

# Whistle-blower legislation

BRINGS IN A LOT OF MONEY

IN THE PAST 20 YEARS, whistle-blowers in the US have recuperated \$12.6 billion directly and \$7.4 billion indirectly for the federal government. But in fact, they might have saved the American taxpayers trillions of dollars, because they forced industries to clean up their act, said Stephen M. Kohn, executive director of the National Whistleblowers Center (NWC) at a business breakfast on October 2, at the Hilton Budapest.

A whistle-blower – in some other countries called a bell-ringer (“harangozó” in Hungarian) – is an employee who exposes the wrongdoing and misconduct of a company which results in damage to the public interest. In most countries, such employees are often faced with dismissal and financial ruin, or worse. But in the US, legislation has been in place since 1987 to protect and reward whistle-blowers, and it has been a tremendous success, says Kohn.

According to the False Claims Act in the US, a fraudulent company, if found guilty, will have to pay three times the amount of the concerned procurement order as a penalty, and the employee who blew the whistle gets 15-30% of that amount as a reward. “Wouldn’t you want to come forward to do the right thing and then get paid a few million for it? These are very serious incentives,” Kohn said. Legislative procedures also provide safeguards against unjust accusations and make it possible to circumvent claims of secrecy or breach of contract.

Kohn referred to a growing list of whistle-blowers in, for example, the nuclear, defense, medical and tobacco industries, but also cases concerning environmental damage or sloppy procedures in the FBI. “There is strong evidence in the US that this legislation works,” he argued. In 1987, when there were no whistle-blowers, inspectors general and other government oversight bodies were able to recover a mere \$89.5 million in fraud, he figured. In 2007, whistle-blowers recovered \$1.45 billion and, mostly thanks to their



STEPHEN M. KOHN

activity, the government bureaucracy was able to recover an extra \$550 million. Some companies, especially smaller ones, have gone bankrupt, and in many cases, executives have gone to jail, Kohn said, but it has a huge deterrent effect, and you see shifts in industries that are found liable.

In the end, he said, there are three winners: the whistle-blower who earned money and saved his or her career, the taxpayer who got money back and saves even more, and all honest companies who get rid of the dishonest ones spoiling the market. “As a result, there has been a tremendous change in the way whistle-blowers are perceived,” Kohn said. In the 1980s, people didn’t know what it was and were very suspicious, while today, whistle-blowers are very popular and perceived as heroes by the American public. “That would have been inconceivable 20 years ago,” Kohn said.

In his opinion, the US-type of law should be duplicated in every democracy with an independent judiciary, certainly also the EU and its member states, and by other institutions that spend a lot of development money, like the World Bank or the IMF. Transparency International in its recent report on corruption in the Hungary, also recommended introducing whistle-blowers legislation.



ANDRÉ T. MÉCS OF AMCHAM'S TRANSPARENCY COMMITTEE

## HUNGARY TO FOLLOW SOON?

Hungary might introduce legislation based on the US example soon, the government announced on October 29 during five-party consultation. During his visit to Budapest, organized by US Ambassador April H. Foley and AmCham's transparency committee, Stephen Kohn talked to representatives of all parliamentary parties and to Minister of Justice Tibor Draskovics to explain the US legislation and its workings and results. Minister Draskovics is now working out a detailed proposal to introduce a similar “harangozó” regulation.