

# **Whistleblowing across Europe: it seems a «gradient» from West to East, from North to South. What lessons to be learned?**

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## **Abstract**

The main objective of the article is to make an attempt to look over the peculiarities of the whistleblowing functioning in Europe as a whole, trace the impact of the cultural dimensions and framework of civil service in diverse European countries on the whistleblower protection law and practice in public sector. The research is based on the analysis of specialized literature, statistics, Hofstede's theory of international cultures and analysis of recommendations for whistleblowing designing and implementation in Russia.

Relying on data of presence/absence of the whistleblower protection in law and practice we distinguished four groups of countries on «whistleblowing level» («WB level»). Then, transferring the findings on the map of Europe, we got a «whistleblowing's gradient», in other words, it means that whistleblower protection in law and practice is working more effectively in the West and North than in the South and East. The causes of that we scrutinized in the light of similarities and differences in the functioning of whistleblower protection mechanisms throughout various European countries. These similarities are three-fold: whistleblowing legislation is generally fragmented; whistleblowing does not work properly in practice and every nation has a culturally specific counter-argument to whistleblowing. Among the differences generating different «levels» of whistleblower protection in law and practice, we emphasized three main groups: general prerequisites of whistleblowing mechanism (relating to robustness and effectiveness of a countries' institutions); differences in the civil service systems («continental model» as in Germany and France, or an Anglo-Saxon one as in UK); cultural differences (we examined based on the Hofstede's dimensions).

The analysis of four groups on «whistleblowing level» based on the Hofstede's cultural dimensions showed that each of those dimensions is related to the individual and organizational tendencies to blow the whistle; the expression of perceptions of wrongdoing; fear of retaliation for whistleblowing and the expressed likelihood of blowing the whistle.

At the same time, the research study in CEE indicates that there are considerable cultural differences between these countries. The differences on the level of corruption in the assessed states are minor. So, these results let to arrive the conclusion that it is significant to implement the whistleblowing legislation.

These findings bring up a set of questions and make them urgent for future research in that area. The only conclusion could be made is that it is necessary to apply various approaches to the implementation of whistleblowing legislation and whistleblower protection in practice. It goes without saying that there are no comprehensive tools and every nation should have its own legal whistleblowing framework. As a possible example, we made a number of particular recommendations for designing and implementation whistleblower's protection in Russia.

Europe is diverse, thus and so, the distinctions in cultural issues, political framework, economic development within the European scope are considerable. Consequently, recommendations on whistleblowing designing and enforcement should have both universal and specific, taking into account the juridical, political and cultural context in each country. These recommendations are divided into three groups: legislation, its practice, cultural issues. All these groups are closely interrelated.

**Keywords:** whistleblowing, whistleblower protection, regions of Europe, cultural differences, corruption.

## **1. Whistleblowing legislation and practice in Europe: what is in reality?**

### **1.1 *What is whistleblowing in public sector?***

Whistleblower protection is an effective instrument for fighting corruption and conflict of interests, fraud, mismanagement, and ensuring transparency and accountability in public sector. Practice of whistleblowing in many

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countries around the world demonstrates convincingly benefits of whistleblowing not only for public sector but also society as a whole. One of the most cited definitions of whistleblowing by Ralph Nader emphasizes an importance of that practice for public interests. Whistleblowing is «an act of a man or woman who, believing that the public interest overrides the interest of the organization he serves, blows the whistle that the organization is in corrupt, illegal, fraudulent or harmful activity»<sup>3</sup>.

At present, no official legal definition of whistleblowing or whistleblower exists. Many researches refer to definition by Janet Near and Marcia Miceli: «The disclosure by organization members (former or current) of illegal, immoral or illegitimate practices under the control of their employees, to persons or organizations that may be able to effect action»<sup>4</sup>.

We propose our own more detailed definition of whistleblowing in public sector: «It is a reporting by civil servants (current or former) and non-civil servants as well, relating with the public organizations by their occupation (such as subcontractors in public procurements) to their executives, a nominated watchdog agency, media or NGO, of the information about the committed or perceived illegal, immoral and inefficient activity within the public organization; at the same time a whistleblower should be under the legal protection».

However, in spite of the effectiveness of all whistleblowing benefits, its designing and implementation across Europe are not widespread and mostly fragmented. In countries where the whistleblower protection law exists, it is often unadequate and does not work in reality.

### 1.2 Does the map of Europe seem like a «whistleblowing gradient»?

For assessment of whistleblowing protection in Europe it is necessary to examine its key features and know whether a whistleblower protection found to be working in practice?

In 2012 a non-government organization «Transparency International» carried out a solid research across 25 European countries «Money, politics, power: Corruption risks in Europe», including the issues of whistleblower protection in law and practice in Europe<sup>5</sup>. Relying on that research, we distinguished several groups of countries on development of whistleblowing legislation and practice (Table 1). The countries with dedicated whistleblower legislation and working in practice completely or partially refer to the *first* group (Norway, UK, Switzerland). The *second* one relates to the countries with non-working whistleblower legislation: Hungary, the Netherlands, Romania. The *third* group contains the countries with partially whistleblower legislation and non-working in practice: Ireland, Slovenia, Poland, France, Czech Republic, Germany, Denmark, Belgium, Latvia, Sweden, Greece, Portugal, Estonia. Bulgaria, Finland, Italy, Lithuania, Slovakia, Spain, (Ukraine, Belarus, Russia – added by ourselves to the existing research) pertain to the *fourth* group with no single, comprehensive legal framework for whistleblower protection. In these groups we suggested «levels» of whistleblower protection in law and practice, such as High, Medium, Low and Zero.

