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Poland

WHITE COLLAR CRIME

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This country-specific Q&A provides an overview of white collar crime laws and regulations applicable in Poland.

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POLAND
WHITE COLLAR CRIME

1. What are the key financial crime offences applicable to companies and their directors and officers? (E.g. Fraud, money laundering, false accounting, tax evasion, market abuse, corruption, sanctions.) Please explain the governing laws or regulations.

Polish criminal law provides no definition of financial crime offences. Therefore, in this compilation, the term "financial crime offences" shall refer to all criminal offences that do not involve the use of violence but include causing or threatening to cause financial loss.

Key financial crime offences include offences set forth in the following legal acts:

- Criminal Code Act dated 6 June 1997 (hereinafter referred to as the "Criminal Code"), such as: abuse of trust (manager's mismanagement), bribery and manager's bribery, fraud, money laundering, property depletion in order to prevent satisfaction of a creditor, apparent bankruptcy (assignment of property to another entity), favoring creditors (satisfying one and/or several creditors with detriment of other creditors), failure to maintain or improperly maintaining business documentation;
- Fiscal Penal Code Act dated 10 September 1999 (hereinafter referred to as the "Fiscal Penal Code") – governing fiscal offences or minor fiscal offences: against tax liabilities and settlements of subsidies and/or grants, against customs duties and rules of foreign trade in goods and services, against foreign exchange and the organization of gambling.

2. Can corporates be held criminally liable? If yes, how is this determined/attributed?

The Collective Entities Responsibility Act regarding punishable offences dated 28 October 2002 has applied in Poland since 2003. Pursuant to this Act, collective entities (e.g. commercial companies) are subject to liability for punishable offences as for criminal offences and/or tax offences.

The Collective Entities Responsibility Act envisages no model of "own" criminal liability for collective entities. Its provisions made the possibility to punish a collective entity conditional upon issuing a decision against a natural person, including a natural person authorized to represent the entity, a natural person acting for the benefit of a collective entity, as well as an entrepreneur directly cooperating with a collective entity – if such a person's behavior brought and/or could bring benefits to a collective entity, even if these were nonfinancial benefits. Secondary liability of a collective entity affects a small number of cases instigated under this Act.

Collective entities are subject to liability under the said Act, if a natural person committed one of the criminal offences listed therein. This catalogue includes e.g. offences against business trading, trading in currencies and securities, bribery and fiscal offences, including tax offences.

3. What are the commonly prosecuted offences personally applicable to company directors and officers?

Persons who manage business entities are most often accused of manager's mismanagement, manager's bribery, fraud, money laundering, as well as tax offences.

4. Who are the lead prosecuting authorities which investigate and prosecute financial crime and what are their responsibilities?

Pre-trial proceedings regarding criminal offences governed by the Criminal Code are carried out and/or supervised by a prosecutor and within the scope set forth in the Code of Criminal Procedure. This is carried out by the Police and/or other agencies.

Pre-trial proceedings regarding fiscal offences and minor fiscal offences may be carried out by a public prosecutor, head of a tax office, head of a customs and tax office, head of the National Tax Administration, Border Guard, Police and Military Police, Internal Security Agency and Central Anticorruption Bureau.

The purpose of pre-trial proceedings carried out by the abovementioned bodies is to (1) establish whether a prohibited act was committed and whether it constitutes a criminal offence, (2) reveal and, if necessary, apprehend the perpetrator, (3) collect data about the suspect/accused, including a background check, (4) clarify the circumstances of the matter, including the identity of aggrieved parties and the extent of damage caused, and (5) collect, secure and, if necessary, preserve evidence for the court.

5. Which courts hear cases of financial crime? Are trials held by jury?

Cases regarding financial crime offences are considered by common courts (criminal divisions). Depending on the severity of the offence committed and whether it is punishable, at first instance the case is heard by a district court and/or regional court. Court proceedings consist of two instances, therefore it is possible to file an appeal against the district court's judgment to the regional court, as well as to file an appeal against the regional court's judgment to the court of appeal. However, if there has been a gross infringement of law, in cases stipulated in the Code of Criminal Procedure, the parties to the proceedings may file a cassation against a final and non-appealable judgment of the court of the second instance to the Supreme Court.

The Polish judicial system does not have the institution of a jury. However, a so-called social factor may participate in court proceedings in the form of jurors who participate in the decision-making process, along with the judge, as members of the adjudicating panel. The participation of jurors in a given case is governed by the Code of Criminal Procedure and depends mainly on its severity and complexity.

