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Discussion on the European Court of Human Rights' Decision in the Case of Halet v. Luxembourg and Its Implications[1]

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Abstract: *The decision in the case of Halet v. Luxembourg can be considered quite crucial in the field of whistleblowing, as it significantly redefines the conditions and procedure for granting protection to whistleblowers within the meaning of the Article 10 of the European Convention on Human Rights, while expanding the range of cases where protection can be granted. However, the consequence of this decision is also a significant reduction of predictability, for both the whistleblowers themselves as well as for the persons whose conduct is reported. This paper aims to analyse the decision itself, to define its rudimentary argumentative elements and to discuss issues arising from the decision, as well as the possible effects that the decision may have on the application practice.*

Key Words: *European Law; European Convention on Human Rights; European Court of Human Rights; Freedom of Expression; Whistleblowing; Case of Halet v. Luxembourg; LuxLeaks.*

Introduction and insight into the case

The issue of whistleblowing is receiving an increasing amount of attention. However, the debates are focused mainly on current legislation, meaning the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the Protection of Persons Who Report Breaches of Union Law (hereinafter referred to as the "Directive") and its transposition into the national laws. In this context, the second branch of whistleblower protection provided under the Article 10 of the European Convention on Human Rights (formally known as the Convention for the Protection of Human Rights and Fundamental Freedoms; hereinafter referred to as the "Convention"), namely through the Europe-

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an Court of Human Rights, is being somewhat neglected. Throughout the years, the European Court of Human Rights has dealt with more than a dozen cases concerning whistleblowers and their protection and reached quite substantial conclusions, which are not necessarily all reflected in the Directive, or the national regulations derived from it. One such case was *Halet v. Luxembourg*,[2] which is the subject of this paper.

The decision in the *Halet v. Luxembourg* case was the result of the so-called "LuxLeaks",[3] which concerned tax "optimization" of (in particular) multinational corporations, tax opportunism and cooperation with the tax authorities. Raphaël Halet – a main figure in the decision at hand, followed up on the actions of Antoine Deltour, at the time an auditor at PricewaterhouseCoopers, who, through the journalist Edouard Perrin, published a series of documents relating to the tax "optimization" of multinational corporations by PricewaterhouseCoopers and the "cooperation" of PricewaterhouseCoopers with the Luxembourg tax authorities on accounting measures which reduced the tax liabilities of PricewaterhouseCoopers clients. Raphaël Halet, following Antoine Deltour's example, published (through the above-mentioned investigative journalist) sixteen tax documents consisting of fourteen corporate tax returns of PricewaterhouseCoopers clients and two implementation letters, which concerned evidence of tax "optimization".

As a result of such conduct, Raphaël Halet's employment was terminated by notice. At the same time, a criminal complaint was lodged against Raphaël Halet, resulting in his criminal conviction,[4] which was subsequently confirmed by the Court of Appeal for the offences of theft

[2] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18.

[3] The "LuxLeaks" (formally known as the "Luxembourg Leaks") Case marks a series of leaks that revealed concrete evidence of corporate tax evasion on a staggering scale as well as the key role of government officials in facilitating this tax evasion. For years, Luxembourg had entered into "special agreements" with multinational companies that allowed them to move their money through Luxembourg via accounting facilities that reduced the companies' overall tax costs. These special agreements were made by Luxembourg with most of the world's corporations: Ikea, Disney, Amazon, Pepsi, Deloitte, and others. This case has been one of the main drivers with regard to the European debate on the regulation of whistleblowing. See DILLON, S. Tax Avoidance, Revenue Starvation and the Age of the Multinational Corporation. *The International Lawyer* [online]. 2017, vol. 50, no. 2, pp. 275-327 [cit. 2023-08-14]. ISSN 2169-6578. Available at: https://scholar.smu.edu/til/vol50/iss2/4/.

[4] See *Decision of the District Court of Luxembourg Ref. No. ILDC 2580 (LU 2016)* [2016-06-29].

SOCIETAS ET IURISPRUDENTIA
2023, ročník XI., číslo 3, s. 56-69
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from one's employer, fraudulent initial or continued access to a data-processing or automated transmission system, breach of professional secrecy and laundering of the proceeds of theft from one's employer, for which he was fined EUR 1,000. It was against this decision that Raphaël Halet (hereinafter referred to as the "applicant") defended himself before the European Court of Human Rights.

