people who report wrongdoing are not adequately protected.<sup>143</sup>

### Capacities and Knowledge Centres

Macedonia has no government agency that specialises in whistleblower issues. The SCPC focuses on a range of good governance and transparency topics, including corruption prevention, conflict of interest, public integrity, asset declaration and lobbying.

Transparency International Macedonia monitors whistleblower cases, legislation and practices, and maintains an online portal through which people can report crime and misconduct.

The Centre for Civil Communications is an NGO that monitors government institutions, recommends anti-corruption measures, and supports journalists and other NGOs in the fight against corruption. Recently the Center has published several reports discussing problems related to public procurement.

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<sup>138</sup> Stephenson, op cit.

<sup>139</sup> Stephenson, op cit.

<sup>140</sup> Greenslade, Roy, "Macedonian journalist jailed for 4½ years," *The Guardian*, 22 October 2013; [www.theguardian.com/media/greenslade/2013/oct/22/press-freedom-macedonia](http://www.theguardian.com/media/greenslade/2013/oct/22/press-freedom-macedonia)

<sup>141</sup> Stephenson, op cit.

<sup>142</sup> Transparency International Macedonia, op cit.

<sup>143</sup> "Survey on the attitudes of Macedonian employed citizens on the reporting of illegal and unethical behavior in companies and institutions," Transparency International Macedonia, February 2015.



## Moldova

### Overview

Moldova has produced one of the best-known whistleblower cases in Europe. The country, however, has limited practice or experience in dealing with whistleblower issues, including protecting them from retaliation. Whistleblower disclosures and complaints are not systematically tracked, and retaliation cases against civil servants who report corruption are not monitored.

Numerous government institutions receive and investigate reports from the public. Citizens increasingly are reporting bribery, corruption and other misconduct to authorities, and a number of arrests have been made based on these disclosures.

The government passed a new framework on whistleblowing in 2013, the aim of which is to provide disclosure channels for public employees, and to protect them from retaliation. There are no legal protections for employees of private companies. A 2008 effort to pass a comprehensive whistleblower protection law that contained numerous international standards was not successful. The government has laid out a timeline to set up a national whistleblower system by 2016.

A number of NGOs track and research whistleblowing and anti-corruption issues more broadly.

### Current Legislation and Regulations

In September 2013, Moldova's government passed a "Framework Regulation on Whistleblowers." The measure created a system to provide civil servants with opportunities to report wrongdoing within public authorities and protect them from retaliation. Civil servants may report acts of corruption, and violations of conflict of interest and asset declaration rules. Results of any follow-up inquiry are to be sent to the whistleblower within 30 days.

The Framework includes a wide range of disclosure channels, including managers; law enforcement; the National Integrity Commission; prosecutors; NGOs and the media. Whistleblowers must provide their name and place of employment, but confidentiality is guaranteed. Good faith is presumed unless proven otherwise. People who report knowingly false information, or who do not adequately protect a whistleblower, face disciplinary and criminal measures.

All public authorities are required to set up internal regulations. To date, 92 percent, corresponding to about 29 authorities, have adopted them. Thus far, there is no system to track whistleblower reports.<sup>144</sup>

<sup>144</sup> Personal communication, National Anticorruption Center, 23 October 2014.



The Framework was developed following a recommendation by the Council of Europe to strengthen whistleblower protection. It is intended to implement the amendments of 2011 to the Law on Preventing and Combating Corruption, which installed specific legal protection for civil servants.

To date, Moldova has not enacted a comprehensive whistleblower law. The government's National Anticorruption Centre (NAC), however, succeeded in having certain laws amended in order to enact the Framework, which the NAC acknowledges provide only minimal protections.<sup>145</sup>

Also in 2013, the NAC approved whistleblower regulations for the Centre's staff. NAC employees may report corruption, illegalities and violations of certain rules. The procedures and protection are similar to those included in the Framework Regulation on Whistleblowers.

In 2008, a proposed whistleblower protection law was developed that included many international standards, including coverage for government and corporate employees; a wide range of misconduct that could be reported; financial rewards for whistleblowers; a confidentiality guarantee; physical protection if needed; and disciplinary measures for people who retaliate against whistleblowers. The law was not enacted because of budgetary constraints, and amidst concerns that it may have been unrealistic.<sup>146</sup>

Currently, there is no specific legal protection for whistleblowers in the private sector.

### **Institutions, Frameworks and Procedures**

Several government institutions as well as NGOs deal with whistleblowing and anti-corruption more broadly.

Law enforcement authorities have internal security departments to which people can report corruption.<sup>147</sup> By 2009, nearly all central and many local public institutions had set up hotlines for reporting misconduct. At that time, the Ministry of Health was receiving more than 1,200 calls per month, reflecting the high corruption risks present in the country's health-care sector. The Customs Service and the Ministry of Internal Affairs have also received disclosures from whistleblowers.<sup>148</sup>

A law, passed in October 2013, calls for the establishment of anti-corruption hotlines at three levels: a free, 24-hour hotline managed by the NAC; anti-corruption hotlines by public authorities; and institutional information lines by public authorities ("Trust Line"). However,

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<sup>145</sup> Personal communication, National Anticorruption Center, 23 October 2014.

<sup>146</sup> "Whistleblowers' protection in the Republic of Moldova," Whistleblower Protection in the Central and Eastern Europe Region; [www.whistleblowing-cee.org/countries/moldova/research/](http://www.whistleblowing-cee.org/countries/moldova/research/)

<sup>147</sup> Global Integrity Report: Moldova, 2010; [www.globalintegrity.org/global/the-global-integrity-report-2010/moldova/2010/](http://www.globalintegrity.org/global/the-global-integrity-report-2010/moldova/2010/)

<sup>148</sup> Whistleblower Protection in the Central and Eastern Europe Region, op cit.



not all hotlines are always functioning.<sup>149</sup> Most ministries do not have designated staff to operate the hotlines; do not generate annual reports on disclosures; and do not release the outcomes of complaints.<sup>150</sup>

The NAC maintains a hotline<sup>151</sup> to which people can report corruption. Additionally, the NAC, in 2014, signed an agreement to carry out a public awareness campaign with three NGOs: Transparency International (TI) Moldova; the Anticorruption Alliance; and the Center for the Analysis and Prevention of Corruption (CAPC).

### Recent or Pending Initiatives

The only substantial development in recent years has been the 2013 Framework Regulation on Whistleblowers. The Framework is an element of Moldova's ongoing Justice Sector Reform Strategy, which requires all government agencies to enact whistleblower procedures. The NAC is overseeing its implementation.

