

Whistleblower protection

The protection of employees who disclose wrongdoing, in the context of their workplace (whistleblowers), is at the core of an organisation's integrity framework. In governments, it is recognised as an essential element for safeguarding the public interest, promoting a culture of public accountability, and in many countries is proving crucial in the reporting of misconduct, fraud and corruption.

The importance of developing the necessary laws is evidenced by the increase in OECD countries that have developed a legal framework aimed at protecting whistleblowers since 2009, including Belgium, Greece, Ireland and Switzerland. Overall, 88% of OECD countries surveyed have a whistleblower protection law or legal provision that calls for the protection of whistleblowers.

Whistleblower protection can originate from dedicated law(s), or through a piecemeal approach, stemming from provisions in various laws. The majority of the OECD countries that provide legal protection to whistleblowers do so through provisions found in one or more laws, such as anti-corruption laws, competition laws, corporate laws, public servants laws, labour laws and criminal codes. While most apply this type of approach, the degree of protection afforded within the provisions of these laws is often less comprehensive than the protection provided for within dedicated law(s), which often facilitate clarity and streamline the processes and mechanisms involved in disclosing a wrongdoing.

In terms of coverage, several OECD countries surveyed still only afford protection to public sector employees. 69% of OECD countries that responded to the survey extend their coverage to include employees in both the public and private sector to varying degrees, as evidenced in Estonia, Korea and Ireland.

Whistleblower protection laws and provisions, gain impact through effective awareness-raising, communication, training and evaluation efforts. In their drive to promote whistleblowing, one third of OECD countries, who responded to the survey and report affording protection, including Australia, Belgium, Korea and the United States, have established various incentives for individuals to come forward with disclosures. These incentives include expedited processes, follow up mechanisms and financial rewards. For instance in Korea, whistleblowers are rewarded with up to USD 2 million, if their report of corruption has directly contributed to recovering or increasing revenues or reducing expenditures for public agencies.

To discourage an abuse of the system the majority of OECD countries surveyed have put measures in place to preclude individuals from reporting allegations in bad faith. The Czech Republic, Greece, Ireland, Portugal and the United Kingdom are the only OECD countries surveyed not to include such measures. Nevertheless, if individuals have been discovered to have reported in bad faith, in Ire-

land and the United Kingdom, they are dealt with by normal disciplinary procedures.

Methodology and definitions

Data was collected through the 2014 OECD Survey on Managing Conflict of Interest in the Executive Branch and Whistleblower Protection. 32 OECD countries responded to the survey, as well as Brazil, Colombia, Latvia and Russia. Respondents to the survey were country delegates responsible for integrity policies in central/federal government. In Figure 7.8, the degree of coverage in the private sector varies, depending on the particular type of law or laws that are applicable (e.g. competition, corporate, labour, etc.).

Further reading

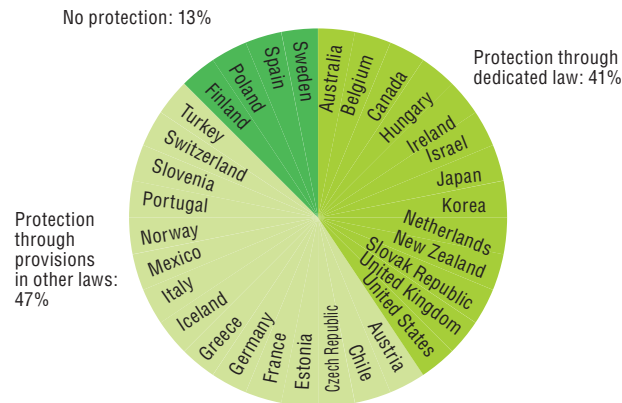
- OECD (forthcoming), "Revisiting Whistleblower Protection in OECD Countries: From Commitments to Effective Protection", OECD, Paris.
- OECD (2012), "Study on G20 Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation", OECD, Paris.
- OECD (1998), "Recommendation of the Council on Improving Ethical Conduct in the Public Service Including Principles for Managing Ethics in the Public Service", OECD, Paris.

