

IPA TWINNING PROJECT „SUPPORT TO EFFICIENT PREVENTION AND FIGHT AGAINST CORRUPTION “

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Handbook on Protection of Whistleblowers

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1 Foreword

Dear Reader,

This handbook has been produced as part of the EU funded Twinning Project “Support to efficient prevention and fight against corruption.” It serves to provide a transparent and comprehensible description of the necessity for and the protection of whistleblowers as well as their practical application in the fight against corruption. This handbook is aimed at readers involved in public administration but also at the general reader.

What is our objective?

A largely corruption-free administration must be the objective of every democratic state, operating under the rule of law. Corruption undermines faith in a legitimate, transparent and democratic administrative service. Corruption endangers the rule of law. When legally defined decision-making procedures come to be undermined with the aim of protecting illicit vested interests, either through the payment of bribes or the granting of illegal benefits, this is to the detriment of the public good. The damage caused by corruption is invariably suffered at the expense of citizens and the public good. Corruption inflicts sustained damage on a country’s economy and negatively affects its development and prosperity. The most problematic and sustained strain on public finances is not the bribe itself but the corrupt use or misappropriation of public funds that accompanies it - as these amount to sums often many times higher than the actual bribe itself.

By their very nature, carrying out or being implicit in corrupt acts relies on secrecy and discretion. It is in the clear interest of both parties involved - the briber and the recipient of the bribe - that details of illicit transactions do not come to light. Participation in such transactions makes both parties liable to face prosecution under the relevant criminal law provisions. In many cases, evidence of such illicit dealings only surfaces with the aid of internal or external witnesses. These witnesses are usually placed under considerable pressure and often find themselves being deliberately and incorrectly identified as informers by those involved in the illegal operations.

Crucially, however, it is precisely these individuals who maintain and protect the legitimacy of a democratic administration. For this reason, these individuals deserve the upmost respect and protection against reprisals.

2 What is corruption

The term 'corruption' is as opaque as the structures in which it thrives. There are numerous definitions. Transparency International works with the following:

Corruption is the abuse of entrusted power for private gain.

Whether active or passive bribery in business transactions across or within national borders, whether venality within political spheres or devising to gain advantage through bribes - corruption causes not only material damage, but undermines a society's very foundations. All sectors of society can provide the structural gateways that foster corruption.

Corruption (from the Latin *corruptio*, depravity, perversion, bribery) in the legal sense, is the abuse of a position of trust in the functioning of administrative bodies, the judiciary, the economy, the political system or within non-economic consortia or organisations in order to obtain for themselves, or for third parties, a tangible or intangible advantage, to which they have no legitimate claim.

Corruption denotes corruptibility, bribing, and the acceptance or granting of benefits or advantage.

The IMF estimates that the cost of global corruption ranges between 1.3 and 1.75 trillion euros, weakening global economic growth by around two percent.

3 What is whistleblowing?

The informant, witness, or whistleblower plays a special and prominent role in both the repressive and preventative approaches taken in the fight against corruption.

Abuses within companies or government institutions are sometimes only exposed through the disclosure of information. The provision of such information falls under the term 'whistleblowing'. Whistleblowing can be an essential part of throwing light on to malpractice. Often it is this information that forms the basis of the initial administrative enquiry, internal or external investigation. The result of which can see criminal penalties being incurred.

Whistleblowing requires knowledge of insider information and courage. The exposure of wrongdoing reported by whistleblowers has made a considerable contribution to establishing a more transparent society, a contribution that cannot be overstated. It is crucial, therefore, to recognise that if the structures aimed at protecting whistleblowers are lacking or not in place, the whistleblower is at risk of unjustly being vilified as a traitor.

The consequences of this are as follows: Whistleblowers feel intimidated and suffer personally from discrimination, harassment or live with the fear of dismissal.

For employees, whistleblowing means opposing or providing information on observed cases of corruption or unlawful, dishonest or ethically dubious practices in the professional environment for non-selfish reasons.

To this end, the whistleblower should be afforded protection against hostility and sanctions under employment law measures.

In the spring of 2016 the Parliament of the beneficiary country legislated on the protection of whistleblowers and introduced a law to ensure that they are provided with the necessary protections. These will be explored in closer detail later. As a result of this legislation, the Government has adopted additional guidelines for dealing with this law. These guidelines are considered and described in more detail later in this work.

