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WHISTLEBLOWER RETALIATION IN THE SPANISH PUBLIC SECTOR

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ABSTRACT

Whistleblowers are employees who report wrongdoing within their organization they work and help promote law compliance. When conducting this task, whistleblowers can also face the consequences of having reported as they break the dynamics of the organization where the wrongdoing takes place. Also, the situation of whistleblowers is even worse as it does not exist any national regulation which guarantees protection and anonymity or confidentiality, hence, whistleblowers live in a context or a perpetuated deprotection in which they suffer the consequences of acting according to their values. This research attempts to give some insights into the retaliation whistleblowers receive, focusing on the factors of the cultural factors of the organization, the retaliation itself and the way in which whistleblowers could feel repaired. Ultimately, the research showed how the culture and the power dynamics can exert an important influence, as well as the social recognition constitutes a way to repair the victims.

Key words: *whistleblower, retaliation, public sector, Spanish law draft*

RESUMEN

Los alertadores son empleados que denuncian las irregularidades dentro de la organización en la que trabajan y ayudan a promover el cumplimiento de la ley. Al realizar esta tarea, los alertadores también pueden enfrentarse a las consecuencias de haber denunciado, ya que rompen la dinámica de la organización donde se produce la irregularidad. Además, la situación de los alertadores es aún peor ya que no existe ninguna regulación nacional que garantice la protección y el anonimato o la confidencialidad, por lo que viven en un contexto de desprotección perpetuada en la que sufren las consecuencias de actuar de acuerdo con sus valores. Esta investigación intenta aportar conocimiento sobre las represalias que reciben los alertadores, centrándose en los factores de la cultura de la organización, las represalias en sí mismas y la forma en que los alertadores podrían sentirse reparados. En última instancia, la investigación mostró cómo la cultura y la dinámica de poder pueden ejercer una importante influencia, así como el reconocimiento social constituye una forma de reparar a las víctimas.

Palabras clave: *alertador, represalia, sector público, proyecto de ley*

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1. Introduction

Reporting wrongdoing within organizations often results in retaliation against who “blow the whistle”. Whistleblowers suffer the very negative effects of their decision to disclose wrongdoing, assuming a grave and serious impact in their lives.

The main concern in this matter is that the employees who help to discover wrongdoing receive the negative effects of doing so. In the Spanish context, this is caused by a lack of regulation, which by the moment just exists in some economic sectors. A law draft was supposed to be passed in December 2021, but it did not, which perpetuates a context in which whistleblowers do not encounter guarantees of anonymity or confidentiality.

This research aims to study the phenomenon of whistleblowers retaliation – focusing on workplace bullying – related to those workers who report wrongdoing within an organization. Many cases have been made famous these last years, exposing stories of revenge, and suffering because of acting according to those whistleblowers’ principles. Specifically, this study is conducted to know the factors that can lead a whistleblower to retaliation in the studied cases, the retaliation itself, the culture of the organization where the retaliation took place, as well as how can whistleblowers be repaired.

To do this, qualitative interviews will explore the experience of victims of retaliation for having reported wrongdoing. This research could shed some clearer light on whistleblower retaliation and, hopefully, provide more insights for the improving of prevention policies on whistleblower retaliation. To contribute to this further objective, some considerations regarding the Spanish law draft will be done.

2. State of art

2.1. Whistleblower: concept definition

According to the European Directive 2019/1937, a whistleblower is a person who reports an act that can affect the general interest and helps to discover and prevent these crimes and then promotes law compliance. Whistleblowers are especially important to promote compliance in complex organizations, where it is more difficult to deter crime (Ragués, 2006).

The expression “whistleblower” comes from the action of blowing the whistle that the British policemen did when they saw a criminal (Ragués, 2006), and, in the same way but metaphorically, it happens so in public and private organizations when an employee detects wrongdoing. The concept as it is known nowadays emerged in the 1970s (Gagnon and Perron, 2019).

2.2. Whistleblowers and the whistleblowing process

Whistleblowers, depending on the channel they employ, can be clustered in:

- a) *Internal whistleblowers* (Vandekerckhove and Phillips, 2017): they report wrongdoing to an authority within the organization. The action is described as “report” (Benítez, 2018).
- b) *External whistleblowers* (Vandekerckhove and Phillips, 2017): the wrongdoing is reported to an external agent, for instance, a professional organization, a regulator, or the media. As Benítez (2018) stated, what these whistleblowers do is “disclose”. Morehead and Baucus (1998; quoted in Park, Bjørkelo and Blenkinsopp, 2018) stated that whistleblowers who belong to this group are more likely trigger investigations, corrective actions or other remedial changes within the organization (Morehead and Baucus, 1998).

Near and Miceli (1985; quoted in Gagnon and Perron, 2019) defined whistleblowing in four parts: the whistleblower, this is, the former or current employee who notices a wrongdoing but lacks authority to fight it; the whistleblowing act, i.e. the act of reporting

this wrongdoing; the complaint receiver, i.e. the third party or the internal figure who receives the report; and the organization, i.e. the target of the whistleblowing who will respond to that report.

The whistleblowing process consist of four steps (Morehead and Baucus, 1998): first, the employee notices an activity that is suitable to be reported; second, the employee assesses the conduct – for instance, taking into account moral reasonings or the perceived level of retaliation (Liyanarachichi and Newdick, 2009) - and decides whether it is suitable to be reported or not, and also gathers information and discusses the decision with other persons; third, the employee “blows the whistle”; and fourth, the company reacts, normally against the whistleblower.

“Blowing the whistle” imply decision making processes. Employees experience *moral paradox*, consisting of a conflict between acting in defense of the social or the organizational interests (Cailleba, 2016; quoted in Cailleba and Charreire, 2018), this is, to break the organizational silence or being loyal to the company (Cailleba and Charreire, 2018). This choice (Cailleba and Charreire, 2018) is influenced by the cultural context of the country – for instance, if silence is seen as positive or not.

Managers experience a *moral paradox* when deciding to protect the whistleblower when the disclosure harms the organization (Cailleba and Charreire, 2018). Also, there is an *organizational moral paradox* when the company wants to protect its economic interests (Friedman, 1970; quoted in Cailleba and Charreire, 2018) but at the same has to protect the whistleblower and deal with the report correctly. There is also a *managerial paradox* (Cailleba and Charreire, 2018), which consists of the will of a company to have employees with responsibilities and with freedom of speech, but at the same time, they companies are worried about potential whistleblowers.

Ajzen (1991; quoted in Holgersson, 2019) elaborated the *theory of planned behavior*, which aims to predict the ethical or unethical behavior. Ajzen’s theory aims to predict if an employee would report or keep silent towards wrongdoing (Park and Blenkinsopp, 2008; quoted in Holgersson, 2019), considering three dimensions:

1. *The attitude towards the behavior*: if the person considers this behavior as positive or negative. For instance, if an employee considers that corruption practices are positive because they help the business grow.
2. *Subjective norms*: social pressure can make a person act or not, too. For instance, if there is a pressure to not follow the legal procedures to get benefit.
3. *Perceived behavioral control*: the perceived degree of ease or difficulty of doing an action, considering past experiences and potential obstacles. For example, assessing the success of past reports.