In his complaint to the European Court of Human Rights, the applicant sought protection under the Article 10 of the Convention – the right to freedom of expression. However, he was unsuccessful in his effort, as the European Court of Human Rights did not consider him eligible for protection granted to whistleblowers. The applicant subsequently requested the case to be referred to the Grand Chamber of the European Court of Human Rights, which took place on 6 September 2021. Not only was he successful with the referral of the case from the "Small Chamber" of the European Court of Human Rights to the Grand Chamber, but the Grand Chamber also ruled on 14 February 2023, expressing its disagreement with the conclusions of the national Court of Appeal, as well as with those of the "Small Chamber" of the European Court of Human Rights, finding (by a ratio of 12 votes to 5) a violation of the complainant's right to freedom of expression within the meaning of the Article 10 of the Convention.

1 Qualification criteria

The Grand Chamber of the European Court of Human Rights based the decision in the case of *Halet v. Luxembourg* (to grant protection within the meaning of the Article 10 of the Convention) mainly on its previous case law in the area of whistleblower protection, such as the cases of *Guja v. Moldova*,[5] *Gawlik v. Liechtenstein*,[6] *Heinisch v. Germany*,[7] *Bucur and Toma v. Romania*,[8] and many more. However, the decision in the case of *Guja v. Moldova* has received the most attention, as in this decision the European Court of Human Rights set out six criteria which should guide the assessment of whether an interference with freedom of expression with-

[5] See *Case of Guja v. Moldova* [2008-02-12]. Judgement of the European Court of Human Rights, 2008, Application No. 14277/04.

[6] See *Case of Gawlik v. Liechtenstein* [2021-05-31]. Judgement of the European Court of Human Rights, 2021, Application No. 23922/19.

[7] See *Case of Heinisch v. Germany* [2011-07-21]. Judgement of the European Court of Human Rights, 2011, Application No. 28274/08.

[8] See *Case of Bucur and Toma v. Romania* [2013-01-08]. Judgement of the European Court of Human Rights, 2013, Application No. 40238/02.

in the meaning of the Article 10 of the Convention was justified or not, and, therefore, if the whistleblower should be provided with protection.

However, it must be noted that in the case of *Halet v. Luxembourg*, it was the State's criminal sanction against the applicant that was the subject of the dispute, not, for example, the rejection of the action for invalidity of the notice. The European Court of Human Rights thus examined (among other criteria) whether the national courts had struck a fair balance between the public interest in public knowledge of the information disclosed on the one hand, and the overall harmful effects resulting from their disclosure (in particular the criminal conviction) on the other hand.

1.1 First criterion

The first of such criteria set out in the case of *Guja v. Moldova*, and which was applied in the case at hand, was the nature of the channel chosen by the whistleblower, meaning whether the whistleblower had the possibility to use alternative channels to disclose the information. In the case of *Halet v. Luxembourg*, the European Court of Human Rights found that neither PricewaterhouseCoopers nor its clients had acted unlawfully, and so their tax "optimisation" had to be considered lawful (within the meaning of the laws of Luxembourg). The European Court of Human Rights thus concluded, given the absence of illegality, it was not appropriate for the applicant to opt for an internal reporting method, e.g., through a complaint to his superiors. In addition, given that there was no violation of the law, it was not possible to act, e.g., through a criminal or misdemeanour complaint. The European Court of Human Rights then concluded that disclosure through the media was the only realistic alternative in this situation to fulfil the purpose of the notification.[9]

The European Court of Human Rights reiterated the conclusions already reached in the earlier case law (case of *Gawlik v. Liechtenstein*) that it is not always necessary to use internal reporting systems in order to provide the whistleblower with protection under the Article 10 of the Convention (e.g., if such reporting would be ineffective).[10] However, the European Court of Human Rights generally concluded that the nature of the communication channel must always be assessed on an *ad hoc* basis.

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[9] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 172.

[10] See *Case of Gawlik v. Liechtenstein* [2021-05-31]. Judgement of the European Court of Human Rights, 2021, Application No. 23922/19, paragraph 83.