4 Laws and regulations

4.1 Law on whistleblowers' protection

In the rest of this handbook, the relevant laws and regulations for the protection of whistleblowers are described colloquially. This should serve as a guide and overview for the reader rather than a replacement of the necessity to look into relative laws and regulative texts in an individual given case.

4.1.1 Confidential information transmission and protection of whistleblowers

The law on whistleblower protection, adopted in the spring of 2016, regulates the protected disclosure of information, the rights of the whistleblower, as well as procedure and the duties of the institutions involved, meaning the legal persons serve to safeguard protected information disclosure and the securing of whistleblower protection.

This law stipulates that a whistleblower is any individual who, with good and ethical intent, endeavors to supply information about a perceived and intentional past or future case of misconduct in public office or the private sector.

Both the identity of the whistleblower and the data or information supplied are afforded special protection.

Categories of persons, who may acquire the role of a whistleblower are:

- a person, who has a fixed-term or permanent contract of employment with the institution or the legal person, related to his/her information disclosure;
- a candidate of receiving an employment contract, a candidate for a volunteering position or an intern with the institution, related to his/her information disclosure;
- a person, who currently is or has been a volunteer or an intern in the institution, related to his/her information disclosure;
- a person, who has been engaged in any other way with the purpose of executing work activities by the institution, related to his/her information disclosure;
- a person, who has been or is in a business relation or in cooperation with the institution in any other way, related to his/her information disclosure;
- a person, who has been using or is using services in the institution or the legal person in the public or private sector, who is related to his/her information disclosure;

The whistleblower is warranted, in agreement with him or her, statutory safeguards against reprisals and is afforded anonymity, together with assurances relating to the confidential

handling of the information supplied. The whistleblower is not obliged to prove his good intentions and veracity.

The whistleblower's right to anonymity can be limited by a judicial decision.

The law on whistleblowers' protection safeguards both the transfer of information from inside public administrative or legal bodies, which endanger the public good, as well as information disseminated from external sources that relate to perceived misconduct within it. The information may be provided orally, in writing or in the form of a protocol.

According to Article 4 of the law:

Protected information disclosure shall be conducted within an institution or within a legal person, where a doubt or suspicion exists that an unlawful or other inadmissible activity has been, is being or will be conducted, which endangers the public interest.

To this end, an authorised person charged with the responsibility of receiving such information will be instated in each institution. In the case that no such authorised person is available within the institution, the whistleblower may pass on the relevant information directly to the management of the institution concerned.

The authorised person is obliged to follow up on the information provided, to protect the anonymity of the whistleblower and to inform the whistleblower within a period of 15 days as to the provisions enacted as a result of the information supplied.

The whistleblower is also able to safely share this information with the Ministry of the Interior, the Public Prosecution, the State Commission for Prevention of Corruption, the Ombudsman, and other relevant institutions in the event that the information relates directly or indirectly to a leading figure of a corresponding institution, or the whistleblower receives no information regarding the provisions enacted within the 15 day period, or no provisions are enacted as a result, or the whistleblower is dissatisfied with the provisions or is able to determine prejudice aimed at them personally or at someone close to them.

In the case that the receiving body is not authorised to accept the information, the said receiving body should relay the information to the relevant body within eight days of receipt of the information and inform the whistleblower of this.

The aforementioned government bodies are also required to implement the relevant protectionary measures for the protection of whistleblowers. Moreover, these bodies are obliged to provide the whistleblower with follow up information and report on the enacted provisions that have come about as a result of the information provided. The whistleblower is also granted the right to view the relevant documentation in accordance with the law on whistleblowers' protection, if the whistleblower so wishes.

The above-mentioned bodies are also obliged to inform the whistleblower of the results of the proceedings.

In very special cases, the whistleblower is granted permission to disseminate the information openly so as to make it publicly available. Article 6 of the law states the following:

The whistleblower can perform a protected public information disclosure by making information public on an unlawful or prohibited activity, which has been conducted, is being conducted or might be conducted, which harms or endangers his/her life or the life of his/her close person, endangers people's health, security, environment, may cause damages of big proportions and if there is an immediate danger of evidences' destruction.

