WHISTLEBLOWERS: PEOPLE WHO CANNOT REMAIN SILENT.
THE EXPERIENCE OF THOSE WHO DISCLOSE WRONGDOING IN INSTITUTIONS AND COMPANIES IN POLAND
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Introduction

The subject of whistleblowing has not been properly explored in Poland yet. In spite of the growing interest of the academic or third sector communities, the activity of individuals who report wrongdoing in their own environment still fails to attract sufficient attention of the public, who have only fragmentary knowledge of the problem. It is partly caused by the difficulties with understanding the foreign-sounding concept of whistleblowing and translating it into specific examples. This report is an attempt at providing insight into the issue of disclosing wrongdoing in Poland, from the perspective of whistleblowers’ individual experience, including their point of view.

We particularly wish to thank all the whistleblowers who have trusted us with their stories, hoping that their account will help other people in a similar situation. We also wish to express our gratitude to the experts who have shared their knowledge with us and let us get better understanding of the issue of whistleblowing in Poland. Last but not least, we thank our sponsors – first of all, the European Commission, which has supported our project under the programme Prevention of and Fighting against Crime, as well as the Embassy of the United States, which has financed the dissemination of the project results.
The term *whistleblowing* was coined in the 1970s in the United States.\(^1\) It is derived from the English phrase “to blow the whistle” and refers to the way in which policemen used to raise the alarm (call for assistance). Other interpretations link it with the world of sports – a signal given by a referee when there is a need for intervention, for example, a foul.\(^2\)

The term *whistleblowing* has not yet got a Polish equivalent that can be broadly used in the literature of the subject, except perhaps for the expression “demaskacja społeczna” [social disclosure], which, however, has not become sufficiently popular. Regarding the description of the person reporting wrongdoing, the Stefan Batory Foundation has popularised the term “sygnalista” [signalman], which, in our view, conveys adequately the essence of the role of *whistleblower* (as a person raising the alarm), and therefore we will use it in this paper. In order to explain what *whistleblowing* is, it is worth referring to a rather lengthy definition formulated by Transparency International – a leading non-governmental organisation active in fighting corruption. It defines *whistleblowing* as the disclosure or reporting of wrongdoing, which includes corruption and other activities of a criminal nature, breaches of obligation, issuing decisions in contradiction to the law, specific dangers to public health or the environment, abuse of authority, unauthorised use of public funds or property, gross waste or mismanagement of public resources, conflict of interest, and acts to cover up any of the aforementioned.\(^3\) Transparency International emphasises that a whistleblower may be not only an employee but any other person with access to internal knowledge about the operations of an organisation, such as consultants, contractors, trainees or interns, volunteers, and former employees. *Whistleblowing* may occur wherever we deal with a formalised organisational structure, in all sectors and types of organisations – both in public institutions and in private companies or civil society organisations.

A very important aspect of *whistleblowing* according to Transparency International’s definition is the fact that it may entail the risk of retaliation. An employee who raises the problem of wrongdoing in his or her organisation and speaks up by reporting the practices, which may put the organisation in a bad light, for obvious reasons runs the risk of an adverse response from the

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employer. In view of the possibilities that the organisation has at its disposal, the whistleblower is usually at a disadvantage right from the start. This is why it is so important that mechanisms are put in place which would reduce the personal risk of the individuals blowing the whistle. Thus, whistleblowing is now not only the subject of interest for management or business ethics theoreticians and practitioners, but it is becoming more and more frequently the subject of legislation, both at the national and international levels. References to protection of whistleblowers can be found, for instance, in the United Nations Convention against Corruption and in the Council of Europe’s Civil Law Convention on Corruption. More and more countries introduce complex systems aimed at protecting whistleblowers with special legal and institutional measures.

One of the dilemmas in defining whistleblowing is linked to the question of whether a person who has actively participated, in any way, in the wrongdoing committed within the organisation can be considered a whistleblower. Even though the literature on the subject provides various, conflicting solutions to this problem, we believe that the involvement of the employee in the wrongdoing does not, as such, constitute a circumstance that would disqualify him or her from the role of a whistleblower. Such situations are not particularly rare. It does happen, for instance, that a person following the instructions of his or her employer, only after some time realises what it is that he or she is taking part in. There may also be employees who, for various reasons, initially agree to participate in unethical practices of their organisation and who, at some point, decide to stop doing so. In such a scenario, the role of a whistleblower may resemble someone who decides to leave an organised crime group and cooperate with the law enforcement agency, by providing information about the organisation's activities. Although the moral assessment of the conduct of such a whistleblower will definitely be more complicated, one should not forget that the significance of his or her intervention from the point of view of the public interest is, in many instances, invaluable.

In practice, it may not be easy to determine whether a given situation constitutes a case of whistleblowing or not. It would undoubtedly be hard to consider someone a whistleblower if because of their role and position in the organisation they are the ones who bear the main responsibility for the wrongdoing – a person who is a member of the organisation’s management and has instigated the misconduct. Some examples of disclosure may be difficult to interpret in an unequivocal manner. In case of doubts, it seems


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reasonable to refer back to the criterion set by Transparency International – a whistleblower is a person who because of his or her position is at risk of retribution on the part of the organisation.
Aleksandra Kobylińska, Maciej Folta (cooperation)
The importance of whistleblowing

All institutions are potentially at risk of malpractice which may both affect their ability to function properly and pose a threat to the values that are crucial from the point of view of public interest. Numerous examples of such situations may be found in almost any area: contamination of food products concealed by the manufacturer, waste of public funds by a public institution, illegal polluting of the local environment by a chemical plant, and bullying toddlers in a crèche. All of them pose an obvious threat to the health, life, and interests of consumers, taxpayers, or local residents. However, from the public interest perspective, the malpractice whose scope is limited just to the organisation and which may seem to be the organisation’s problem only, is also important; for example, when the wrongdoing involves mobbing or neglecting occupational health and safety procedures. First, all cases of serious misconduct have considerable impact on the quality of the institution’s performance, which is significant for citizens, especially if it is a public institution. Second, the consequences of misdeeds may be far reaching if they affect the health or life of the employees who suffer as a result. Here, a particularly telling example is the case of Polish coal mines where, in spite of recurring accidents with tragic consequences, safety procedures are still disregarded and miners are sent to work in the conditions in which they should never go down the pit – which was demonstrated, for instance, by the events in the Mysłowice-Wesoła coal mine in October 2014.7

Therefore, if things are going wrong in an organisation, blowing the whistle is important not only for the sake of the quality of the organisation's operations, but also because of the wider impact of the misconduct. If an organisation begins to operate in a way which is unethical or dangerous, usually the first people to know about it are its employees.8 For this reason, whistleblowing plays an invaluable role in early detection of wrongdoing about which the relevant authorities or the public would have otherwise never had the chance to find out.

Research on misconduct in corporations shows how important the action taken by people who have access to internal knowledge about the organisation is. In the light of the results of the 2014 Global Economic Survey carried out by PwC,9 information from employees – reported both through the special dedicated whistleblowing channels as well as in an informal manner

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8 G. Dehn, R. Calland, Whistleblowing – The state of the art. The role of the individual, organisations, the state, the media, the law and civil, Public Concern at Work, London 2004, p. 1.
constituted important tools to disclose malpractice within organisations, and on a global scale they contributed to the disclosure of 23% of serious corporate misconduct. Earlier research indicated that reports from employees were even more effective (43% of disclosed misconduct) than the mechanisms dedicated to that purpose – internal audit or management oversight (34%).

Against this background, it is clear that in Poland, the reports coming from employees are very rarely (only in 6% of cases) used as a tool for detecting misconduct in companies. Another element specific for the Polish context is the very high percentage of misdeeds detected outside the control of the management board (42%), whereas globally this percentage is approximately 22%.

The full potential of whistleblowing is utilised only where the reporting culture is properly developed and where there are effective mechanisms supporting whistleblowers – first of all within organisations. If an organisation has developed channels for receiving reports on misconduct from employees and responds to them adequately, it can get a powerful tool for warning against internal risks and the possibility to introduce remedies at an appropriately early stage. It is, however, of key importance that an organisation should be really interested in acting with fairness and integrity, as in practice, some organisations deliberately choose to act illegally or unethically. In such a situation it is hard to hope that an internal report by an employee worried with what is going on around him or her will be welcome by such an organisation.