6. How do the authorities initiate an investigation? (E.g. Are raids common, are there compulsory document production or evidence taking powers?)

Pre-trial proceedings regarding criminal offences may be carried out in the form of an investigation (minor matters) and/or in the form of an inquiry (major matters and/or carried out against specific public officials). If there is reasonable suspicion that a criminal offence has been committed, a decision shall be issued ex officio and/or as a result of a notification of a criminal offence to initiate an investigation and/or inquiry, which shall specify the act that is the subject of the proceedings and its legal qualification. The authority appointed to conduct pre-trial proceedings shall be required to issue a decision on the initiation or refusal to initiate an investigation and/or inquiry immediately after receiving the notification of a criminal offence.

The Police and other agencies, to the extent indicated in the legislation, have the authority to make an arrest of a suspect, if there is a justified suspicion that this person committed a criminal offence and at the same time there are additional circumstances, such as fear of that person fleeing and/or hiding or the traces of the crime being obliterated or the identity of that person cannot be determined. Such agencies are also authorized, upon the order of the prosecutor and/or court, to search the premises and other places in order to detect, detain or forcibly bring a suspected person in, as well as to find items that might constitute evidence in a case or which are subject to seizure in criminal proceedings, a search of the premises or other places may be conducted, if there are justified grounds to believe that either a suspected person or specified items are present there.

It is clear from the monitoring of recent practice that in such cases, groups of Police officers or other authorized services visit companies (in order to search for and hand over evidence) or places of residence of persons (in order to detain them, bring them to the prosecutor's office and/or hand over evidence, often combined with a search of the house and person).

7. What powers do the authorities have to conduct interviews?

In order to interview the person suspected of an offence, authorities conducting pre-trial proceedings most often summon them to an interview, indicating the date and venue of the interview. Sometimes the person suspected of an offence is interviewed after being detained, if there are grounds for detention.

If information existing at the moment of initiating the investigation or collected during the investigation provide sufficient grounds to justify the suspicion that the act was committed by a specific individual, the decision to bring charges is drawn up and announced to the suspect and the suspect is interviewed. If pre-trial proceedings are conducted in the form of an inquiry, drawing up a decision to bring charges is not required, unless the suspect is temporarily detained. The interview

of a suspect starts with information of the charges specified in the transcript of the interview. From the beginning of the questioning, this person is considered a party to the criminal proceedings.

8. What rights do interviewees have regarding the interview process? (E.g. Is there a right to be represented by a lawyer at an interview? Is there an absolute or qualified right to silence? Is there a right to pre-interview disclosure? Are interviews recorded or transcribed?)

Prior to the first interview, the suspect should be instructed on a number of their rights, including the right to give or to refuse explanations or to decline to answer questions, to be informed of the charges and any changes thereto, to submit requests for procedures to be undertaken in an investigation or inquiry, to be assisted by a defense counsel, including the right to request the appointment of a defense counsel ex officio in cases specified in the Code of Criminal Procedure or to review, at the end of the pre-trial proceedings, the material gathered in its course. This instruction should be given to the suspect in writing, who acknowledges receipt with his signature.

At the request of the suspect, the interview should be conducted with the participation of the appointed defense counsel. Failure of the defense counsel to appear does not halt the interview.

The suspect/accused has the right to provide explanations. However, without giving reasons, they may refuse to answer certain questions or refuse to give explanations. The suspect/accused should be advised of this right. The suspect/accused attending evidentiary procedures may provide explanations with respect to every piece of evidence. Moreover, the suspect/accused has the right to assume a line of their defense, which may include not telling the truth, meaning that the suspect/accused does not have to be truthful if their aim is to decrease or avoid their liability.

The interview of a suspect/accused, as well as that of a witness, expert and curator requires a written record to be drafted. The course of the procedure may also be recorded by means of a device registering image or sound; the persons participating in the procedure should be advised of this prior to starting recording.

9. Do the laws or regulations governing financial crime have extraterritorial effect so as to catch conduct of nationals or companies operating overseas?

Polish criminal law applies to an offender who commits a prohibited act in the Republic of Poland, or on a Polish vessel or aircraft, unless the Republic of Poland is party to an international agreement stipulating otherwise. Moreover, Polish criminal law applies to Polish citizens who have committed an offence abroad. In cases set forth by the Polish Criminal Code, Polish criminal law also applies to foreigners who have committed a prohibited act abroad, including offenses committed against the interests of the Republic of Poland, a Polish citizen or a Polish legal entity.

