

## Protection of Labor Rights of Whistleblowers of Corruption

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**Abstract: Objective:** This study examines the protection of labor rights for corruption whistleblowers in Ukraine, identifying core challenges and proposing solutions to enhance legal safeguards. **Method:** A range of research methods - including epistemological, formal-logical, comparative legal, and structural-functional analysis - were employed to explore whistleblower roles, assess existing legal frameworks, and identify improvement areas. **Results:** The analysis reveals that corruption significantly impacts Ukrainian society, undermining justice and hindering the development of a stable middle class. While the institution of whistleblower protection is vital for combating corruption, current labor protections are inadequate, limiting whistleblower effectiveness. **Conclusions:** Strengthening legal protections for whistleblowers, particularly in labor rights, is essential for advancing transparency and accountability in Ukraine. **Recommendations:** Legal reforms are recommended to improve whistleblower protections, with a focus on labor rights, to encourage reporting of corruption and support a more transparent governance system.

**Keywords:** Corruption, Prevention of Corruption, Whistleblower, Anti-Corruption Legislation, Corruption Offence, Protection, Disclosure of Information, Guarantees.

### حماية حقوق العمل للمبلغين عن الفساد في العمل

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**الملخص: الهدف:** تتناول هذه الدراسة حماية حقوق العمل للمبلغين عن الفساد في أوكرانيا، وتحدد التحديات الأساسية وتقدم حلولاً لتعزيز الضمانات القانونية. **المنهجية:** استُخدمت مجموعة من الأساليب البحثية - بما في ذلك التحليل المعرفي والمنطقي الشكلي المنطقي والقانوني المقارن والتحليل الهيكلي الوظيفي - لاستكشاف أدوار المبلغين عن الفساد، وتقييم الأطر القانونية القائمة، وتحديد مجالات التحسين. **النتائج:** يكشف التحليل عن أن الفساد يؤثر بشكل كبير على المجتمع الأوكراني ويقوض العدالة ويعيق تطوير طبقة وسطى مستقرة. وفي حين أن مؤسسة حماية المبلغين عن الفساد أمر حيوي لمكافحة الفساد، إلا أن الحماية الحالية غير كافية، مما يحد من فعالية المبلغين عن الفساد. **الاستنتاجات:** إن تعزيز الحماية القانونية للمبلغين عن المخالفات، لا سيما في مجال حقوق العمال، أمر ضروري لتعزيز الشفافية والمساءلة في أوكرانيا. **التوصيات:** يوصى بإجراء إصلاحات قانونية لتحسين حماية المبلغين عن المخالفات، مع التركيز على حقوق العمال، لتشجيع الإبلاغ عن الفساد ودعم نظام حوكمة أكثر شفافية. **الكلمات المفتاحية:** الفساد، منع الفساد، المبلغون عن الفساد، تشريعات مكافحة الفساد، جريمة الفساد، الحماية الإفصاح عن المعلومات الضمانات.

### Introduction

For Ukraine, the problem of combating corruption remains one of the most urgent, since its overcoming is an important criterion on the way to European and Euro-Atlantic integration. As the President of the European Commission Ursula von der Leyen noted during a speech in Brussels (Interfax Ukraine, 2022), corruption in Ukraine is a known problem. Still, the EU

leadership recognizes progress in this direction. In particular, she stressed that positive changes are already noticeable. Still, for further success in the fight against corruption, the digitalization of more processes is necessary: "The more areas are digitized, the better it is possible to fight corruption."

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These words are confirmed by Transparency International data, according to which in 2022 Ukraine received 33 points out of 100 in the Corruption Perceptions Index (CPI), taking 116th place among 180 countries. This is the highest figure for Ukraine since the launch of the updated methodology, and over the past 10 years, it has grown by 8 points. Among the key positives in the fight against corruption, experts note the adoption of the National Anti-Corruption Strategy, the appointment of heads of anti-corruption bodies, as well as the effective work of the High Anti-Corruption Court (Transparency International, 2022).

In our opinion, corruption is one of the primary reasons for the inefficiency of the state apparatus, since officials with significant powers often use it for personal enrichment, undermining the institutional capacity of the state. Given the European integration ambitions of Ukraine, where increasing the efficiency of state institutions and overcoming corruption are prerequisites for greater rapprochement with European organizations, this is especially important.

The existence of whistleblowers is crucial to the fight against corruption, as they help expose unethical behavior in both the public and private spheres. People who expose socially harmful actions that affect the public interest, such as financial theft or security breaches, are known as whistleblowers or whistleblowers who act in good faith.

However, because of their efforts, whistleblowers are often threatened, harassed, or fired. They often avoid exposure because they don't trust the legal system and don't think those responsible will be held accountable. For whistleblowers to disclose corruption offenses without fear, it is extremely necessary to ensure the availability of proper legislation that would protect their rights and ensure security, as well as the protection of their families.