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Wrongdoing in organisations – general remarks

When discussing the issue of whistleblowing, it is worth exploring the general problems related to wrongdoing in organisations, as the typical mechanisms that lead to malpractice and the organisations’ responses to such situations are important for understanding the dilemmas faced by those who participate or witness them.

There is no doubt that every organisational structure faces the potential risk of misconduct. Such situations may result both from individual weaknesses of the people it employs or from factors which affect the organisation as a whole – its strategy, governance, and management as well as systemic conditions.

Factors leading to malpractices – as viewed from the perspective of the experience of individuals committing embezzlement – were described more than sixty years ago by Donald Cressey, a disciple of Edwin Sutherland, the author of the notion of “white-collar crime”. Based on his study of hundreds of people convicted for embezzlement, Donald Cressey distinguished three key components which contribute to commission of fraud by an individual:

- pressure (understood also as a personal motive) – factors of social or economic nature;
- rationalisation – the ability to justify one’s own actions so as to be able to preserve a positive self-image;
- opportunity – external or internal circumstances which facilitate wrongdoing.

The scope and impact of wrongdoing depend, to a great extent, on the method of governance and the response of both the senior managers and the work community to the emerging problems. The behaviour patterns are, for obvious reasons, strongly dependent on who commits wrongdoing, at what level, and with what intensity – by wrongdoing we may understand both actions of an individual employee and a fraudulent practice developed on a much larger scale, involving people from various levels of the organisational structure. Even though there is no hard evidence to support this claim, one may suppose that the most typical reaction to such situations is inaction and silence. The reason for this is primarily the general tendency in people to behave in a conformist way, widely described in sociology and psychology publications (the classic experiments by Muzafar Sherif and Solomon Asch).

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13 G. Dehn, R. Calland, Whistleblowing – The state of the art. The role of the individual, organisations, the state, the media, the law and civil, op. cit., p. 2.
This particularly occurs in situations where unethical practices are seen and tolerated by other employees, where most of the staff would tend to follow the typical behaviour pattern they observe around them. If members of senior management are also involved in the misconduct, this not only ensures the employees that such practices will go unpunished (the persons responsible for sanctioning the misconduct are themselves part of the wrongdoing in the first place), but it also often becomes a model behaviour to follow.\textsuperscript{16} When an employee is directly instructed to carry out an act that is illegal or unethical, then additional pressure appears in the form of the need to obey the authority. How powerful the influence of a person in authority may be on his or her subordinates is evident from both scientific research (for instance, the most famous experiment by Stanley Millgram\textsuperscript{17}), and from practical experience.

The ethical tension experienced by an employee in a situation where some essential standards are breached in an organisation will, in such circumstances, be reduced by the mechanism of diffusion of responsibility,\textsuperscript{18} that is, thinking along the following lines: “Since others also witness this behaviour why should I be the one to take the risk and do something about it?” Members of an organisation are also subject to strong pressure by their peers to remain silent out of solidarity towards the colleagues or loyalty to the organisation, narrowly understood – as the necessity to maintain the positive image of the organisation, regardless of the circumstances.

If wrongdoing becomes an established practice in an organisation, it grows in intensity. As shown by researchers studying big corporate scandals,\textsuperscript{19} the spiral of misconduct escalates, especially wherever various methods are used to strengthen the sense of identification with the organisation and where the belief in the uniqueness of the organisation prevails. This may result in detachment from reality, which makes it considerably easier to treat illegal or unethical conduct as standard behaviour.

Thus, individuals who witness wrongdoing in organisations are subject to multilateral pressure. On the one hand, it is evident how incalculable the consequences of repeated wrongdoing that nobody attempts to stop may be. In this context, whistleblowers play the role of a safety valve, as their intervention may help to stop the spiral of misconduct. On the other hand, the situation of whistleblowers is particularly difficult, considering the strong impact of the factors that may discourage them from breaking the conspiracy of silence.

\begin{footnotes}
\item[19] N.A. den Nieuwenboer, M. Kaptein, Spiraling Down into Corruption: A Dynamic Analysis of the Social Identity Processes that Cause Corruption in Organizations to Grow, op. cit., p. 133.
\end{footnotes}
Public opinion on whistleblowers

In spite of the undeniable benefits for society and organisations which the activities of whistleblowers bring, the opinions concerning them are still strongly divided. This is clearly visible from the point of view of the experience of people who disclose wrongdoing and who often face negative or even hostile reaction of those around them. It also happens in the countries – such as the United States, the United Kingdom or Australia – where both the awareness of the role of whistleblowing and the legal or institutional measures designed to protect the whistleblowers are much more developed than in Poland.\textsuperscript{20}

The ambivalence of the emotions of the public towards people disclosing wrongdoing is also apparent in the media or pop-culture discourse. On the one hand, whistleblowers are honoured as lonely heroes who fight against corrupt state institutions or unethical corporations and who, in spite of difficulties, win a victory.\textsuperscript{21} Such a picture is reiterated particularly strongly by Hollywood productions based on well-known genuine stories of American whistleblowers.

On the other hand, however, whistleblowers meet with mixed reactions, especially when their activities concern issues involving the strategic safety of the state. This is confirmed, for instance, by the results of public opinion polls on the activity of Edward Snowden – a former employee of the American National Security Agency, who disclosed information about the mass surveillance of ordinary citizens by special forces. Fifty-five per cent of Americans regarded Edward Snowden as a whistleblower, whereas in the eyes of 34% of those surveyed he was a traitor.\textsuperscript{22} It is interesting that there was a linear relation between the age of the respondents and the percentage of those who perceived his actions as harmful. The younger the respondents the greater was the tendency to see the actions of the former National Security Agency employee in terms of caring for public interest: among respondents aged 18 to 29, as many as 68% considered Edward Snowden to be a whistleblower, among respondents aged 30 to 44 there were 60% of such people, in the group aged 45 to 64 this percentage dropped to 51%, and among the oldest respondents – aged 65 and more – only 48% were ready to consider Edward Snowden a whistleblower. A similar relationship could be observed with regard to the income variable – the tendency to describe

\textsuperscript{21} F.C. Alford, Whistleblowers: Broken Lives and Organizational Power, op. cit.
Edward Snowden as a whistleblower would fall together with the increase of the respondents’ affluence, while at the same time the belief that he was a traitor would grow.

A survey by Public Opinion Research Center CBOS on the views of the public on whistleblowers, commissioned by the Stefan Batory Foundation and carried out in 2012 brings some interesting conclusions about the Polish reality. In response to a request to assess the behaviour of a hypothetical Mr Nowak who has notified the relevant external authority of various cases of misconduct in his own organisation, most respondents expressed their support for his decision. In the case of “softer” violations – such as illegal employment or working without a permit – 59% of those surveyed believed Mr Nowak was right. When the severity of the breaches grew, the level of support for the whistleblower’s actions increased: up to 70.1% in the case of bid rigging, to 72.3% in the case of financial fraud and corruption, and to 77.1% in the case of illegal discharge of pollutants to the environment. The highest level of acceptance among respondents – 81.4% – was given to reporting wrongdoing which could lead to health or life risk for employees.

On this basis, a conclusion might be drawn that Poles have exceptionally positive attitudes towards whistleblowers. There is no doubt that part of the respondents, at the declaratory level, indeed assume that a proactive approach to misconduct in the workplace deserves approval and praise, although probably some have a tendency to express opinions which, in their view, are expected on the subject. In practice, however, stereotypes concerning people who disclose wrongdoing still seem to be deeply entrenched in the public mind. The ambivalence of the respondents’ attitude towards whistleblowers was more visible in their responses to the question concerning a situation when Mr Nowak informed his superior that one of his colleagues was fuelling his private car at the company’s expense. In this case, the respondents had no doubt that Mr Nowak’s workmates would distance themselves from him (27.7%), would make some malicious comments or harass him in some other way (20.2%), or would exclude him from the group (18.9%).