According to the Strategy, the government seeks to create and implement a mechanism for operating the whistleblower system by 2016.<sup>152</sup>

In 2013-14, the government conducted numerous anti-corruption training sessions for government employees, including a course on whistleblowing. In 2013, 774 people attended 25 sessions on legal provisions; protective measures; and civil servants' right to report wrongdoing. In 2014, there were 494 training sessions with the theme "Conceptual considerations on integrity: Whistleblowers."<sup>153</sup>

### Whistleblower Cases

Moldova is home to one of Europe's best-known whistleblower cases. Iacob Guja was the head of the press office in the Prosecutor General's Office when he was fired in 2003 for revealing evidence of political interference in a criminal case. A year earlier, four police officers were investigated for poor treatment and illegal detention of criminal suspects. The then-Deputy Speaker of Parliament wrote a letter to prosecutors asking if they were "fighting crime or the police" and to "personally [...] intervene in this case." The investigation of the four police officers was then dropped. Guja sent this and another letter to a newspaper, for which he was fired.

<sup>149</sup> Personal communication, Anticorruption Alliance, 24 October 2014.

<sup>150</sup> Carasciuc, Lilia and Bostan, Galina, "Monitorizarea politicilor anticorupție în autoritățile publice centrale," Transparency International Moldova, Center for the Analysis and Prevention of Corruption, Fundația Soros-Moldova, 2013; [www.soros.md/files/publications/documents/Monitorizarea%20politicilor%20anticorup%C5%A3ie%20%C3%AEn%20autorit%C4%83%C5%A3ile%20publice%20centrale.pdf](http://www.soros.md/files/publications/documents/Monitorizarea%20politicilor%20anticorup%C5%A3ie%20%C3%AEn%20autorit%C4%83%C5%A3ile%20publice%20centrale.pdf)

<sup>151</sup> See: [www.cna.md/en](http://www.cna.md/en)

<sup>152</sup> "Action plan for the implementation of the Justice Sector Reform Strategy for the years 2011-2016," Ministry of Justice.

<sup>153</sup> Personal Communication, National Anticorruption Center, 23 October 2014.



In 2008, the European Court of Human Rights ruled Moldova had violated Guja's right to freedom of expression granted under Article 10 of the European Convention on Human Rights. As a whistleblower acting in the public interest, the court said, Guja had a right to inform the public about the officials' misconduct. The court ruled that interfering with his right to freedom of expression was not "necessary in a democratic society." In this landmark case, the court established six principles to determine whether a whistleblower's right to freedom of expression should be protected under the European Convention. Guja was awarded €10,000 in damages.<sup>154</sup>

Numerous instances of whistleblowing and the reporting of misconduct by citizens have been documented by the NAC, including:

- A surgeon was arrested, in 2014, after being caught asking for a bribe to operate on a 15-year-old patient with a broken leg.
- A government engineer was arrested, in 2013, for seeking a bribe from a truck driver to obtain a professional certificate.
- A driving instructor was arrested, in 2014, for soliciting bribes to ensure that students passed driving exams and obtained their driver's licenses.
- An attorney who previously was prosecuted and sentenced for passive corruption and abuse of office was detained, in 2014, for influence peddling.<sup>155</sup>

In September 2014, Parliament Member Veaceslav Ioniță was expelled from the Liberal Democratic Party faction after releasing documents to the media alleging that the party had fraudulently obtained 450 million lei (€24 million) from the Banca de Economii (Savings Bank of Moldova).<sup>156</sup>

## Data and Statistics

The government does not track the number or outcome of whistleblower disclosures or complaints of retaliation. Fewer than five reports have been made to the NAC, and there is no mechanism to collect statistics of reports made to other public institutions. The government does not track whistleblower cases reported according to the law on civil servants.<sup>157</sup>

In 2014 the NAC received 2,210 calls to its hotlines, 229 of which were related to corruption acts.<sup>158</sup>

<sup>154</sup> Judgment: Case of Guja v. Moldova, European Court of Human Rights, Application no. 14277/04, Strasbourg, 12 February 2008; [www.hudoc.echr.co.e.int/sites/eng/pages/search.aspx?i=001-85016#{%22itemid%22:\[%22001-85016%22\]}](http://www.hudoc.echr.co.e.int/sites/eng/pages/search.aspx?i=001-85016#{%22itemid%22:[%22001-85016%22]})

<sup>155</sup> See: [www.cna.md/ro/search/node/whistleblower](http://www.cna.md/ro/search/node/whistleblower)

<sup>156</sup> "Veaceslav Ioniță, dat afară din fracțiunea parlamentară a PLDM. Cum a reacționat deputatul," publika.md, 25 September 2014; [www.publika.md/veaceslav-ionita--dat-afara-din-fractiunea-parlamentara-a-pldm--cum-a-reactionat-deputatul\\_2098651.html](http://www.publika.md/veaceslav-ionita--dat-afara-din-fractiunea-parlamentara-a-pldm--cum-a-reactionat-deputatul_2098651.html)

<sup>157</sup> Personal communication, National Anticorruption Center, 23 October 2014.

<sup>158</sup> Personal communication, National Anticorruption Center, 23 March 2015.



Whistleblowing generally is negatively perceived, and not commonly practiced in Moldova, and there have been cases of reprisals against people who reported wrongdoing.

The term “whistleblowing” is not well known and is confused with “witness.” This can deter people from coming forward as a results of their concerns that they might get involved in court proceedings.<sup>159</sup>

According to TI Moldova, information submitted by some whistleblowers to public authorities has been forwarded to the very public official who was accused of wrongdoing. Some of TI’s clients have declined to appear as witnesses in corruption cases, and some have given TI Moldova false names and addresses of out fear of reprisals. Anonymous reports typically are not investigated thoroughly by the authorities.<sup>160</sup>

In a 2010 survey by TI Moldova, of 418 representatives of 15 central institutions, 34 percent said they would not report corruption to their managers even if it were a specific case.<sup>161</sup> Among companies and households surveyed by TI Moldova in 2012, very few had attempted to report corruption because they felt nothing would change, or that doing so created more problems.<sup>162</sup>

In a demographic study of people who report wrongdoing, the NAC found that the typical whistleblower is male, aged between 30 and 40, with a secondary education and likely to be unemployed. According to the NAC, given the “general reluctance” of most people to cooperate with law enforcement, it is unclear why young unemployed people would report corruption.<sup>163</sup>

Generally, the media does not report on whistleblower cases, though it has conducted investigations based on whistleblower disclosures.<sup>164</sup>

### Capacities and Knowledge Centres

Moldova has numerous government institutions and NGOs that focus on issues related to whistleblowing, and crime-fighting and anti-corruption more broadly.

<sup>159</sup> Stephenson, Paul and Routray, Shonali, “Whistleblower Protection – A Comparative Analysis,” A Study for the Commissioner for Information of Public Importance and Personal Data Protection of Serbia,” 2012.

