

COMPLIANCE AND WHISTLEBLOWING FROM AN INTERNATIONAL PERSPECTIVE

Kenan Tur is founder and board member of the Business Keeper AG, Europe's leading provider of electronic whistleblowing systems. The Business Keeper Monitoring System (BKMS® System) is used in more than 50 languages and applied by companies and public administration bodies worldwide. Deutsche Telekom has also chosen to use this stand-alone application, which allows tip-offs regarding irregularities and potential risks to be sent securely and, if desired, anonymously. The BKMS® System uses a specially developed technology based on standard encryptions to ensure maximum data security and, thus, protects the dialogue between the whistleblower and the examiner.

In an interview, Kenan Tur talks about the international context regarding whistleblowing and the factors as well as challenges that need to be considered when implementing and rolling out a whistleblowing system.

Has there been a surge in interest in electronic whistleblowing systems in recent years?

Kenan Tur: The Edward Snowden affair, coupled with the growing number of corruption incidents, has pushed the topic back into the spotlight. However, regardless of these current cases, we have observed a rise in interest in our compliance solutions over the past few years. International companies in particular have long since realized that there are not only liability risks they are exposed to without an adequate compliance management system. There is also a growing risk of whistleblowers going public with their information or making confidential company data available in social networks. The resulting threat is a severe damage to the company's image – and if this happens, the negative consequences can often last much longer than the effects of paying an immediate fine. Having a whistleblowing system in place within the organization enables loyal employees to uphold their personal values and flag up irregularities, while companies have the opportunity to get to the bottom of such incidents internally.

What makes a system successful?

Kenan Tur: Without a doubt, for the successful operation of a whistleblowing system it is essential to build trust and acceptance at first. The best way to achieve this is to provide



Kenan Tur, founder and board member of Business Keeper AG

potential whistleblowers with plenty of information on the system's existence, the purpose of sending tip-offs, the protection offered, and how tip-offs are processed. Whistleblowers, who raise attention to an irregularity in the interest of the corporate community, should not themselves become the focus of attention. It is also important that the company's management clearly agrees to the defined set of values. On the international level, whistleblowing systems may face additional challenges, such as the availability in several languages or the ability to make flexible modifications in line with specific report topics depending on local data privacy regulations. Cultural as well as linguistic factors also need to be taken into consideration prior to the implementation.

What kind of protection is given to whistleblowers across the globe and what challenges do whistleblowing systems face in an international context?

Kenan Tur: In most parts of the world the level of protection afforded to whistleblowers is inadequate and can vary immensely. It's easy to see why in some areas whistleblowers live in fear of retaliation or simply never pass on their information in the first place. While in a handful of countries, like the UK and Luxembourg, extensive legal protection is offered, in some other countries, in Latin America, Asia, and Africa in particular, the identity of whistleblowers is left virtually unprotected and it is not unusual for them to lose their existence as a result. The level of protection in Germany also has its limitations as

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Transparency International's "Whistleblowing in Europe" report from last November reveals. In our view, there is an urgent need for comprehensive legislation to protect whistleblowers and promote a culture of openness and transparency. This would provide an important framework to support the efforts of companies which offer a whistleblowing system.

...anything else that should be considered?

Furthermore, it is highly important with respect to international roll-outs, to take the relevant local data privacy requirements into consideration, when it comes to protecting whistleblowers. In some countries for example, tip-offs cannot be submitted anonymously (e.g., Portugal) or the data privacy authorities explicitly prefer to receive tip-offs from individuals who state their name (e.g., Hungary and Spain). Certain requirements can restrict the range of topics in connection with which tip-offs can be given. In other countries, companies have to register with the local data

privacy authorities before implementing a whistleblowing system (e.g., Austria and France).

Data privacy and data security have absolute priority in the BKMS[®] System. Neither Business Keeper nor any other third party can access the data encrypted by the software, which are kept exclusively in a high security data center in Germany. Regular penetration tests and other independent certifications confirm the security of the system and ensure that it complies with the latest standards. As a result, the BKMS[®] System is the only whistleblowing system worldwide that has been awarded with the European Privacy Seal (EuroPriSe) as well as the Independent Centre for Privacy Protection (ULD)'s Seal of Privacy, meaning it is independently certified with respect to both European and national data privacy requirements.

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