Research methodology and the problem of representativeness

This report has been prepared on the basis of detailed case studies of whistleblowing in Poland. As the foundation it used the material gathered for the purpose of an international programme implemented by the Institute of Public Affairs, together with a few organisations from Central and Eastern Europe.\footnote{Apart from the Institute of Public Affairs, the following organisations took part in the project Promoting effective anti-corruption framework in CEE countries: Oživení (Czech Republic) – Project Leader, Transparency International (Estonia), Transparency International (Slovakia) and EKINT (Hungary).} To compile a consolidated study of the situation of whistleblowers in this part of Europe, we have analysed twelve stories of Polish whistleblowers. Assuming that the specific nature of whistleblowing and the situation of whistleblowers may differ depending on the type of organisation in which wrongdoing takes place, the cases have been selected to represent various sectors and types of organisations. They included:

- public administration;
- local level administration and local government institutions;
- healthcare services;
- higher education schools and institutions;
- uniformed services;
- non-governmental organisations;
- private companies.

Various strategies were employed in order to identify cases for study. Some cases were selected by analysing materials found online, including the national and local press as well as other Internet websites. In a few cases, direct contact was made with the whistleblowers, with the assistance of the journalists who had described their stories. Some people were reached with the help of information and contact details obtained from so-called key information sources, that is the Stefan Batory Foundation and experts who work on the subject of whistleblowing, or the whistleblowers themselves. Three of the people surveyed approached the researchers themselves, responding to an advertisement placed on the website and on social media.

At the initial stage of the research, a helpful source of data were interviews carried out with a few experts who deal with the subject of whistleblowing or have contacts with whistleblowers on a daily basis. Their opinions were also instrumental in setting the directions of the study and formulating the recommendations.

In all the case studies, in-depth interviews with whistleblowers were carried out. These interviews were later subjected to qualitative analysis with the use of the Atlas TI software. Wherever possible, additional verification was
carried out by way of document (such as letters, court files) analysis and a review of press or Internet materials that provided a broader insight into the matter. As some interlocutors wished to remain anonymous, in order to unify the report contents, all the stories reported here have been anonymised to a greater or lesser extent.

The aim of the study discussed here has been to gain an insight into the situation of people reporting or disclosing wrongdoing in their workplace in Poland. Because of the adopted methodology – qualitative analysis based on selected case studies – and difficulties in identifying the actual scale of the phenomenon, the observations contained in this report do not aspire to present the full description of the problem. An indisputable risk related to the adopted method of data collection is the possibility that the obtained picture of the analysed phenomenon will not be complete. Whistleblowers who decide to tell researchers about their experience are usually people who do not have a lot to lose, as they are already outside the organisation or are in open conflict with their employer. Among the analysed cases there was not a single situation where, as a result of a whistleblower’s intervention, the problem was solved within the organisation, in a conciliatory manner. Even though an effective internal reaction to wrongdoing constitutes the most desirable scenario from the point of view of both the organisation and the public interest, such cases are, for obvious reasons, brought to light much more rarely, as usually none of the parties is interested in their disclosure.

In spite of the above-mentioned reservations, we do trust that the material presented in the report has made it possible to point out some important problems experienced by whistleblowers in Poland and will contribute to better understanding of their situation.
Misconduct cases under analysis and the process of becoming a whistleblower

The patterns described above are reflected – at different levels – in the reports of Polish whistleblowers related to wrongdoing in institutions or companies. Among the analysed cases, the wrongdoing taking place in organisations has had a different nature and background – from everyday situations of employees’ rights violations and mobbing to more serious cases of criminal character. They included:

- mobbing and abuse of a superior’s position in the police service;
- mobbing by a line manager in a non-governmental organisation;
- violation of employees’ rights (including forced unpaid work in overtime hours) by a big supermarket chain;
- misconduct in the police service, including bullying and drinking alcohol while on duty;
- financial and accounting fraud in a non-governmental organisation (including the head of the organisation granting herself unofficial “loans” from the organisation’s funds);
- plagiarism by a high-ranking official of a higher education school;
- bid rigging in a public institution;
- attempted rape of an employee by her colleague in a healthcare establishment;
- bogus projects subsidised with public funds and falsifying records in a pharmaceutical company;
- transferring assets out of state-owned companies;
- illegal reduction of tax dues of a local politician by tax officials;
- misconduct in a medical university, including unjustified application of an invasive medical procedure in the university hospital in order to obtain funding from the National Health Fund.

The more detailed descriptions of individual cases will be provided further in the report when various aspects of Polish whistleblowing are discussed. The general pattern of misconduct occurrence and the reaction to such situations, which emerges from the collected material shows, in particular, the power of employees’ conformism and the passive attitude of senior management regarding wrongdoing taking place in the organisation. The whistleblowers often felt obliged to take action just because of the lack of proper reaction by the people who should have responded in the first place.

An example of this may be the case of an accounting department employee in a local government cultural institution who realised that the manager of the organisation was involved in misconduct. First, she reported the case to...
her line manager – the chief accountant, however, when he failed to react to her report, the woman informed the institutions responsible for oversight over her organisation on behalf of the local government.

An example of a reaction provoked by the passive attitude of the organisation’s management can also be the story of a whistleblower from Częstochowa. A man working for the local emergency medical services informed the management about the problem of sexual harassment of employees and patients by one of the emergency team coordinators. He learned about the problem from one of the employees that the perpetrator had tried to rape. The director, however, refused to intervene, which made the whistleblower report the case to the law enforcement services.

Those disclosing misconduct were ordinary people who generally did not hold any prominent position within the organisation. It is worth examining the circumstances that led them to the decision to make a disclosure, their motives, and the dilemmas they faced. The analysed cases show how varied and complex the situations in which people related to an organisation decide to raise alarm might be.

Some whistleblowers, who encountered the misconduct directly or received a proposal to take part in such practices, opposed the wrongdoing from the very beginning, so blowing the whistle was a logical consequence of their previous stance.

An example of such a situation may be the story of a female officer of one of the uniformed services who had been instructed to prepare the tender for equipment procurement. After looking into the case, the officer realised that the equipment was not being procured to meet any specific needs and therefore it was not clear whether anyone would ever use it. She also found out, unofficially, that the tender was supposed to be rigged to fit a specific bidder – a company linked in a certain way to her superior. As instructed, the officer prepared the tender requirements, her boss, however, replaced the document prepared by her, with another one, formulated in accordance with his expectations.

I was summoned by him; of course I had given him earlier the specification I had prepared and he said that he was giving us the specifications for the equipment prepared by his colleagues who were experts in that area, and not such “junk” as we were, not such [obscene word] like us and he said I had to sign it within an hour and if I didn’t, I wouldn’t be allowed to go home... During that hour I was very nervous but decided that I would refuse... because I would be the one to go to jail for that and I have two children and didn’t want to take the risk. No job is worth such a sacrifice. And I refused. During that conversation he shouted at me. [W11]

The female officer did not give in and firmly refused to participate in any way in the actions of her manager to rig the bid. In the words of the whistleblower, various mechanisms used by the manager to exert pressure
can be clearly seen, as he resorted to blackmail, offence and humiliating his subordinate in order to force her to commit the misconduct.

Although most of the whistleblowers did not play an active part in the wrongdoing, among the analysed cases there was a person who went a long way before deciding to disclose the wrongdoing in the company. Initially, the woman obediently followed the instructions of her superiors until eventually she arrived at a decision to report the misconduct to the law enforcement services. In hindsight, when assessing her own behaviour, the whistleblower regretted her own conformist attitude, at the same time pointing to some important factors which may blunt the sensitivity of moral judgment in such circumstances.

In order to weaken the scruples of employees, the company would give various justifications for its unethical conduct – from the small size and limited resources of the company compared to the competition or the need to fight for the position on the market, to, eventually, the use of a general argument to justify its actions: “Everybody does that.”

On the part of the employee involved in the practices described above, there was also rationalisation related to her personal and family situation. The woman was afraid to lose her job, arguing that the situation on the labour market was tough and she had to ensure peace and safety of her family. She referred to the tough experience of the serious illness of one of her children, which had changed her outlook on life and made her make choices that would first of all give her a sense of stability.

However, it turned out that the situation which had begun with minor violations, with time, transformed into much more serious malpractice.

*There is this illusion that you agree to those minor transgressions and it will be better then... That is how it starts, with those little things which theoretically do not matter at all. But this is not true. First, it is a little scam, then a bigger one, and another one still bigger and you end up with a really big one.* [Wo4]

The case described above is a good illustration of the already mentioned mechanism of a spiral of misconduct. When such attitude is inspired by the management and the organisation is not subject to an effective external oversight mechanism, the misdeeds may increase drastically until someone decides to take radical steps to stop it. In this case, it was the whistleblower who, together with a few other people, decided to report the malpractice taking place in her company to the law enforcement agency.