«WB Level»	Country	Status of Law	Dedicated whistleblower legislation?	Covers public sector?	Covers private sector?	Whistle-blower protection found to be working in practice?
<b>High</b>	<b>Norway</b>	Working Environment Act: regulates workers' rights to whistleblowing	Yes	Yes	Yes	Yes
	<b>UK</b>	Public Interest Disclosure Act	Yes	Yes	Yes	Yes
	<b>Switzerland</b>	Whistleblower Protection Act 2011	Yes	Yes	No	Partially
<b>Medium</b>	<b>Hungary</b>	Act on the Protection of Fair Procedures 2010, but failure to adopt accompanying act to ensure its implementation	Yes	Yes	Partially	No
	<b>Netherlands</b>	Decree on Reporting Suspicions of	Yes	Yes	No	No

<sup>3</sup> Nader, Ralph, Petkas, Peter J., and Blackwell, Kate. 1972. *Whistleblowing*. Quoted in. Rongine, Nicholas M. 1985. *Towards a Coherent Legal response to the Public Policy Dilemma Posed by Whistleblowing*. American Business Law Journal, Summer, Vol. 23. Issue 2. P. 28.

<sup>4</sup> Miceli, Marcia P., Near, Janet P., Dworkin, Terry M. 2008. *Whistle-blowing in organizations. Organization and Management*. Ed. Walsh, J.; Brief, A.P.. New York: Routledge/Taylor & Francis Group. P. 6.

<sup>5</sup> *Money, politics, power: corruption risks in Europe*. Transparency International. 2012. / [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe) (Accessed: February 22, 2013).

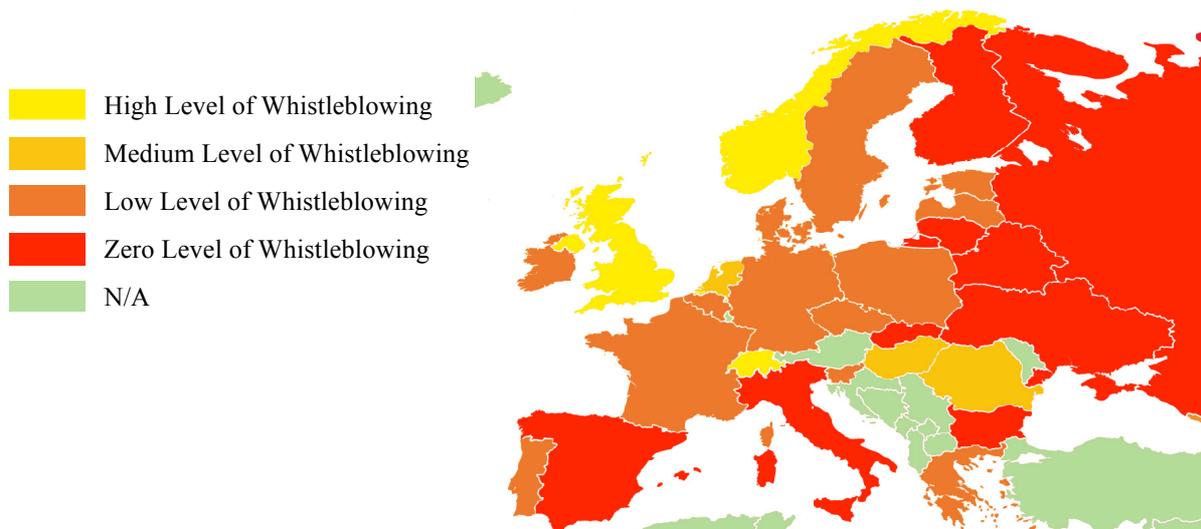
		Abuses to the Government and the Police 2009				
	<b>Romania</b>	Law on the Protection of Public Officials Complaining about Violations of the Law 2004. Excludes judiciary	Yes	Partially	No	No
<b>Low</b>	<b>Ireland</b>	Prevention of Corruption (Amendment) Act 2010: includes protection and Criminal Justice Act 2011 provides some protection for whistleblowers. Piecemeal protection under other sectoral legislation	Partially	Yes	Yes	No
	<b>Slovenia</b>	The Slovenian Integrity and Prevention of Corruption Act	Partially	Yes	Yes	No
	<b>Poland</b>	Civil Code and Labour Code: offer some protection but not comprehensive	Partially	Yes	Yes	No
	<b>France</b>	Loi n°2007-1598 relative à la lutte contre la corruption	Partially	No	Yes	No
	<b>Czech Republic</b>	The National Labour Code: outlines worker protection mechanisms	Partially	Yes	No	No
	<b>Germany</b>	Law on the Status of Civil Servants (amended 2009)	Partially	Yes	No	No
	<b>Denmark</b>	Freedom of Expression laws protect public sector workers to a certain extent	Partially	Yes	No	No
	<b>Belgium</b>	No legislation at federal level. Flemish civil servants protected by Whistleblowers Decree 2005	Partially	Yes	No	No
	<b>Sweden</b>	Labor Law, Fundamental Law on Freedom of Expression and Freedom of the Press Act	Partially	Yes	No	No
	<b>Latvia</b>	Piecemeal. In April 2011, the parliament amended the Conflict of Interest Law to prohibit, for example, heads of agencies from disclosing the identity of a public official or employee who has reported on conflicts of interest. Limited protection is provided under the law in certain cases. However, it does not apply to those who report, for example, on bribery or abuse of office.	Partially	Partially	Partially	No
	<b>Greece</b>	Penal Code: requires reporting of corruption and favorable treatment of civil servants who disclose corruption of their superiors is guaranteed by law. There is no specific whistleblower protection	Partially	Yes	No	No
	<b>Portugal</b>	Disciplinary regulations of officials and other employees of central, regional and local government provide obligation to report and the Witness Protection Law provides some protection	Partially	Yes	No	No
	<b>Estonia</b>	Anti-Corruption Act and Penal Code: provide limited protection	Partially	Yes	No	No
<b>Zero</b>	<b>Bulgaria</b>	Generic provisions are made in the Administrative Procedure Code, but there is no dedicated whistleblower law	No	No	No	No
	<b>Finland</b>	Labor law and witness protection laws provide limited protection	No	No	No	No