For an act committed abroad to be considered a criminal offence, it must generally be considered a criminal offence also by the law of the jurisdiction where it was committed.

On the other hand, the Collective Entities Responsibility Act provides the option to hold a “foreign organizational unit” liable. Since the term is not defined, it is not clear whether this applies to all collective entities with their registered offices abroad or only to divisions and representative offices of Polish entities.

10. Do the authorities commonly cooperate with foreign authorities? If so, under what arrangements?

In cases involving international elements in the proceedings, authorities very often use various forms of international cooperation in criminal cases. The Code of Criminal Procedure provides examples of areas where international cooperation in criminal cases is possible. According to these regulations, the necessary procedures under criminal proceedings may be performed by way of judicial assistance, including, but not limited to (1) the service of documents on persons residing abroad or institutions having their registered office abroad, (2) the examination of persons in the capacity of the accused, witnesses or experts, (3) conducting inspections and searches of premises, other places or persons, seizure of items and the handing over of such items abroad, (4) summoning persons staying abroad to a voluntary personal appearance before the court or public prosecutor to an examination as a witness or a confrontation, as well as bringing for that purpose persons deprived of liberty, (5) granting access to case files, documents and information from criminal records, and (6) providing information on the law.

The aforementioned regulation, however, is subsidiary in nature and applicable only when international treaties to

which Poland is a party do not provide otherwise. The following is of special importance: Convention on Mutual Assistance in Criminal Matters, to which Poland is a party.

Transposition of the Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters into the national legal system was also extremely important.

11. What are the rules regarding legal professional privilege? Does it protect communications from being produced/seized by financial crime authorities?

According to the Code of Criminal Procedure, persons subject to professional, attorney-client privilege or legal advisor's privilege (other than the defense attorney privilege) may be questioned with regard to the facts covered by this privilege only when this is indispensable for the interest of the administration of justice and such facts cannot be established on the basis of any other evidence. In pre-trial proceedings, a deposition or permission to take a deposition is decided upon by the court in a hearing without the attendance of the parties, within a period not exceeding seven days from the application of the public prosecutor. The decision of the court in that respect is subject to interlocutory appeal.

The defense counsel privilege, which is absolute, is distinguished as a special type of professional privilege. This means that a defense counsel who contacted the detained person or represent a suspect or an accused may not be interviewed regarding the facts of which they learned when providing legal advice or defending their case, even at the request of their clients.

Note, that attorney-client privilege and defense attorney privilege also cover documents presenting circumstances connected with the performance of the attorney and a defense attorney function. Moreover, also the persons cooperating with the attorney are required to protect the attorney-client and the defense attorney privileged information (trainee attorneys, consultants/experts, employees of a legal office etc.).

12. What rights do companies and individuals have in relation to privacy or data protection in the context of a financial crime investigation?

A person that is required not to disclose a company secret may refuse to testify as to the information to which this duty extends, unless the court or the public prosecutor, acting in the interest of the administration of justice, releases that person from the duty of confidentiality. At the stage of court proceedings, the court examines the testimony of such a person in a closed trial.

The Code of Criminal Procedure does not, however, prohibit to request disclosure of communication or other documents containing company secretes. The restrictions appear only at the stage of using documents obtained by the authorities conducting the proceedings as part of the court process. Documents containing such secrets may be used in criminal proceedings only upon the decision of the court or the prosecutor, when this is indispensable for the interest of the administration of justice and such facts cannot be established on the basis of any other evidence.

13. Is there a doctrine of successor criminal liability? For instance in mergers and acquisitions?

Polish law provides that liability to prosecution attaches strictly to the natural person who committed the prohibited act (criminal liability only attaches to anyone who commits the prohibited act), under the principle of non-accessory liability and the principle of individual liability. Therefore no person other than the one who committed the prohibited act may be liable to prosecution.

However, the Collective Entities Responsibility Act does not include any provisions related directly to the topic of liability of the legal successor of a collective entity, which results in doubts of interpretation.

14. What factors must prosecuting authorities consider when deciding whether to charge?

The authority conducting pre-trial proceedings may charge only if the information existing at the moment when the proceedings are initiated or collected during the proceedings sufficiently justifies the suspicion that the offence was committed by that specific individual. As a result, the person against whom the criminal prosecution is directed obtains the status of a suspect and becomes a party to the pre-trial proceedings.