SOCIETAS ET IURISPRUDENTIA
2023, ročník XI., číslo 3, s. 56-69
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1.2 Second and third criteria

The second criterion set out in the case of *Guja v. Moldova* was whether the disclosed information or the documents could be considered authentic. The European Court of Human Rights did not find that there was any doubt as to the authenticity of the published documents, and the Court, therefore, considered the second criterion satisfied. However, the European Court of Human Rights added that the applicant *"... could not be refused the protection granted by the Article 10 of the Convention on the sole ground that the information had subsequently been shown to be inaccurate. Nonetheless, they were required to behave responsibly by seeking to verify, in so far as possible, that the information they sought to disclose was authentic before making it public."* From such a conclusion can, therefore, be inferred that the whistleblower's good faith and belief in the nature of the information (the third criterion) is crucial in assessing the authenticity of the information reported, and, therefore, these criteria cannot be fully separated.

The third criterion – the good faith (motive) of the whistleblower has been also considered satisfied, as the European Court of Human Rights concluded that the facts of the case did not show that the applicant had acted for his benefit (e.g., to obtain financial remuneration) or to harm his employer (e.g., out of spite or as an act of revenge). The conclusion reached by the European Court of Human Rights is then fully in line with the settled case law of the European Court of Human Rights, which previously held that the essential factor in assessing the good faith of the whistleblower (as well as the authenticity of the information) is the whistleblower's belief that the information was true and that its disclosure was in the public interest. On the other hand, the European Court of Human Rights has previously ruled that a notification based on mere conjecture by the whistleblower would not enjoy the protection of the Article 10 of the Convention.[11]

1.3 Fourth criterion

The existence of a public interest in the disclosure of the information, as the fourth qualifying criterion, has probably received the highest degree of attention from all of the "Guja" criteria, since it is here that the Europe-

[11] See *Case of Soares de Melo v. Portugal* [2016-02-16]. Judgement of the European Court of Human Rights, 2016, Application No. 72850/14, paragraph 46.

an Court of Human Rights makes the most significant departures from its previous case law.

In the case of *Halet v. Luxembourg*, the European Court of Human Rights stated on this point that the disclosure of the documents was clearly in the public interest, as it helped to develop the debate on the taxation of multinational companies, tax transparency and tax fairness in general.[12] According to the European Court of Human Rights, the published materials have provided new insights into the issue and have contributed to the transparency of the tax practices of multinational companies seeking to benefit from places where the tax system is more favourable to them.

However, in the reasoning of these conclusions, the European Court of Human Rights also expanded the range of cases where the public interest in the publicity of such information outweighs the interests of the person being notified. In the case of *Guja v. Moldova*, the European Court of Human Rights acknowledged that issues falling within the scope of political debate in a democratic society, such as the separation of powers, the improper conduct of a high-ranking politician or the government's attitude towards police brutality, are matters of public interest. This scope of public interest was then gradually extended by the European Court of Human Rights to include, for example, information relating to the interception of telephone communications in the community (case of *Bucur and Toma v. Romania*) or information relating to suspected serious crimes (specifically the euthanasia of patients – case of *Gawlik v. Liechtenstein*). The European Court of Human Rights has also accepted as "in the public interest" the reporting of "questionable" conduct or practices within the armed forces (case of *Görmüş and Others v. Turkey*[13]). Thus, the European Court of Human Rights has previously concluded that the unlawfulness of the conduct being reported is not a necessary condition for the grant of protection under the Article 10 of the Convention, but that such protection may, nevertheless, be enjoyed by a whistleblower who reports conduct that may be assessed as "reprehensible".

The Grand Chamber of the European Court of Human Rights, however, in the case at hand, further departed from its earlier conclusions and

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[12] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 185.

[13] See *Case of Görmüş and Others v. Turkey* [2016-01-19]. Judgement of the European Court of Human Rights, 2016, Application No. 49085/07.

SOCIETAS ET IURISPRUDENTIA
2023, ročník XI., číslo 3, s. 56-69
http://sei.iuridica.truni.sk
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concluded that, in order to be protected under the Article 10 of the Convention, the conduct being reported need not be unlawful, or even "reprehensible". Yet it is sufficient that it is a matter of public debate.[14] Such a conclusion then significantly extends the protection awarded by the European Court of Human Rights concerning the protection of freedom of expression.