<sup>160</sup> Stephenson and Routray, op cit.

<sup>161</sup> Stephenson and Routray, op cit.

<sup>162</sup> Moldovan Public Anti-Corruption Initiatives, Business Anti-Corruption Portal; [www.business-anti-corruption.com/country-profiles/europe-central-asia/moldova/initiatives/public-anti-corruption-initiatives.aspx](http://www.business-anti-corruption.com/country-profiles/europe-central-asia/moldova/initiatives/public-anti-corruption-initiatives.aspx)

<sup>163</sup> “Study on Corruption Cases,” National Anti-corruption Center, October 2013; [www.cna.md/sites/default/files/statdata/eng\\_studiu\\_privind\\_dosarele\\_de\\_coruptie\\_final\\_decembrie\\_2013.pdf](http://www.cna.md/sites/default/files/statdata/eng_studiu_privind_dosarele_de_coruptie_final_decembrie_2013.pdf)

<sup>164</sup> Whistleblower Protection in the Central and Eastern Europe Region, op cit.



Government institutions include the NAC; the General Prosecutor's Office; the Anticorruption Prosecutor's Office; the Chamber of Accounts; and the Ministry of Internal Affairs.

Among the NGOs that research and track whistleblower issues are TI Moldova; CAPC; and the Anticorruption Alliance. In 2013, TI Moldova, CAPC and the Soros Foundation Moldova released an in-depth report on the anti-corruption efforts of the country's public authorities. The report includes a range of recommendations for improvement.<sup>165</sup>

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<sup>165</sup> Carasciuc and Bostan, op cit.



## Montenegro

### Overview

Though not a standalone whistleblower law, a Law on Prevention of Corruption passed in December 2014 includes mechanisms and protection for public and private sector employees who report corruption.

Provisions in other laws provide additional protection for government and company whistleblowers, including a 2013 law that makes retaliating against a whistleblower a criminal offence.

Montenegro's Directorate for Anti-Corruption Initiative (DACI) receives corruption reports and refers them to the relevant authorities for follow-up investigation. The DACI has conducted various public awareness campaigns to encourage employees and citizens to report misconduct.

Several high-profile whistleblower cases have surfaced in recent years, with mixed results and outcomes for the whistleblowers.

### Current Legislation and Regulations

Though Montenegro does not have a designated whistleblower law, it has a range of provisions that provide certain protection to government and company employees who report misconduct.

According to the Law on Civil Servants and State Employees, public servants are not to be fired or otherwise retaliated against for reporting corruption or other unlawful or improper acts to the authorities. Managers are also obliged to protect whistleblowers' confidentiality. Violating these protection mechanisms can lead to fines of up to €2,000. Employers must prove that any actions taken against a worker were not based on whistleblowing.

The Labour Law includes similar measures for private sector employees, including protection of their rights, and a confidentiality guarantee. Fines for failing to protect an employee can reach €20,000.

In June 2013, Montenegro's Criminal Code was strengthened toward meeting standards of the Council of Europe and the European Court for Human Rights. It is now a criminal offence, punishable by up to three years in prison, to break an employment contract of a person who reported corruption to the authorities.

These provisions notwithstanding, the European Commission reported, in October 2014, that whistleblower protection in Montenegro must be more effective in practice.<sup>166</sup>

<sup>166</sup> "Montenegro Progress Report," European Commission, October 2014.



According to a 2013 report, civil servants and company employees are reluctant to report wrongdoing due to a lack of responsiveness by the courts and senior officers.<sup>167</sup>

The US Department of State has cited several cases of people being fired or harassed for reporting corruption. In particular, some whistleblowers within police agencies have not been well protected. Citizens have been reluctant to report police misconduct for fear of reprisal, and the courts typically find that use of force by the police is reasonable.<sup>168</sup>

### **Institutions, Frameworks and Procedures**

The main government agency in Montenegro that deals with whistleblowing and anti-corruption issues more broadly is the Directorate for Anti-Corruption Initiative (DACI). Since 2006, the DACI has operated a system by which employees and citizens can report corruption and other wrongdoing. Reports can be made in person or via phone, e-mail, fax or post – confidentially or anonymously.<sup>169</sup> The DACI continuously runs campaigns to encourage people to report corruption.<sup>170</sup>

The DACI does not have investigative powers, but refers reports to the appropriate authorities for follow-up.

In addition to the DACI, 11 other government authorities have complaint procedures and hotlines for whistleblowers and the public at large, including the Customs Administration (hotline established in 2005); the Ministry of Health (2008); the Police Administration (2009); the Judicial Council (2009); and the Ministry of Education (2011). Each agency is to assign staff to receive and act upon disclosures, and whistleblowers are to be informed of any measures taken.<sup>171</sup>

Hotlines have also been set up by the Supreme State Prosecutor; the Public Procurement Office; the Tax Administration; the Investment Development Fund; the Administration for Games of Chance; and the National Commission for the Monitoring of Implementation of the Strategy for Combating Corruption and Organised Crime.<sup>172</sup>

<sup>167</sup> Kalac, Emir, *Anti-Corruption Mechanisms and Accountability of Police Officers in Montenegro*, Centre for Democracy and Human Rights (CEDEM), December 2013; [www.osce.org/montenegro/110441?download=true](http://www.osce.org/montenegro/110441?download=true)

<sup>168</sup> "Country Reports on Human Rights Practices for 2012: Montenegro," US State Department; [www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper](http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper)

<sup>169</sup> "Report corruption," Directorate for Anti-Corruption Initiative; [www.antikorupcija.me/en/index.php?option=comcontent&view=article&id=270:report-corruption&catid=41:directorate&Itemid=266](http://www.antikorupcija.me/en/index.php?option=comcontent&view=article&id=270:report-corruption&catid=41:directorate&Itemid=266)

<sup>170</sup> "Izveštaj o broju prijava o korupciji za period jul-decembar 2013. Godine," ("A report on the number of reports of corruption for the period July-December 2013"), Directorate for Anti-Corruption Initiative, January 2014.

<sup>171</sup> "Montenegrin Public Anti-Corruption Initiatives," Business Anti-Corruption Portal; [www.business-anti-corruption.com/country-profiles/europe-central-asia/montenegro/initiatives/public-anti-corruption-initiatives.aspx](http://www.business-anti-corruption.com/country-profiles/europe-central-asia/montenegro/initiatives/public-anti-corruption-initiatives.aspx)

<sup>172</sup> "Izveštaj o broju prijava o korupciji za period jul-decembar 2013. Godine," ("A report on the number of reports of corruption for the period July-December 2013"), Directorate for Anti-Corruption Initiative, January 2014.