2.3. Legal framework

2.3.1 European legal context

The European Directive 2019/1937 sets the minimum standards for the protection of whistleblowers:

1. *How the reporting channels must be*: the importance of the confidentiality of these channels is highlighted, as well as the celerity, independence, and ease when it comes to report, establishing different ways to do it, for instance, in writing or verbally.
2. *Reporting procedure*: when a whistleblower reports wrongdoing in an organization, it is important that he/she has the freedom to choose when to do it. Also, when he/she decides to report, the channel must be secure and confidential, and the competent organisms must be defined by the State previously. Also, there must be a follow up of the report and the whistleblower must receive information along the process.
3. *Protection*: the privacy and the personal data must be protected. Whistleblowers should receive protection if their identity is revealed and they can suffer retaliation, as well as their families and workmates. States must create measures to prohibit retaliation.
4. *Rights and obligations of the complaints within the process*: the motives of the report must be reasonable, and the information reported inside the scope of the Directive. There must be a relation between the report and the wrongdoing.

2.3.2 National legal context

Currently a legal provision regarding whistleblowers doesn't exist in Spain. A specific law was supposed to be passed in December, but, for the moment, in Spain there is only a law draft. The main points are:

- a) *The object of the law*: to protect the whistleblowers, to define the conditions of the reporting channels and to establish which sanctions are to be applied.
- b) *Who is a whistleblower*: a physical person who reports a wrongdoing having the conviction of its veracity.
- c) *Which information is suitable to be reported*: information which affect the general interest, that does not need to be a crime – for instance, malpractice or potential accidents, or the whistleblower may have evidence of its eventual occurrence. The information can include content that, in other contexts, would have to be kept in secret like personal data, secrets or intellectual property information.
- d) *Reporting procedure*: sets an outside authority who processes the reports via a confidential reporting channel. Anonymity and confidentiality are the two ways in which a person can report and keep their personal data safe. The draft law establishes the data protection regime, the protection of the reporters, the obligation to keep the reported informed of the process and the obligation of rerouting the information to the authority whose competence is to investigate.
- e) *Control*: the draft law sets the creation of an independent organism who will process the reports and bring protection and legal advice and assistance to the reporters.

Article 31 bis, 2, 2nd of Spanish Penal Code establishes that a company needs to have, among other elements, a supervision of the compliance of the prevention model by an autonomous organism within the organization. This supervision also implies, according to the article 31 bis, section 5, 4th point, the obligation of reporting the risks and the noticed wrongdoings, and the control of the prevention model.

The different sectorial legislations (Benítez, 2018; Guillén, 2021) are based on setting reporting channels, defining retaliation, and neglecting the report as an infraction, setting market and labour infractions and compliance programs.

2.3.3 Regional legal context

In Catalonia, the Catalan Antifraud Office (Benítez, 2018) states in its creation law that any person can address to this office to report corruption. While these reports are voluntary (Oficina Antifrau de Catalunya, 2008; quoted in Benítez, 2018), public bodies' managers are obliged to report, and the described facts will be analyzed by the Antifraud Office.

The region of Castilla y León also legislated on whistleblowers (Benítez, 2018). The regional law 2/2016 established an inbox to report public administration wrongdoings, which are kept by a figure called "*Procurador Común*" (Benítez, 2018). This law also establishes guarantees to the reporters and establishes as a grave offense to present a false report. Aragón also legislated in the same line passing the law of Public Ethics and Integrity (Benítez, 2018), also establishing a mechanism to report, but specifying that confidentiality should be provided, but anonymity is not allowed (Benítez, 2018).

2.4. Conceptualizing retaliation and its process

Retaliation can take the form of workplace bullying (Einarsen, 2000; quoted in Bjørkelo, Ryberg, Matthiesen and Einarsen, 2008). According to Leymann (1996; quoted in Park, Bjørkelo and Blenkinsopp, 2018) workplace bullying can be defined as "a systematic hostile and unethical form of communication performed by one or more individuals mainly directed at one person, who due to the bullying process is pushed to a helpless and defenseless position, often resulting in expulsion from the workplace" (pp. 592). Whistleblowing can trigger workplace bullying and has been defined as a risk factor for exposure to workplace bullying (Bjørkelo et. al., 2009; quoted in Heungisk, Bjørkelo and Blenkinsopp, 2018).

According to Shepherd (1987; quoted in Morehead and Baucus, 1998), retaliation can escalate if the objective of discouraging a whistleblower from reporting doesn't work. According to O'Day (1972; quoted in Morehead and Baucus, 1998), this escalation comprises four stages: nullification, i.e. subjecting the whistleblower to verbal abuse, reprimands or criticism in order to make him/her withdraw the report. The second stage

consist of isolation, i.e. preventing the whistleblower from getting into contact with other employees or to access certain resources. The third is defamation, i.e. trying to lessen the whistleblower reputation. The fourth is expulsion, i.e. forcing the whistleblower to leave the organization.

Workplace bullying (Waschgler et al. 2013; Einarsen 1999; quoted in Park, Bjørkelo and Blenkinsopp, 2018) can be *vertical*, when the bullying comes from a superior; or *horizontal*, when it comes from a colleague. Bullying by superiors – or *downwards workplace bullying* – (Vandekerckhove and Commers 2003; quoted in Park, Bjørkelo and Blenkinsopp, 2018) is typically formal. For instance, it could consist of setting impossible deadlines and assigning an amount of work that exceeds an individual's capacity. In contrast, *lateral or horizontal workplace bullying* is informal, and it tends to be part of the social sphere, e.g., spreading negative gossips or making fun of someone (Park, Bjørkelo and Blenkinsopp, 2018).

The whistleblowers' current situation is vulnerable (Parramón and Roca, 2017), as they suffer from abuse for having reported both at the professional and the personal level, and there is still a negative perception of the wrongdoing reporting in organizations. Also the word “whistleblower” seems to have a negative connotation as it reminds of disloyalty.

2.5 Causes of retaliation: a power perspective

The *resource dependence theory* (Near and Miceli, 1994) is based on the company dependence on a wrongful activity. Putting the commission of this wrongdoing into risk would jeopardize the performance of the company, and hence this may predict retaliation (Near and Miceli, 1994). In fact, if the wrongdoing is important for the organization to continue doing its activity, the whistleblower is more likely to be retaliated (Near and Miceli, 1994). Moreover, the dependence from the wrongdoing worsens when managers do not know any alternative activities available.

On the other hand, if the reported wrongdoing harmed the organizational climate¹ or culture², whistleblowers will be less likely to receive retaliation, as the organization is the victim and the whistleblower is actually helping it (Near and Miceli, 1994).

On research conducted by Near and Miceli (1994) concluded that whistleblowers are more likely to receive retaliation when the wrongdoing would harm the organization performance and, contrary what was expected, when the wrongdoing itself damaged the organizational culture or climate. This second result, Miceli and Near (1994) expose those managers could not believe that the wrongdoing was harming the organization or that the managers actually want to harm the organization.

Another power theory is the one which focuses on the *personal bases of power or influence* (French and Raven 1959; quoted in Miceli and Near, 1994), that is, whether or not the whistleblower possesses personal qualities which are unique, for instance, charisma, status, or credibility. The more unique characteristics the whistleblower gathers, the more power he/she will have and, in turn, less retaliation will receive (Near and Miceli, 1994). The fact that a whistleblower is respected, can make him/her receive support from their co-workers, which is important to avoid retaliation (Near and Miceli, 1994).