The dissemination of information in the public sphere obliges the whistleblower to comply with the presumption of innocence, respect the right to protection of personal data and be cautious not to compromise legal proceedings.

The whistleblower should be aware that an infringement of Article 6 results in loss of entitlement to protection under the measures stipulated in the Whistleblower Protection Act

4.1.2 Protection of a whistleblower's identity and personal data

Disclosure, or facilitating the disclosure of a whistleblower's identity is prohibited under the Law on the protection of Whistleblowers, unless a judicial decision states otherwise.

The designated persons, warranted to receive the information provided by whistleblowers, have a duty of confidentiality with regard to the whistleblower's personal information, as do those who are in a position to potentially reveal the whistleblower's identity. This, however, does not apply if the whistleblower is content that his identity be disclosed

This duty of confidentiality applies to all persons who are in receipt of information regarding whistleblowers.

In the case that the whistleblower's anonymity hinders the successful running of proceedings, the duty falls on the above-mentioned designated person to inform the whistleblower of the possible necessity for identity disclosure. If such a situation should arise, the whistleblower is to be informed of the additional protectionary measures envisaged by the authorised body.

The whistleblower is to be made aware of these at the earliest opportunity by the above-mentioned designated persons. The whistleblower's identity may not be made available to the party or parties, reported by the whistleblower.

4.1.3 Guaranteeing a whistleblower's security

The whistleblower or persons close to them are to be afforded protection against all breaches of law or reprisals that could occur in relation to their protected information sharing.

Article 8 of the law on the protection of whistleblowers states the following:

The whistleblower or his/her close person are guaranteed protection from any kind of rights' breaches or harmful actions or from danger coming from harmful actions due to the conducting of protected internal and external or protected public information disclosure.

In practice, this means that no legal measure, enshrined within labour law or other legislation, may affect or jeopardise the free dissemination of information on the part of the whistleblower.

If this protection cannot be granted, the whistleblower can report to the State Commission for Prevention of Corruption, the Ombudsman of the Republic, the Inspectorate's Council, the Ministry of the Interior and to the Public Prosecution Office. The relevant body will then take immediate action.

Protection under the law is also granted to those individuals who are suspected of being involved in whistleblowing.

The above-mentioned bodies demand that the relevant bodies or legal entities grant immediate assurances to the whistleblower. In turn, these relevant bodies are required to forward the requested information without delay and no later than eight days from submission.

If the suspicion is confirmed that the rights of the whistleblower or those of their family are being infringed upon, it falls upon the specified bodies to promptly ensure, by means of written request, that the infringing parties cease and that the infringement in question be stopped immediately. The above-mentioned authorised bodies are required to inform the whistleblower immediately of the actions undertaken in such an event. If, despite the actions taken by the whistleblower and their family, the violation of their rights does not desist, a criminal case should be brought forward within a period of eight days. In addition, proceedings should be initiated in front of competent authorities for dismissal, shift, change or implementation of other accountability measures for the elected and appointed persons, officials and responsible persons in public enterprises and other legal persons, who dispose of state capital.

In the event that the whistleblower could be endangered as a result of being compelled to give evidence in extremely challenging cases, such relative bodies as the Minister of the Interior or the Public Prosecution authorities are to start proceedings to secure the admis-

sion of the whistleblower into witness protection, as stated in the Witness Protection Act for Whistleblowers. Legal proceedings, in which this may be warranted include: offences against the state, crimes against humanity, breaches of international law or an act of organised crime warranting a prison sentence of at least four years, as stated in the Criminal Code.

It is highly recommended in such an event that a consultation with the appropriate senior prosecutor be sought.

4.1.4 Judicial protection and burden of proof

The whistleblower can attain the required legal protection from the court in the event that their rights have been infringed upon.

This legal protection includes the registration of a corresponding claim by the whistleblower regarding

- confirmation that a harmful activity has been conducted or a certain right has been violated due to an information disclosure;
- a ban for execution of a harmful action or rights' violation and repeating of the harmful action or rights' violation;
- annulment of an act with which a harmful activity has been conducted or infringe upon a violation of a certain right;
- remaining unaffected by the consequences from the harmful activity or of the violation of rights;
- compensation of material and non-material damage;

The court concerned should handle the whistleblower's claim as urgent. Appeals against this judicial protection are permitted.