Figure notes

- 7.7: Data unavailable for Denmark and Luxembourg. In the Slovak Republic, the relevant law was approved in October 2014 and came into effect as of January 2015. The degree of protection may vary among countries when protection is provided within provision(s) in other law(s).
- 7.8: Data unavailable for Denmark and Luxembourg. OECD countries that do not afford legal protection to whistleblowers were not included in the figure. Greece and Portugal afford legal protection to whistleblowers; however they were omitted from the figure, as in the case of the former, the relevant prosecutor decides who is given the status of a whistleblower, while in the case of the latter the protection of whistleblowers is limited to those in criminal proceedings. In Canada, a certain degree of whistleblower protection exists in the private sector for those who report criminal acts by their employer. In Switzerland, protection in the private sector does not result from explicit legal provisions, instead it stems from the Code of Obligations as well as related case law. Furthermore, the degree of protection granted is lower than in the public service since reintegration or reassignment to an equivalent position as the one occupied prior to whistleblowing is not possible.

Information on data for Israel: <http://dx.doi.org/10.1787/888932315602>.

7.7. Legal protection of whistleblower in OECD member countries, 2014



Source: OECD (2014), Survey on Managing Conflict of Interest in the Executive Branch and Whistleblower Protection.

StatLink <http://dx.doi.org/10.1787/888933248880>

7.8. Scope of whistleblower protection in the public and private sector, 2014

| | Public and private sector | | | | | |
|------------------------------|---------------------------|-------------|-----------|---------------------|------------------|------------|
| | Employees | Consultants | Suppliers | Temporary employees | Former employees | Volunteers |
| Australia | ●■ | ●■ | ●□ | ●□ | ●□ | ○ |
| Austria | ●□ | ○□ | ○□ | ●□ | ●□ | ● |
| Belgium | ●□ | ○□ | ○□ | ●□ | ○□ | ○ |
| Canada | ●□ | ●□ | ●□ | ●□ | ●□ | ○ |
| Chile | ●□ | ○□ | ○□ | ○□ | ○□ | ○ |
| Czech Republic | ●■ | ○□ | ○□ | ○□ | ○□ | ○ |
| Estonia | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| France | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| Germany | ●■ | ●■ | ●■ | ●■ | ●■ | ○ |
| Hungary | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| Iceland | ●□ | ○□ | ○□ | ●□ | ○□ | ○ |
| Ireland | ●■ | ●■ | ●■ | ●■ | ●■ | ○ |
| Israel | ●■ | ●□ | ○□ | ●■ | ●■ | ○ |
| Italy | ●□ | ●□ | ○□ | ●□ | ●□ | ○ |
| Japan | ●■ | ○□ | ○□ | ●■ | ○□ | ○ |
| Korea | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| Mexico | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| Netherlands | ●■ | ○□ | ○□ | ●■ | ●■ | ○ |
| New Zealand | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| Norway | ●■ | ○□ | ○□ | ○□ | ○□ | ○ |
| Slovak Republic | ●□ | ○□ | ○□ | ○□ | ○□ | ○ |
| Slovenia | ●■ | ●■ | ●■ | ●■ | ●■ | ● |
| Switzerland | ●■ | ○□ | ○□ | ●■ | ○□ | ○ |
| Turkey | ●□ | ●□ | ○□ | ●□ | ○□ | ○ |
| United Kingdom | ●■ | ●■ | ●■ | ●■ | ○□ | ○ |
| United States | ●■ | ●□ | ○□ | ●■ | ●■ | ○ |
| OECD total | | | | | | |
| Yes: ● (Public), ■ (Private) | 26, 18 | 16, 11 | 12, 10 | 22, 15 | 16, 12 | 8 |
| No: ○ (Public), □ (Private) | 0, 8 | 10, 15 | 14, 16 | 4, 11 | 10, 14 | 18 |
| Brazil | ●□ | ○□ | ○□ | ●□ | ○□ | ○ |
| Colombia | ●■ | ●■ | ●■ | ●■ | ●■ | ○ |
| Latvia | ●■ | ●□ | ○□ | ○□ | ○□ | ○ |
| Russia | ●□ | ○□ | ○□ | ○□ | ○□ | ○ |

Source: OECD (2014), Survey on Managing Conflict of Interest in the Executive Branch and Whistleblower Protection.

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