<b>Italy</b>	Draft law that contains a clause on 'safeguarding of the Civil Servant who reports illegal practices' would protect the privacy of whistleblowers	No	No	No	No
<b>Lithuania</b>	Parliament failed to adopt far-reaching draft law on the matter in 2005; a limited draft of the Law on Whistleblowers Protection is currently included in parliament's working program for the upcoming session	No	No	No	No
<b>Slovakia</b>	Act on Civil Service: allows and in some cases obliges civil servants to notify their supervisor or the law-enforcement agency of misconduct, but offers no protection against recourse	No	No	No	No
<b>Spain</b>	A 2010 modification of the Penal Code introduced protection for those reporting acts of bribery, but has limited scope and there are no procedures in place	No	No	No	No
<b>Ukraine</b>	No single, comprehensive legal framework for whistleblower protection.	No	No	No	No
<b>Belarus</b>	No single, comprehensive legal framework for whistleblower protection.	No	No	No	No
<b>Russia</b>	No single, comprehensive legal framework for whistleblower protection	No	No	No	No

*Table 1: Whistleblower protection in law and practice in Europe*

Source: The Authors, (based on data by Transparency International, [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe)) (Accessed: February 22, 2013)

So, we have four groups of European countries with different «levels of whistleblowing». If to display and paint every group in certain color (from yellow to red) on the map of Europe, we get the «picture» presented in *Figure 1*.



*Figure 1: «Whistleblowing's gradient» in Europe*

Source: The Authors (based on data by Transparency International, [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe)) (Accessed: February 22, 2013)

Hence, the map of Europe looks like an image gradient. It is observed a directional change in the color in the map of Europe from the West and North to the East and South of Europe. We propose to call it as a «*whistleblowing's gradient*».

Furthermore, the above presented data lead to the following conclusion: there are a lot of common features in whistleblowing legislation and practice across European countries equally with a set of differences. So, it brings a number of questions, for example: why in UK, Hungary and Romania does a single, comprehensive legislative framework in whistleblowing exist, and in Finland and Spain there is no such legislation? Why in some countries there is no this legislation at all? And why in that case some countries need whistleblowing legislation? And why in most cases whistleblower legislation does not work?

## 2. «Whistleblowing's gradient» in Europe: from similar problems to different causes

So, «whistleblowing's gradient» in Europe raises many questions. To search answers to them we start with an analysis of the similarities and differences in the functioning of whistleblower protection mechanisms throughout various European countries.

### 2.1 Similarities in whistleblowing legislation and practice

European countries have a lot of similar features as regards the whistleblowing legislation and practice. The existing studies<sup>6</sup> have described them as:

- whistleblower protection is almost generally weak and fragmented;
- whistleblowing does not work properly in practice;
- every nation has a culturally specific counter-argument to whistleblowing<sup>7</sup>.

According to the Transparency International's research performed above, in many countries there is a piecemeal approach to legislating for the protection of whistleblowers, which is often inadequate. Furthermore, in all states, with the exception of two countries (Norway and UK), the national assessments find that whistleblowers do not have sufficient protection from reprisals in practice. The result of this legislative patchwork is that the practice of whistleblowing remains extremely rare in most European countries.<sup>8</sup> It is significant that problems surrounding whistleblowing in practice are also traced in so-called «low corruption» countries, namely Denmark and Sweden. The assessment of Denmark emphasizes a study conducted among 2500 Danish public employees that showed that 30 per cent of those who had publicly voiced concern about the workplace were faced with posterior problems, such as being perceived as disloyal to their employers or being explicitly warned not to make future comments.<sup>9</sup>

It is an important fact that the current whistleblowing rules within the EU institutions are not (yet) an effective instrument for fighting corruption and conflict of interest in EU institutions. The arguments to support this conclusion can be divided into two categories. The *first* category relates to the provisions itself and the *second* one refers to the implementation of these rules.<sup>10</sup>

Concerning the culturally specific counter-arguments to whistleblowing, it is worth noting that they are based on negative connotations surrounding whistleblowers. In the Czech Republic, Ireland, Romania and Slovakia the term «whistleblower» is associated with being an informant; in Bulgaria, Italy with a traitor or spy; in Hungary, Latvia, Estonia and Lithuania with a snitch. In many countries these negative perceptions of whistleblowing are the result of years of authoritarian regimes and the existence of secret police networks. During Soviet times, individuals provided the authorities with information, often secretly, on neighbours, co-workers and family members. In other cases, such as

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<sup>6</sup> [http://transparency.ie/sites/default/files/2010\\_Alternative\\_to\\_Silence\\_Ireland\\_v1.pdf](http://transparency.ie/sites/default/files/2010_Alternative_to_Silence_Ireland_v1.pdf) (Accessed: February 26, 2013); <http://www.transparency.org/enis/report> (Accessed: February 22, 2013); <http://www.europarl.europa.eu/document/activities/cont/201105/20110520ATT19912/20110520ATT19912EN.pdf> (Accessed: 22 February, 2013).