## Recent or Pending Initiatives

In December 2014, the government of Montenegro adopted the Law on Prevention of Corruption. Scheduled to take effect on 1 January 2016, the new law will grant protection to people who report corruption that threatens the public interest. Such threats include:

- violation of regulations, ethical rules or the possibility of such a violation that has caused, is causing, or threatens to cause danger to life, health and safety of people or the environment
- human rights violations
- damage to the state or to a legal or natural person
- actions seeking to conceal such violations

Elements of the law include how people can file corruption reports to public authorities or companies; protecting a whistleblower's identity; responses to corruption reports; and awards for whistleblowers. Public authorities or companies must inform whistleblowers within 45 days of any measures taken.

The law includes a comprehensive list of adverse consequences from which a whistleblower is entitled to be protected, including dismissal; change of duties; disciplinary proceedings; being deprived of the means to work; and denial of promotion.

Whistleblowers are also entitled to judicial protection against discrimination and harassment at work. Further, draft amendments to the Law on Criminal Proceedings would establish additional protection mechanisms for witnesses in criminal cases.<sup>173</sup>

Public authorities have engaged in a variety of citizen awareness campaigns in recent years. In July 2014, the DACI continued its "Not a Cent for Bribe" campaign, which was initially launched in 2012. The DACI produced leaflets with hotline numbers, billboards, TV videos, posters, and audio spots, as well as "zero currency banknotes" to discourage bribery. Also in 2014, the DACI distributed 121,000 leaflets throughout Montenegro. As part of its campaign "Corruption is not an option", the Customs Administration distributed 20,000 flyers.<sup>174,175</sup>

Earlier DACI campaigns include "Open your eyes wide – report corruption" and "Remove the Virus – Report Corruption" in 2010, and "Reporting Corruption = Good Decision" and "Report Corruption – There Is Always a Way" in 2011.

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<sup>173</sup> Personal communication, Directorate for Anti-Corruption Initiative, 28 November 2014.

<sup>174</sup> "Izveštaj o broju prijava o korupciji za period jul-decembar 2013. Godine," ("A report on the number of reports of corruption for the period July-December 2013"), Directorate for Anti-Corruption Initiative, January 2014.

<sup>175</sup> "Campaign 'Not a Cent for Bribe' continued," Directorate for Anti-Corruption Initiative, 23 July 2014; [www.antikorupcija.me/en/index.php?option=comcontent&view=article&id=277:campaign-not-a-cent-for-bribe-continued&catid=42:daci-news&Itemid=291](http://www.antikorupcija.me/en/index.php?option=comcontent&view=article&id=277:campaign-not-a-cent-for-bribe-continued&catid=42:daci-news&Itemid=291)



In 2011, Nenad Cobeljic, the president of the military trade union, was disciplined by the military authorities for publicly disclosing alleged corruption, discrimination against union members and misallocation of military housing. Cobeljic was removed from his army position and barred from promotion for two years. Following widespread publicity of the case, the disciplinary measures were dropped and Cobeljic returned to his position in 2013.<sup>176,177,178</sup>

Police officer Goran Stankovic said that he was forced to retire after exposing the 2008 beating of a suspect in detention. Stankovic appeared as a witness against the implicated officers, who included supervising and high-ranking officers. The mistreated suspect, Aleksandar Pejanovic, had been arrested for allegedly assaulting a police officer during a protest against the government's decision to recognise the government of Kosovo\*. A new police director reinstated Stankovic.<sup>179,180</sup>

In 2013, an engineer was suspended from his job with the national railway company after reporting that some drivers were not adequately trained.<sup>181</sup>

An individual in Rozaje said he received death threats and was taken to Kosovo\* and severely beaten after disclosing cigarette smuggling between Montenegro and Kosovo\*. He accused business interests and the National Security Agency of being involved. Prosecutors have opened an investigation.<sup>182</sup>

Sandra Obradovic, leader of Trade Union of Aluminum Plant of Podgorica (KAP), was fired in 2010, after participating in a roundtable organised by the anti-corruption organisation MANS (Network for Affirmation of NGO Sector). Obradovic, who spoke at the event about harassment in her workplace, was fired by managers who accused her of missing work without authorisation.<sup>183</sup>

<sup>176</sup> "Country Reports on Human Rights Practices for 2012: Montenegro," US State Department; [www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper](http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper)

<sup>177</sup> "2012 Annual Survey of Violations of Trade Union Rights - Montenegro," International Trade Union Confederation, June 2012; [www.refworld.org/docid/4fd88935c.html](http://www.refworld.org/docid/4fd88935c.html)

<sup>178</sup> Tomovic, Dusica, "Montenegro Troops Threaten Protests," Balkan Investigative Reporting Network, 5 September 2014.

\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

<sup>179</sup> "Country Reports on Human Rights Practices for 2012: Montenegro," US State Department; [www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper](http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper)

<sup>180</sup> "Country Reports on Human Rights Practices for 2009: Volume II," US Department of State, Report Submitted to the Committee on Foreign Relations, US Senate, October 2012.

<sup>181</sup> Brcvak, Dzenita, "Whistle-blowing in the Montenegrin Police," Centre for Democracy and Human Rights (CEDEM), November 2014.

<sup>182</sup> Brcvak, Dzenita, "Whistle-blowing in the Montenegrin Police," Centre for Democracy and Human Rights (CEDEM), November 2014.

<sup>183</sup> Williams, Leah, "Whistleblower Fired in Montenegro for Participation in Round Table", Whistleblowers Protection Blog, 28 April 2010; [www.whistleblowersblog.org/2010/04/articles/international/whistleblower-fired-in-montenegro-for-participation-in-round-table/](http://www.whistleblowersblog.org/2010/04/articles/international/whistleblower-fired-in-montenegro-for-participation-in-round-table/)



Five border police officers were reinstated after having been fired by the Ministry of Interior for making public statements about smuggling between Montenegro and Kosovo<sup>\* 184</sup>.

## Data and Statistics

The DACI and 11 other public authorities receive and act upon reports from whistleblowers and citizens. Every six months, the DACI releases a report summarising these disclosures; the report does not distinguish between disclosures from citizens and those from whistleblowers within organisations.

In 2014, 12 government authorities received a total of 447 disclosures. Most were sent to the Supreme State Prosecutor (287) and DACI (109). Other reports were sent to the Police Directorate; the Ministry of Education; the Customs Administration; and the Ministry of Health Care.

Most reports were made in person (230), by post (119), electronically (48) and by telephone (33). In 65 cases (15 percent) the person filing the report wished to remain anonymous.