This can be related with the sources of power (Miceli et. al., 1999 and Regh et. al. 2008; quoted in Kenny, Fotaki and Scriver, 2018), such as the perceived legitimacy or even having a senior role within the organization. These two sources of power decrease the likelihood of retaliation, as the whistleblower is not in a disadvantaged position. On the contrary, factors like threatening the power of the wrongdoer would increase the likelihood of being retaliated (Regh et. al., 2008; quoted in Kenny, Fotaki and Scriver, 2018). In addition, if the wrongdoing is embedded in the corporate culture, the whistleblower is more likely to receive retaliation as well (Near et. al., 1993; quoted in Kenny, Fotaki and Scriver, 2018).

¹ Joyce and Slocum (1982; quoted in Near and Miceli, 1994) described the organizational *climate* as a description of its environment, the individual descriptions of organizational practices.

² *Culture* has been defined by Jacques (1951; quoted in Near and Miceli, 1994) as the traditional way of doing things, which are transmitted to other members within the organizational, as well as the new ones in order to be accepted by the organization

The *power of the minorities*³ is also important (Asch, 1951; Moscovici, 1976; quoted in Near and Miceli, 1994). Minorities can exercise influence by being credible (Moscovici, 1976; quoted in Near and Miceli, 1994). Credibility makes whistleblowers less likely to be retaliated (Near and Miceli, 1994) and can be gained, for instance, when the other co-workers agree that the wrongdoing is real. This credibility and support could not work when the top managers perceive that the organizational structure is in danger, don't want to stop committing the wrongdoing or think that support to whistleblowers may encourage future reporting (Weinstein, 1979; quoted in Miceli and Near, 1994). Then, there is more likelihood of retaliation (Miceli and Near, 1994).

Also, retaliation can be more severe if the wrongdoing affects the public in general⁴ (Near and Miceli, 1994), and whistleblowers who seem more threatening to the organization tend to be more retaliated. Also, whistleblowers who act anonymously but then they had their identity revealed, who were initially unsuccessful in convincing the managers to stop the wrongdoing and those who reported that their values were different according to the managers were more likely to suffer from retaliation (Near and Miceli, 1994).

Power is also used to legitimize isolation (Kenny, Fotaki and Scriver, 2018). Judith Butler (2004; quoted in Kenny, Fotaki and Scriver, 2018) coined the concept of *normative violence*, exerted through established norms and can create exclusion by way of different sorts of violent acts, including the physical. This term is also applicable to the organizational context. Normative violence demonstrates the negative consequences that can result from not submitting oneself to the dominant rules (Kenny, Fotaki and Scriver, 2018). These dominant social norms, according to Judith Butler (2004, quoted in Kenny, Fotaki and Scriver, 2018), define who is “in” and who is “out”, and the ones “out” become subjects vulnerable to violence (Butler, 2004, 2009; quoted in Kenny, Fotaki and Scriver, 2018).

³ A minority (Moscovici, Mucci-Faina and Mass, 1994; quoted in Gardikiotis, 2011) is understood as individuals or groups who express ideas different from the majority of views. These individuals could change the way most people think or behave.

⁴ The public in general is understood as people who is outside the organization (Near and Miceli, 1994).

Also, whistleblowers can also become *excluded individuals*, according to Butler's *Psychic Life of Power* (Riach et. al., 2014; Harding et. al., 2014; quoted in Kenny, Fotaki and Sriver, 2018). To be accepted as social beings, individuals need both social recognition (e.g., by family and colleagues) and symbolic (e.g., to be recognized as professional). In other words, subjects are defined by the norms that define these recognitions and have to stick to those rules in order not to “socially disappear” or to be condemned to “symbolic extinction” (Butler, 1997, 2004; quoted in Kenny, Fotaki and Sriver, 2018). Some of these rules can also cause pain to subjects (Butler, 1997; quoted in Kenny, Fotaki and Sriver, 2018), something which is called *injurious interpellation* (Lloyd, 2005; quoted in Kenny, Fotaki and Sriver, 2018).

<i>Theory/concept</i>	<i>Explanation</i>
Resource dependency theory	Putting in jeopardy the commission of the wrongdoing is risking for the company's performance. The person who puts the company into risk because of reporting is more likely to be retaliated.
The power of the personal bases	Power can be given by personal qualities of the whistleblower, such as legitimacy or having a senior role.
The power of the minorities.	Minorities can exert power by being perceived as credible.
Normative violence	Dominant social norms, also in organizations, trigger violent responses if an employee does not stick to them.
Butler's Psychic Life of Power	People stick to norms because otherwise they would be in “social extinction”. Some of these norms cause pain to subjects.

Table 1: *summary of the power perspective on whistleblower retaliation.*

2.6 Data regarding whistleblowing and retaliation

The European data provided by Transparency International (2021) in the Global Corruption Barometer of 2021 shows that only the 47% of the European employees think that can report without fear, and the 45% is afraid of retaliation. In Spain, the 50% of the workers is afraid of retaliation. In a deeper exploration, this report shows that the 46% of the Spanish workers think that they can report without fear, and the 67% think that reporting can fight corruption. In addition, only the 33% of the interviewees consider that the political power is doing a good job in the whistleblowing matter.

On the other hand, the Global Business Ethics Survey done by the Ethics Compliance Initiative (henceforth ECI)⁵ in 2021, shows that in 2020 the 86% of the U.S. employees reported some of the misconducts they observed. Also, in 2021, the 60% of the abuse of power was reported but only the 40% of the favoritism towards certain employees (like family members or friends) made an employee “blow the whistle”. The 35% U.S. non-management employees did not report because they thought that no action would be taken (ECI, 2021), while the 32% put into question the anonymity and the 29% the confidentiality. Hence, despite more people reported during 2020, it is also a fact that there is still a lack of trust on the reporting channels.

According to the ECI, since 2007 retaliation has been increasing in the U.S. (ECI, 2021). While in 2007 the retaliation percentage was 13% of the employees, in 2020 it increased up to 79% in 2020, which is the highest rate registered in this period (2007-2020). The increase of this percentage started in 2013, when it went from a 22% to a 44% in 2017. Then, the rate has constantly been increasing until 2021.

2.7. Whistleblowing phenomenon in the public sector

This research will be focused on those whistleblowers who reported wrongdoing in the public sector. The public sector is formed by public administration, i.e. an organism which works for the public interest (RAE, 2022) as well as by public companies, i.e. those that

⁵ Non-profit organization which gathers experts from all over the world to improve the programs regarding ethics and compliance (ECI, 2022)

receive public financing and offer a public service (RAE, 2022). Whistleblowers reporting wrongdoing within the public sector, whistleblowers normally act to protect the public interest.

Some famous cases regarding whistleblowers and the public sector have been described over the years. The documentary “Corrupció, l’organisme nociu”, describes the experience of a group of whistleblowers who suffered from retaliation in the Catalan public sector (PandoraBox, 2015). One of them is the case of Maite Carol, who reported wrongdoing in Santa Coloma de Gramanet city council, disclosing a corruption case (PandoraBox, 2015), and because of this she was isolated, humiliated, and finally fired. Also, Itziar González Virós is another famous case of who, after detecting and raising her voice about urban corruption in the Barcelona city council, received a death threat and got burglarized in her house (PandoraBox, 2015). Whistleblowers in the public sector act to protect the public interest (Parramón and Roca, 2017).

According to the European Parliament Resolution to protect whistleblowers acting in the public interest of the 24.10.2017, whistleblower protection in the public sector can help detect embezzlement, fraud, and corruption. This conducts, according to the resolution, damage the institutions and public services, and lessen the trust on transparency.