At this point, it is worth analysing the motives guiding the people who decided to disclose the wrongdoing. The circumstances and the motivation which persuaded the whistleblowers to report the misdeeds are very important for understanding the essence of the whistleblowing phenomenon. Whistleblowers usually declared that their motives were of a fundamental nature – it was their attachment to the essential values which had been threatened that made them take action.
A doctor from a medical university in which there had been many cases of misconduct, including overuse of an invasive procedure in the university hospital in order to obtain higher funding from the National Health Fund, described his motives in the following manner: This has consequences for human health. That was what made me act. [W10]

The employee of the EMS service who reported the case of attempted rape of a female colleague by another employee, explained: I could not let harm come to anyone. [W06]

The female officer who disclosed the case of bid rigging declared: What I have done, I have done for the sake of decency, but also ... for the sake of us all, because this is our money, from our taxes. This is not some virtual money, someone has paid for it. [W11] This whistleblower explained that what made her take action was her moral sensitivity and idealism. At the same time she emphasised that her attitude might seem ridiculous in the face of the adversities and humiliation she experienced as a result of her intervention and in comparison with the cynicism of the people responsible for the misconduct. The officer also admitted that at some point she stopped hoping for a positive outcome and all she wanted was for her conduct to be a model for others to follow. I knew that my fight was doomed for failure, but it did leave an imprint. And therefore perhaps next time someone would hesitate before doing this or that, that was the direction it went to. That was the point. [W11]

A policeman who defended a colleague mobbed by his superior explained that his decision was underpinned by the need to disclose the truth and by commitment to the values he had been brought up with. But I have chosen the path of truth, and I could indeed ... And yet my wife told me, “Did you need all that?” But that was how I had been brought up, so I could not come to terms with such wrongdoing. ... what would I feel inside if I had not been brave enough to tell the truth? [W16]

A woman working at the tax office, who witnessed the issuing of an illegal tax decision benefitting a local politician, referred to her sense of justice. I would comment on it loudly, in my office, I would say that perhaps we should calculate everybody’s taxes in this way, because why should the poor pay taxes and the rich should not. In the end, it is really unfair. [W02] The woman and her husband who actively participated in the intervention, were also worried that if they gave up their attempt to disclose the wrongdoing, it would be covered up and nobody would know about it. The point was that we were afraid they would sweep it under the carpet. And that was our aim, the aim of this disclosure, we would report it because we did not want it to be covered up. [W02]

In situations involving violations of employees’ rights or mobbing against co-workers, an important motive for people who decided to step in was the sense of solidarity with the victims. One day, after talking to [the name of the mobbing victim] I felt really bad. I mean, I was ready to resign because I
did not want to work in such conditions, or I could try to do something about it, talk to the management board. [...] I simply felt I was also guilty of that situation. [W03]

A frequent motivation to take action was acting for the sake of the organisation, with which the whistleblowers often strongly identified. Most of them, first attempted to solve the problem using the internal structures of the institution or company, hoping that it would help clear the organisation of the misconduct with the use of its internal mechanisms.

At that time I had a lot of trust in the management board ... I went to the CEO and I told him what was going on with the project. [W03]

I thought that the head of department would respond to it ... that they would carry out an audit; that they would verify. [W02]

Unfortunately, in all the analysed cases the attempts to solve the problem within the organisation failed. However, the very fact that attempts were made to use internal channels shows that the improvement of the organisation was really important for the whistleblowers.

Some whistleblowers admitted that they had some pragmatic reasons to take action. Some people – which the quotation below illustrates extremely well – were afraid that they would be blamed for taking part in the malpractice.

I simply began to realise that they would try to hold me guilty of all the misdeeds that I had reported. That if I did not take it up to some external, supervising authority ... then I would be blamed for all those things, “Because the accountant let it happen” – even though I did have my manager, the chief accountant, who should really be the one responsible, I was just an ordinary employee, although we had the same qualifications. [W07]

It also happened that employees would see a problem grow within the organisation but they would decide to take action prompted by an event which made them feel that they could no longer stand by watching what was going on. For the police officer who had been witness to bullying in his unit, the turning point was the moment when a colleague, most seriously harassed by the commander, fainted during a meeting.

So finally [name of the harassed officer] could not stand it anymore, we could see that he was very pale, he said he had to leave. We could see that he could hardly stand on his feet, he had problems getting to the door to leave the meeting room. ... The commander continued with the meeting, an ambulance came, [name of the harassed officer] was given first aid, because the guy just couldn’t bear it any more. And that was the decisive moment, when we said, “No! We have been putting up with it for so many years, it was evident that something was seriously wrong with the boss”. [W16]

For some whistleblowers it took a long time to decide to disclose the wrongdoing, while they considered the pros and cons of such a decision. Some of them were aware that the consequences of such a step may be very serious for them. These were the dilemmas faced, for instance, by an employee of a
university who had discovered plagiarism committed by a person holding a
very high position in the university.

Time was needed to examine it calmly, thoroughly, to access other
publications and to decide what to do with all that. I knew I could not take
it up with anyone here, at the university, because I knew that in five minutes
there would be a phone call to Mr [name], and that action would be taken
against me and that I would be facing the risk of retaliation from that person.
Examples of other whistleblowers show what the consequences may be for
the whistleblowers themselves if they disclose plagiarism, don’t they? [Wo8]

Sometimes the whistleblowers frankly admitted that – apart from the
motives related to defending the values they cherished – negative emotions
constituted another factor making them disclose the misconduct. Even though
each of those making a disclosure had some objective reasons for doing so,
the indignation, aversion, or sense of grievance against those who committed
the violations or the superiors who only watched it without taking any action,
frequently provided an important additional catalyst for intervention. It was
usually fully understandable and natural, considering that in some situations
the superiors behaved in a way that was degrading for the employees, harmful
for the organisation, or alienated the staff in some other manner.

The fact that many whistleblowers are also guided by this kind of
motivation may raise some doubts as to their intentions and, consequently,
as to the soundness of their arguments. With such reasoning, it is easy to
conclude that practically any act of disclosure is, in fact, an act of settling
some personal grievances or disagreements and an act of revenge (which is
something that the opponents of legal protection for whistleblowers seem
to fear). It must, however, be remembered that the most important criterion
is whether an intervention has been well-founded, that is, whether the
whistleblower has disclosed a case of actual misconduct or could reasonably
suspect that some malpractice was taking place in the organisation.
Collecting evidence and ways of taking action

In most cases, the whistleblowers tried to gather specific evidence to support their claims. This usually happened in a situation when they did not have much hope for solving the problem in a conciliatory manner within the organisation. However, collecting evidence was linked with a number of obstacles, which may be deemed as a universal experience of whistleblowers.

The main barrier is the fact that information concerning the internal affairs of an organisation or company constitutes an official secret. A person disclosing materials that document misconduct within an organisation automatically puts himself or herself at risk of being accused of breaking the official secret. In many organisations there are also other limitations and restrictions related to the protection of access to a particular type of information. In these areas whistleblowing is, therefore, particularly difficult.

This can be illustrated by the example of a tax office employee who copied the documents pertaining to a tax return of the politician whom the tax office had granted an unlawful reduction of tax. The woman and her husband reported it to the law enforcement services and to other state institutions. Criminal proceedings were launched against the tax official accused of breaking the fiscal secret. However, in this case the court ordered to discontinue the proceedings, pointing to the lack of social harm of the act and the praiseworthy motivation of the tax official, who, in that way, wanted to document the misconduct taking place in the tax office. The court also ruled that the politician, as a public figure, had to bear greater limitations of privacy and the possibility of being subjected to more in-depth public scrutiny.

Some people collected evidence in the form of secretly recorded conversations with their superiors. Although such evidence material must be viewed as controversial, as it has been obtained in an unlawful manner, it is really hard to imagine any other way of documenting certain practices (for instance related to bid rigging). As the Polish criminal procedure does not include the principle of the fruit of the poisonous tree, in some cases the collected material was indeed used to prove that there had been misconduct taking place inside an institution or a company.