Before the entry into force of the Law of Ukraine "On Prevention of Corruption" (Verkhovna Rada of Ukraine, 2014), in addition to the term "whistleblower," the words "informant" and "honest informant" were also used in Ukrainian sources, which are quite appropriate. For the Ukrainian translation of this term, but the term "informant" automatically gave rise to negative associations in the minds of people associated with the totalitarian past of our country. It should be noted that whistleblowers existed in Soviet times, unlike informants who reported the abuse of representatives of the Soviet government, who used the powers granted to them for their enrichment.

The legislative definition of the term "whistleblower" is given in paragraph 20 of part one of Article 1 of the Law of Ukraine "On Prevention of Corruption," where the whistleblower is defined as an individual who, if convinced that the information is reliable, reported possible facts of committing by another person of corruption or corruption-related offenses or other violations of this Law, if such information became known to her in connection with her employment, professional, economic, social, scientific activity, service or training or his/her participation in procedures, provided by law, which are mandatory for the commencement of such activities, service or training.

In our opinion, this definition has significant legal consequences, since it establishes the parameters and circumstances for creating the legal status of an "individual," including the reliability of the source of information and its reliability. When interpreting this legislative provision, it is important to note that the term "whistleblower" refers exclusively to those who are aware of violations due to their official or professional actions. Thus, the legislator focuses on individuals who have legitimate reasons to report and removes from this idea random or inexperienced informants. This greatly reduces

the number of potential subjects and also increases the veracity of the information that is reported.

In analyzing this legislative provision, it is important to consider how it relates to freedom of expression guaranteed by the Constitution. This fundamental right logically extends to the right to disclose the facts of corruption, but its implementation requires a balance between the right to freedom of speech and the protection of the rights of others, including the rights of the accused. How this provision interacts with the values of honesty and openness is particularly important because it must ensure that legislation is enforced in both the public and private sectors.

Since whistleblowers are important for the detection and eradication of corruption, studies on the protection of labor rights of whistleblowers are especially relevant for Ukraine. However, there are dangers associated with their work, such as harassment and discrimination, which can lead to violation of rights.

Protecting whistleblowers supports the rule of law, promotes public accountability, and helps maintain economic stability, which makes this topic extremely important. Whistleblowers can refrain from disclosing facts of corruption if they lack sufficient protection, which undermines the state's efforts in this regard. Protecting the labor rights of whistleblowers also reflects a broader view of social justice and human rights.

This can greatly affect Ukrainian society. Adequate protection of whistleblowers can increase public confidence in public authorities, change public perception of corruption by elevating whistleblower reporting to the status of a civic duty, and promote the development of an active civil society. Thus, legislators and the general public should pay attention to the issue of protecting the labor rights of whistleblowers, which is a key aspect of the anti-corruption campaign in Ukraine.

Several scholars have studied the protection of whistleblower rights. In particular, Gnatenko (2021) investigated the rights of whistleblowers in the field of combating corruption. He points to the need for legislative protection of their rights and emphasizes the importance of stimulating the development of new ideas and education to effectively combat corruption. Sashurina (2021) explored the institutional and legislative possibilities of the Ukrainian anti-corruption mechanism. The problems and functional shortcomings of the Ukrainian institute of whistleblowers are considered. Shostko (2020) investigated the legal protection of whistleblowers in Ukraine, pointing to the problem of fear of reprisals for exposing corruption crimes. He analyzed international and national legislation, as well as initiatives of public organizations, noting the need for a comprehensive law that would contribute to the effective disclosure and prosecution of corruption offenses. Onyango (2021) explored the challenges of reporting and whistleblower protection in government bureaucracy, especially in developing countries. The results of the study indicate the need to introduce democratic governance to improve the protection of whistleblowers in developing countries. Tatarenko et al. (2020) investigated the legal institution of corruption whistleblowers, focusing on the need to analyze and improve legislation in this area. The object of their research was the legal status of whistleblowers, mechanisms for their protection, and interaction with other participants in anti-corruption legal relations.

The purpose of this article is a comprehensive study of the protection of labor rights of whistleblowers of corruption in Ukraine, with an emphasis on identifying the main problems that interfere with an effective human rights mechanism, as well as the formulation of specific recommendations for improving legislation and practice. This includes an analysis of existing norms, an assessment of their application, as well as

determining the role of state bodies and society in supporting whistleblowers, which will help create a safe and favorable environment for persons who provide information about corruption offenses.