1.4 Fifth criterion

The fifth criterion defined in the *Guja v. Moldova* decision is the negative consequence of the whistleblower's actions on the reported person (or, as in this case, his clients). Under this criterion, the European Court of Human Rights noted that there was reputational damage to PricewaterhouseCoopers, in particular concerning its clients, as it raised doubts about PricewaterhouseCoopers's ability to ensure the confidentiality of the data entrusted to it. However, the European Court of Human Rights concluded that there was no damage of a longer-term nature.[15]

In this context, the European Court of Human Rights also had to deal with the fact that not only PricewaterhouseCoopers suffered harm, but also PricewaterhouseCoopers's business partners – its clients, who suffered harm in particular due to the disclosure of their sensitive information. In that respect, the European Court of Human Rights considered the nature of the complainant's conduct, which breached contractual and statutory duties of confidentiality, as well as the fact that the documents provided by the applicant to the media were obtained through data theft. However, after applying the balancing test, the European Court of Human Rights concluded that the public interest in the disclosure outweighed any negative consequences of the applicant's conduct.

1.5 Sixth criterion

The sixth and final "Guja" criterion considered the severity of the sanction imposed on the whistleblower in comparison to the public interest in the information disclosed. The Grand Chamber of the European Court of Human Rights took into account the dismissal of the applicant by PricewaterhouseCoopers (with notice), the prosecution and conviction of

[14] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 138.
[15] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 194.

the applicant, as well as the level of media attention placed upon the applicant himself. The European Court of Human Rights also considered the possible negative impact of failure to protect the conduct of future whistleblowers (the so-called "chilling effect").

Having considered all the above-stated elements, the European Court of Human Rights then concluded that the severity of the sanction was not proportionate to the public interest in the complainant's conduct and his right to protection of freedom of expression under the Article 10 of the Convention.

2 Discussion of the European Court of Human Rights' conclusions

As previously mentioned, the European Court of Human Rights in the case of *Halet v. Luxembourg* examined whether the national courts (as well as the "Small Chamber" of the European Court of Human Rights) had struck a fair balance between the public interest in the documents disclosed and the overall harmful effects resulting from such disclosure together with other qualification criteria. As indicated in the previous part of this paper, the European Court of Human Rights concluded, based on the fulfilment of the qualifying criteria, that the severity of the sanction was not proportionate to the complainant's conduct and his right to protection of freedom of expression under the Article 10 of the Convention. Many of the Court's conclusions, however, at least invite a reflection on their possible connotations as well as their impact on application practice.

Firstly, the European Court of Human Rights anew (although indications of the definition of the two categories can already be found in earlier case law) defines three categories of reasons (purposes) for whistleblowing actions, within which these (considering all other circumstances) enjoy protection within the meaning of the Article 10 of the Convention.

The first of these categories is reporting unlawful (illegal) conduct. The second category includes reporting of conduct which, although legal, may be in some sense unethical or immoral.[16] Finally, the third category concerns the reporting of conduct about which a public debate is conducted (or, as the case may be, provoked or developed by the notifica-

[16] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 137. The European Court of Human Rights explicitly mentions "conducts which, although legal, are reprehensible".

tion) and which provokes a legitimate interest on the part of the public to become acquainted with the information and to form an informed opinion, as to whether the information reveals harm to the public interest.[17] According to the European Court of Human Rights' conclusions in the decision at hand, this may also apply to private law entities.[18] However, such conclusions may give rise to several questionable issues.