<sup>7</sup> Vandekerckhove, Wim. 2011. *The Perception of Whistleblowing Worldwide // Praxiology: The International Annual of Practical Philosophy and Methodology*. Vol. 18. Transaction Publishers. P. 105.

<sup>8</sup> *Money, politics, power: corruption risks in Europe*. Transparency International. 2012. P. 44 / [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe)

<sup>9</sup> See: <http://www.ftf.dk/magasinet-resonans/nummer/artikel/hver-tredje-idet-offentlige-faar-ballade-efter-at-have-ytretsig/>, cited in Transparency International Denmark. 2012. National Integrity System Assessment Denmark, see: <http://transparency.dk/?p=1072> (Accessed: February 26, 2013).

<sup>10</sup> *Corruption and conflict of interest in the European Institutions: The effectiveness of whistleblowers*. Study. Directorate General For Internal Policies. Policy Departement D: Budgetary Affairs. 2011. P. 63.

Ireland and Italy, there seems to be a general mistrust of public authorities and an emphasis on not speaking out against your neighbour or colleague. In countries with small populations – such as Estonia, Latvia and Lithuania – the close-knit nature of communities can pose a significant challenge for whistleblowing mechanisms, particularly in terms of encouraging disclosures and assuring the confidentiality of whistleblowers who come forward.<sup>11</sup> In many European countries whistleblowing suffers from stigma and negative connotations. Europe is on a long way from the required cultural shift in which whistleblowers come to be respected.<sup>12</sup>

## 2.2 Differences in whistleblowing legislation and practice

Among the differences generating different «levels» of whistleblower protection in law and practice, we emphasize three main groups:

- general prerequisites of whistleblowing mechanism;
- differences in civil service systems;
- cultural differences.

### 2.2.1 General prerequisites for whistleblowing mechanism

William de Maria argues that a number of prerequisites should be in place to ensure that whistleblowing achieves its goal of challenging wrongdoing in the workplace: the presence of a stable state; the general acceptance of the rule of law; a general belief in the effectiveness of state anti-corruption agencies; public confidence in the effectiveness of disclosure in combating corruption; guarantees of the freedom of expression; a separation of judicial, regulatory and state powers; and the overarching importance of the public interest when it comes to state revenue collection and spending.<sup>13</sup> Distinctions on these prerequisites are considerable: UK differs sharply from Bulgaria, Norway from Greece as well.

### 2.2.2 Differences in civil service systems

Different types of civil service may affect deeply on the functioning of the whistleblowing legislation: whether it is a «continental model» as in Germany and France, or an Anglo-Saxon one, as in UK.

We study two types of the civil service: *continental* (rational centralized and closed) and *Anglo-Saxon* (empirical and decentralized). The first one is in Germany and France where bureaucracy has an affluent long history. In these countries the fundamental principles of the continental model emerged: centralization, strict hierarchy, unification. As opposed to the continental Europe, in England there was not for a long time the civil service in a modern form. The civil service was considered as an «honorable duty of nobles, and a post - is as a property of the holders of the Royal patents (they could be passed on from one generation to another, or were given as a present)». Such situation formed because of the geographical peculiarities and, as a consequence, a decentralized system of governance with developed local government, where all practical issues were solved, took shape. Some elements spread out also in the English colonies. In the US this principle is more implemented; a bureaucracy grew ripe later than in England. In USA the victor's spoils system<sup>14</sup> is perfectly realized, which means the distribution of the highest positions to the representatives of the winning party. The description of these types through the prism of public disclosures in western countries it is possible to study in *Table 2*:

<b>Rational centralized closed system</b>	<b>Empirical decentralized open system</b>
Hierarchical «pyramidal» organization, regulatory adopted competence, firmly consolidated principles of the official	Lack of unique clear-cut organized system of the executive power, creation of bodies ad hoc for the concrete task solution and posterior

<sup>11</sup> *Alternative to silence. Whistleblower protection in 10 european countries.* Transparency International. 2009. P. 3 [http://www.transparency.org/whatwedo/pub/alternative\\_to\\_silence\\_whistleblower\\_protection\\_in\\_10\\_european\\_countrie\\_s](http://www.transparency.org/whatwedo/pub/alternative_to_silence_whistleblower_protection_in_10_european_countrie_s) (Accessed: 26 February, 2013).

<sup>12</sup> *Money, politics, power: corruption risks in Europe.* Transparency International. 2012. P. 44 [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe) (Accessed: February 22, 2013).

<sup>13</sup> De Maria, William. 2005. *Whistleblower protection: is Africa ready?* Public Administration and Development, 25. P. 217-226. Cited by: Uys, Tina. 2010. *Speaking truth to power: the whistleblower as organizational citizen in South Africa // A Global Approach to Public Interest Disclosure: What Can We Learn from Existing Whistleblowing Legislation and Research?* Edited by D. Lewis, Edward Elgar. P. 121.