Having completed the proceedings, the authority conducting the pre-trial proceedings must take a final decision concerning the core of the pre-trial proceedings.

It may send an indictment to the court, initiate the procedure of settlement in criminal proceedings, request the court to discontinue the proceedings due to unaccountability and apply preventive measures or issue a decision to discontinue the proceedings, if it has not found basis for indictment or any of the bars to proceeding occurs (e.g. the accused dies or the statute of limitations on the punishability of the act is applicable).

15. What is the evidential standard required to secure conviction?

According to the principle of presumption of innocence guaranteed by Polish criminal law, the accused is presumed to be innocent until their guilt is proven and affirmed by a final and non-appealable judgment of the court. The prosecuting body is responsible for proving guilt to the accused. The accused does not have to prove his innocence or provide evidence against himself.

In order to convict the accused, evidentiary proceedings must eliminate any doubts whether they have committed the offence which they are charged with and prove the ability to attribute guilt to them. This is necessary, since all irresolvable doubts are to be resolved exclusively in favor of the accused.

16. Is there a statute of limitations for criminal matters? If so, are there any exceptions?

Polish criminal law includes a mechanism of statute of limitations, which includes limitation on punishability, limitation on sentencing and limitation on executing the punishment.

An offence shall cease to be punishable if between 5 and 30 years have passed usually from the moment it was committed – depending on the gravity of the offense.

The statute of limitations does not apply to crimes against peace, crimes against humanity and war crimes, as well as to intentional offences of homicide, grievous bodily harm, serious damage to health or unlawful imprisonment connected with extreme suffering, that are perpetrated by a public official in connection with their official duties.

17. Are there any mechanisms commonly used to resolve financial crime issues falling short of a prosecution? (E.g. Deferred prosecution agreements, non-prosecution agreements, civil recovery orders, etc.) If yes, what factors are relevant and what approvals are required by the court?

In Polish law there are no such mechanisms, but any civil settlement between the offender and the injured party may have practical bearing on the course of the conducted criminal proceedings.

18. Is there a mechanism for plea bargaining?

The Code of Criminal Procedure regulates two consensual forms of ending the proceedings – sentence without holding a trial and voluntary submission to criminal liability. In the case of sentence without holding a trial, a public prosecutor submits to the court a motion for pronouncing the judgement of conviction without holding a trial, in which they request the accused to be sentenced to the punishments agreed upon with the accused in the course of the preparatory proceedings and/or other measures stipulated for the act they are accused of, punishable by imprisonment for up to three years or a more lenient punishment. In such a case, there must be no doubt as to the circumstances of the act and the perpetrator's guilt. The court may grant the motion only if the aggrieved party does not object. The court may declare that the motion will be granted provided that an amendment specified by the court is incorporated.

In the case of the institution of voluntary submission to criminal liability, after an indictment is submitted, the accused who is charged with committing an offence punishable by imprisonment for no more than 15 years may submit a motion for pronouncing the judgment of conviction and sentencing them to the punishments proposed by them and/or other statutory measures. The court may grant the motion if there are no doubts as to the circumstances of committing the offence and the guilt. The motion may be granted only if the public prosecutor and the aggrieved party do not object. The court may declare that the motion will be granted provided that an amendment specified by the court is incorporated.

The institution of voluntary submission to liability is also regulated by the Fiscal Procedure Code. The procedure is initiated by means of a motion for allowing voluntary submission to liability, drafted by the perpetrator. The court may allow the voluntary submission to liability if there are no doubts as to the perpetrator's guilt and the circumstances of committing a fiscal offence or minor

fiscal offence, while the public dues have been paid in full, the perpetrator has paid the amount equal to at least the lowest fine stipulated for the particular prohibited act, the perpetrator has agreed to the forfeiture of items at least as such forfeiture is mandatory and if submission of these items is impossible, they have paid their equivalent monetary value, and at least the equivalent lump-sum value of the costs of the proceedings has been paid.

The judgement issued under this procedure is of a convictive nature, however, contrary to the judgements issued under the above-described criminal procedure settlements provided for in the Code of Criminal Procedure, it is not entered into the National Criminal Register. However, due to its convictive nature, it is assumed that this judgement may constitute the grounds for a collective entity to be subject to liability according to the procedures of the Collective Entities Responsibility Act.