The Antifraud Catalan Office (henceforth, OAC) published in 2017 a report in which a series of recommendations are given in order to raise awareness around corruption and human rights (OAC, 2017). The report states that the public administration should protect whistleblowers through legislation and risk assessment. Furthermore, the need to repair these victims who suffered from corruption, direct or indirectly is highlighted through campaigns, raising the positive image of whistleblowers or investigating the retaliation they suffered from (OAC, 2017). The OAC also asks for an easy and safe way to report for whistleblowers, as they can put themselves into risk regarding their job (OAC, 2017).

3. Methodology

Qualitative data has been gathered through semistructured interviews to subjects who worked in the public administration and, after the disclosure, suffered from retaliation.

The objective of the interviews was to understand the reasons which led to retaliation, as well as the characteristics of retaliation itself, the culture of the organization where retaliation occurred and what could have been done to repair the harm suffered by whistleblowers (if any).

The participants were provided a consent form and were informed about the terms of their participation, about the academic purposes of the research as well as about all guarantees according to the General Data Protection Regulation⁶. The anonymity of the participants has been ensured by applying anonymization techniques⁷.

3.1 Selection of the participants

The selection of the participants has been **strategical** (Sáez, 2020), hence, to select the appropriate informant the following criteria has been followed:

- a) They worked in the Spanish public administration. “public administration includes both governmental bodies (also local, e.g. a city council or a regional government) and other public authorities (e.g., the Tax Authority); as well as public companies, i.e. those that receive public financing.
- b) They reported wrongdoing in such public administration. They must have reported wrongdoing no matter which channel they chose to use.
- c) They suffered from retaliation. The person must have received the retaliation because of reporting.

Selection has also been **institutional**, because the OAC⁸ provided the access to the subjects of study (Sáez, 2020).

⁶ See Annex 2

⁷ Anonymization techniques consisted of assigning each participant a code (starting from S1 to S3) and omitting in the interview all information which could identify them after transcribing. In the transcriptions, the omitted data is substituted by a label which describes the type of omitted data (e.g. city, employee, or person).

⁸ The Antifraud Office of Catalonia is an institution where people can report via a reporting channel, hence, this organism could have access to the subjects of study (OAC, 2022)

The selected subjects are:

- **S1:** whistleblower who reported a case of corruption in urban planning in a City Council. He/she was in charge of the auditing of the decisions taken in the plenary sessions. He/she was fired after the disclose.
- **S2:** whistleblower who reported fraudulent allocations of contracts for hydric and environmental constructions and false invoices. The reporter was fired and then readmitted.
- **S3:** whistleblower who reported a case a corruption in a Catalan City Council. The reporter was a politician who remained at the institution after the disclose and left in 2014.

3.2 Technique of data collection

The semistructured interviews have been organised in a scheme containing general questions and as well as more specific questions⁹. The three interviewees were contacted via email or personal phone provided with permission to the OAC, and after, were interviewed online. S1's interview lasted 30 minutes, and S2 and S3's 1 hour. The interview was after transcribed.

3.3. Analysis of the interviews

To analyse the interviews, I first transcribed them and then I organised the texts along the following thematic axes:

- a) Reasons to report
- b) Horizontal relations
- c) Vertical relations
- d) Retaliation before whistleblowing
- e) Retaliation after whistleblowing
- f) Organizational culture
- g) Reporting possibilities
- h) System incapacity of repairing harms suffered by whistleblowers

⁹ See Annex 1

4. Findings

The codes will be clustered in the cases in which selected quotes were suitable to be categorized in more than one code, hence, categories combining codes will be created¹⁰. The codes related to the type of relation (vertical or horizontal) and the moment of the retaliation (before or after the reporting) are clustered together because they tend to appear together in a high number of quotes.

4.1 Reasons to report

In this section the reason that made the interviewees report will be described. First, the main observed reason to report is the feeling that reporting is part of their work and not an extraordinary act. Furthermore, whistleblowers do not seek any benefit from reporting, as follows:

“(…) formava part de la meva feina (…)”

S1

“Yo tengo (…) la tranquilidad de que lo único que hice fue hacer mi trabajo, que no (…) hice nada excepcional. Mi trabajo era gestionar dinero público (…)”

S2

“no he fet res extraordinari, estava obligada, si tu ets representant públic, jo no era funcionària però com a funcionari també estàs obligat igual”

“(…) vaig dimitir, mira tu quin rèdit volia traure de tot això (…)”

S3

Another observed reason is the belief of how the public sector should work, i.e. that money should be managed efficiently and according to ethical values specific to the public sector, as stated:

¹⁰ Quotes exposed in the “findings” section will remain in the language in which the interview was conducted to keep the content as faithful as it was said by the research participant.

“(...) penso que una persona que està (...) treballant sigui del que sigui en (...) una... entitat que sigui de caràcter públic on el finançament públic (...) té la obligació ètica de (...) garantir (...) que els recursos estan treballats amb la màxima eficiència i sobretot van destinats a l’objectiu (...)”

S1

“(...) yo termino diciendo que, aun así, yo animo, hay que denunciarlo. Al menos actuar como tú piensas que tienes que actuar, ¿no? según tu ética, según tu moral, si piensas que algo no se debe hacer, haz lo posible para que no se haga (...)”

S2

“Eren la majoria d’ells, tenien un bagatge ètic, una visió del que era (...) el servei públic (...) era una cosa que jo la he “mamada” des del punt de vista polític (...)”

S3

Support is also important when considering reporting. Whistleblowers do not always have all the necessary information to report, and if a person, an employee, or a partner, provides the necessary information to report, the whistleblower will do so, as S3 expressed:

“A mi me les van portar, per la raó que sigui, en mi van depositar la confiança. (...) tothom hagués volgut tenir proves, i el que hagués tingut la prova l’hagués anat a portar (...)”.

S3

4.2 Retaliation before whistleblowing in the context of vertical relations

Before reporting, the upper positions within the organization aim to maintain the rules which govern the organizational culture exerting informal ways of mistreatment, for instance, verbal violence, or threats. Also, potential whistleblowers experience discredit by their superiors, who denied the accusations, as follows:

“(…) els informes eren públics i els llegien, per tant hi havia molta crítica i molta... violència verbal (…)”

“(…) quan això s’havia de portar a aprovació dels acords o havia tenir relació amb (càrrec) o amb altres directius (…) eren molt complexes, perquè eren molt crispades, eren de crits, de insults, eren de (…) ‘t’ho estàs inventant tot’ (…)”

S1

In addition, upper positions can exert progressive pressure against the potential whistleblower, i.e., increasing its intensity from only discouraging to actual threats, as S2 stated:

“(…) al principio las presiones, porque las presiones luego van avanzando, pero las presiones son bastante suaves.”

“(…) luego ya bueno, pues ya empezaron las amenazas, amenazas con destrozar mi carrera profesional, amenazas con despedirme.”

S2

4.3. Retaliation after whistleblowing in the context of vertical relations

After whistleblowing, retaliation in vertical relations can severely impact on different spheres of whistleblowers' life. The power inherent to a vertical relationship in the workplace allows a high degree of affectation as superiors can heavily influence the whistleblowers' incomes, can modify the structure in the workplace or can use different

strategies in order to fire them. The retaliation after whistleblowing can also be progressive, as research participants stated:

“(...) van...aconseguir que un funcionari de carrera demanés la meva plaça i em traguessin del meu lloc de treball. Al primer moment em van treure uns complements, quan jo vaig fer la denúncia (...) em van treure una part (...) d’atribucions i complements, i em van treure gent, i em van treure equip, i em van deixar un despatx diferent, i al cap d’un mes o així (...) van venir a casa, la Policia Local em va comunicar que m’havien cessat (...)”