The first of the aforementioned issues is legal (un)certainty. Although the European Court of Human Rights should aim to provide a higher degree of legal certainty, the result of this decision is quite the opposite. Following the European Court of Human Rights' findings in the case of *Halet v. Luxembourg*, there may be cases where a whistleblower will be entitled to disclose (better said, he/she will be protected if he/she does so) sensitive information of his/her employer and his/her clients, even though his/her employer has complied with all legal provisions or has not acted in a socially unacceptable manner. Taken to an extreme, no employer nor his/her client is safe from having their sensitive data released to the media, even if they have done everything under the requirements placed upon them. In addition, the European Court of Human Rights does not even provide any specific guidance on which whistleblowers or those with an interest in keeping their sensitive data out of the media can rely. The lack of legal certainty in the context of granting protection under the Article 10 of the Convention is also evidenced by the fact that the European Court of Human Rights has repeatedly refused to define a whistleblower in its decisions and refuses to provide such a definition in the future.[19] The European Court of Human Rights, therefore, concludes that the assessment of whether a whistleblower is entitled to protection under the Article 10 of the Convention must be made on an *ad hoc* basis, based on all the circumstances of the case. What the Court fails to consider is that only a fraction of the cases that would require its consideration reach the European Court of Human Rights, as the way to the European Court of Human Rights is expensive and time-consuming, with uncertain results.

[17] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 138.
[18] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 142.
[19] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraph 156.

Another problematic aspect of the discussed decision is the very assessment of the existence of a public opinion (its nature) on a particular issue. Although in the case at hand, the public opinion is quite clear on the matter, since tax "optimization" of multinational corporations is a generally discussed topic and the public opinion, in this respect, is usually uniform (uniformly negative). The situation, however, may not be necessarily as clear as it is in the case of *Halet v. Luxembourg*. The main issue is that it is the European Court of Human Rights which will decide whether the social debate is so fundamental as to justify condoning even conduct as serious as was the case with the applicant. By this interpretation, the European Court of Human Rights' case law essentially determines public opinion on current issues. One may then ask to what extent the opinion of several judges truly reflects the opinion of society, especially in cases where the subject of the assessment will be public opinion in an international context.

It should be also noted that public opinion on an issue can change quite drastically over time, which was a point also made by the European Court of Human Rights. However, the European Court of Human Rights considers such "flexibility" to be a positive feature. The possibility of following the current developments in society and not sticking to rigid rules can be considered a positive phenomenon, however, the issue is with the persons who determine the existence of the public interest and the intensity of the social debate – i.e., the European Court of Human Rights' judges. To bring about a radical change or a complete reversal in the concept of assessing the public opinion or the interest of society, suffices only to simply replace a few judges. Once again, the result is a reduction in the level of legal certainty and a potential danger for whistleblowers and whistleblowing as a whole in the future.

It is also necessary to add that in the case there is a serious public debate in society about an issue, or if it is obvious that a certain issue is unethical or immoral to such an extent that it needs to be addressed, it should be the task of legislation to remedy these situations. It is certainly relevant that the European Court of Human Rights' erudition often motivates (guides) the national or European legislation, but it is not permissible for it to substitute for their function in such a way, as such an approach could lead to a double track in the protection of whistleblowers.

A further possible danger lies in the damage caused by the European Court of Human Rights to the cornerstones of certain professions that are

SOCIETAS ET IURISPRUDENTIA
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based on professional confidentiality and for which (more often than not) clients seek them out. It can be considered almost absurd for lawyers, accountants, and even bankers (or their employees) to disclose information about their clients. This was also the conclusion reached by the dissenting judges in the present case (Ravarani, Mourou-Vikström, Chanturia and Sabato), as they refer specifically to the case of a banker who would disclose sensitive data on politicians' bank accounts. The dissenting judges directly state that the introduction of this new criterion deprives the protection of professional secrecy or other forms of confidentiality of its substance. In this context, it is, therefore, possible to ask what value of confidentiality in general, whether statutory or contractual, as if an individual can be exempted from criminal sanctions if the issue is considered to be a subject of "public debate". In contrast to the conclusions of the European Court of Human Rights, for example, the Czech Republic's own Act No. 171/2023 Coll., on the Protection of Whistleblowers, responds to this potential danger by not allowing the exemption from professional obligation, for example, attorneys or in the provision of health services.[20]