## Materials and Methods

The methodological basis of the work is made up of general scientific and special methods and techniques of scientific knowledge, which allow studying phenomena and processes in their interconnection, interdependence, and mutual subjectivity. The author, using the epistemological method, found out the role of the whistleblower in the fight against violations of the law, investigated the institution of the whistleblower as an object of legal protection, investigated the legal nature and content of the rights, duties, guarantees, and liability of the whistleblower., investigated the legal nature and content of the rights, duties, guarantees and liability of whistleblowers, disclosed legal means and ways to ensure the rights of whistleblowers.

The application of the formal-logical method of scientific knowledge allowed the author to systematize and clarify the basic concepts of legal structures that form the basis of the legal mechanism for ensuring the rights of whistleblowers. This method helped to thoroughly analyze and clarify the terminology used in legislation and legal practice regarding the status, rights, and obligations of whistleblowers. In addition, the method of formal logic was used to identify and summarize key aspects of labor relations in the context of whistleblowers. This allowed us to consider the protection of the rights of whistleblowers in production, their status, and obligations under labor law. This approach contributed to a better understanding and definition of the legal mechanisms that guarantee whistleblowers proper rights and protection at work.

Classification and grouping methods have been used to systematize and define the main types of legal categories related to the protection of whistleblowers. These methods made it possible to structure and systematize various aspects of legal concepts related to the status, rights, and responsibilities of whistleblowers, thus contributing to a clearer understanding and analysis of the problem. The comparative legal method allowed us to analyze legislation both in Ukraine and abroad, in particular in countries with effective mechanisms for protecting whistleblowers. This approach made it possible to determine the advantages and disadvantages of Ukrainian legislation in comparison with international standards. This analysis stimulated innovative changes in legislation and law enforcement practices to increase the effectiveness of whistleblower protection and prevent corruption.

The analytical method allowed in-depth analysis of proposals and recommendations for optimizing the legal regulation of whistleblower rights in Ukraine. By systematizing and summarizing information, this method helped to identify key problems and ways to overcome them and contributed to the development of specific measures to improve the legislation and practice of protecting whistleblowers. With the help of structural and functional analysis, the powers of state authorities to ensure the rights of whistleblowers have been systematized and defined. This method made it possible to study various aspects of the activities of public authorities, in particular their functions, structure, and interaction, in particular in the context of ensuring the rights and protection of whistleblowers from repression and pressure. The hermeneutical method was used to study scientific texts and legal acts for their better understanding and interpretation. This method made it possible to find out the content and content of legal concepts and to determine their relationship and reflection in legislation, which contributed to a

more accurate understanding and application of the norms governing the legal status of whistleblowers.

As part of our research on the protection of labor rights of whistleblowers, we conducted a thorough analysis of the laws that are currently in force in Ukraine that regulate the status of whistleblowers and how they are applied. The focus was on identifying the major issues that hinder an effective human rights system. We examined a large number of cases where whistleblowers suffered negative consequences as a result of their actions, in particular discrimination at work, harassment, or dismissal. This made it possible to identify legislative shortcomings that impede their preservation.

During the study of ensuring the labor rights of whistleblowers of corruption, numerous scientific sources were studied, and the main problems and prospects for strengthening legal protection were identified. The study highlighted the need for legislative protection of the rights of whistleblowers, shortcomings in the work of the anti-corruption mechanism, and fear of retaliation for reporting offenses. Thanks to the study of these sources, it was possible to formulate proposals for improving the procedures for protecting whistleblowers in Ukraine.

In addition, we examined how other countries that have tough whistleblower protection laws address the protection of the labor rights of these workers internationally. He was able to create detailed proposals for improving Ukrainian legislation by studying international models. These methods allowed us to conclude the need to strengthen the requirements of the legislation and the introduction of complex systems of whistleblower protection that would guarantee their safety and increase the effectiveness of the anti-corruption campaign in Ukraine.

## Results

The right of citizens to report corruption is a natural extension of the right to freedom of expression and is also linked to the principles of transparency and honesty. All people have the inalienable right to protect the welfare of other citizens and society as a whole, and in some cases, they must report wrongdoing. The state and society rely on the civic behavior of these individuals, believing that they are not acting for selfish reasons, but rather to expose corrupt practices that may take place in the private or public sectors (Fedorovych et al., 2022).

According to Gnatenko (2021), the institution of whistleblowers is an important safeguard for the emergence and spread of corruption in society. A corrupt official steals a country's money, affects its overall future, and relies on the silence of ordinary people. If ordinary citizens cease to be silent about the corrupt acts they have witnessed - at work, during volunteering, cooperation with contractors, etc., then a potential corrupt official will think three times before taking a bribe or committing illegal actions.