S1

“(...) lo había puesto en conocimiento ante la Fiscalía Anticorrupción. Esa carta, así que me la contestaron, (...) y recibí una carta de despido.”

S2

Another form of retaliation is the mediatic exposure when the whistleblower wants to remain anonymous. Not only can the identity be revealed against the wish of the reporter, but the wrongdoer could lessen the whistleblower’s credit, as follows:

“(...) quan esclata el (cas), que ell es el que em posa en el ‘disparadero’ des del punt de vista mediàtic.”

“(...) que tot això era un atac a la seva persona (...) i que a més, anava marcant culpable, i entre ells estava jo”

S3

After the whistleblowers leave the workplace, the organization retaliate by preventing the whistleblower from getting a new job using influence to veto them, as research participants stated:

“(...) i ‘varios’ llocs on vaig anar a treballar (...) després de... un parell de dies em deien ‘mira, ho sento, és que ens han trucat i (...) tu no pots treballar perquè vas denunciar un cas’.”

S1

“(...) el mercado laboral yo lo tenía absolutamente vetado (...) habían (...) utilizado todo tipo de artimañas, incluido prensa y demás (...) para desprestigiarme (...)”

S2

The whistleblower has to face the discredit being accused of having committed wrongdoing. For instance, whistleblowers can receive reports which do not end in being judged in a court. Also, there is an emotional and economic cost which derives from all these legal processes. This discredit need not to be based on a report, it can be rumor, for instance, as stated:

“(...) que potser jo tenia, em... que jo havia accedit a la plaça incorrectament, van muntar també dient que jo cobrat de no se què, tot era mentida (...)”

S1

“(...) ya he perdido la cuenta de cuántas denuncias de lo más en imaginativo, sorprendente y variado de... de motivos.”

“(...) ‘no, no te equivoques, (...) van a conseguir que te imputen’. Y efectivamente, pues ahora mismo estoy imputada.”

S2

4.4 Retaliation after whistleblowing in the context of horizontal relations

In this case, the exerted retaliation is informal. For example, workmates pretend they do not know the whistleblower, who suffers the isolation and the lack of support of his/her workmates. Sometimes isolation is not workmates deliberate decision, but rather the result of threats they receive from bosses. Despite this, in a private way they seem to be willing to keep in contact, as expressed in the interviews:

“Si me’ls trobava fora al carrer em deien ‘ei, ho sento molt, pensa que no et puc saludar, clar, si no després tindrè represàlies’, (...), però si me’ls trobava a (institució) (...)mai no em dirigien la paraula.”

S1

“(...)durante muchos meses yo llegaba a la empresa y a parte de un ‘buenos días’, (...) nadie me hablaba. Excepto unos pocos que porque... que por miedo a hablar en público, sí que mantenían contacto en privado.”

S2

Nevertheless, some workmates support the whistleblower. Some of them can be the employees who directly depend on the whistleblower within the organizational structure, as follows:

“(...) les persones que treballaven directament amb mi i que estaven sota el meu càrrec, que aquests van ser molt forts (...)”

S1

“(...) hay algunos compañeros que les que les tengo muchísimo agradecimiento, pues porque son los momentos difíciles en los que nadie te habla durante 10 meses, pues realmente afecta.”

S2

4.5 Organizational culture

The organizations in which the reports took place are described as highly organized places where wrongdoing required more than one employee involved, as research participants said:

“(...) era un lloc especialment organitzat (...)”

S1

“(...) no busqueu mai hola l’aprofitament o la corrupció... no pensem que es veurà mai el full de càlcul o en el pressupost municipal, no es veu res, aquí està tot net i polit (...)”

S3

Also, these organizations are described as places where a normalization of deviance takes place, materialized in norms which everyone follows and which determine the way the organization works. Hence, employees who do not stick to those rules are segregated or perceived as enemies, as they constitute a threat to the deviant norms, as stated:

“(...) eren capaços de dir ‘no, no, havia de guanyar aquesta, però hem intentat que no guanyés perquè clar, segur que aquesta (...) empresa no ens va tant bé’, què vol dir ‘no ens va tant bé’? (...)”

S1

“ahí había una cierta cultura de “¿pero siempre se hace así, ¿no? ¿O sea, esto es lo normal? Ya, como debería ser, pero bueno, ¿pues siempre funciona, ¿no?” Ese... ese, ese esa manera de relativizar.”

“te conviertes en alguien de golpe en alguien incómodo, en alguien conflictivo, en alguien que realmente que genera una cierta sospecha.”

“(...) la gente que se oponía eran apartados y los que colaboraron, o los que en su día colaboraron, que ahora están imputados, pues promocionaron, subieron el sueldo...”

S2

“Era governar, diguéssim, a (ciutat) amb (persona) perquè no sabríem mai per entendre’ns el que passava en el govern (...)”

S3

The managerial style in which these norms promoting wrongdoing take place can be hostile when the power is confronted. The interviewed described their workplaces as hostile when they broke the established dynamics:

“(...) hi havia permanentment la sensació de que ‘estàs amb mi o contra mi’ (...)”

S3

The wrongdoing or the non-ethical conducts tends to progressively intensify, i.e., at first, these conducts are subtle and scale in their lack of ethics, as follows:

“(...) va com evolucionant, primer és un ‘home, passa això, no se què, fes un informe que això ens aniria molt bé’, saps?, i va entrant sense adonar-se’n i èticament estan fent una cosa que no correspon (...)”

S1

“(...) es normal aceptar que los contratistas te inviten a comer (...) luego ya, a partir de ahí, pues te invitan (...) a la (actividad de ocio) (...)”

S2

This could escalate until employees even lost the perception of the lack of ethics of the actions they were doing. Hence, employees saw wrongdoing as a part of the way of working of the organization. In other words, these practices were embedded in the organizational culture, as quoted:

“(...) el funcionament és com entrar dins una forma de fer entre que ‘això ens interessa i interessa a (institució), i interessa a no se què, i tal, però aquí hem de cedir en algunes coses’, (...) és com una ambigüitat, (...) jo no crec que hi havia algú que deia ‘vaig a fer això que està expressament malament’.”

S1

This normalization can happen because of the repetition of these conducts, which turn to be perceived as normal, as S2 stated:

“(...) ahí había una cierta cultura de ‘¿pero siempre se hace así, ¿no? ¿O sea, esto es lo normal? Ya, como debería ser, pero bueno, ¿pues siempre funciona, ¿no?’ (...) esa manera de relativizar.”

S2

This does not mean that employees are completely unaware of this lack of ethics, i.e., they know that those acts are wrong, but they see them as normal. Hence, there is not ignorance about the acts: employees just act according to the social norms that normalize wrongdoing, as follows:

“Las cuestiones que todo el mundo saben que están mal, o sea, nadie tiene una percepción errónea del bien y del mal (...)”

S2

With regard to the benefit obtained from the wrongdoing, it is obtained by the employee. As the company or the institution is public, it does not receive any benefit as the aim of the organism is not to make profit, as stated:

“La empresa se veía muy perjudicada, ¿no?, (...). Eran las personas que se querían beneficiar del asunto (...) ese beneficio era a costa de (...)las arcas públicas.”