Depending on the situation, whistleblowers would use different intervention strategies. As it has been mentioned before, most of them first attempted to find a solution within their institution or company – if there was any hope that the senior management would react to the report. Some whistleblowers only went that far, although in most of the analysed cases, a failed attempt to solve the problem internally, motivated the person to take the report of misconduct outside the organisation.
The first step was usually to talk about the problem with their line manager or another person in a managerial position, if it was the line manager who was responsible for the wrongdoing. The whistleblowers operating within public institutions, in accordance with the standard procedure, also usually drafted a written memo. None of the organisations under analysis had any specific whistleblowing mechanism, although some whistleblowers used the internal regulations which generally described the procedure to be followed if irregularities were discovered in the operation of the organisation.

The reference point for the woman employed in a local government cultural institution were certain internal procedures under which she was supposed to begin with taking the matter up with her line manager. This particular whistleblower emphasised that she trusted her line manager and therefore believed that he would take over the responsibility for the case. However, that did not happen. The lack of action on the part of her line manager made the whistleblower report the matter to external authorities.

[I reported the case] to my line manager, the chief accountant, who would reassure me, would say that he knew about it all, that he understood – it seemed that he agreed with me, that it was wrong. He would reassure me, he said he would talk to the director, he would not let her continue with that. However, with time I could see that nothing had changed, things were going on as before. He had not reacted, he was completely idle. [W07]

In the case of uniformed service officers, the procedure for handling such situations was set by the service regulations. The police officer who decided to speak up about the wrongdoing in his unit – serious bullying by the commander, suspicions concerning abuse of position – followed the formal procedure, willing to be loyal to his unit, which he had strongly identified with.

We wished to deal with it internally, through official channels. We thought that we would be able to, so to say, wash the dirty linen in private, within the police force. [W16]

In his opinion, the internal procedures proved ineffective, because they are designed in a way which makes them susceptible to the discretion of the superiors.

A person who – working at a public institution – noticed some serious abuse that consisted of transferring public assets of very high value out of the organisation, followed the standard procedure and drafted a memo for her line manager describing the situation. However, as a lot pointed to the possibility that the disclosed misconduct had flourished with the consent and approval of highly-ranked officials within the organisation, the line manager did not pass the report on, fearing the negative consequences.

I could see how that man was worried, more and more worried. He was straightforward about it, “I only have two years until retirement and I won’t take the risk of tackling this. I won’t take the risk.” [W12]
The whistleblowers who hoped that their superiors to whom they reported the case would be grateful for their pro-active approach and would take over the responsibility for solving the problem, were usually in for painful disappointment. Their superiors, even if not directly involved in the wrongdoing, in most cases remained inactive, and thus de facto became part of the misconduct, fleeing from difficult decisions and leaving the whistleblowers to their own devices.

I wrote an appropriate official memo to our higher superior ... and I also went to talk to him to inform him personally. The director ... listened to me and said, “[obscene word], if the press finds out ...!”, he showed me the door and I knew it was bad, very bad. [W11]

A failed attempt to solve the problem internally motivated some whistleblowers to pass the information about the misconduct to an external entity. In the analysed cases they were external entities responsible for oversight over the organisation where misconduct had been taking place or law enforcement agencies (Central Anticorruption Bureau, prosecution office, police). The whistleblowers’ experience with these institutions and their opinion about them varied strongly. Some reports were treated with proper understanding – proceedings were launched in those cases, although some reports were ignored. Some whistleblowers made desperate attempts to find an institution which would take interest in the case and treat it seriously.

The tax office employee and her husband first approached the local law enforcement service. As, however, the case involved an influential local politician, they decided, just in case, to also notify other public institutions, and sent out a number of letters, addressing them, for instance, to the Government Plenipotentiary for Corruption Matters, the Minister of Finance, and the Prime Minister, hoping that they would intervene, with the reservation that they wished to remain anonymous. It did not bring the expected results, and in addition, got the couple into trouble. The Ministry of Finance officials passed the letter on, unchanged, to the head of the tax office that the report concerned, but, in spite of the request expressed by the whistleblowers, failed to anonymise their personal details and thus revealed those details to the organisation involved in the misconduct.

The cases under analysis also included the case of a person who decided to make an anonymous report about wrongdoing to an external institution. This was the university lecturer who – because of the scope of power of the person whom the report concerned – had no hope that the problem could be solved within the organisation itself. In her case, too, her personal details were accidentally revealed, which resulted in various acts of retaliation on the part of the professor accused of plagiarism.
Aleksandra Kobylińska, Maciej Folta (cooperation)
In the analysed cases, all the people who tried to have the problem solved internally were disappointed with the lack of effects of their efforts, while some of them quickly experienced the adverse consequences of reporting the wrongdoing to their superiors. The whistleblowers emphasised that they noticed an evident change in their superiors’ attitude towards them. This was manifested, for instance, by attempts to get rid of the whistleblower from the organisation, marginalising his or her professional position by not giving them responsible tasks to perform (and, additionally, blocking their access to information), various forms of mobbing, and psychological pressure.

One of the whistleblowers, who tried to tackle the problem of mobbing by one of the middle-level managers in a non-governmental organisation by reporting it to the Management Board, paid for her intervention by losing her job. Even though the chairman of the organisation thanked her for her pro-active attitude in defending her bullied colleague, her action was in fact perceived in a negative manner. The whistleblower could feel that the atmosphere around her was getting worse and finally, without warning, she was dismissed with the reason given as “lack of improvement in her behaviour”.

The accountant who pointed to financial misconduct by the directors when talking to her line manager was gradually removed from performance of her duties and deprived of access to accounting documents. It was not only a reprisal but also an attempt to prevent her from noticing any further misconduct.

I realised that I was becoming unwelcome and that he [the line manager] sided with the director. He probably presented it to her in such a way as to say that I was inconvenient for them and should be eliminated from the group. And things started to happen around me ... I felt it, you can feel it, it feels as if ... you can say it's mobbing – but in a form of keeping me away from certain operations which I had done before, so that I could not see what was going on, etc. [Wo7]

An employee who disclosed some serious fraud connected with transferring public assets from an institution also soon began to feel the consequences of her act. In spite of the inaction of her line manager, someone from the management had found out about her discovery, someone who was probably involved in the misconduct. A game began around the whistleblower, including veiled pressure to bring her to task. The aim was to be reached, for instance, by special meetings at the director’s office during which the whistleblower was publicly ridiculed.
This person, let’s call them “éminence grise”, organised such meetings at the director’s office to disgrace me. ... I really knew how to handle it so I was not afraid. But if someone mocks you in a very rude way, you can’t defend yourself. Because if someone accuses me of something that is connected with my work, I can defend myself, but if I am offended, then there is no defence. [W12]

The whistleblower also suggested that the “éminence grise” changed her room on purpose, and moved to a room opposite her own, from which it was possible to “keep an eye on her”.

The most painful were the consequences suffered by the people who decided to report the wrongdoing to external organisations. For obvious reasons, such a situation led to escalation of aversion and retaliation against the whistleblowers, because it exposed the lack of action on the part of the organisation’s management in the face of the wrongdoing and sometimes even their active support for such practices.
Reprisals against whistleblowers

When, as a result of a report passed by a whistleblower, the activities of the external institution or the public made the organisation face an unpleasant necessity to explain their decisions, the organisations adopted various strategies to cope with such a situation. Some of them followed the line of defence based on undermining the report of the whistleblower by questioning his or her personal credibility. Different methods were used to discredit the whistleblowers: their competence, honesty, and integrity were questioned, and sometimes doubts were even raised as to the soundness of their mind.

Some whistleblowers reported that their own organisations began to “compile files” against them, that is, to collect evidence showing that they could not be trusted. Academics who accused their superiors, were in turn themselves accused by their management of scientific misconduct. The police officer who disclosed a number of malpractices in his own force, faced fabricated allegations of using paedophile and zoophile content on the Internet. The woman who disclosed fraud in the pharmaceutical company had to fight, among others, a fake allegation that with the use of a stolen pseudoephedrine manufacturing line she had produced amphetamine. All those allegations were untrue, and therefore the organisations had no chance to prove them. They were rather strategies aimed at harassing the whistleblowers and discrediting them in the eyes of the public.