<sup>14</sup> Деханова, Н.Г. 2011. *Социология государственной службы.* Москва: Академический проект, Альма Матер. С.65.

subordination.	similar in content issues.
Implementation of the organizational activities based on the formal regulatory principles.	Faint regulation of official relations that predetermines by common law's supremacy with the specificity of a precedent.
Closed hierarchical system of the official recruitment for the civil service.	Flexible competitive system of the civil servants' recruitment.
Career growth's dependence on the salary and social benefits from the length of service and current position.	Salary dependence and promotion on the results of civil servant's work.
Highly tailored employees (with degrees in law, economics and engineering sciences).	Employees with degrees in the social sciences.
High social status of civil servants, importance of reputation and professional ethics.	Administrative decision-making with the greatest account to set of all current factors.
Insurance arrangements and legal social immunity for civil servants (including a complicated process of the dismissal from office).	

*Table 2: Types of civil service*

Source: Н.Г. Деханова. 2011. *Социология государственной службы*. Москва: Академический проект, Альма Матер.

Then, it is of importance to examine how these types do correlate with the whistleblower legislation (*see Table 3*).

Type of the civil service	Country	Single comprehensive whistleblower law protection?
Empirical decentralized open system	Great Britain	Public Interest Disclosure Act of 1998
Rational centralized closed system	Germany	No
	France	No

*Table 3: Types of civil service and whistleblower law protection*

Source: The Authors

From the aforementioned tables, we have arrived at the conclusion: in the continental model there are no whistleblowing as opposed to the Anglo-Saxon framework. Also it is useful to take into consideration that post-Communist countries in CEE region were forced to draw up the civil service system afresh. It distinguishes them from the states with more solid and long traditions in the civil service system.

### 2.2.3 Cultural differences

Finally, a fairly central issue, having impact on differences in whistleblowing legislation and practice across Europe, is cultural differences. A set of research is guided by the Hofstede's theory of international cultures. Professor Geert Hofstede conducted one of the most comprehensive studies of how culture has an influence on values in the workplace.<sup>15</sup> The values, distinguished countries from each other, could be grouped statistically into four clusters. These four groups became as the Hofstede dimensions of national culture:

- **Power Distance (PDI).** This dimension expresses the degree to which the less powerful members of a society accept and expect that power is distributed unequally.
- **Individualism versus collectivism (IDV).** The high side of this dimension, called individualism, can be defined as a preference for a loosely-knit social framework in which individuals are expected to take care of themselves and their immediate families only.
- **Masculinity versus femininity (MAS).** The masculinity side of this dimension represents a preference in society for achievement, heroism, assertiveness and material reward for success.
- **Uncertainty avoidance (UAI).** The uncertainty avoidance dimension expresses the degree to which the members of a society feel uncomfortable with uncertainty and ambiguity.

<sup>15</sup> The Hofstede Center. <http://geert-hofstede.com/dimensions.html> (Accesses: 22 February, 2013).

- **Long-term / short-term orientation (LTO).** The long-term orientation dimension can be interpreted as dealing with society's search for virtue. Societies with a short-term orientation generally have a strong concern with establishing the absolute Truth.<sup>16</sup>

The Hofstede's findings for the studied countries are showed in *Table 4*.

«WB Level»	Country	Cultural Differences: Hofstede's Dimensions				
		PDI	IDV	MAS	UAI	LTO
High	Norway	31	69	8	50	44
	UK	35	89	66	35	25
	Switzerland	34	68	70	58	40
	<i>Average</i>	33,3	75,3	48	47,7	36,3
Medium	Hungary	46	80	88	82	50
	Netherlands	38	80	14	53	44
	Romania	90	30	42	90	N/A
	<i>Average</i>	58	63,3	48	75	47
Low	Ireland	28	70	68	35	43
	Slovenia	71	27	19	88	N/A
	Poland	68	60	64	93	32
	France	68	71	43	86	39
	Czech Republic	57	58	57	74	13
	Germany	35	67	66	65	31
	Denmark	18	74	16	23	46
	Belgium	65	75	54	94	38
	Sweden	31	71	5	29	20
	Latvia	N/A	N/A	N/A	N/A	N/A
	Greece	60	35	57	112	N/A
	Portugal	63	27	31	104	30
	Estonia	40	60	30	60	N/A
	<i>Average</i>	50,3	57,9	42,5	71,9	32,4
	Zero	Bulgaria	70	30	40	85
Finland		33	63	26	59	41
Italy		50	76	70	75	34
Lithuania		N/A	N/A	N/A	N/A	N/A
Slovakia		104	52	110	51	38
Spain		57	51	42	86	19
Russia		93	39	36	95	N/A
<i>Average</i>		67,8	51,8	54	75,2	33

*Table 4: Cultural Differences (Hofstede's Dimensions) in studied European countries.*

Source: The Authors (based on data of Transparency International, [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe) (Accessed: February 22, 2013) and The Hofstede Center, <http://geert-hofstede.com/dimensions.html> (Accessed: February 22, 2013))

The existing correlation between the «whistleblowing's level» and the Hofstede's cultural dimensions is presented in *Figure 2*.

In groups on «whistleblowing level» we combined states with diverse cultural parameters, differences in civil service systems with various characteristics and general prerequisites for whistleblowing mechanism. We had a right to expect the «picture» with quite contradictory results and vague tendencies while correlating data on the Hofstede cultural dimensions and whistleblowing legislation. Our findings illustrated a number of trends which were distilled by some scholars.<sup>17</sup>

<sup>16</sup> *Long-Term Orientation (LTO)* — it is a fifth Dimension was added in 1991 based on research by Michael Bond.