S2

Concretely, personal benefits not necessarily consist of money: they could also consist of a better consideration or a higher position. In other cases, silence ensures the employee can continue in the institution.

“(...) s'emporten diners, s'emporten prestigi, s'emporten posicions diferents, no se què, a canvi de mirar cap a un altre costat, fer informes sense contingut (...)”

S1

“(...) com no veies, com ho escoltaves, com no te n'adonaves? Clar que ho veies, clar que escoltaves i clar que te n'adonaves, però volies continuar, saps que vull dir? És així de trist o de real, llavors per això no volia continuar.”

S3

4.6 Possibility and difficulty of reporting

In this section, the different aspects regarding reporting will be analyzed, i.e., the elements that favour the report and the ones that hinder it.

With regard to the existence of reporting channels when the whistleblower reported, apparently there was not any reporting channel through which they could report. Hence, they had to find another way to report.

“Entrevistador: hi havia algun canal de denúncia disponible en el teu lloc de feina?”

Entrevistat/da: no, no, no, no... fa molts anys, eh... jo que crec que no...”

S1

“Bueno, en aquel momento no había nada. (...) Ahora, si en aquel momento yo también acudir, por ejemplo, pues acudía, al ser una empresa pública, el director de Administración y Finanzas (...)”

S2

“Entrevistador: això és tot, entenc llavors que a (institució) no hi havia cap canal de denúncies...”

Entrevistat/da: no, no...”

S3

This lack of resources makes the reporting more difficult and the whistleblower vulnerable, because the lack of formal procedures which guarantee confidentiality leaves the reporter exposed, as stated:

“era molt difícil llavors, eh, era molt difícil, perquè fins i tot jo vaig intentar buscar no se què, i em van dir ‘no, no, no, l’únic que pots fer és enviar sindicatura’, no hi havia cap canal en aquell moment (...)”

S1

“(...) para poder denunciar algo, porque la otra es ir a la justicia, pero la justicia, evidentemente, no te asegura anonimato (...)”

S2

The inexistence of a formal procedure was followed by a negative perception of reporting, i.e., it was not just that there wasn't any channel, but that the institution saw the reporting as negative and hadn't the will to deal with it appropriately.

“(...) 'Te estás metiendo (...) donde no te llaman. No quiero saber nada, no me lo cuentes. (...) y aquí no ha pasado nada, tú no me has contado nada'.”

S2

It is also important to mention that whistleblowers could not have legal knowledge. This can make the whistleblower doubt if the wrongdoing they are noticing is actually a wrongdoing, which in turn can make the whistleblower doubt on reporting or not. Also, they may not know the procedure, or the competent authority to receive the complaint, as S2 expressed:

“(...) '¿vale con esto, dónde voy? Voy a la policía, la Guardia Civil, ¿Dónde?' (...) no tienes por qué saber ni cuáles son los procesos y los procedimientos, ni nada de nada, y luego además que da un poquito de vértigo, (...) tampoco sabes si eso es un delito (...)”

S2

Furthermore, in cases of corruption, it can be more difficult for whistleblowers to gather evidence.

“L'homicidi i les proves son properes i la persona queda qüestionada de seguida, però en aquests casos no, en la majora d'aquests casos, no (...)”

S3

4.7 System incapacity of repairing harms suffered by whistleblowers

The system is described as incapable of deliver an appropriate reparation. First, because there is not always the will to repair as it can be seen as a recognition of guilt. The bad image that can be given also prevents this reparation from happening. The influence of powerful actors can also play a key role, as stated:

“(...) com que està la persona que tu denuncies té una estructura política darrera, la seva imatge també toca la imatge del seu partit, no sé què... fa que... reparar-te sigui acceptar que ells han fet una cosa malament, no?”

S1

4.8 Ways of reparation

In this section, the different perceptions on how a whistleblower could feel repaired will be given.

First, to be recognized by justice can constitute a form of reparation. This would mean that what the whistleblower said was true and that the wrongdoing actually happened. Social recognition is also valued, as research participants state:

“(...) el temps... va donar-me la raó, els jutges em van donar la raó, la fiscalia em va donar la raó, i mediàticament vaig sentir-me reparada (...) m’he sentit reparada per la societat, no per ells, i (...) professionalment, al cap del temps, també m’he sentit reparada, jo ara estic treballant a una administració pública i (...) el que abans era un problema ara és un valor (...)”

S1

“(...) hi ha hagut molta gent que m’ha dit “vas fer el que tenies que fer”, el gràcies ja m’ho ha donat la gent, ja m’ho han compensat, jo no he tingut mai a (ciutat), mai, ningú que m’hagi girat la cara, algú que m’hagi senyalat en negatiu (...)”

S3

Whistleblowers sometimes are blamed for what occurred, because if the company's image is damaged, the company and the workers suffer negative consequences. Hence, reparation could consist of recognizing the whistleblower as "a worker who did their job", not a hero, as follows:

"(...) no tanto que me den las gracias (...) pero que no me culpen de lo que ha ocurrido (...) no son culpables lo que los que han hecho algo mal, o sea, soy culpable yo (...)"

"(...) me gustaría que (...) se dijera, 'oye, pues esta chica ha hecho lo que tenía que hacer y punto'."

S2

"(...) fer un reconeixement 'mira, a aquesta senyora li posarem no sé què', no ho faran mai (...)"

S3

It would be very important to reestablish the previous labour situation, and this can be possible by letting a person in a public administration change the place they work and go to a similar workplace, as S1 states:

"(...) Jo haig de poder decidir 'jo vull canviar de lloc, jo vull que em mantinguis les condicions econòmiques perquè jo no he fet res per reduir-les, però vull decidir a quin lloc me'n vaig'."

S1

5. Conclusions

In this section, I will expound the key findings of my research, articulating theoretical “state of art” and empirical outcomes. I will specifically touch upon the reasons behind retaliation related to whistleblowing, as well as the characteristics of retaliation, the culture of the organization where it occurs and what could be done in order to repair the harm.

1.- The decision to report wrongdoing arises from kind of perceived moral duty to do so. This duty comes from a negative attitude towards the wrongdoing because interviewees see it as damaging to the public sector, which they perceive as important. Hence, moral values regarding how the public sector and the budget should be managed are important when deciding to report.

2.- Whistleblowers decide they must report despite the fact that the norms of the institution are against blowing the whistle, as it breaks the wrongdoing dynamics, and although it is difficult to report, since no formal procedure is available. This happens because the duty to report overweighs the difficulties and the retaliation they could suffer, and because in all the research cases there was a workmate or an external figure who promoted the report or supported the whistleblower.

3.- Retaliation before whistleblowing is aimed at discouraging the report while retaliation after reporting is aimed at punishing the whistleblower, i.e. it is an actual revenge and it does not aim to achieve any useful objective to protect the organization. In the contrary, discouraging does aim to protect the wrongdoing dynamics and the organization.

4.- Retaliation increases along the time from more subtle forms to more serious ones. The gathered findings support this idea, although before reporting the most serious form of retaliation is a threat. It does not happen so in retaliation after whistleblowing, which can scale from informal forms of retaliation to more serious forms, for instance, expulsing the whistleblower from the organization or vetoing them from getting a job. Hence, retaliation after reporting scales to more grave forms of retaliation.