Some institutions and companies also undertook other actions to destroy the position of the whistleblowers in their professional environment. The superiors of the woman that, apart from the public institution, was also employed at other places received a phone call from her line manager (responsible for the misconduct during organisation of a tender procedure) warning them that the whistleblower was not a trustworthy person. In this particular case, those efforts proved ineffective, because the whistleblower's professional achievements and position had been strong. The discrediting strategy was, however, also applied against the former employee of the pharmaceutical company who, after a phone call from her former employer, quickly lost the job she had found in a new place.

In individual situations, organisations also resorted to more extreme measures in order to intimidate the whistleblowers, for instance threatening them with violence. The whistleblower from the pharmaceutical sector received letters with threats, she was also under surveillance by a detective agency. When her former employer hired an armed man to intimidate one of the witnesses in the court trial, the woman was eventually granted police protection for herself and her family. The female officer who disclosed the
misconduct related to tender procedure was told by her boss: *Everyone can be broken. You are tough but you surely love [your] children* [W11]. The woman reported the incident to the prosecutor’s office but was not treated seriously.

As the analysed cases show, the weapon used against whistleblowers may also be defamation charges (pursued in civil or criminal proceedings). This is what happened to the university lecturer who reported the plagiarism committed by one of the highly-ranked employees of the university. Even though the woman wished to make her disclosure anonymously, her personal details had been accidentally revealed and were obtained by the accused professor who sued her for defamation and also offended and ridiculed her in a vulgar manner on his blog.

In two situations, organisations tried to argue that the testimony of the whistleblower was not credible because they were not of sound mind. This forced the slandered persons to undergo psychiatric and psychological examination which, in both cases, proved beyond any doubt, that the whistleblowers were absolutely sane.

Organisations also tried to get rid of the whistleblowers from their teams. Based on the analysed cases, it is worth noting that the situation of such people differed significantly depending on the type of contract and work relationship. The study confirmed that people working on the basis of civil law contracts and fixed-term employment contacts were in the most difficult situation.

The employee of the emergency medical service who reported the rape attempt by his colleague on one of his subordinates lost his job. The man had been employed on a fixed-term employment contract and the management explained that they needed to reduce staff. However, soon after that, other people, with lower qualifications, were employed to replace the dismissed employee. An appalling element of this case was also the fact that the victim of the harassment, who worked on the basis of a civil law contract, was also dismissed. In both cases, intervention of trade unions, the media, and the public proved ineffective.

There were attempts to dismiss some people for disciplinary reasons. The tax office employee that decided to reveal the case of issuing an unlawful tax decision in favour of a well-known local politician was dismissed under the disciplinary procedure for breach of fiscal secret. The accountant blowing the whistle in the case of financial fraud in the municipal cultural institution was also threatened with disciplinary dismissal. The management presented her with a number of charges, which are worth quoting here, as the strategy and the arguments used by the management provide a good illustration of typical charges brought against whistleblowers. The woman was accused of a “gross violation of fundamental duties of an employee, that is:

1) **loyalty** to the employer, **keeping in confidence information**, which could be damaging to the employer, duty to **observe rules of peace and order**
in the workplace by intentional and purposeful discrediting of the director of the institution and other employees – in the eyes of the public, for instance by sending to the law enforcement agency and other third parties an unjustified accusation that ... an offence had been committed,

2) culpable conduct resulting in a threat to the interests of the employer consisting in the fact that without the knowledge and consent of the employer, [name] handed copies of accounting documents [name] (including invoices and cash reports) to third parties and gave information alleging that the director engaged in unlawful activity with regard to managing funds as well as other information constituting official secrets, without authorisation,

3) breach of the duty to abide by the rules of social coexistence in a cultural institution, that is, that on [date] knowing that the employer intended to terminate her employment by notice of termination, she addressed the employer represented by the director [name] in an arrogant and disrespectful manner” [emphasis added by the authors].

However, in both situations the decisions about disciplinary dismissal have been successfully challenged in the labour court. In the case of the employee of the cultural institution, the court pointed both to the lack of grounds for termination of employment in that manner and to formal errors. During the proceedings, the group of co-workers supporting the whistleblower turned out to be very helpful, as their testimony contributed to a favourable verdict for the woman.

The tax office employee dismissed for disciplinary reasons also obtained a favourable verdict of the labour court. On the grounds for the first instance judgment, the judge expressed recognition of the whistleblower’s attitude, “the claimant has become a victim of evident and particularly reprehensible conduct of a number of people employed in [name of institution], who were, in addition, her superiors of almost the highest rank (including the deputy head of the office) ... she behaved in an honest and honourable way (an attitude which nowadays seems less and less frequent) ... the claimant not only may but even should be employed in the defendant Tax Office”.

The above-mentioned verdict may be treated as an example of the proper use of the existing legal instruments to support a whistleblower. Unfortunately, in view of the research conducted, among others, by the Stefan Batory Foundation, this particular case can hardly be considered representative for labour court judges.25

Although the tax office employee was reinstated, as a result of an appeal by the tax office, the case was sent to the court of appeal. The whistleblower, tired of the very bad atmosphere surrounding the case and herself, eventually decided not to go back to the office and agreed to settle.

The analysed cases also show that reinstating the employee, by itself, does not necessarily mean full victory. If the balance of power in the workplace remains unchanged or changes only slightly, and the managerial positions are still held by people with whom the whistleblower is in conflict, it is difficult to say that things are getting back to normal. The whistleblower from the cultural institution after her reinstatement to work had to go back to having contact with her boss who had tacitly supported the wrongdoing – she was permanently excluded from accounting duties that fit her qualifications, and had to make do with performing simple office assistant’s tasks. The reinstated experienced police officer was assigned work at a photocopying machine.

It also happened that whistleblowers themselves decided to leave the job, induced by intensified reprisals they experienced as a result of their activity. Sometimes leaving the job or resigning from office was the last manifesto of a whistleblower that had lost faith that it was possible to remedy the situation in the organisation from within. An example of this may be the case of a physician, a professor at a medical university who, after a fruitless struggle with the misdeeds taking place there, resigned from the position of dean, at the same time publishing an open letter describing the most serious misconduct he had noticed, including unjustified – from the patient’s point of view – application of invasive and highly priced medical procedures so that the university hospital could get higher reimbursement from the National Health Fund. The author of the letter wrote in conclusion:

“This strengthened my conviction that my further remaining at the post is unjustifiable. One cannot be a member of senior management of the university and at the same time contest the actions of the management over which one does not have any influence. ... Ladies and Gentlemen, I have no doubt that my open and severe criticism means serious trouble for me, digging around in my life, trying to find something on me. I have already been accused, anonymously, of scientific misconduct. ... I don't not want to be the cause of damage to the University's and the Faculty's reputation. I have been considering resignation from the position of dean for a long time and the recent events have reinforced my decision. ... I hope that the above words will help you take a broader look at the situation of the University.”
Attitude of the work environment towards whistleblowers

While the cases described above paint a negative picture of the management of institutions and companies, one must admit that the attitudes of people in the whistleblowers’ working environment emerging from the case studies analysis varied greatly. The colleagues’ behaviour was vital from the point of view not only of the comfort and wellbeing of the person making the disclosure, but also the effectiveness of his or her action. Those who could count on the support of their team emphasised how important it had been for them.

Later, all that time I had the support of the team, without which, I think, I wouldn’t have coped. ... Whereas throughout all those later months the team had been on my side, which, on the other hand, had been perceived as an attempt on my part to incite the team to rebellion. [W03]

The above quoted feelings of the whistleblower of a non-governmental organisation were similar to those of the woman employed in a municipal cultural institution:

Obviously, yes, there was support, from most of the staff. If the support hadn’t been there I wouldn’t have done all that because I would have known that I had been doomed for failure. Even if I won in the court later, there would be no point in coming back to work, because I wouldn’t have the support. And as it happened – yes, absolutely, they supported me, both psychologically and in any other possible way, the old employees obviously, those who had worked there for years and who really cared about the organisation and not those who only cared about keeping their job and didn’t give a hoot about the rest. [W07]

In this particular case, the support of the team was really exceptional – to the extent that the whistleblowing could really be considered team work. The great majority of workers were concerned with what had been going on in their organisation and that was why they supported the whistleblower very actively, in many ways, at every stage of her action. The members of the team joined her in her efforts to interest the supervising authorities in the misconduct. When they failed to receive an appropriate response, they reported the case to the local media, which significantly contributed to the successful conclusion of the matter. The director of the institution responsible for the misconduct eventually resigned from her post.