The DACI categorised the topics of the 2104 disclosures as follows:<sup>185</sup>

During the first half of 2014, the DACI received 66 reports, triple the amount for the same period in 2103. The spike was attributed to the “Not a Cent for Bribe” campaign.<sup>186</sup>

## Public Perceptions of Whistleblowing

There is a lack of research and analysis of public attitudes in Montenegro to whistleblowers and the practice of whistleblowing. Generally, there is a belief that whistleblowers are vulnerable to negative consequences.<sup>187</sup> In most of the small number of public cases, whistleblowers have lost their jobs or experienced other forms of retribution.<sup>188</sup>

<sup>184</sup> “Country Reports on Human Rights Practices for 2012: Montenegro,” US State Department; [www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper](http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper)

<sup>185</sup> Preliminary report on the number of corruption reports in 2014; DACI, March 2015.

<sup>186</sup> “Campaign ‘Not a Cent for Bribe’ continued,” Directorate for Anti-Corruption Initiative, 23 July 2014; [www.antikorupcija.me/en/index.php?option=comcontent&view=article&id=277:campaign-not-a-cent-for-bribe-continued&catid=42:daci-news&Itemid=291](http://www.antikorupcija.me/en/index.php?option=comcontent&view=article&id=277:campaign-not-a-cent-for-bribe-continued&catid=42:daci-news&Itemid=291)

<sup>187</sup> “Country Reports on Human Rights Practices for 2012: Montenegro,” US State Department; [www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper](http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dliid=204320#wrapper)

<sup>188</sup> Personal communication, Network for Affirmation of the NGO Sector (MANS), 14 October 2014.



According to a public survey conducted in December 2013, slightly more than half (54 percent) of respondents said they would not report corruption to the DACI.<sup>189</sup> A shift was noted when the survey was conducted a year later: 59 percent said they would report to the DACI, while 37 percent said they would not.<sup>190</sup>

The main reasons for this reluctance were similar in both surveys:

- lack of trust in authorities to take action
- lack of trust that their information would remain private
- fear of revenge or reprisal
- not certain the information could be proven

According to the 2014 survey, those willing to report corruption said they would be most likely to contact the DACI, the media, and the police.

### Capacities and Knowledge Centres

The Directorate for Anti-Corruption Initiative, a public authority within the Ministry of Justice, is the leading public authority that deals with whistleblowing and broader anti-corruption issues. As mentioned above, many other ministries and authorities receive and act upon reports of wrongdoing from whistleblowers and citizens.

When the Law on Prevention of Corruption is scheduled to take effect on 1 January 2016, its provisions will be implemented by the Agency for the Prevention of Corruption. This is expected to be an autonomous, independent agency.<sup>191</sup>

Though not specialising in whistleblowing issues, among the NGOs active in the field of good governance are MANS (Network for the Affirmation of the NGO Sector) and the Centre for Democracy and Human Rights.

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<sup>189</sup> "Survey Results: Familiarity with the work of the DACI and public opinion on corruption," Directorate for Anti-Corruption Initiative, conducted December 2013;

[www.antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=11&Itemid=299#](http://www.antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=11&Itemid=299#)

<sup>190</sup> Survey Results: Familiarity with the work of the DACI and public opinion on corruption," Directorate for Anti-Corruption Initiative, conducted December 2014;

[http://antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=11&Itemid=299](http://antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=11&Itemid=299)

<sup>191</sup> Law on Prevention of Corruption, December 2014;

[http://antikorupcija.me/index.php?option=com\\_phocadownload&view=category&id=3&Itemid=382](http://antikorupcija.me/index.php?option=com_phocadownload&view=category&id=3&Itemid=382)



## Romania

### Overview

Romania, in 2004, became the first country in continental Europe to pass a designated whistleblower law. The Law on Whistleblower Protection is considered to be one of the most comprehensive laws of this kind in the world. It enables many types of misconduct to be reported to a wide range of disclosure channels, including to the media and NGOs.

However, some experts have said its implementation and enforcement have been inadequate; that it has produced only a few successful cases; and that not enough information on cases has been made public.

The Romanian public has historically been sceptical of whistleblowing, but opinions and perceptions are said to be slowly moving in a positive direction. More than 700 reports of alleged wrongdoing committed by public servants were disclosed to the authorities between 2006 and 2012.

### Current Legislation and Regulations

In 2004, Romania became one of the first countries in the world to pass a stand-alone piece of whistleblower legislation. On paper, the Law on Whistleblower Protection is considered among the strongest laws of this kind currently in effect. The law covers a wide range of public sector employees, including those working in the central, presidential and local administrations; the Parliament; administrative authorities; and national and state-owned companies. It does not apply to private companies or the judiciary.

Many types of misconduct may be reported under the law, including corruption; abuse of office; abuse of human and material resources; political partisanship; negligence; and violations related to conflict of interest; public procurement; access to information; transparency; and recruitment.

In an innovative feature, whistleblowers may report wrongdoing to a wide variety of disclosure channels, including managers; disciplinary commissions; judicial institutions; the Parliament; the media; and NGOs. Employees are free to choose the appropriate channel, without needing to justify their decision.

Independent experts have noted that the law has not been adequately implemented; its impact has been limited; and that few successful cases have resulted. One expert has speculated that this may be due to the lack of controversy and national debate before the law was passed, which has caused it to remain relatively unknown among the public.<sup>192</sup>

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<sup>192</sup> Stephenson, Paul and Routray, Shonali, "Whistleblower Protection – A Comparative Analysis," A Study for the Commissioner for Information of Public Importance and Personal Data Protection of Serbia," 2012; [www.poverenik.rs/images/stories/prezentacije/studije/reportstephensonfinaleng.pdf](http://www.poverenik.rs/images/stories/prezentacije/studije/reportstephensonfinaleng.pdf)



Transparency International (TI) Romania has raised a number of critiques, including that many public servants have little or no knowledge of the law; some public institutions lack mandatory internal policies and are reluctant to implement the law; and public information about the number of whistleblower cases, sanctions and benefits is limited.<sup>193</sup>

### **Institutions, Frameworks and Procedures**

Romania has no designated government institution charged with handling whistleblowing issues, including the investigation of whistleblower disclosures and retaliation complaints.

According to the European Commission, progress in implementing whistleblower policies in Romania's public administration was "almost non-existent" between 2007 and 2012. An exception was the Ministry of Interior, which had installed a whistleblower protection mechanism. Court cases based on whistleblower reports are "very scarce," including six from the Ministry of Defence and one from the Ministry of Interior.<sup>194</sup>

In 2013, half of the government institutions scored a "0" or "not applicable" in a self-assessment of their performance in establishing whistleblower mechanisms and procedures, and tracking cases. Among the other half, 133 internal regulations were harmonised with the law (mostly the Ministries of Culture and Labour), and 29 institutions had designated staff to receive whistleblower complaints (more than half at the Ministry of Culture).<sup>195</sup>

According to a 2011 study of 631 companies from 81 sectors, the most important integrity policy within the companies was establishing a whistleblower mechanism and protecting whistleblowers from retaliation.<sup>196</sup>

### **Recent or Pending Initiatives**

In 2013, the government began a two-year project to develop new methods for using and protecting whistleblowers in corruption investigations. The project produced two in-depth documents: a study of Romania's legal framework for using and protecting whistleblowers, and a manual for police and prosecutors for interacting with whistleblowers and informants.