5.- In horizontal relations context is informal, i.e. it can be exerted in the usual context of social relations, for instance, ignoring a person. On the other hand, retaliation in vertical

relations is typically formal, for instance, after whistleblowing, reporters described they were isolated or expelled from the organization. Hence, the organizational role is important when it comes to retaliate. Vertical relations interact with horizontal relations because those superiors can shape them to act against whistleblowers. Research participants stated that they suffered from isolation at work, but when they met their workmates outside, their relations did not seem to be different from before. This can be explained because workmates fear retaliation and/or because they are promised a better treatment or position by the employees in upper positions.

6.- In all this context, the organizational culture plays a key role, as it is capable to shape the relations – both vertical and horizontal, because the way the managers relate with the employees and the employees among them is influenced by the aim of maintaining the wrongdoing dynamics – and to define which conducts are normal, disregarding if they are ethical or not. Hence, breaking this sense of normality causes retaliation, as the benefit obtained from the wrongdoing is jeopardized. In short, retaliation appears when the dominant deviant rules are endangered by a possible disclose of wrongdoing.

7.- Power plays an important role as a source of retaliation. Specifically, power related to the organizational role of the wrongdoer is important, as it provides the chance of retaliating in a grave way because of the possibilities the role provides to retaliate in a formal way.

The whistleblower's organizational role does not seem to be a source of power to prevent being retaliated as all research participants had a high role in their organizations, because there were employees with more power and higher positions than them, precisely who exerted retaliation. Despite having higher positions, research participants were retaliated anyway. Hence, it can be reasoned that position does not work as a personal power base as long as there is a person with a higher role.

8.- To prevent retaliation a cultural change regarding the image of the whistleblower is needed, as they still have a traitor image. The whistleblower protection law can help reach this cultural change (Parramón, 2022). This is also stated by research participants, who think they are perceived as traitors.

9.- This has a negative impact in the whistleblower's emotional state, as they suffer from discredit and are deprived from getting a job outside the organization, one of the most important elements in an individual's life. To repair the harm, it could be useful to socially recognize the task of the whistleblower and not considering them as traitors, and to reestablish the previous labour situation, which can deeply affect their living conditions. Also, the media seems an useful tool to reach this recognition, as well as a succeed in a judicial process.

Ultimately, considerations regarding the Spanish law draft will be given.

A.- The obligation to report first via internal channel could increase the difficulty to report because, if the organization's culture is based on deviant norms, reporting is perceived to break the "rules of the game" and the organization could not deal with the report correctly. Hence, there should be the possibility to report externally in first instance.

B.- The reparation measures attempt to restitute the whistleblower's situation before reporting, and if that is not possible, to compensate him or her. The problem is that when restitution is not possible there is not a recognition to the whistleblower, as it would happen on the contrary, as whistleblowers could feel that their action to report and them as a reporter were recognized. Hence, if the whistleblower is expelled from the organization and just receives money, there is not a public recognition of the duty accomplishment. Also, research participants exposed how recognitions could have contributed to their reparation, hence, this is an important that should be included.

C.- Another point that the law draft misses is the protection to the facilitator, i.e. the person who helps the whistleblower to report and the journalists who can help to disclose the information (Parramón, 2022). These are key actors who are unprotected, and, because of this, the reporting decision could be negatively affected as facilitators may prefer not to intervene for fear. Facilitators, as stated by research participants, may provide evidence of the wrongdoing, which might be crucial to report.

D.- Retaliation can vary in many forms, for instance, verbal, labour or judicial (Parramón, 2022). This was also stated by research participants, who suffered from a veto in their sector and were accused falsely of having committed corruption. Hence, it would be

positive that the organism processing the reports had an economic fund to help whistleblowers pay the costs of the judicial process. In addition, the draft also misses some sectors, for instance, the police (Parramón, 2022).

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Annex 1: interview questionnaire

The questionnaire is written in Spanish as the interviews have been done in Spanish or Catalan.

Pregunta rompehielos: destinada a crear un clima de confianza. Por ejemplo, preguntándole si quiere que se le trate de tú o de usted, o una pregunta más mundana, por ejemplo, sobre el tiempo. No nos proporciona información, nos ayuda a crear confianza y que el informante se destense, cosa que a la vez favorecerá la obtención de información.

Pregunta generadora 1: Respecto a su vivencia, ¿nos podría contar su caso?

- Pregunta específica 1: ¿Denunció a través de canal interno o externo?

En esta pregunta nos interesa saber los hechos acontecidos en el caso para tal de contextualizarlo, por ejemplo, viendo que tipo de violencia se ejerció, durante cuánto tiempo o en el marco de qué relaciones (verticales o horizontales), por ejemplo.

P.G. 2: ¿Qué considera que le llevó a denunciar?

- P.E. 1: ¿Cuáles son/eran los canales de denuncia disponibles en tu organización?
- P.E. 2: ¿Cómo se consideran/consideraban las conductas no éticas en tu empresa?
¿En qué grado ocurrían?
- P.E. 3: ¿Cómo está/estaba considerado el hecho de denunciar en tu institución?
- P.E. 4: ¿Consideras que es/era sencillo denunciar en tu organización?

En esta batería de preguntas nos referimos a la toma de decisión de denunciar, considerando las vías disponibles y la teoría del comportamiento planeado de Ajzen, que intenta predecir el comportamiento ético basado en 3 parámetros: actitud frente al comportamiento, normas subjetivas y control percibido.

P.G. 3: ¿Qué beneficios obtenía la entidad por la comisión del delito?

P.G. 4: ¿Cómo era tu relación con tus jefes y con el resto de compañeros?

Estas preguntas se dirigen hacia las dinámicas de poder que pueden generar venganza, es decir, si es delito era crucial para la supervivencia de la entidad, si es una persona respetada, con apoyos o con cualidades únicas que le confirieron poder.

P.G. 5: ¿Qué acciones serían, a tu juicio, las pertinentes, para sentir que se ha reparado el daño infligido?

- P.E. 1: ¿Qué carencias crees que existen respecto a la capacidad reparadora del sistema en estos casos?

Con estas preguntas, queremos saber cómo se sentirían reparados estos sujetos.

Posteriormente, se produciría el cierre de la entrevista, agradeciendo la participación.

**CONSENTIMENT INFORMAT PER REALITZAR ENTREVISTES
QUALITATIVES EN EL MARC DEL TREBALL DE FINAL DE GRAU DEL
GRAU DE CRIMINOLOGIA DE LA UAB:
“EL WHISTLEBLOWING AL SECTOR PÚBLIC”**

Autor: Jan Cubillo Solà

El present document consta de dues parts:

Part I: Full informatiu per als participants en les entrevistes qualitatives amb informació relativa al Treball de Final de Grau en el marc del qual es realitzen les entrevistes i també informació sobre el contingut i estructura de l'entrevista.

Part II: Formulari de Consentiment Informat (FCI). Aquest haurà de ser emplenat i signat individualment per tots els participants en les entrevistes.

Invitació a participar

Benvogut/Benvolguda,

Vostè, en tant que alertador/a, ha estat seleccionat per ser entrevistat per l'alumne del Grau de Criminologia de la UAB, Jan Cubillo Solà, en el marc del seu Treball de Final de Grau (TFG) titulat: El whistleblowing al sector públic, que defensarà el proper mes de juny de 2022. Aquest treball està dirigit per la Dra. Daniela Gaddi, professora del Departament de Ciència Política i Dret Públic de la UAB.

L'objectiu de l'entrevista qualitativa és l'obtenció de la seva opinió en relació a un seguit de qüestions significatives relacionades amb la seva vivència com a alertador/a. En cap cas serà requerit a manifestar opinions o experiències personals que vostè no vulgui voluntària i lliurement compartir amb l'autor del treball de final de grau. La participació serà sempre voluntària.

