

Whistleblowing is a hot topic in contemporary society. We can just mention Wiki-leaks, undertaken by Julien Assange and his team. Or the infamous scandal of Edward Snowden, who made classified information about the US government surveillance of private citizens public and, as a consequence, had to flee his country and go to Russia. Or we can mention Bradley (Now Chelsea) Manning, who also made public classified government information and was put into prison in the US with a severe sentence by the courts. Nevertheless, even before these whistleblowing cases of making public classified information about governments, the topic of whistleblowing created much controversy and fascination. We can mention here the many cases of whistleblowing in relation to business firms and private organizations. Often such cases refer to situations where individuals feel moral responsibility to “blow the whistle” in the public about wrongdoing and fraud in their organizations. Indeed, from this perspective, whistleblowing emerges “as a potential weapon against corruption, mismanagement and general non-compliance with legal obligations by a broader public” (v). In the US, famous cases where whistleblowing was important include the Enron and World Com Scandals, with the ensuing breakdown of Arthur Andersen Accounting firm, which lead to the Sarbanes-Oxley legislation.

Starting from this definition, the book edited by Gregor Thüsing and Gerrit Forst with the title *Whistleblowing: A comparative study*, offers a compilation of articles about the law, legislation and legal dimensions of whistleblowing in different countries around the world. The book begins by a general presentation of its topic by the editors, who co-authored “Whistle-blowing around the world. A Comparative Analysis of Whistle-blowing in 23 Countries”. In their essay and in the anthology at large, legislations and legal practices of whistleblowing in different countries are compared, and it is shown how whistleblowing is not always seen as something positive and therefore constitutes a problem for the law. In European history, especially in the totalitarian regimes of the 20<sup>th</sup> century, whistleblowing was not accepted, but rather considered as problematic for the regimes. As a result, possibly because of inertia or inherent self-interest, there has been often little protection of whistleblowers even in the following European legislations. The book is based upon a symposium held in Vienna by the International Academy of Comparative Law at the XIX International congress of Comparative Law. The aim of the book is to give researchers, judges and legislators an overview of the different approaches to legislation on whistleblowing around the world. The contributions are by leading national experts from the countries that are investigated in the book. Overall, the book shows that there is no common

basis for legislation on whistleblowing in the countries that have been investigated. Even though there exist some general laws protecting whistleblowers, the countries investigated have very different approaches to whistleblowing due to historical and cultural reasons. Based on overviews of the differences in the legislations about whistleblowing, the anthology emphasizes some issues, which are important in legislation and legal practice concerning whistleblowing.

Of primary importance is of course the need to define who should be protected by legislation on whistleblowing. Is it only one definite whistleblower or should it also be supporters of whistleblowers who should be protected too? Here, whistleblower legislation needs to define the content and scope of protection of whistleblowers in law and legislation. Again, we see huge differences in legislations about who qualifies as whistleblowers and how they are protected and what kind of rights they have. Indeed, there is a potential conflict between freedom of expression and whistleblowing and many whistleblowers are taking a lot of risks if they decide to reveal classified or secret information from their organizations to the public. In this context, it is also a problem how supporters of whistleblowers and witnesses of whistleblowing should be protected by the law and how the law can ensure just and fair treatment of whistleblowers, supporters and witnesses. Important issues to be addressed in this context are issues relating to internal and external reporting of whistleblowing; what happens if the whistleblower allegations are untrue? Is the motivation of the whistleblower relevant? What if this motivation is based on personal interest? What kind of information may the whistleblower report? Is there an ethical or legal obligation to blow the whistle and inform about injustice, corruption or fraud in the organization? What kind of protection should be offered to the whistleblowers? What kind of reprisal should whistleblowers be protected against? Who has the burden of proof in dismissal cases? What is the function of whistleblowing in society and how could we support whistleblowers in society as a contribution to collective action? In addition, a further issue is whether there should be financial support and incentives for whistleblowers.

