



Legal Alert

Protection of whistleblowers in Poland under prospective legislation

The first draft of the Polish Act on protection of whistleblowers, was published recently on the website of the Government Legislation Centre (RCL). Under the forthcoming regulations, new obligations will be imposed on employers. Some will have to adjust to them still this year.

The new act will implement the EU Whistleblowers Directive No 2019/1937 into the Polish legal system and, according to the calendar outlined by the Directive, should be implemented into the Polish legal system at the latest from 17 December 2021.

According to the regulations, employers hiring 250 people or more are required to introduce the internal regulations and tools provided by the act as early as 17 December 2021. On the other hand, entities hiring fewer than 250 people will only be required to comply with the provisions of the act from 17 December 2023.

The new regulations are to apply to both: persons employed under an employment relationship and persons working under civil law contracts.

The draft also provides that entities hiring less than 50 persons will be able to apply the provisions of the act on a voluntary basis. The exception is made for the entities in the financial sector, which will be obliged to apply the provisions of the act regardless of the number of employees working at the company.

The protection granted to the whistleblowers is one of the most important part of the act. This includes the prohibition of their unfavourable treatment - in particular through refusal of employment, termination or dismissal or reduction of remuneration. If such situations arise, the employer will be obliged to prove that there were objective reasons for the unfavourable treatment of the whistleblower.

Moreover, employers will be obliged to introduce the so-called internal notification regulations, specifying, i.a. the manner and procedure for making notifications. The content of the regulations will have to be consulted with the company's trade union organisation, or in its absence - with employees' representatives selected for this purpose. The regulations will come into force two weeks after being announced by the employer.

Whistleblowers will also be able to use an external reporting procedure, e.g. by reporting a violation to the Polish Ombudsman (Rzecznik Praw Obywatelskich), or make a public disclosure, for example to the press.

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The draft law provides for criminal sanction for persons reporting false information. In all the above cases the penalty is a fine, restriction of freedom or imprisonment for up to three years.

This is only the first version of the draft, but taking into account that there is little time left until 17 December 2021, i.e. less than two months, it is worth following the legislative work and preparing for the implementation of the new regulations.

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