There are no known government reforms to amend the Law on Whistleblower Protection. The effectiveness of the current law is evaluated periodically via the National Anticorruption Strategy. According to the government's latest figures, whistleblower protection mechanisms are in place in more than 300 institutions.

More than 400 anti-corruption training sessions attended by more than 5,300 people, most of whom from the Ministries of Interior and Public Finances, were held in 2013. Forty-five

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<sup>193</sup> "Report on Whistleblowing in Romania," Transparency International Romania, 2013.

<sup>194</sup> Stephenson and Routray, op. cit.

<sup>195</sup> "Annual Report on the Implementation of the National Anticorruption Strategy 2012-2015," Ministry of Justice, 2013.

<sup>196</sup> "Whistleblower Protection in the Romanian Legislation," Ministry of Justice.



measures were adopted with the goal to eliminate the factors that enable rules to be violated.<sup>197</sup>

### Whistleblower Cases

In January 2013, the European Court of Human Rights ruled the Romanian government violated the rights of Constantin Bucur. In 1998, Bucur had been convicted of illegally disclosing secret information by revealing wiretapping of journalists, politicians and business people by the Romanian Intelligence Service (SRI). The Court found that the public interest in disclosing illegal conduct outweighed the interest of maintaining public confidence in the SRI. The Court ruled that Bucur's right to freedom of expression, granted by Article 10 of European Convention for the Protection of Human Rights and Fundamental Freedoms, had been violated.<sup>198,199</sup>

An engineer at the Public Health Ministry's medical devices office reported violations of the law and the Code of Conduct, and that the office's manager did not have the proper background and signed his own appointment to the position. The disclosure also suggested possible acts of corruption; offences against the EU's financial interests; not accounting for resources; and biased or discriminatory actions. The manager retaliated against the engineer with threats, blackmail and dismissal. With the assistance of Transparency International Romania, the engineer won a court decision to overturn the disciplinary measures and be reinstated to his job.<sup>200</sup>

In 2009, the Bucharest Tribunal ordered an employee of a public institution to be reinstated. The institution failed to allow a representative of the media to be present when the whistleblower was investigated by a disciplinary committee.<sup>201</sup>

In 2009, whistleblowers reported to the National Integrity Council and Transparency International Romania alleged irregularities involving four managers of the National Integrity Agency (ANI). Among the allegations was that ANI's chairman was in a conflict of interest by also owning two private companies. Following the report, two whistleblowers were dismissed from ANI. One prevailed in a court case and was reinstated, but was later dismissed again.<sup>202,203</sup>

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<sup>197</sup> Ministry of Justice, op. cit.

<sup>198</sup> Bucur and Toma v. Romania, 40238/02, Judgment [Section III], European Court of Human Rights, 8 January 2013.

<sup>199</sup> Bucur and Toma v. Romania, Right2INFO.org; [www.right2info.org/cases/r2i-bucur-and-toma-v.-romania](http://www.right2info.org/cases/r2i-bucur-and-toma-v.-romania)

<sup>200</sup> Ministry of Justice, op. cit.

<sup>201</sup> Ministry of Justice, op. cit.

<sup>202</sup> Coşpanaru, Iulia et al, "National Integrity System Assessment: Romania," Transparency International Romania, 2011.

<sup>203</sup> "Integrity Agency with Integrity Issues?", Rule of Law Program – South East Europe, Konrad-Adenauer-Stiftung, October 2009.



## Data and Statistics

In 2013, 191 reports were made according to the Law on Whistleblower Protection. One ministry registered a complaint in court, and another recorded a case of a whistleblower experiencing retaliation in the workplace.<sup>204</sup>

According to an EU-funded study, a total of 732 reports of wrongdoing by public servants were reported to authorities from January 2006 to July 2012.<sup>205</sup> These reports are broken down by category in the chart below.<sup>206</sup>

Type of wrongdoing reported	# reports
Corruption counterfeiting, misuse of office, work-related offences	255
Offences against the financial interests of the European Communities	8
Preferential or discriminatory practices or treatment	66
Incompatibility and conflict of interests	17
Abuse of material or human resources	24
Political bias in exercising job responsibilities	0
Access to information and decisional transparency	1
Public procurement and non-reimbursable funds	5
Professional incompetence or negligence	157
Non-objective personnel decisions	32
Procedural breaches	57
Serving special or clientelist interests	0
Faulty or fraudulent administration of the public and private patrimony of public authorities	4
Other breaches of good administration and protecting the public interest	106
<b>Total</b>	<b>732</b>

## Public Perceptions of Whistleblowing

Whistleblowing is not widely practiced in Romania, where it faces socio-cultural barriers and a lack of public understanding and appreciation. Many civil servants are aware of the country's legal protections, but the incentives to report wrongdoing, compared with the potential consequences, discourage them to do so.<sup>207</sup>

Many political leaders lack the will to protect whistleblowers due to a lack of resources, or they simply ignore the issue.<sup>208</sup> Employees have reported being blacklisted and having difficulties finding a new job within their industry after reporting misconduct.<sup>209</sup>

<sup>204</sup> Ministry of Justice, op. cit.

<sup>205</sup> Trunk, Stefan and Hilken, Hans-Dieter, "Developing new methods for using and protecting whistleblowers, informers and collaborators in corruption investigation," Project: HOME/2012/ISEC/FP/C1/4000003842, August 2014.

<sup>206</sup> It is unclear how many reports were from whistleblowers and how many were from citizens.

<sup>207</sup> Coşpanaru, Iulia et al, op. cit.

<sup>208</sup> Transparency International Romania, op. cit.