L'entrevista consisteix en 5 preguntes semi estructurades sobre els aspectes exposats anteriorment i es calcula que tindrà una duració aproximada d'uns 30 - 45 minuts.

L'entrevista es podrà realitzar via telefònica, a través de qualsevol aplicació de vídeo conferència o bé també podrà contestar les preguntes per escrit i enviar-les a través de correu electrònic a l'alumne Jan Cubillo Solà (jan.cubillo@autonoma.cat).

Si vostè ho autoritza mitjançant el seu consentiment explícit, l'entrevista serà enregistrada en àudio (veure Part II del document) amb la única finalitat de transcriure el contingut de l'entrevista i facilitar l'anàlisi posterior de la informació. Aquest contingut no serà disseminat en cap cas al marge del context del treball d'investigació de referència i sense el seu consentiment explícit, lliurement atorgat y per escrit.

Tanmateix, vostè podrà legítimament no autoritzar enregistrar en l'àudio de l'entrevista, sense perjudici pel que fa a la seva participació.

Les dades que vostè faciliti durant l'entrevista seran tractades només per l'autor del TFG, l'alumne Jan Cubillo Solà, i seran incloses en annex del seu treball de recerca, aplicant mesures tècniques d'anonimització de les dades.

Voldria agrair la seva contribució a l'estudi de referència. La seva participació és apreciada i altament valorada.

Part I: Full Informatiu

Objectiu de la recerca i de les dades obtingudes a través de l'entrevista

1. Realització del Treball de Final de Grau titulat "El whistleblowing al sector públic" per part de l'alumne del Grau de Criminologia de la UAB, Jan Cubillo Solà
2. Les entrevistes qualitatives que es duren a terme en el context d'aquest treball de recerca tenen com a objectiu resoldre un seguit de qüestions rellevants relacionades amb el seu cas com alertador/a.

Persona de contacte responsable de l'activitat: Jan Cubillo Solà (jan.cubillo@autonoma.cat).

Descripció de l'entrevista i condicions de la participació voluntària

- **Protecció dels drets de l'entrevistat:** en cas de facilitar informació confidencial en el decurs de l'entrevista o si vostè no es troba còmode amb algunes de les preguntes o temàtiques a tractar, l'obligació i compromís de l'investigador serà facilitar el màxim grau de protecció en termes de mantenir la confidencialitat de la informació obtinguda. Vostè no ha de contestar cap pregunta o debatre qüestions que consideri que extralimiten l'àmbit del treball de recerca, i per tant, consideri que són inapropiades segons l'objecte de l'entrevista. Si vostè durant o després de fer l'entrevista considera que hi ha alguna informació que no hagués volgut facilitar, només ha d'informar al responsable de l'activitat i es procedirà a l'eliminació d'aquesta informació.
- **Participació voluntària:** la seva participació és voluntària. **No es rebrà cap incentiu pel fet de participar** en la recerca de referència. Si vostè accedeix explícitament facilitant el seu consentiment per escrit, la seva participació serà reconeguda i mencionada en la recerca de referència.

Quina informació/tipologia de dades seran recol·lectades, quan i com: les seves dades personals (nom, cognom, dades de contacte) seran recol·lectades i tractades per l'autor del TFG de referència. Aquestes dades només seran tractades a efectes de procedir l'activitat de recerca objecte d'aquest formulari de consentiment informat: realització de l'entrevista qualitativa. De forma general, les seves dades personals seran anonimitzades i les referències o cites literals que es puguin incloure de l'entrevista no inclouran dades de caràcter personal, evitant així qualsevol possibilitat d'identificació. Aquesta informació serà eliminada immediatament per part de l'autor del TFG, després de completar el mateix. Tanmateix, si vostè facilita el seu consentiment de forma lliure i

per escrit, l'autor de la recerca podrà associar i fer evident les opinions que vostè a manifestat amb la seva identitat. És a dir, que vostè accedirà a fer explícit i evident que les opinions expressades han estat manifestades per vostè. En qualsevol cas, l'investigador respectarà la seva decisió al respecte. Si vostè no autoritza i per tant no facilita el seu consentiment, aquest fet no afectarà negativament la seva participació en la recerca.

Si vostè accepta ser enregistrat (àudio) durant l'entrevista, la seva veu també seran tractades amb l'objectiu de transcriure el contingut de l'entrevista i posterior anàlisi de la informació obtinguda, i seran eliminades així es procedeixi a la transcripció per part de l'investigador autor del TFG. Tota la informació que vostè faciliti serà tractada anònimament a efectes de publicació i disseminació de la recerca. Això implica que sota cap circumstància les seves opinions, visions expressades en el decurs de l'entrevista seran associades a les seves dades personals.

Part II: Formulari de Consentiment Informat (FCI)

Dades voluntàries del participant: (Per ser completades per l'entrevistat)

Nom i Cognom:

E-mail:

Participació voluntària i dret a retirar-se/revocar el seu consentiment:

La seva participació en el marc del TFG de referència és totalment voluntària. Vostè és lliure de retirar el consentiment a participar en la recerca en tot moment, sense necessitat de justificar aquesta decisió i sense cap mena de conseqüències. Vostè manté tots els drets que la legislació en matèria de protecció de dades nacional i europea li confereix: dret d'accés, dret de rectificació, dret de supressió, dret a la limitació del tractament, dret a la portabilitat i dret d'oposició.

Garantia de tractament confidencial de les dades per part de l'investigador:

L'autor del TFG, garanteix la confidencialitat de la informació facilitada en el context de les entrevistes.

Les dades proporcionades durant l'entrevista seran tractats respectant la Llei Orgànica 3/2018 de Protecció de dades personals i garantia dels drets digitals, així com el Reglament 2016/679 del Parlament Europeu i del Consell relatiu a la protecció de les persones físiques pel que fa al tractament de dades personals i la lliure circulació de dades.

DECLARACIÓ DE CONSENTIMENT LLIURAMENT ATORGAT

Data:

Lloc:

He llegit la informació facilitada a efectes de realitzar l'entrevista en el marc de la recerca de referència. He tingut l'oportunitat de preguntar sobre aquesta y els dubtes al respecte

han estat satisfets. Mitjançant la signatura del Formulari de Consentiment Informat manifesto que he entès i estic d'acord amb els termes en què es desenvoluparà l'activitat de recerca proposada segons la informació anterior facilitada.

Signatura: _____

ADDITIONAL (Opcional) CONSENTIMENT PER ACTIVITATS DE RECERCA ESPECÍFIQUES-
Llegir, si us plau.

Enregistrament Àudio: manifesto voluntàriament el meu consentiment a ser enregistrat en àudio durant l'entrevista per part de l'autor de la recerca.

☐ Consento voluntàriament per ser enregistrat

☐ No consento voluntàriament per ser enregistrat

Signatura: _____

Reconeixement i consentiment explícit: Consento voluntàriament a que les meves opinions personals o professionals manifestades durant l'entrevista s'associïn al meu nom, cognom i perfil professional i a que *-quan es consideri rellevant i útil a efectes de la recerca objecte d'aquesta entrevista-* s'inclouï el contingut en el TFG de referència.

☐ Consento voluntàriament al tractament de les meves dades personals en els termes indicats

☐ No consento voluntàriament al tractament de les meves dades personals en els termes indicats

Signatura: _____