<sup>17</sup> Park, Heungsik et al. 2008. *Cultural orientation and attitudes towards different forms of whistleblowing: A comparison of South Korea, Turkey and the UK*. Journal of Business Ethics, 82 (4), P. 5. Also available online at [http://www.academia.edu/391318/Park H. Blenkinsopp J. Oktem M.K. and Omurgonulsen O. 2008 . Cultural orientation and attitudes towards different forms of whistleblowing A comparison of South Korea Turkey and the](http://www.academia.edu/391318/Park_H_Blenkinsopp_J_Oktem_M.K_and_Omurgonulsen_O_2008_Cultural_orientation_and_attitudes_towards_different_forms_of_whistleblowing_A_comparison_of_South_Korea_Turkey_and_the)

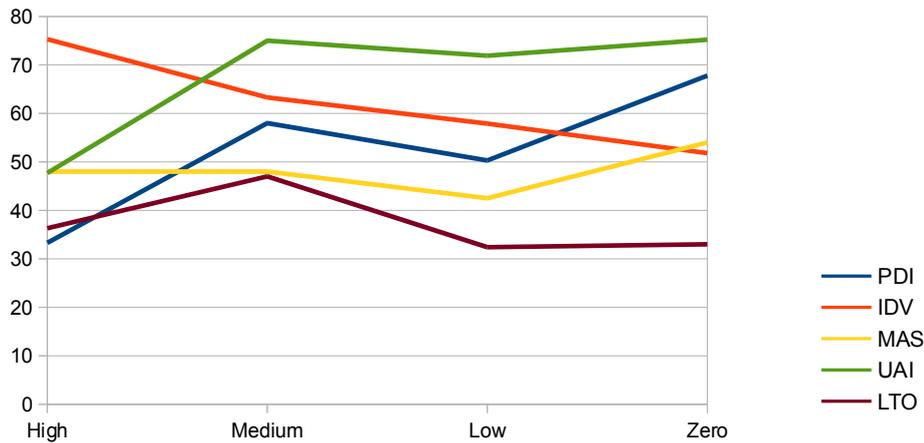
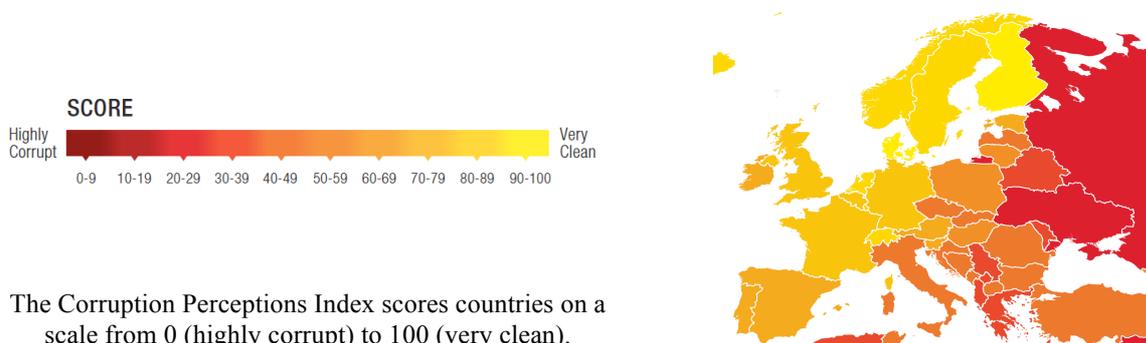


Figure 2: «Whistleblowing Level» and Cultural Differences (Hofstede's Dimensions) across European countries  
 Source: The Authors (based on data by Transparency International, [http://www.transparency.org/whatwedo/pub/money\\_politics\\_and\\_power\\_corruption\\_risks\\_in\\_europe](http://www.transparency.org/whatwedo/pub/money_politics_and_power_corruption_risks_in_europe) (Accessed: February 22, 2013) and The Hofstede Center, <http://geert-hofstede.com/dimensions.html> (Accessed: February 22, 2013))

Each of the Hofstede's dimensions relates to an individual and organizational tendencies to blow the whistle; the expression of perceptions of wrongdoing; fear of retaliation for whistleblowing and the expressed likelihood of blowing the whistle. In societies with a high power-distance, employees would be less likely to challenge established authority patterns through blowing the whistle. High uncertainty avoidance cultures would tend to stress following the rules and would therefore discourage unauthorized disclosures of perceived wrongdoing. Collectivist cultures prioritize the preservation of harmonious working relationships and could therefore be more likely to view whistleblowing as an act of betrayal when it exposes organizational wrongdoing rather than individual wrongdoing. Similarly, a feminine culture would avoid direct confrontation in conflict situations and would therefore be less likely to expose perceived wrongdoing through whistleblowing.<sup>18</sup>

If one focuses on the former Eastern Bloc countries considered as a region, now renamed as Central Eastern Europe (CEE), we can see easily that these countries are characterized by a higher level of corruption than West and North European states (see Figure 3).

Comparing the Hofstede's dimensions with the CPI of the Transparency International (see Figure 4), we underscore that there is no direct cause-and-effect dependence between presence/absence of whistleblowing legislation and the Corruption Perception Index. There are various factors that impact on the high CPI's score. A low CPI is an indicator of the necessity to strengthen the fight against corruption, or, to put it differently, the whistleblowing implementation into a legal framework is a topical question (though, LTO dimension is not available for Romania, Slovenia, Estonia, Bulgaria, Russia).



The Corruption Perceptions Index scores countries on a scale from 0 (highly corrupt) to 100 (very clean).