<sup>209</sup> "Romanian Public Anti-Corruption Initiatives," Business Anti-Corruption Portal; [www.business-anti-corruption.com/country-profiles/europe-central-asia/romania/initiatives/public-anti-corruption-initiatives.aspx](http://www.business-anti-corruption.com/country-profiles/europe-central-asia/romania/initiatives/public-anti-corruption-initiatives.aspx)



Still, acceptance of whistleblowers may be growing. Public perceptions of whistleblowers, once considered “informants,” are improving. Whistleblowers in Romania are known as *avertizori de integritate*, or “those who give integrity warnings.” This term is meant to portray whistleblowers as guardians of integrity rather than informants.<sup>210</sup>

Though whistleblowers face mixed reactions, witnesses are viewed in a very positive light, as they are willing to go through judicial processes. People with the courage to report a crime to prosecutors are seen as heroes. On the other hand, there is a perception that people should attempt to deal with small-scale wrongdoing from within their organisation and not report it to authorities.<sup>211</sup>

### Capacities and Knowledge Centres

Romania has few government institutions and NGOs that specialise on whistleblowing. Regarding anti-corruption in general, the Ministry of Justice develops and monitors the implementation of the National Anticorruption Strategy. The National Anti-Corruption Directorate prosecutes corruption cases. And the National Integrity Agency monitors asset disclosures and conflict of interest.

Since 2003, Transparency International Romania has operated an Anti-corruption Assistance Centre to which individuals can report corruption and other wrongdoing. The Centre advises whistleblowers on legal provisions that can protect them from retaliation.

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<sup>210</sup> Transparency International Romania, op. cit.

<sup>211</sup> Personal communication, Laura Stefan, 17 October 2014.



## Serbia

### Overview

In 2014, Serbia became one of the few countries in Europe to pass a comprehensive whistleblower law that seeks to protect government and corporate employees who report misconduct from retaliation. Public officials, politicians and NGOs had worked for several years to develop the law, marking a successful collective effort of government and civil society.

Serbia has three additional laws that provide certain protections to public sector whistleblowers. Officials have been working to enhance current laws, in part because efforts by the government's Anti-Corruption Agency to shield whistleblowers from reprisals have been inadequate.

Many high-profile whistleblower cases have been reported in recent years. Several Serbian NGOs and journalism organisations actively investigate whistleblower disclosures, track cases and advocate for improved protection and awareness.

### Current Legislation and Regulations

The Law on the Protection of Whistleblowers provides legal protection from any type of retaliation to government and corporate employees who report a wide range of wrongdoing, including violations of laws or human rights, and risks to public health, security or the environment. The law bans acts seeking to prevent whistleblowing; intentionally false reporting, and demanding benefits in exchange for making a report. Organisations can be fined for failing to set up whistleblower procedures; protecting a whistleblower; or acting upon a disclosure within a set time period.

Representing an international standard, whistleblowers are permitted to disclose information directly to the public if they reasonably believe evidence may be destroyed; the whistleblower is in danger; or if there is an immediate threat to life, health, public safety or the environment. Interim relief in advance of court proceedings is available. And people mistakenly believed to be whistleblowers are also protected.<sup>212</sup>

Prior to passing the Law on the Protection of Whistleblowers, Serbia strengthened three laws that apply to whistleblowing and the reporting of wrongdoing in general.

A provision was added to the Law on Civil Servants in 2009 to require officials to report suspicions of corruption. And, if civil servants believe they have been instructed to carry out an illegal act, they should report this to their supervisor.

Also in 2009, the Law on Free Access to Information of Public Importance was improved to

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<sup>212</sup> Law on the Protection of Whistleblowers, Ministry of Justice.



protect employees of government agencies from liability and adverse consequences if they allow access to information of public importance; information regarding corruption; the overstepping of authority; unreasonable use of public funds; or illegal government actions.

The Law on the Anti-Corruption Agency (ACA) was amended in 2010, with the goal to improve whistleblower protection. The ACA provides officials with assistance and protects their confidentiality.

Additionally, a law passed in 2011 requires business entities to protect employees who report to authorities business secrets that reveal an illegal act. And the Law on the Prevention of Harassment at Work could be applied to whistleblowers if retaliation amounts to harassment that is relatively serious and recurring.

### **Institutions, Frameworks and Procedures**

In July 2011, the ACA released a “Rulebook on the Protection of Whistleblowers” that details whistleblower policies for public servants. For whistleblowers who meet certain criteria, the ACA will inform their organisation that any negative employment action taken during a two-year period will be considered a reprisal.

The ACA, however, has said its options for adequately protecting whistleblowers are “considerably narrowed,” and that there has been “slow, ineffective communication” with government authorities that have ignored the ACA’s requests. This has made resolving cases successfully difficult. The ACA also says that its inability to act on anonymous complaints is not in accordance with the UN Convention against Corruption.<sup>213</sup> And, according to the ACA, some people who whistleblowers have accused of corruption have retaliated against them, both in the workplace and in their personal lives.<sup>214</sup>

Receiving whistleblower status can be a disadvantage in Serbia, as people have been “marked and victimised.” Protection granted by the ACA has not always shielded whistleblowers from being fired, and they have had to turn to the courts for redress.<sup>215</sup> In other instances, whistleblower status granted by the ACA has been rescinded, for which there is no appeal.<sup>216</sup>

Another barrier for whistleblowers is that the courts, which the Ombudsman has said are not efficient or neutral, can take up to five years to hear employment cases. Moreover, final court decisions are not always followed.<sup>217</sup>

Some government agencies run hotlines to which misconduct can be reported, among them

<sup>213</sup> “Annual Report of the Anti-Corruption Agency for 2012,” Anti-Corruption Agency, March 2013.

<sup>214</sup> “Annual Report of the Anti-Corruption Agency for 2011,” Anti-Corruption Agency, March 2012.

<sup>215</sup> Personal communication, Ministry of Justice, 19 September 2014.

<sup>216</sup> Personal communication, Pistaljka, 16 October 2014.

<sup>217</sup> Stephenson, Paul, “Protection of Whistleblowers in Serbia,” A report for the United Nations Development Programme (UNDP), 2012;

[www.pistaljka.rs/scms/public/media/files/FINAL\\_REPORT\\_Paul\\_Stephenson.pdf](http://www.pistaljka.rs/scms/public/media/files/FINAL_REPORT_Paul_Stephenson.pdf)



the custom service, tax administration, and the Ministries of Education and Trade. One can report anonymously, but in practice these reports do not have the same impact.<sup>218</sup>

### Recent or Pending Initiatives

The recently passed Law on the Protection of Whistleblowers is the culmination of an initiative begun in 2012 by Serbia's Commissioner for Access to Public Information. The commissioner's draft law was referred to the Ministry of Justice, whose version was approved by the government in October 2014<sup>219</sup> and adopted by Parliament the following month. Numerous Serbian and international anti-corruption and whistleblower experts were involved in shaping the law.

In 2013, the ACA ran a national public awareness campaign with the slogan, "Speak Out. Keeping Quiet about Corruption Means Approving It!" Campaign messages were seen or heard by 80 percent of the Serbian population.<sup>220</sup>

### Whistleblower Cases

Many notable whistleblower cases have emerged in Serbia in recent years.