Protection of persons who contribute to preventing and combating corruption (whistleblowers) is an integral part of the fight against corruption as a negative social phenomenon. The risk of corrupt behavior increases significantly in an environment where whistleblowers do not enjoy the support and protection of society and the state. In modern realities, there are situations when whistleblowers are fired threatened, or persecuted for their civic position, so most citizens simply do not report corruption out of fear for their lives, because they do not believe that corrupt officials will be punished. Therefore, the lack of effective protection is a serious dilemma for whistleblowers. In such circumstances, there is an urgent need to develop and implement clear and consistent legislation that would allow whistleblowers to exercise their rights so that neither



whistleblowers nor their loved ones are in danger (Parasyuk, 2020).

In our opinion, without an adequate effective legislative framework to protect such persons and real mechanisms for its implementation, the fight against corruption will be ineffective. Therefore, in the process of reforming the national anti-corruption legislation, it is necessary to take into account the foreign experience of the functioning of the whistleblower protection institutions in countries with a low level of corruption.

The practice of European countries in the fight against corruption shows that cooperation and protection of whistleblowers is one of the key elements of an effective anti-corruption policy. This is confirmed by both international and national legal acts. For example, the United Nations Convention against Corruption (Article 33) calls on States parties to implement mechanisms to protect persons who report corruption offenses to the competent authorities in good faith and on reasonable grounds. Such protection is aimed at preventing unfair treatment of whistleblowers and ensuring their safety (Gibbs, 2020).

Article 9 of the Council of Europe's Civil Convention on Corruption requires that each Party implement measures in its national legislation to protect workers who have reasonable suspicion of corruption and report it in good faith to the competent authorities or responsible persons. The legal requirement to protect such workers is important to encourage reports of corruption without the risk of whistleblowers becoming victims of repression (Gibbs, 2020).

An important aspect is also the provision of Article 22 of the Council of Europe Criminal Convention on Corruption, which obliges states parties to take the necessary measures to ensure the effective protection of persons cooperating with the investigating authorities in cases of corruption offenses. This includes not only whistleblowers but also witnesses who provide important testimony (Shostko, 2020). In our opinion, this approach ensures the proper protection of key persons in the process of investigating corruption cases, which is an important element for ensuring successful legal proceedings.

Ukraine also received recommendations from the Group of States against Corruption of the Council of Europe (GRECO) to improve the system of whistleblower protection. In particular, it was noted the need to create not only legislative protection but also effective mechanisms for its implementation in practice. This includes safeguards against negative consequences for individuals who report cases of corruption in good faith, such as job loss or harassment by employers (Onyango, 2021).

We are convinced that, both nationally and internationally, robust whistleblower protection is crucial, according to a study of legislative standards and world experience. A comparison of Ukrainian protection systems with European ones shows the need for improvement since the country's legislation on whistleblowers is not always implemented enough. The effective experience of European countries shows that providing institutional guarantees for whistleblowers can significantly increase the effectiveness of anti-corruption policies and promote openness in the public and private spheres.

As already noted, only with the adoption of the Law "On Prevention of Corruption" in 2014, the concept of "whistleblower" was defined for the first time at the legislative level. At the same time, it should be noted that only seven paragraphs of one article, namely Article 53 of Section VIII "Protection of whistleblowers" of the said Law, are devoted to issues of state protection of persons who contribute to the prevention and counteraction of corruption. We are convinced that such an approach of the

legislator to an extremely important issue of whistleblower protection has led to insufficient regulatory support for this institution in Ukraine.

We are deeply convinced that the real protection of whistleblowers can only be provided by a separate, clearly written legal act, the consistency of the provisions of which will create an effective protective legal mechanism. For whistleblowers to be provided with adequate protection and the ability to provide promptly relevant information on corruption offenses, it is necessary to be guided by the basic principles that are implemented in international practice, namely: a) the availability and reliability of channels for reporting corruption offenses; b) reliable protection against all forms of revenge; c) existing disclosure mechanisms that promote legislative reforms, the implementation of domestic policies or the elimination of procedural imperfections and the prevention of corruption (Chordiya et al., 2020).

Summarizing the above, it should be noted that the principles of whistleblower protection, tested by international practice, can, in our opinion, serve as a guide for developing new and improving the current legislation on whistleblower protection, as well as legal protection. Should be extended to all employees and officials at risk of retaliation, including persons who are not in an employment relationship between employees and employers (Yaroshenko et al., 2023a).

To implement the principles of whistleblower protection, it would be advisable for the legislator to adopt a special law that would regulate in detail the mechanism of their protection. There are two draft laws on this topic: Draft Law of Ukraine dated July 20, 2016 No. 4038a "On the Protection of Whistleblowers and Disclosure of Information in the Public Interest" and Draft Law "On the Protection of Corruption Whistleblowers," developed by the National Agency for the Prevention of Corruption (NAPC) (Amelicheva & Bondarenko, 2022).