A lot of people blowing the whistle whose activities have become publicly known, have experienced unexpected signs of support from the wider public. For them, it was not only gratifying but also reassuring and reinforced the conviction that they had done the right thing.

In this context, it is a great reassurance to receive signals from groups of honest people, honest scientists, because ... I was defended by Mr. [name], I get
a lot of e-mails. Even from abroad – a scientist wrote to me with such words of support. Such words, such gestures are very important. Very important. I don’t feel alone. Even if institutions fail, people do not. [Wo8]

Even now, when I walk through [name of town] – since there were a few articles about it, on television … too. It still happens sometimes: it was much more frequent before, elderly people would thank me for disclosing a thing like that. … People thanked me, asked, “Do you still work at [the organisation]?” [Wo6]

On the other hand, the reports of some whistleblowers were full of bitter observations of the attitudes of the people around them, including their workmates. The police officer felt resentful towards his colleagues who had initially declared their support, but at the stage of the prosecutor’s investigation, withdrew it, fearing the consequences. As the whistleblower reported, one of his colleagues told him frankly:

I cannot sacrifice my career, you know, I won’t tell the prosecutor what it was really like. Don’t blame me. [W16]

This whistleblower had particularly bad memories of an official police event where his presence caused evident dismay. Few of his colleagues went counter to that solidarity and paid the price.

For the whistleblower from a pharmaceutical company, a U-turn by her former colleagues was also very painful. Their initial testimony confirmed her version of events, with time, however, they began to lean towards the employer’s version. In the course of the trial, intensive “persuading” was going on among the employees within the company, by externally hired lawyers, preparing a version of events which would make it possible to save the company’s reputation. The company adopted a strategy whereby the whole responsibility was transferred to the whistleblower and she was accused of being the main instigator and the wrongdoer.

Sometimes the whistleblowers experienced open aggression from the people in their working environment. The officer who decided to fight, on her own, against misconduct in the tender procedure, reported:

At the moment in that case, when it became clear for everyone that the proceedings would be discontinued, I became a leper. Nobody talked to me, nobody answered my greeting, when I walked through the hall such gestures happened, when, for instance, a colleague spat on my shoes, not really spat but made a gesture like that. The point was that the more they cut me off, the greater their chance to stay in their jobs, with the boss who had done what he had done. People do care about money. [W11]

Indeed, as it turned out, the hostility of the co-workers was skilfully induced and managed by the superior. People who decided to give a favourable testimony of the accused superior were rewarded with pay rises.
Most whistleblowers felt alone in their efforts, some of them struggled with lack of knowledge and judgment of what they should do, what institutions to turn to, where to look for support. Many of them did not even know the concept of whistleblowing, therefore they were not able to see their individual experience against a wider background. In some cases whistleblowers tried to seek support from external organisations, such as trade unions or non-governmental organisations.

In two situations, trade unions played a positive role, as they interceded on behalf of the whistleblowers and defended them actively, writing appropriate letters. Picketing was even organised to defend the dismissed paramedic. Whereas in the report of one of the whistleblowers, trade unions were not portrayed in a very favourable way – her case was ignored by them and she did not receive the appropriate support.

Two whistleblowers were supported by the Stefan Batory Foundation, which has been – so far – the only organisation engaged in this type of activity. The people who received the Foundation’s support assessed that assistance in a very positive way. It was, however, emphasised that it was a mere drop in the ocean in relation to needs.

Asking the media for help was usually the whistleblowers’ last resort. In a few cases, mass media undoubtedly played a significant role, exerting pressure to have the case explained and to rid the organisation of wrongdoing. As the whistleblower from the emergency medical service emphasised:

*I tell you, if it weren’t for the media the whole thing would be hushed. It would be swept under the carpet.* [Wo6]

In that particular case, the intervention by the media and the public eventually led to changes in the service management responsible for covering up the misconduct.

On the other hand, a decision to inform the media led to intensified retaliation by the employer. It should also be emphasised that bringing the case to the media definitely gives rise to the greatest controversy in the assessment of a whistleblower’s action – because if they have not used all the other possible remedies first, it is easy to charge them with wrong intentions.
Aleksandra Kobylińska, Maciej Folta (cooperation)
Overall result of whistleblowers’ actions

The overall result of the whistleblowers’ interventions from the point of view of the effects for the operation of the institutions or companies varied considerably. Wherever the whistleblowers stopped at internal interventions, their action usually did not lead to any noticeable changes within the organisation. The person blowing the whistle would be fired (or made to leave on their own initiative), and the institution would go back to the specific “state of equilibrium”.

Wherever the information about wrongdoing reached external entities – supervising institutions, law enforcement agencies, the media – the effects of the whistleblowers’ actions were much more visible, although the consequences for the informants themselves we not always positive.

The practice of unjustified application of an invasive but well-paid medical procedure in a university hospital raised the interest of a number of institutions, which investigated the issue. As a result of an inspection by the Supreme Audit Office and the National Health Fund (NFZ), the malpractice was confirmed and the NFZ imposed a financial penalty on the hospital. However, the person responsible for the misconduct did not suffer any consequences.

The case of bid rigging in a public institution was investigated by the Anticorruption Bureau [CBA] and the prosecutor's office, which decided that there was indeed a justified suspicion that an offence had been committed. The manager suspected of misconduct was removed from his duties for the duration of the investigation. However, the prosecutor’s office eventually stated that in spite of the occurrence of a conflict of interests – documented contacts and economic ties of the suspect with the bidder – his conduct did not bear the attributes of an offence. In the end, the manager returned to his post.

The case of the attempted rape of an emergency medical service employee ended in a conviction of the paramedic responsible for the harassment. The director of the service did not suffer any consequences of his inaction as, according to the decision of the prosecutor’s office, under the law applicable at the time (the crime of rape was not at the time prosecuted ex officio but on the motion of the victim) he was not formally obliged to report the incident to the law enforcement services.

Probably the most far-reaching were the changes resulting from the intervention at a municipal cultural institution. After an audit which confirmed the misconduct and under the pressure of the local media, the director of the establishment resigned. However, the victory of the whistleblower was not complete – after her reinstatement to work, she was marginalised and was not able to perform work in accordance with her qualifications.
In the remaining cases, the ultimate result of the whistleblowers’ actions is still unknown, as the cases are still under investigation and the effects are difficult to predict.
Personal consequences of whistleblowing

In general, after all that I have been through, I certainly would not dare advise anything to anyone. Everybody must..., perhaps I would tell them my story advising them to make their own decision. Whether they can afford, for instance, to be destroyed, intimidated for four years, to fear for their children, to be demoted at work, passed over for promotion, awards, to be persecuted, slandered. When your superiors keep turning most people against you, when most people won't even return your greeting. These are psychologically difficult situations, I don't know if I dared impose such a solution on anyone. But as far as I am concerned, frankly: I do not regret anything [W11].

When looking at the personal and professional consequences of their actions with the benefit of hindsight, the whistleblowers did not conceal their bitterness. Most of them had never suspected that the decision to disclose the wrongdoing may have such far-reaching consequences for themselves and for their families. As one of the whistleblowers summed it up:

If someone else were in my shoes, they would have probably set themselves on fire like that poor man in front of the Prime Minister's Chancellery. [W11].

In the case of most of the whistleblowers, disclosure of misconduct resulted in losing their jobs or the necessity to change employment. For some people it became very difficult or even impossible to continue to function in their working environment. The whistleblower from the police force, who left the service and retired as a result of harassment, has been forced to emigrate for economic reasons, which has had some painful consequences for his family. Shifting from white collar work to physical work which he had to do abroad, for him also meant a change in his social status, which he found difficult to accept.

A great part of the whistleblowers got into financial trouble or serious debt because they had lost their source of income. One of the whistleblowers not only lost her job but also – because of widely spread “dark PR” directed against her family – her husband also lost his job. The woman, harassed with litigation by her former employer, could not even afford proper legal aid. Eventually – as a result of the financial problems and in fear for her safety – she had to move back to her home town in the opposite corner of the country.