Figure 3: Corruption Perceptions Index 2012

Source: Transparency International, <http://cpi.transparency.org/cpi2012/results/> (Accessed: February 25, 2013)

UK. *Journal of Business Ethics* 82 4 929-939

<sup>18</sup> Uys, T. 2010. *Speaking truth to power: the whistleblower as organizational citizen in South Africa // A Global Approach to Public Interest Disclosure: What Can We Learn from Existing Whistleblowing Legislation and Research?* Edited by D. Lewis, Edward Elgar. P. 122.

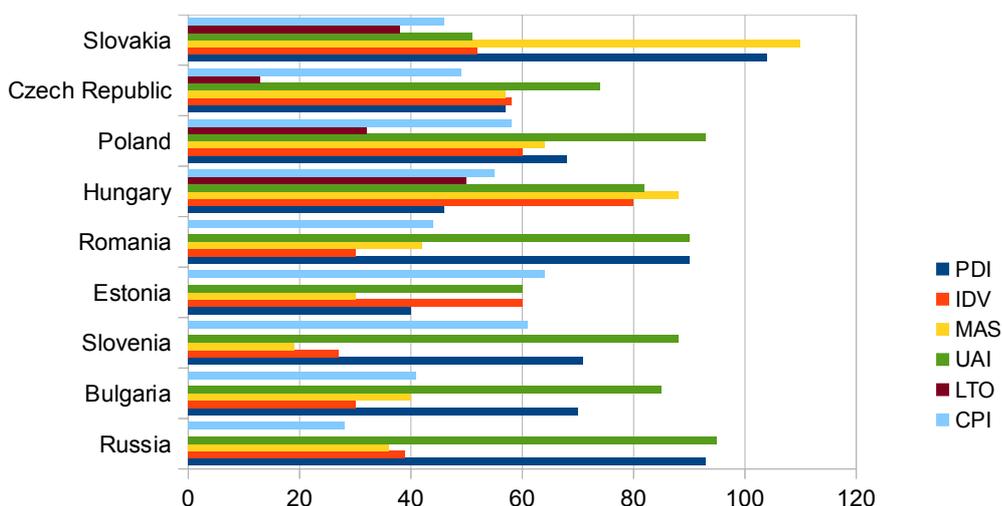


Figure 4: Cultural Differences (Hofstede's Dimensions) and Level of Corruption across some CEE countries  
 Source: The Authors (based on Transparency International, <http://cpi.transparency.org/cpi2012/results/> (Accessed: February 25, 2013) and The Hofstede Center, <http://geert-hofstede.com/dimensions.html> (Accessed: February 22, 2013))

This analysis indicates there are considerable cultural differences between these countries. Even Hungary and Romania, two states relating to the Medium Whistleblowing Level, vary strongly in cultural dimensions: power distance, individualism/collectivism, masculinity/femininity. They have a partial similarity in dimension of uncertainty avoidance. Thus, only a whistleblower protection not to be working in practice unifies these countries. Differences in CPI scores of the assessed states are minor. Based on these results we conclude that the studied states experienced a burden of Communism and weight of the last two decades reforms, so, all the more, it is significant to implement the whistleblowing legislation.

These findings bring up a set of questions and make them urgent for future research in that area. While only one conclusion could be made: it is necessary to apply various approaches to the implementation of whistleblowing legislation and whistleblower protection in practice. It goes without saying that there are no comprehensive means and every nation should have its own legal whistleblowing framework. As a possible example, we try to analyze the current situation on whistleblowing in Russia and made a number of particular recommendations for designing and implementation whistleblower's protection in the Russian Federation.

### 3. Whistleblowing in Russia: how to enforce it and make working?

Russia can be characterized as rather high corruptive country. Its Corruption Perceptions Index scores 28<sup>19</sup> on a scale from 0 (highly corrupt) to 100 (very clean) indicates a serious corruption problem. In 2003 Russia signed and ratified in 2006 the United Nations Convention against Corruption<sup>20</sup>, which obliges each State Party to incorporate into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention<sup>21</sup> (Article 33). So, at the G20 Summit in Seoul in November 2010 Russia, as a G20 member, agreed to the Anti-Corruption Action Plan («Annex III for G20 Agenda for Action on Combating Corruption, Promoting Market Integrity, and Supporting a Clean Business Environment»). It obliges to protect whistleblowers, who report in good faith suspected acts of corruption, from discriminatory and retaliatory actions, G20 countries will enact and implement whistleblower protection rules by the end of 2012. To that end, building upon the existing work of organizations such as the OECD (Organization for Economic Co-operation and Development) and the World Bank, G20 experts will study and summarize existing whistleblower protection legislation and enforcement mechanisms, and propose best practices on whistleblower protection legislation<sup>22</sup>. Nevertheless, there is no whistleblower protection in law and practice, so necessary for Russia.

<sup>19</sup> <http://cpi.transparency.org/cpi2012/results/> (Accessed: 1 March, 2013).

<sup>20</sup> <http://www.unodc.org/unodc/en/treaties/CAC/index.html> (Accessed: 5 March, 2013).

<sup>21</sup> [http://www.unodc.org/pdf/corruption/publications\\_unodc\\_convention-e.pdf](http://www.unodc.org/pdf/corruption/publications_unodc_convention-e.pdf), P.18. (Accessed: 5 March, 2013).

<sup>22</sup> Annex III: G20 Anti-Corruption Action Plan. G20 Agenda for Action on Combating Corruption, Promoting Market Integrity and Supporting a Clean Business Environment. Seoul, November 12, 2010. <http://www.g20.utoronto.ca/2010/g20seoul-anticorruption.html> (Accessed: 5 March, 2013).