19. Is there any requirement or benefit to a corporate for voluntary disclosure to a financial crime authority?

Collective entities, including commercial companies, are generally not subject to the legal obligation to disclose financial offences. The legal obligation to inform about any perpetration of offences persecuted ex officio is imposed on the state and self-government institutions that become aware of the perpetration of offence in relation to their activities. The Collective Entities Liability Act does not stipulate any benefits for a collective entity in relation to disclosure of an offence.

The legal obligation to disclose financial offences is also imposed on banks. In accordance with the Bank Law Act, if there is reasonable suspicion that the activity of the bank is used for the purposes of concealing criminal activities or for the purposes related to a criminal offence or fiscal offence, the bank shall inform a public prosecutor, the police or another competent authority authorized to conduct preparatory proceedings.

20. What rules or guidelines determine sentencing? Are there any leniency or discount policies? If so, how are these applied?

The judgment in a criminal case must be based exclusively on all the circumstances revealed in course of the main trial. The judgment should include, without limitation, the name, surname and other personal details of the accused, the description and legal qualification of the offence with which the accused was charged by the prosecutor, the judicial decision and the indication of the provisions of criminal law which were applied.

The Criminal Code provides for the institution of extraordinary mitigation of a penalty, which consists in imposing a penalty below the minimum statutory sentence or imposing a less severe type of penalty. The court may apply the extraordinary mitigation of a penalty only in cases stipulated in the Act. For example, the court applies the extraordinary mitigation of the penalty or may even conditionally suspend the sentence with respect to an offender who acted in concert with others in committing an offence if they reveal information about persons involved in committing the offence or the essential circumstances thereof to the competent prosecution authority. The court may also apply the extraordinary mitigation of a penalty in particularly justified cases, where even the lowest penalty stipulated for the offence would be incommensurately severe, in particular: if the aggrieved party and the offender have been reconciled, the damage has been redressed or the aggrieved party and the offender have agreed on how the damage will be redressed, given the attitude of the offender, particularly if they attempted to redress the damage or prevent the damage from occurring, as well as if the offender of an unintentional offence or their close relative or partner has suffered serious damage in connection with the offence committed.

The Collective Entities Liability Act stipulates that, in particularly justified cases, when the prohibited act constituting the grounds for a collective entity's liability has not benefited this entity, the court may renounce from adjudicating a financial penalty, confining to adjudicating forfeiture, injunction or publication of the judgement.

21. In relation to corporate liability, how are compliance procedures evaluated by the financial crime authorities and how can businesses best protect themselves?

Under the current regulations, collective entities are not subject to any obligation to implement compliance management systems in respect of counteracting financial offences. Nonetheless, in recent years, while legislation extending the liability of collective entities has been drafted (see the answer to question 27), there have been propositions for the lack of liability of a collective entity to be dependent on maintaining effective compliance tools. This has raised a broad discussion on the subject of the positive effects of maintaining an effective compliance system in the

organization and caused various authorities to issue non-binding guidelines in this respect, which were supposed to encourage and help implement appropriate procedures. Examples include “Standards recommended for the compliance management system on counteracting corruption and the whistleblower protection system in companies listed on markets organized by the Warsaw Stock Exchange S.A.” and “Guidelines on Establishing and Implementing Effective Compliance Programs In Public Sector Entities” published by the Central Anti-Corruption Bureau. Moreover, as observed in practice, a company maintaining effective compliance procedures may be important in deciding on a case of criminal liability of managers acting to the detriment of the company.

22. What penalties do the courts typically impose on individuals and corporates in relation to the key offences listed at Q1?

Depending on the type of the offence, the court may impose a fine, restriction of liberty or imprisonment for a committed financial offence.

With respect to committing financial offences, it is not uncommon for the Court to decide on the forfeiture of the benefit from the offence, as well as the obligation to redress the damage caused by the offence. In the case of persons who have committed financial offences in relation to management functions performed at the particular entity, it is also common to pronounce disqualification from holding specific positions, practicing specific professions or engaging in specific economic activities.