The very difficult situation that the whistleblowers found themselves in, often also had consequences for their mental and physical health. A few people had to undergo pharmacological psychiatric treatment or go through psychotherapy because of situational depressive or anxiety disorders. Whistleblowers’ families also paid the price for their activities. Two people said that their children had to receive psychological assistance because the...
consequences of stress, tension and sometimes even a sense of threat related to the parent’s situation had been more than they could bear.

In spite of such far-reaching consequences of *whistleblowing*, most of the respondents declared that they would do it again. Some of them indeed declared that they would have fewer illusions as to the effectiveness of their action but, as they said, their system of values would not allow them to behave differently.
Conclusion

Polish whistleblowers, at various stages of their intervention, face numerous problems which make whistleblowing a high-risk activity. In most of the analysed cases, the people blowing the whistle began with an attempt to remedy the situation internally, within the organisation. This trend is confirmed by research and statistics of whistleblowers’ activity in other countries. A report by the American Securities and Exchange Commission (SEC) concerning the implementation of a programme supporting whistleblowers, which includes, for instance, high cash awards for people bringing in particularly important reports of wrongdoing, shows that in spite of such a strong motivation system, reporting of misconduct to SEC is, in most cases, the last resort: in as many as 80% of cases, disclosure to SEC was preceded by an attempt to solve the problem within the organisation. In the light of these data it is difficult to justify a claim that whistleblowing is driven by lack of loyalty or settling of one’s own scores.

The attitude of the organisation’s management towards attempts to address the problems internally usually showed that they were not capable of self-reform. The whistleblowers soon experienced adverse consequences of their actions, which intensified rapidly if the information about wrongdoing was transferred to external bodies.

When considering whether to disclose misconduct, the whistleblowers often struggled with lack of knowledge how to behave in that situation, which institution they could turn to, and who they should ask for support. This also applied to collecting evidence to ascertain the misconduct, which was gathered in all possible manners, risking the charge of breaking the law.

On the basis of the analysed case studies, one cannot help feeling that in the Polish conditions, whistleblowing still carries huge personal risk for the whistleblower. The description of the experience of people who decide to break the conspiracy of silence does not encourage others to do the same thing. Whistleblowers pay a very high price for their actions, experiencing persecution from their organisation and frequently also lack of support from the people in their work environment. The analysed cases showed that whistleblowing weighed heavily on the lives of the people blowing the whistle in practically all spheres, affecting their own professional and social position, material status, and psychophysical condition as well as that of their families. Nonetheless, most people declared that because of their hierarchy of values they were not able to behave differently.

What are the reasons for such a depressing picture of the attitude of organisations and the social environment to the people who are trying to act in the public interest?

Some problems are definitely universal and apply to all whistleblowers – regardless of their country of origin or the specific nature of the legal and social environment. They stem from the very essence of whistleblowing, which places the whistleblower in a very difficult position, both socially and psychologically. An American professor, Fred C. Alford, has aptly written how the figure of a whistleblower fits the primeval mechanism of a culprit, known for ages in various communities.

One should not forget, however, that a lot of the problems faced by whistleblowers may be effectively addressed by appropriate institutional and legal measures which will make it possible to mitigate the risk for the individuals confronting organisational malfeasance.

27 F.C. Alford, op.cit.
Experts dealing with whistleblowing in Poland, with the Stefan Batory Foundation at the top, have been warning for years that under the existing legislation, the protection of whistleblowers is only fragmentary. The currently applicable law does not meet the criteria set by international good practices. In spite of many years of efforts on the part of the expert community, the recommendations reiterated for years have not brought any tangible results in the form of legislative changes, therefore it is worth noting that the analysis of the fate of the Polish whistleblowers strongly confirms the necessity to introduce appropriate institutional and legal instruments, facilitating the actions of whistleblowers, setting a framework for such actions, and protecting them from retaliation on the part of employers.

The first suggestion, repeated for years, arising out of international good practice is to regulate the issue of whistleblowers’ protection in a separate legal act. It seems that such a solution would not only help solve various problems related to the situation of whistleblowers in a comprehensive manner, but would also increase the awareness of the issue. A model regulation should include an adequately broad definition of whistleblowing and the whistleblower, should provide a guarantee to all people working in the public and private sector of access to trustworthy ways of reporting wrongdoing, and proper conversion of the information obtained from whistleblowers into organisational, legal, and policy changes which would help stop future misconduct.

Considering how serious the risk of reprisal against whistleblowers from their employers is, the law should be more effective in preventing retaliation aimed at the people who disclose wrongdoing. In accordance with the recommendations of the Council of Europe, it would also be desirable to introduce the possibility of receiving compensation, which would make up for all the loss the individuals sustain as a result of adverse consequences of whistleblowing. The analysis has also confirmed the need for protection from retaliation, particularly of the groups of people employed on the basis of fixed term employment contracts or on contracts other than employment contracts

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30 M. Worth, Whistleblowing in Europe Legal Protections for Whistleblowers in the EU, op. cit., p. 87.

31 See A. Wojciechowska, Ochrona sygnalistów w Polsce., op. cit.

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relationship (for instance, on the basis of civil-law contracts, widespread in Poland), who are now practically deprived of a way to claim their rights.

As the experience of Polish whistleblowers shows, another issue that requires urgent reform is the collecting of evidence material. On the one hand, under the existing law, a whistleblower must take into account that the whole burden of proof that the accusations are real is on him or her. On the other hand, the process of gathering evidence runs against some serious restrictions that, in many cases, are not possible to overcome. It should be clear to whistleblowers what means they can use and within what scope in order to collect evidence confirming their claims. It is also important to create such an institutional and legal system that people blowing the whistle be released from the obligation to provide the proof on their own. This can be achieved by shifting the burden of proof to the employer, which is one of the solutions listed among the measures recommended by international institutions.32

In the light of the problems related to ensuring anonymity of people disclosing wrongdoing, as highlighted in the report, this issue should also be given more attention. Ensuring effective protection of a whistleblower’s identity is one of the main ways to prevent retaliation and can be found among the fundamental international good practices.

It is worthwhile providing personal protection to a whistleblower in situations when his or her health or life or the safety of their family are under threat. Under the existing law, the mechanisms of witness protection in the proceedings are far from perfect, while the strongest protection is granted to crown witnesses who are, in fact, repentant members of organised crime groups.

Because of the very poor level of public awareness of what whistleblowing is and what role it plays for the public interest, various measures should be undertaken to fill that gap. We need both wide-ranging public campaigns explaining the essence of whistleblowing and fighting the harmful stereotypes concerning whistleblowers, as well as information activities addressed to people who are thinking of reporting wrongdoing, to show them how it can be done in the most effective and the safest manner.

The key condition for implementing the above-mentioned suggestions is the authorities taking a serious interest in the issue of whistleblowing. The fact that the clause on the protection of whistleblowers has been removed at the last moment during work on the government’s anticorruption strategy, does not give a good impression of the political will to tackle this issue. Without introducing legislative and awareness changes it will be impossible to achieve any real improvement in the situation of people disclosing misconduct in Poland.

We also need more activity of non-governmental organisations in this area – both in providing assistance to whistleblowers and in building public awareness about whistleblowing.
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Apart from the Stefan Batory Foundation, which has been consistent in supporting whistleblowers and disseminating knowledge about them for years, whistleblowing remains outside the scope of interest of third sector organisations.

It is also important to seek greater integrity and transparency in the operations of institutions and companies – by improving governance, introducing more efficient internal audit mechanisms, and increasing the scope of public control. The ferocity of retaliation against whistleblowers was often caused by the fact that these people disturbed the established pathological order in the organisation where misconduct had become standard practice. In the reports of the people disclosing wrongdoing, an expression frequently appeared describing the whistleblower as someone who was “inconvenient”. One of the whistleblowers described the situation in a very apt manner:

*That person knew that the office had been under his control, let’s say, that everyone played as required, only that one particular individual, here is stepping out of line.* [W12]

The emphasis on maintaining high standards of operation of public institutions and companies is one of the key mechanisms to prevent the emergence of serious spirals of misconduct, which one person, even extremely determined, will not be able to stop. More and more companies attaching importance to high standards of operation create safe channels for disclosing information on misconduct. If they are really well-judged solutions, elements of a genuine commitment of the organisation to reform itself, they have a chance to encourage individuals to disclose misconduct and at the same time reduce the personal risk related to whistleblowing. Using the experience of other countries (particularly the United States and the United Kingdom), it is worth urging employers to create such solutions.
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