Strides in Anti-Corruption Efforts Are Rewarded in Ukraine

Wednesday, June 24, 2020

This month, the International Monetary Fund approved a multibillion-dollar lending program for Ukraine. This loan was made, in part, because Ukraine has been successful in passing anti-corruption measures that will ensure that this money goes to help Ukraine’s struggling economy and government, not to line the pockets of government officials or private businesses.

Last month, Ukraine passed a bill preventing the use of foreign aid in bank bailouts. Specifically, this law, known as the “anti-Kolomoisky” law, prohibits the state from returning nationalized banks to private owners. In 2016, Ukraine nationalized PrivatBank and provided $5.5 billion USD as a bailout to save the bank. Ukraine passed this law in reaction to private owners, including Ihor Kolomoisky, accused of causing the bank’s failure through money laundering and other fraud, suing to reverse the nationalization process and regain ownership of the now solvent bank. This affirmative stance was effectively the last condition the IMF needed to issue the first disbursement of the much-needed aid to Ukraine.

Importantly, late last year, the Ukrainian government also passed a new whistleblower law, which should help protect the dispersal of such aid from fraud as the law protects whistleblowers across sectors who believe that they have uncovered corruption.

Ukraine’s Prolific New Whistleblower Law Goes Unnoticed
The whistleblower allegations of misconduct by U.S. President Trump during a phone call between Ukrainian President Volodymyr Zelensky, which resulted in President Trump's impeachment, brought a flood of media attention. It also resulted in a national debate on whether the whistleblower has the right to remain confidential. Therefore, it is ironic that Ukraine’s passage of strengthened whistleblower protection laws has mostly gone unnoticed in international circles and has received little attention in the U.S. media despite the U.S.'s seeming obsession with the status of corruption in Ukraine.

On November 13, 2019, President Zelensky signed a law adopted by the Verkhovna Rada (the Parliament of Ukraine) regarding “the accusers of corruption.” Under this new law, “whistleblowers” are broadly defined as those who, believing their information to be reliable, report corruption or corruption-related offenses through internal channels (such as to company compliance), external channels (including the media), or regular channels (specified governmental organizations). This law entered into force on January 1, 2020. Ukrainian whistleblowers also receive increased securities under these new provisions, including the right to free legal assistance, the right to confidentiality, the right to an award, and the right to state-provided protection for themselves and their families in case of a threat to life or health.

Ukraine has repeatedly been held up as a corrupt country by the U.S. government and news media. It has taken significant strides with this new law to meet international best practices regarding whistleblowers. At the same time, the United States, a self-proclaimed transparent democracy, lacks a single comprehensive whistleblower law. As far as whistleblowers and corruption are concerned, the United States could learn from Ukraine.

Copyright Kohn, Kohn & Colapinto, LLP 2020. All Rights Reserved.

Source URL: https://www.natlawreview.com/article/strides-anti-corruption-efforts-are-rewarded-ukraine