With regards the liability of collective entities for acts punishable as criminal offences or fiscal offences, the court may sentence such an entity to a financial penalty in the amount from PLN 1000 to PLN 5,000,000, whereas this amount may not be higher than 3% of the revenues obtained in the fiscal year when the prohibited act constituting the grounds for the liability of the collective entity was committed. Moreover, the collective entity is sentenced to the forfeiture of the items that originate even indirectly from the prohibited act or have been used or intended for committing the prohibited act, material benefit originating even indirectly from the prohibited act, as well as the equivalent value of the items or material benefit originating even indirectly from the prohibited act. It is also possible for the collective entity to be subject to specific prohibitions in relation to the activity conducted by this entity, e.g. prohibition on applying for the award of a public tender.

23. What rights of appeal are there?

The court resolves a criminal case based on its merits and passes a judgement that may be appealed against in the court of the second instance due to the two-instance court proceedings model in use in Poland. If there has been a gross infringement of law, in cases stipulated in the Code of Criminal Procedure, the parties to the proceedings may file a cassation against a final and non-appealable decision of the court of the second instance to the Supreme Court.

24. How active are the authorities in tackling financial crime?

In recent years, the Polish authorities have been very active in fighting financial offences and they have been taking a range of initiatives in this respect. For example, the Department for Combating Economic Crime has been created at the National Public Prosecutor’s Office, with their tasks being “effectively combating crime against trade and financial and fiscal crime, as well as prosecuting offenders and creating methodologies for combating individual crime categories.” Moreover, in 2015, the Council of Ministers passed a resolution on the “Program on the prevention and combating economic crime for the years 2015–2020”, the purpose of which was to determine and coordinate the implementation of the main areas of the State’s policy in respect to enhancing the mechanisms for preventing and combating this type of crime.

25. In the last 5 years, have you seen any trends or focus on particular types of offences, sectors and/or industries?

In recent years, the Polish authorities have been very active in fighting tax offences, in particular offences concerning VAT frauds. State authorities conduct intensive audits of business entities, aimed on the one hand at detecting tax offences already committed and on the other at preventing them from being committed.

For several years, the Polish government has been intensively pursing the so-called “tax system loopholes closing” policy, with the purpose of increasing the State budget revenues from VAT, PIT and CIT.

Since 2018, State authorities may use the clearing house’s ICT system (so called STIR system, System Teleinformatyczny Izby Rozliczeniowej), which facilitates conducting tax fraud risk analysis based on the available data, in particular those related to the accounts maintained by banks and cooperative credit unions, as

well as transactions executed on these accounts. The risk analysis covers the accounts of so called qualified entities, understood as natural persons being entrepreneurs in accordance with the Polish Entrepreneurs Law Act, natural persons under self-employment, legal persons and organizational units without legal personality granted legal capacity by the relevant act. Therefore, STIR does not cover private accounts of natural persons, used for their personal settlements.

26. Have there been any landmark or notable cases, investigations or developments in the past year?

Public information on people being detained or arrested in relation to committing large-scale financial crime offences appear almost every month, therefore, it is hard to name selected cases.

27. Are there any planned developments to the legal, regulatory and/or enforcement framework?

Secondary liability of collective entities results in a small number of cases conducted against collective entities. In light of ineffectiveness of the collective entities prosecution, a government bill of a new collective entities responsibility act for punishable offences was submitted to the Polish Parliament, the Sejm, in 2019. The authors of the bill indicated its three basic assumptions. Firstly, the assumption of the drafter was to introduce a model of “own” responsibility of collective entities. Secondly, the bill provided for removing the secondary responsibility of collective entities by resigning from the necessity of previous prejudication in respect of the natural person. Thirdly, the drafter abandoned the closed catalogue of offences. The draft has not been passed and has been discontinued. In 2020, the Ministry of Justice announced another bill, based on similar assumptions as the previous one. However, this bill has not been published to date.

By 17 December 2021, Poland should also implement the Directive of the European Parliament and of the Council on protection of persons who report breaches of Union law (Whistleblower Directive). No bill implementing the Directive has been published to date.

28. Are there any gaps or areas for improvement in the financial crime legal framework?

In addition to the secondary liability of a collective entity for offences committed by natural persons, the key problem should be the lack of specialist personnel within the authorities responsible for prosecuting economic offences, including financial offences. Frequently, the public prosecutors and Police officers (as well as representatives of other agencies authorized to conduct preliminary proceedings) do not have the elementary knowledge about business activity and do not know elementary terms. Deficiencies in this respect impede, for example, the understanding of the reality of conducting business in Poland, as well as the limits of allowed economic risk, which is an inherent element of conducting wide-scale business.

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