Analyzing these projects in comparison with the current legislation, it can be noted that the NAPC bill proposes a more expanded definition of the term "whistleblower" and introduces the concept of "equalized persons," which not only clarifies the rights of whistleblowers but also protects persons who may be involved in the process of exposing corruption. Also, this bill extends the time for consideration of messages from whistleblowers, which allows more carefully studying them. On the other hand, the draft Law "On the Protection of Whistleblowers and Disclosure in the Public Interest" introduces important provisions on anonymous reporting and sets clear deadlines for their consideration. This can serve as a significant step to increase the confidence of whistleblowers who fear persecution or other negative consequences for their actions (Amelicheva & Bondarenko, 2022).

We must emphasize that the legislator, instead of adopting a separate legislative act to protect whistleblowers, chose the path of expanding the current Law of Ukraine "On Prevention of Corruption." In 2019-2021, new articles were added to it (53-1 - 53-9), which define the basic rights of whistleblowers, including their protection, confidentiality, as well as the right to receive information and pay for the data provided (Hnatenko, 2021; Aljbour1 & Alkrimeen, 2024). This allows for a more systematic regulation of whistleblower protection issues in the context of the fight against corruption.

A comparative study conducted by us demonstrates that, even despite significant progress in the development of legal guarantees for whistleblowers, more work is needed to make laws more effective. A special statute may, for example, provide for more comprehensive regulation and effective procedures that deal with a greater variety of circumstances in which

whistleblowers will need protection. The results show that, even though the current legislative framework of Ukraine mainly complies with international standards, it is necessary to work harder to fully protect whistleblowers in all sectors of society.

The Criminal Code of Ukraine (CC of Ukraine) (Verkhovna Rada of Ukraine, 2001) is aimed at protecting the most important social relations, among which a special place is occupied by relations related to the exposure of corruption. Amendments to Article 172 of the Criminal Code of Ukraine, in particular regarding the definition of the whistleblower of corruption or corruption-related offenses as a separate category of victims, are an important step in strengthening the legal protection of this category of persons. This increases the level of criminal protection of public relations related to the exposure of corruption since an employer who illegally fired a whistleblower or grossly violated his labor rights can be prosecuted under Article 172 of the Criminal Code of Ukraine (Hnatenko, 2021).

The peculiarity of criminal and legal regulation in this area is the allocation of a special category of victims - whistleblowers. This feature of victimization allows the legislator to better understand the essence of public relations, which are subject to criminal law protection. Within the framework of Article 172 of the Criminal Code of Ukraine, it is important to distinguish between two types of victims. The first is the general victim, which includes any person in labor relations with an enterprise, institution, or organization. The second is a special victim who, in addition to the general characteristics of the employee, belongs to the category of whistleblowers of corruption offenses. Thus, this special status provides an additional level of legal protection to whistleblowers (Yaroshenko et al., 2023b).

This strategy has significant implications for protecting whistleblowers through criminal law. First of all, it offers more guarantees for whistleblowers, which is extremely important for avoiding employer exploitation. Secondly, the legislator recognizes the importance of the role of whistleblowers in exposing corruption and also strengthens the legal punishment for violating their rights. This once again confirms the intention to strengthen the criminal code to better protect whistleblowers, which will increase the practical effectiveness of anti-corruption policies (Yaroshenko et al., 2023b; Barghot et al., 2024).

In our opinion, the new legal standards regarding the unique status of whistleblowers provide them with more protection and recognition at the legislative level than the old ones. The findings show that the addition of separate articles to the Criminal Code of Ukraine is a critical first step to better protect the rights of whistleblowers and will contribute to the country's ongoing efforts to combat corruption.

In the national context, according to the Law of Ukraine "On Prevention of Corruption" of October 14, 2014 No. 1700-VII, the definition of whistleblower is quite broad. A whistleblower can be any individual who has reported facts of corruption or corruption-related offenses if he considers the information reliable. This approach is broader in Ukrainian law than in international law, as it includes not only civil servants, but also persons who perform other functions: labor, professional, economic, social, scientific, or participate in certain procedures (Tikhonyuk, 2020).

The way national legislation interprets the term "whistleblower" underlines how important it is to protect the rights of those who help expose corruption. Given the possibility of illegal dismissal or other violations of labor legislation against whistleblowers, the preservation of their labor rights is especially important. Protecting the closest relatives of the whistleblower is another important component. The list of persons falling under the definition of "close environment" is quite extensive and provided for by law. This includes not only family members but

also distant relatives, including grandparents, nephews, brothers, and sisters. An important weapon for providing full protection against potential repressive actions is the legislative extension of the protection category to the relatives of the whistleblower. This highlights the legislator's attempts to create a legislative framework that will protect both the close relatives of the whistleblowers and the whistleblowers themselves, which may encourage more people to expose corruption (Tikhonyuk, 2020).