Borko Josifovski, director of the Belgrade Emergency Medical Service, revealed in 2006 that funeral homes were paying doctors for the addresses of deceased patients. Josifovski claimed that some doctors did not resuscitate dying patients, in order to receive the illicit payments. Josifovski went public after the Ministry of Health did not respond. He was fired two days after announcing the scheme at a press conference. He received death threats and left the country for a year. Josifovski eventually filed a private criminal charge, which prosecutors dismissed because Josifovski had "no personal interest" in the case. Based on Josifovski's disclosure, the ACA, in 2011, filed criminal charges against two of the doctors.<sup>221</sup>

A worker in the national road company reported widespread abuses in the collection of road fees for trucks. Records obtained by the Information Commissioner matched the worker's videos of trucks passing the toll barrier, confirming that the tolls did not match the number of vehicles. Police uncovered and prosecuted a well-organised "road mafia." After the worker made the report, his contract was not renewed. He was out of work for three years.<sup>222,223</sup>

Biljana Mraovic was not reappointed as a local judge in 2009, after exposing a senior judge who she said overturned Mraovic's rulings after accepting bribes from lawyers. Instead of

<sup>218</sup> "Country Study – Serbia," Whistleblower Protection in the Central and Eastern Europe Region; [www.whistleblowing-cee.org/countries/serbia/research/](http://www.whistleblowing-cee.org/countries/serbia/research/)

<sup>219</sup> "Serbia adopts the Bill on the protection of whistleblowers," Balkans.com, 3 October 2014; [www.balkans.com/open-news.php?uniquenumber=197474](http://www.balkans.com/open-news.php?uniquenumber=197474)

<sup>220</sup> "Annual Report of the Anti-Corruption Agency for 2013," Anti-Corruption Agency, March 2014.

<sup>221</sup> Stephenson, op cit.

<sup>222</sup> Whistleblower Protection in the Central and Eastern Europe Region, op. cit.

<sup>223</sup> Stephenson, op cit.



investigating her report, the Office of the President forwarded her letter to the senior judge, who sued Mraovic for libel. The Information Commissioner filed charges against the Office of the President, which was fined. Mraovic was eventually reinstated.<sup>224</sup>

In 2010, radiologist Bojana Bokorov exposed how the Institute of Oncology was giving priority to foreign patients to receive radiation treatment for cancer in exchange for cash. As a result, she said, some patients on the waiting list had died while waiting for treatment. Bokorov applied for, and received, whistleblower protection status from the ACA. Bokorov asked for a transfer, which was denied. Her work contract was then cancelled.<sup>225</sup>

In 2013, prison worker Valentina Krstic was fired two days after exposing large-scale corruption in public procurement at the prison. She was threatened, harassed and disciplined. After public attention was directed to the case and the ACA became involved, the Ministry of Justice dropped the disciplinary actions against her. In November 2013, Krstic was elected to the local anti-corruption forum.<sup>226</sup>

The following are some other cases reported by Serbia's Commissioner for Access to Public Information:

- A railroad employee was fired after reporting irregularities in public procurement. Several directors were convicted and imprisoned.
- An employee in a local authority was fired after reporting that more people were on the staff than were authorised.<sup>227</sup>

## Data and Statistics

In 2013, the Anti-Corruption Agency received 103 requests for whistleblower status, 78 of which were granted.<sup>228</sup> The ACA received 31 requests in 2012,<sup>229</sup> and 10 in 2011, three of which were granted.<sup>230</sup>

In 2012, the ACA said disclosures revealed corruption risks in the health-care industry. Specifically, the agency noted unusual ties between doctors and pharmaceutical companies, and doctors overlooking Serbian patients with health insurance and instead treating foreign patients who paid full price for services.

## Public Perceptions of Whistleblowing

Based on the many whistleblower disclosures that have become public in recent years, one expert has observed that there are brave people in Serbia willing to expose wrongdoing. If

<sup>224</sup> Stephenson, op cit.

<sup>225</sup> Stephenson, op cit.

<sup>226</sup> "Valentina Krstić," Bureau for Social Research (BIRODI); [www.birodi.rs/gkgkj/](http://www.birodi.rs/gkgkj/)

<sup>227</sup> Stephenson, op cit.

<sup>228</sup> "Annual Report of the Anti-Corruption Agency for 2013," Anti-Corruption Agency, March 2014.

<sup>229</sup> "Annual Report of the Anti-Corruption Agency for 2012," Anti-Corruption Agency, March 2013.

<sup>230</sup> "Annual Report of the Anti-Corruption Agency for 2011," Anti-Corruption Agency, March 2012.



reporting internally is not successful, employees have approached public authorities. Retaliation, however, is still commonplace. According to another expert, dozens of citizens who reported abuses were “promptly punished.” Obtaining official whistleblower status has worked against some people and worsened acts of retaliation.”<sup>231</sup>

Yet, among the main reasons that people choose not to report misconduct, the fear of negative consequences ranks second behind the belief that nothing will result.<sup>232</sup>

A 2013 survey found that citizens believe that the top factors impeding the fight against corruption are inadequate control of state services; corruption in institutions that implement the law; using connections and bypassing laws; and lack of political will to control corruption. A lack of outlets to report wrongdoing was the least important factor.<sup>233</sup>

The media is seen as generally cooperative in reporting on whistleblower disclosures but gives inadequate attention to whistleblowers themselves.<sup>234</sup>

### Capacities and Knowledge Centres

Various public institutions work with whistleblowers, and they attempt to protect them and investigate their disclosures. These include the Anti-Corruption Agency, the Anti-Corruption Council, the Ombudsman, the Ministry of Justice, and the Commissioner for Access to Public Information and Personal Data Protection.

Several NGOs in Serbia support whistleblowers, investigate cases and work for stronger legal protections. Pistaljka (Serbian for “whistle”) documents and monitors whistleblower cases, and in 2014 launched a whistleblower hotline staffed by two lawyers. A total of about 80 reports have been made, about 40 percent of which are *bona fide* whistleblower disclosures and 90 percent of which originated in a workplace.

The Bureau for Social Research (BIRODI) advises and supports whistleblowers, including analysing their disclosures, providing legal advice and referring them to the proper authorities. If a whistleblower is anonymous, BIRODI refers the information to the authorities for follow-up. The organisation cooperates with the Serbian ACA.

Transparency Serbia operates an Advocacy and Legal Advice Centre (ALAC) to which victims and witnesses of corruption can report cases and receive advice on filing official complaints.

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<sup>231</sup> Jovanovic, op. cit.

<sup>232</sup> Stephenson, op cit.

<sup>233</sup> “Attitudes of Serbian Citizens Towards Corruption,” UNDP Serbia, December 2013.

<sup>234</sup> Personal communication, Bureau for Social Research (BIRODI), 14 October 2014.



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\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence





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