The main issue for Russia is the whistleblowing implementation. At the same time, could corrupted authorities support the whistleblowing implementation that can aggravate their lives? As a whole, the situation in this field seems in the following way:

- *In Russia public sector is characterized by widespread and high level of corruption and weak country's institutions in preventing and fighting corruption.* «The post-Soviet bureaucracy, borrowing from a bygone era such fundamental principles of social organization, as rigid social hierarchy, monopoly, the intention to limit competition and expansion of government control, accumulating not only political power, but the actual disposal of property»<sup>23</sup>.
- *Society requires to strengthen a fight against corruption and is ready to support whistleblowers in spite of the negative experience of the Stalin's denunciations.* The role of civil society is on the increase that is showed up in the activity of individuals and organizations, for example: «Society of Blue Buckets» (emerged as a response to the arbitrary, self-serving use of emergency rotation blue flashers by public servants)<sup>24</sup>; communities of bloggers and critics of corruption in Russia as Alexey Navalny, and various social networks; mass protests and large-scale demonstrations against the elections' results to the State Duma (lower chamber of the Russian parliament) in December 2011 and Presidential elections in March 2012.
- *The authorities are trying to give a response, while fragmented and partially, to the people's expectations.* But, as a whole, government officials resist to any attempts on fighting against corruption.

Therefore, it is evident we could not talk about the implementation of the efficient whistleblowing legislation in short-term perspective in Russia. It is expected probably the evolutional or partial implementation of measures in fighting against corruption, strengthening the defense of whistleblowers. Moreover, the international liabilities on whistleblowing legislation oblige to it.

Besides, cultural characteristics, according to the Hofstede's dimensions (PDI=93, IDV=39, MAS=36, UAI=95)<sup>25</sup>, are evidence of the problems in whistleblowing practice. So, in Russia it is necessary to do a great work in different spheres for an effective mechanism of whistleblowers protection. In particular, in:

- **legislation realm:**
  - to adopt a single, comprehensive legal framework for whistleblower protection;
  - to make alterations in current legislation, such as Common Anticorruption Law, Labor Code, Civil Servant Law, Criminal Code, Law in Providing an Access to Information;
- **special bodies and organizations:**
  - to create an Ombudsman's Office or special organizations;
  - to develop independent NGO's;
- **procedures of whistleblowing taking into consideration cultural orientations and the civil service system:**
  - to report anonymously;
  - to report by former (fired) civil servants;
  - to report by «contractors» in government procurement;
  - to report to Ombudsman's Office, NGO's or confident mass media;
  - to report on unethical or ineffective behavior of civil servants as part of «soft power» of whistleblowing culture;
  - to include rewards for the disclosure of wrongdoing into their legislation as in South Korea or USA (moreover, the Ministry of the Interior of Russian Federation and the Prosecutor General's Office of the Russian Federation suggested these provisions).

These recommendations are quite blurry but they are valuable considering the realities of the modern society in Russia.

#### 4. Results and Recommendations

Europe is diverse, thus and so, the distinctions in cultural issues, political framework, economic development within the European scope are considerable. Consequently, recommendations on whistleblowing designing and enforcement should have both universal and specific, taking into account the juridical, political and cultural context in each country. These recommendations are divided into three groups:

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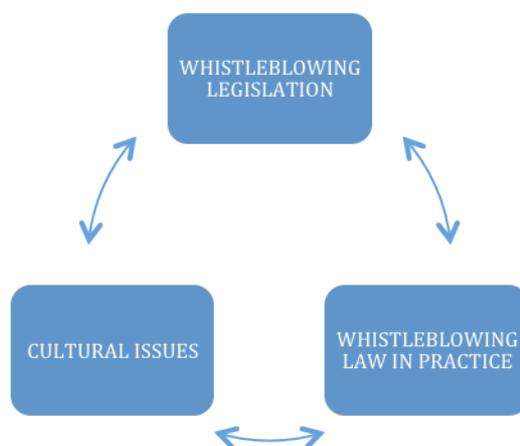
<sup>23</sup> Рябов, Андрей. 2011. *Постсоветская общественная модель: характерные особенности и современное состояние.* // *Вестник общественного мнения.* № 1 (107). С. 6-7. Also available online at <http://www.levada.ru/books/vestnik-obshchestvennogo-mneniya-1107-za-2011-god> and as a CD-ROM.

<sup>24</sup> <http://sineevedro.ru/> (Accessed: 28 March, 2013).

<sup>25</sup> The Hofstede Center. <http://geert-hofstede.com/dimensions.html> (Accessed: 15 March, 2013).

- legislation,
- its practice,
- cultural issues.

All above groups are closely interrelated (Figure 5).



*Figure 5: Whistleblowing designing and enforcement:  
Interrelation between legislation, its practice and cultural norms*  
Source: The Authors

Legal framework establishing all whistleblowing aspects should be a single and comprehensive both in public and private sectors. Frequently, for more efficiency of whistleblowing working it is necessary to make alterations in other laws. Legislation is supposed to rely on cultural norms, peculiarities of civil service and all countries' institutions.

Whistleblowing practice has to be scrutinized and analyzed by public authorities, NGOs, scholars and civil society. These findings should modify whistleblowing legislation. Robust and fruitful experiences could enhance the appreciation of whistleblowing and whistleblowers throughout society as well.

The cultural norms, as basis for whistleblowing protection in law and practice in every country, should not be disregarded and must be flexible towards minimizing of negative connotations surrounding whistleblowing and maximizing to rewarding of whistleblowers preventing the corruption cases, mismanagement, fraud, bribery and serving the public interest. The best way for that is an effective whistleblower protection in law and practice.

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