Although the comparison of legal practices, laws and legislations relating to all these issues may be difficult, it is the aim of the anthology to identify some general patterns in the different jurisdictions that have been surveyed. The report shows that countries like the UK, Japan and South Korea are leading in advanced legislation in the field. In the US, there has also been legislation actively encouraging whistleblowers since 1863. The anthology shows

that there is a growing awareness of the problem of whistleblowing and the need to have whistleblower protection in Europe too, although many countries are not very far yet in establishing general rules and legislations about whistleblowing. Countries like Italy, Malta and Romania are on their way to legislation, but even countries that already have legislation on this matter, like Germany and other EU-member states, could do a lot to improve their legislation. The anthology is based on the view that there is both need and room for improvement of even the most advanced legislations on whistleblowing in the world. We need improvements in the legislations concerning protection of witnesses and supporters of whistleblowers, since this is a topic that has been neglected. A further topic for improvement is the possible support of whistleblowing by giving whistleblowers better financial incentives. This is something where the US, after many business scandals, are a leading country.

The different national reports in the anthology vary according to the cultural particularity of the legislation in each country. In Canada, the legislation on whistleblowing has been based on the “up the ladder” principle, meaning that the whistleblower is supposed to first disclosure information about wrongdoing by internal mechanisms and then later by public disclosure of wrongdoing. The presentation of whistleblower legislation in Croatia focusses on the legal framework and the specific issues concerning whistleblowers in the public sector. Cyprus is characterized by a dichotomy between public- and private-sector whistleblower protection and the legal framework lacks independent whistleblower protection. The Czech republic has no comprehensive special whistleblowing protection legislation, but laws concerning personal data and employee loyalty may apply. In France, whistleblower legislation has been inspired by the American model in Sarbanes-Oxley, which was introduced in 2002. Freedom of expression and good faith are important principles for protecting whistleblowers. There is some mistrust against whistleblowing, but there is also a growing understanding of the need to protect the rights of persons who become whistleblowers. The German regulation of whistleblowing is characterized by a lack of general regulation. Traditionally there was a lack of protection of whistleblowers because the labor courts saw it as a breach of the loyalty of the employees. Nevertheless, by shifting the focus onto human rights, the attitude is now more open. In Ireland there has been established a new legislation that provides comprehensive protection of whistleblowers. In Malta, for many years there has not been any law at all, but some protection has recently emerged. However, whistleblowing remains very risky for the individual in many other

countries. In the Netherlands, there is in contrast much civil and cultural focus on whistleblowers and there is indeed support for whistleblowing by the institutionalization of a center for advice on whistleblowing. In Poland, there has been increased focus in case law on better support for whistleblowers, although the general legal framework is not very developed. Also in Portugal there is no specific legislation and there is very little regulation for the protection of whistleblowers. In Romania, we see a first step to whistleblower protection in new labor legislation that tends to regulate the status of whistleblowers. In Slovenia the protection of persons reporting corruption and other whistleblowers is sanctioned by a specific law on integrity and corruption, which includes rules of protection of the person of the whistleblower. The US is probably the country with the most conflicted history of the legislation and legal regulation of whistleblowers. On the one hand, the government needs whistleblowers to detect wrongdoing and fraud. On the other hand, when the government itself is subject to whistleblowing, e.g. famous cases such as Watergate and Snowden, whistleblowers face reprisal from political power, even though there is an increased understanding of the need to motivate whistleblowers at large, for example with financial incentives for truth-telling in fraud cases. In addition to these discussions of different countries, the book also gives a useful synopsis of whistleblowing material from 23 different jurisdictions.

This anthology is indeed a very interesting book about a hot topic today. The book is mostly a presentation of the legal situation in a comparative perspective. More material on the ethics and legal philosophy of whistleblowing could have improved the book. Nevertheless, the book is an important compilation of material about legislations on whistleblowing. After reading the book, the reader gets a good understanding of the complexity and differences of whistleblowing legislations. In fact, the protection of the whistleblower is not very great in many countries. We see how state interests and corporate protection of their internal information often prevail over the protection of the human rights and the freedom of expression of individuals. With such legislations, it can be argued that it is very dangerous to become a whistleblower and that the legal protection of whistleblowers needs to be improved. Without it, state and corporate power over citizens and employees becomes absolute. The book is a very strong contribution to the clarification of the importance of whistleblowing and it can spur more legal debate, better legislation and deeper jurisprudence and scholarship in the field.