In summary, we would like to note that the legal interpretation shows that whistleblowers and their supporters are provided with broad and full legal protection in Ukraine, which is a significant step in the fight against corruption. At the same time, comparison with international standards shows that Ukrainian legislation in this area not only meets international requirements but also significantly expands them, including the protection of close relatives of whistleblowers, which is a unique approach.

The current version of Article 172 of the Criminal Code of Ukraine does not cover the legal protection of labor relations of close relatives of whistleblowers of corruption. This contradicts the trend of protecting the rights of such persons in other legal acts, where "close relatives," "family members" and "close persons" are recognized as victims. The interpretation of these concepts indicates that the legislator recognizes the importance of family and family ties in the protection of fundamental rights, such as life, health, dignity, and freedom (Tatarenko et al., 2020). This position indicates the social conditionality of strengthening the criminal legal protection of whistleblowers and their relatives in case of pressure due to corruption disclosures.

In the context of the application of legal regulation, the threat to whistleblowers may extend to their close relatives, who become potential targets for pressure from interested parties. Therefore, the legislator, having enshrined in Article 53 of the Law of Ukraine "On Prevention of Corruption" state protection not only for the whistleblowers themselves but also their close associates, created the basis for making similar changes to Article 172 of the Criminal Code of Ukraine. Such a step will provide an opportunity to include "close persons" of whistleblowers in the sphere of criminal legal protection, which will significantly strengthen the legal protection of labor relations of these persons (Makarenko & Pryputen, 2020).

Comparing with other aspects of anti-corruption legislation, it can be noted that the labor rights of whistleblowers are already protected at the legislative level in many cases, in particular from illegal dismissal or other gross violations of labor legislation. A systematic analysis of this legislation indicates several forms of state protection, such as refusal to hire, forced dismissal, disciplinary sanctions, and other negative measures (Makarenko & Pryputen, 2020). However, in our opinion, the refusal to conclude an employment contract with the whistleblower or the refusal to hire based on his exposure to corruption offenses remains outside criminal protection. This is a gap that should be resolved by making appropriate changes to the legislation.

Thus, we must note that the legislative expansion of Art. 172 of the Criminal Code of Ukraine by including provisions on the protection of labor rights of "close persons" of corruption whistleblowers will be a logical step in the development of anti-corruption legislation and strengthening the protection of whistleblowers from repression.

One of the forms of negative influence described in the anti-corruption legislation is the violation of the principle of equality of human rights, which, according to the practice of the ECHR, is that "such situations should be treated the same, and different - in different ways." This provision may be applied in the context of selective actions of the employer against whistleblowers who

do not apply to other employees in similar situations or have not previously applied to the same employee in similar cases. From a legal point of view, such selective treatment can be qualified as discrimination, which manifests itself due to the restrictions of the whistleblower in the field of labor relations, both direct and indirect (Dakhova & Baranova, 2021)

It should be noted that the current version of Article 162 of the Criminal Code of Ukraine does not cover such forms of labor relations, which may indicate a certain legal gap. However, analyzing the provisions of Article 161 of the Criminal Code of Ukraine, it becomes clear that discrimination on the grounds of anti-corruption activities of an employee may fall within the scope of this article, which provides for liability for violation of equality of citizens based on various characteristics, such as race, nationality, religious beliefs, disability, etc. The open nature of the list of features makes it possible to interpret it widely, including restrictions related to anti-corruption activities (Dakhova & Baranova, 2021). This, in our opinion, confirms the possibility of applying Article 161 of the Criminal Code to protect whistleblowers in cases of discrimination.

In addition, an important step in the development of legal regulation of whistleblower protection was the adoption of the Law of Ukraine "On the Principles of State Anti-Corruption Policy for 2021-2025 Years" by 20.06.2022. The legislator singled out in this normative act a separate subsection 2.6 "Protection of whistleblowers of corruption," which contains a detailed analysis of existing problems and determines the directions for further development of legislation. Given this, it can be argued that Ukraine is making significant efforts to improve the legal protection of whistleblowers by introducing comprehensive measures, in particular the creation of socio-psychological conditions for their support, the dissemination of information through the media about legal guarantees of protection, as well as the improvement of an institutional mechanism that would provide appropriate legal protection against persecution and discrimination (Drozdov & Korenev, 2022).

In the field of application of the law, the key aspect is the cooperation of state bodies, such as the NAPC, which monitor and coordinate activities related to whistleblowers and judicial institutions, which should become a reliable tool for protecting their rights. It also provides for the professional development of judges and employees of the system of providing free legal aid to ensure effective legal support for whistleblowers. Comparative analysis of world norms, in particular within the framework of the European Union, shows that Ukraine is gradually creating an institutional and regulatory structure to ensure the safety of informants. This is comparable to European rules, which guarantee the creation of safe external ways to disclose corruption and strict confidentiality and anonymity of informants. Even though Ukrainian legislation gradually includes these components, more needs to be done to guarantee the full protection of whistleblower rights (Drozdov & Korenev, 2022).