In the decision at hand, the European Court of Human Rights also preferred to protect unlawful conduct (or even conduct as serious as criminal offence) to prevent unethical conduct or conduct that is the subject of public debate. These conclusions of the European Court of Human Rights may then lead us to consider that in the case a whistleblower commits a criminal offence, but does so in accordance with the current public opinion (or the European Court of Human Rights' current beliefs about the public opinion), the European Court of Human Rights considers it wrong to punish such a perpetrator; on the contrary, he/she will (as in the present case) be awarded compensation for non-pecuniary damage.[21] Although the European Court of Human Rights states in its decision that how the whistleblower obtained the data in question must be considered when applying the abovementioned criteria, as well as when deciding whether to grant protection under the Article 10 of the Convention, the European Court of Human Rights does not provide any "guidance" for both the whistleblower or persons affected by such action. It seems al-

[20] See paragraph 3 (1) b) 3. and d) of *Act* [of the Czech Republic] *No. 171/2023 Coll., on the Protection of Whistleblowers*.

[21] One of the European Court of Human Rights Grand Chamber's rulings was that Luxembourg should pay the applicant the sum of EUR 15,000 in compensation for non-pecuniary damage and EUR 40,000 in costs.

most unfair that the European Court of Human Rights prioritizes the protection of an employee (or his/her right to freedom of expression), who, by his/her wholly intentional conduct, breached his/her duty of loyalty, contractual duty of confidentiality, professional duty of confidentiality, committed a criminal offence and disclosed sensitive information not only of his/her employer, but also of clients of his/her employer, causing irreparable damage to their reputation, over the protection of the interests of a person who acted lawfully.

The European Court of Human Rights found the criminal conviction to be inconsistent with the applicant's right to freedom of expression, also in light of the so-called "chilling effect",[22] which the criminal conviction of the whistleblower might have on other potential whistleblowers, as they would be deterred from making the disclosure, even though the disclosure would be "in the public interest". This effect was, according to the European Court of Human Rights, compounded by the media attention given to the case as well as to the person of the applicant. As already noted, the applicant had committed a criminal offence and had breached his obligations under his employment relationship with PricewaterhouseCoopers as well as his duty of professional confidentiality to disclose information about his employer's lawful activities. The only real sanction in the context of this case was a criminal conviction and the imposition of a fine. Termination of employment with notice could hardly be considered a sanction that could deter potential whistleblowers. Nor can media attention be regarded as a sanction, since the complainant was not the first, let alone the main actor in the "LuxLeaks" case, and must, therefore, have been fully aware that his conduct would attract a significant degree of media attention even to his person. It can also be assumed that attention (given the nature of the case) was the objective of his conduct. The question, therefore, remains to what extent the possible punishment of actual criminal activity and a penalty of EUR 1,000 would be a deterrent to other whistleblowers.

Conclusions

The decision of the Grand Chamber of the European Court of Human Rights was received with enthusiasm by a significant part of the professional community. Although such a positive approach can be justified in

[22] See *Case of Halet v. Luxembourg* [2023-02-14]. Judgement of the European Court of Human Rights, 2023, Application No. 21884/18, paragraphs 205 and 206.

the context of the case, it is necessary to state that it is one of the more apparent cases where tax "optimization" is an issue not only in Europe, but also in a global context and, therefore, the public opinion on the matter may be quite uniform. Nevertheless, other cases may occur, which are not as apparent as the matter at hand, where a dicta decision can have a dangerous precedential impact.

It should be also noted that the European Court of Human Rights' case law, expressed not only in the decision under discussion, creates a certain dichotomy between the protection awarded to whistleblowers under the Article 10 of the Convention and the protection awarded under the Directive and the national legislation. Sooner or later, there will be cases where a whistleblower will be a whistleblower within the meaning of the Article 10 of the Convention, but will not be a whistleblower under the national legislation. If such a situation arises, it will again be detrimental to the legal certainty of both the whistleblowers and the persons being reported, since in such a case, for example, the actions of the employee may not be considered retaliatory in the sense of the national legislation, but may be assessed differently by the European Court of Human Rights.

The consequence of the European Court of Human Rights' decision in question is, therefore, not only a higher standard of protection afforded to whistleblowers, but also an interference with the legal certainty, a reduction in the degree of predictability as well as the value of contractual and statutory confidentiality. The ultimate consequence of this decision is likely to be an increase in distrust between the employees and their employers.

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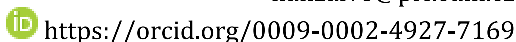
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