

Whistleblower without Protection, Illegalities he Pointed out Uninvestigated

One of the most vivid cases of what the fight against corruption in Serbia looks like and the price paid by individuals who dare to fight against it is the case of an engineer in a public company founded by a local self-government in the north of the country. He was employed for an indefinite period of time, and he spent a long period of time in the position of head of the sector.

His problems began when he initiated an internal whistle-blowing, after learning that for the alleged needs of the work of the sector he manages, the public company awarded the contract for two public procurements to the same contractor. The contract was awarded without his knowledge, even though he was a member of the Commission that carried out one of the public procurements, in addition to performing his daily duties at the workplace.

Namely, the service that was requested through public procurement, the automation of two facilities - wells on water intakes, is the narrower specialty of that engineer. Therefore, he easily noticed the irregularity related to the implemented public procurement, i.e. the illegal waste of money.

In the whistle-blowing procedure, he pointed to two main illegalities. First, both contracts were awarded without a tender. In addition, one of the public procurements **was paid in advance, and the goods and services were never delivered to the public company.** Namely, there are no instruments at any of the two facilities that were allegedly delivered, tested and put into operation.

Internal whistle-blowing, in accordance with the valid provisions of the Rulebook on internal whistle-blowing of that public company, was initiated by delivering a notification both to the person responsible for receiving information and to the management of the public company. The whistleblower engineer indicated in the notification that the authorized person confirmed with his signature that the seller delivered and performed complete services in quantities and quality that correspond to the technical specification of the public procurement, thereby committing a criminal offense.

Internal whistleblowing, however, was not successful. The answer he received was based on the statement of the person responsible for that public procurement, in which the incorrect, i.e. false data were stated. Namely, in the statement, the responsible person claimed that the public procurement was not fully completed, "but it was largely completed". In their response, the management of the company stated that they have no real knowledge about this public procurement.

Therefore, the whistleblower submitted the same information to the competent public prosecutor - the special anti-corruption department, with which he initiated the internal whistleblowing, with the fact that he explicitly named his direct manager and at the same time the person responsible for public procurement in the mentioned public

company as the person who participated in the illegal behavior. In the attachment, the engineer submitted all tender documents available to him - contract, decision on awarding the contract, records of receipt of goods, notification of concluded contract, photocopies of invoices signed by representatives of the public company.

After that, he unsuccessfully tried for more than two months to get in touch with the head of the special department of the public prosecutor's office in order to get information about what was done about the information he submitted - the secretaries transferred him to the office, the office back to the secretary who asked to stay on the line, and who after some time hung up and then after another call no one answered the phone.

The public prosecutor's answer was finally delivered to him through the office of the public company, in an open envelope. More precisely, he received the public prosecutor's response in the form of a letter addressed to the public company, and not to him personally. As a result, the letter was opened in the clerk's office and read by everyone who got it, which is a common practice when a letter addressed to a public company arrives. The consequence is that after that everyone in the public company knew that he had made an external whistleblowing, they knew the number of the case and which prosecutor was in charge of the case. And in response, the public prosecutor informed him that he forwarded the received information to the Ministry of Internal Affairs - Special Department for the fight against corruption, in order to verify the allegations.

Meanwhile, an engineer in this public company is exposed to retaliation because the person who is his direct manager knows that he reported him. Without passing a formal decision on the transfer to another workplace with a lower salary, which does not correspond to the level of his professional education, he started receiving work orders ordering him to perform work that is impossible to do in the given short term. At the same time, he was also threatened, which was confirmed by two witnesses in a written statement. Several times during the time he was on vacation, he was invited to come to a public company to work. On the other hand, no one in the public company took any measure to protect him from revanchism due to whistleblowing. Because of all this, he was forced to go to the doctor, who opened his sick leave with the diagnosis of acute stress reaction.

After returning from sick leave, he filed a lawsuit for whistleblower protection, the draft of which was prepared by TS due to the small number of lawyers specialized in this type of disputes. Although the law stipulates that the whistleblower protection procedure is urgent, in this case it lasts longer than two years. During that time, as many as 7 hearings were held, with the judge who led the proceedings being replaced after 6 hearings because she did not have a license and was not even allowed to judge in whistleblower protection proceedings. She interrupted individual hearings due to the alleged lateness of lawyers and engineers, then she informed the parties that she had lost the case, which did not prevent her from issuing a verdict against the engineer. The

Court of Appeal, however, noted contradictory information, e.g. that she held a hearing without a case, as well as that she does not have a license to judge those disputes, which is why the engineer's appeal was accepted, the first-instance verdict was canceled and a new trial was ordered with a new judge. The new trial ended and after more than two months, the whistle-blower received a verdict - the court did not accept the lawsuit in which he sought protection from harassment. He is now preparing a new appeal.

And during the trial, thanks to the documentation provided by TS and constant communication with the engineer, one of the witnesses - the technical director of the public company was caught in a lie, i.e. he made a false statement that he never spoke to the engineer about the whistleblowing he raised. Proof that there was a conversation - a screenshot of the email in which the engineer informs TS how the conversation with him went, was presented to the court by his lawyer and it entered the record. At the same time, this was also the reason for the aforementioned witness to threaten him at the hearing itself. At the moment, it is not known whether the judge has submitted a criminal report to the competent public prosecutor for the crime of perjury.

In connection with the report itself, the whistleblower received another response from the public prosecutor in which nothing new was written, except that she urged the Ministry of the Interior to check the allegations. On the other hand, the Ministry of Justice, to which the TS submitted a request for free access to information about what the public prosecutor's office did regarding the external whistleblowing, responded that the control procedure is ongoing and will inform the TS of the outcome.

At work, the situation is unchanged. Although the direct superior manager whose responsibility the engineer pointed out retired in 2024, his position is vacant, but the whistleblower is not allowed to be promoted, and his boss told him that his "position is very bad" in a public company.

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