So, in our opinion, the conclusions on the effective legal protection of whistleblowers in Ukraine indicate the need to reform the judicial system, strengthen coordination between authorized bodies, and create new mechanisms for protecting the rights of persons reporting on corruption.

## Discussion

The main problem that exists today is the lack of a proper legal mechanism for regulating legal provisions regarding the status of whistleblowers. International instruments emphasize that States parties should establish appropriate procedures, rules, and standards at the legislative level. International documents and foreign legislation pay special attention to the physical protection of whistleblowers. The relevant documents

provide comprehensive assistance to whistleblowers, in particular physical protection, and medical and psychological assistance. At the same time, the current legislation does not mention medical care at all, and psychological assistance is mentioned only in the list of whistleblower rights without specifics (Sashurina, 2021).

We agree with Sashurina (2021) that another challenge facing the Ukrainian anti-corruption mechanism is the objective assessment of messages received from whistleblowers and the establishment of liability standards for this category of persons for knowingly false messages. This need has a well-founded nature, which is explained by the need to prevent unjustified personnel, material, and time resources for consideration of such messages. At the same time, the state faces the risks of a large number of appeals to the European Court of Human Rights of persons in respect of whom there were false accusations of corruption, as a result of which they lost their business reputation, trust, and suffered material damage. Significant financial compensation for the state at the same time is, again, a confirmation of the poor quality of the legislative procedure for considering whistleblower reports (Sashurina, 2021).

The issue of financial remuneration of whistleblowers who can receive about 10% of the amount that became the subject of a corruption or corruption-related offense under the Law needs to be reviewed. This provision comes from the recommendations contained in the Directives of the European Union, the basis of which nevertheless indicates the absence of such rewards. Such an opinion is correct, because, to reduce the number of false reports, the whistleblower should be guided not by personal motives of enrichment, but by the postulates of justice, which come from the interest of ensuring the public good. Attention should be paid to the importance of internal procedures for checking whistleblower reports, which must comply with international standards, and be clear and transparent. For example, according to Article 53-2 of the Law of Ukraine "On Prevention of Corruption," disciplinary proceedings on notification should be conducted within no more than 30 days from the date of completion of the preliminary consideration. If it is impossible to verify the reported information within the specified period, disciplinary proceedings can be extended to 45 days. However, it is important to note that this term cannot be extended again (Sashurina, 2021).

At the same time, by the Procedure for conducting an internal investigation No. 950 of 13.06.2000, the decision to conduct an internal investigation shall specify the chairman of the investigative commission, its members, the subject, as well as the dates of the start and completion of the internal investigation. The duration of the internal investigation should not exceed two months (Patalakha & Pryputen, 2020).

If we consider the case of police officers, who are also subject to the provisions of the Law of Ukraine "On Prevention of Corruption," it should be noted that the official investigation should be completed no later than a month from the date of his appointment. If necessary, based on a motivated written report (memorandum) of the chairman of the disciplinary commission, the term of the internal investigation may be extended by order of the head who appointed him or his immediate supervisor, but not more than one month. In this case, the total period of the internal investigation may not exceed 60 calendar days. Thus, it can be concluded that it is necessary to coordinate the provisions of the Law of Ukraine "On Prevention of Corruption" with other state regulations. This alignment should be in line with the rule of law principle proclaimed in many international conventions and instruments concerning both anti-corruption and the protection of human rights (Matolych, 2022). Such a



comparison, in our opinion, allows us to emphasize the importance of a systematic approach to legal regulation, which will ensure effective protection of the rights of whistleblowers and contribute to the formation of a transparent system for combating corruption in Ukraine.

However, today Ukraine, in our opinion, has already taken a significant step in reforming the legal regulation of whistleblower protection. In particular, persons who report possible facts of corruption are protected from illegal dismissal. In addition, they are guaranteed the right to security measures for themselves and their loved ones in the event of a threat to their life and health and to reimburse the costs associated with their protection. Separately, the law establishes the rights of whistleblowers, in particular, for free legal assistance, confidentiality and anonymity of messages, remuneration in cases determined by law, and psychological assistance.

In our opinion, all these guarantees are provided by the state, provided that the key condition is fulfilled - notification of possible corruption through the appropriate channels of notification, primarily internal and ordinary ones. The Law of Ukraine "On Prevention of Corruption" as amended by 27.10.2020, in our opinion, improved the regulation of the activities of whistleblowers, since the list of measures to protect whistleblowers was significantly expanded, and the powers of state and local self-government bodies and their officials in this area were determined in detail. Finally, the most noticeable positive legislative innovation was the introduction of incentives in the form of material remuneration. We recognize that these innovations are designed to increase the level of public involvement in the fight against corruption. However, the real effectiveness of whistleblowers is influenced by certain shortcomings made by the legislator (Mechtenberg et al., 2020).

As a result of the study, we came to the following. Firstly, a significant drawback is that instead of changing the approach to defining the whistleblower as an informant (notified), this erroneous practice was also enshrined in the Criminal Procedure Code, according to which only the applicant in criminal proceedings can be a whistleblower. Non-expansion of proper state guarantees and incentives for witness protection significantly narrows the circle of persons motivated to disclose corruption offenses.

Secondly, the new interpretation of the concept of "whistleblower" in comparison with the previous version of the law further narrows the circle of persons who can receive this status, since it implies that the whistleblower should receive information about certain types of specific activities. In addition to practical harm, this innovation contradicts Ukraine's international obligations to provide special protection to all whistleblowers.

Thirdly, it is frankly disastrous and foolish to recognize as whistleblowers only those anonymous persons who work in the relevant state body. In the absence of any logical justification for such critical selectivity, the legislator did not provide for the possibility of reporting corruption without assigning it to other persons who, according to the law, may be whistleblowers.

Probably, due to the shortcomings of legal technology, Ukrainian legislation has been replenished with a new conflict: one normative act in the Law on the Prevention of Corruption and the CPC of Ukraine introduced two fundamentally different definitions of "whistleblower," according to which the number of potential whistleblowers is much wider. In this context, an innovation that guarantees the whistleblower access to data on the state of the investigation looks especially dangerous, since, of course, it is associated with the risks specified in the document, therefore, in our opinion, this rule of procedural law

should be excluded. and eliminate the conflict between regulations. The mechanism of payment for whistleblowers who anonymously report corruption is also ill-conceived. The law does not explain where and at what stage such persons should apply, and it may be impossible to prove their authorship. These issues require broader regulation (Amelicheva, 2023).

Analysis of the ECHR practice and foreign experience shows that recent changes to anti-corruption legislation do not take into account the rights of the whistleblower's employer. In particular, the lack of regulation of the use of notification channels is striking, and the whistleblower is not responsible for the dissemination of confidential information even in the case of deliberately false reports of corruption (Mechtenberg et al., 2020). We believe that the state interest in the activities of whistleblowers does not prevail over the observance of the rights of their employers. Therefore, we consider this direction one of the priorities for improving whistleblower legislation.

## Conclusions

In modern society, the institution of whistleblowers has become a key mechanism for preventing and combating corruption. The importance of this tool lies in the fact that it mobilizes ordinary citizens to identify and report corruption, which reduces the immunity of corrupt officials and increases the risk of identifying and punishing violators. The term "whistleblower" is defined in law as a person who reports a corruption or corruption-related offense with reliable information obtained in connection with his activities or participation in important procedures.

However, the existence of effective legislation and mechanisms to protect whistleblowers is critical to the successful fight against corruption. Without such protection, whistleblowers risk being visited, fired from their jobs, or even prosecuted, which can reduce their motivation and make them reluctant to report corruption. Thus, due attention to the creation of effective mechanisms for protecting whistleblowers in legislation and practice is an important prerequisite for an effective fight against corruption.

In the context of reforming anti-corruption legislation, it is important to take into account foreign experience, especially in countries with low levels of corruption, to create a system of effective protection of whistleblowers and encourage them to be active in identifying corruption offenses. Only with proper protection of whistleblowers and support for their civic position can a significant reduction in the level of corruption and increased confidence in state institutions be achieved.

A serious problem today is the lack of a proper legal mechanism for regulating the status of whistleblowers. International standards indicate the need to establish appropriate procedures and standards at the legislative level, as well as comprehensive support for whistleblowers, including physical protection and medical and psychological assistance. Therefore, it is important to coordinate the provisions of the Law of Ukraine "On Prevention of Corruption" with other normative legal acts in the country that would comply with the principles of the rule of law and provide an effective mechanism for protecting the rights of whistleblowers and combating corruption.

In summary, Ukraine has taken a significant step in reforming the legal protection of whistleblowers. The new legislation ensures their safety and the right to legal and psychological support. However, there are serious shortcomings that limit the effectiveness of these measures. Insufficient regulation of whistleblower protection and incentives, lack of clear anonymous reporting procedures, and uncertainty about whistleblower categories complicate the fight against corruption. In particular, the rights of employers should be taken into

account and confidentiality violations should be avoided. Thus, improving the legislation on whistleblowers and taking into account foreign experience is an important task for further strengthening anti-corruption measures in Ukraine.

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- Ethical approval and consent to participate: All procedures performed in studies involving human participants were in accordance with the ethical standards of the institutional and national research committee and with the 1964 Helsinki declaration and its later amendments or comparable ethical standards.
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