In the case that a whistleblower claims that an infringement on their rights or the rights of their family members has occurred, the onus of proof lies with the institutions accused of the infringement by the whistleblower.

4.1.5 Invalidation of provisions in contracts and acts and damage compensation

Articles 12 and 13 govern the invalidity of provisions in contracts and the compensation for damages

Provisions in contracts may be deemed invalid if they are determined to have been designed to prevent or hinder the dissemination of information by whistleblowers on unlawful activities.

The whistleblower has the right to claim compensation for damages if it can be determined that they, or a person close to them, have suffered detriment due to whistleblowing activities.

4.1.6 Abuse of complaint filing by a whistleblower

If it can be determined that the whistleblower is abusing their position as a whistleblower by engaging in the dissemination of false information about natural or legal persons with the purpose of damaging them, or if the whistleblower had not paid expected attention in a scrupulous manner to the degree, required by the provisions and had not verified, whether the information is valid or not, the whistleblower cedes the protection otherwise granted to them under this law. In particularly serious cases, where it is clear that the natural and legal persons have suffered a disadvantage as a result, proceedings against the alleged whistleblower can be brought.

4.1.7 Information disclosure on filed whistleblowers' complaints

The bodies authorised to receive the information provided by whistleblowers are required to report this semiannually to the State Commission for Prevention of Corruption.

In turn, the State Commission for Prevention of Corruption and the Ministry of Justice are obliged to submit an annual report on submitted whistleblower findings to the Parliament of the beneficiary country.

4.1.8 Sanctioning provisions

The unauthorised receipt of whistleblower disclosures intended for authorised persons is a direct violation of the Whistleblower Protection Act and can carry a financial penalty of between three to six thousand euros, or the denar equivalent.

The relevant provisions are set out in Articles 16-23 of the Law on the Protection of Whistleblowers and will not be discussed in further detail here.

It should also be noted that the use of material obtained as a result of illegal wiretapping in the period of 2008-2015 is excluded from use in whistleblower complaint proceedings. In such a case, the whistleblower cedes the protection that may otherwise have been warranted under this law.

4.2 Rules and Guidelines

After the law on the protection of whistleblowers provided legal frameworks, the Government of the beneficiary country adopted three directives for the public and administrative bodies enacting the implementation of the law.

These are:

- Rules on protected internal corruption reporting in the public sector institutions
- Rules on protected external corruption reporting in the public sector
- Guidelines for adoption of internal acts governing protected internal corruption reporting in legal entities in the private sector

These rules and regulations should ensure consistency in the approach taken to confidential information, corruption and to whistleblowers and provide adherents with a secure framework.

In the further course of this handbook, the individual policies are presented colloquially and each supplemented with a flow chart.

In the following directives, the designation of authorised persons is regulated undero ando These authorised persons may be identical.

As these rules are almost identical in content, they are preceded by the following two guidelines for readability and comprehensibility purposes.

4.2.1 Identical regulations

4.2.1.1 *Appointment of persons authorised to receive confidential information provided by whistleblowers.*

To start with, both directives deal with the matter of appointing the so-called 'authorised person' in the corresponding public administrative sector. This person is cleared and obliged to accept and process confidential information from whistleblowers. The directive stipulates that the manager of the relevant public institution should designate one or more individuals to this role.

If the manager of the public institution in question authorises several individuals to take up this role, it must be determined which of these individuals will be charged with responsibility of the preparation and submission of reports to the State Commission for Prevention

If no designated authorised person is appointed in the public institution, the duty falls upon the manager of the organisation to take up this role. This ensures that the appropriate au-

thorised personnel or designees for the receipt and processing of protected information from whistleblowers are in place in all public institutions

In order that the designated authorised persons are known to the public and the administration, the manager of the public institution concerned is to send the names of the authorised persons to the State Commission for Prevention for publication on their website.

Likewise, the names of the authorised persons are to be published on the relevant website of the public institution, or, should this not be possible, made otherwise openly available.

The personal requirements for authorized persons are congruent.

For the sake of clarity and readability, this manual will perpend similar descriptions of the respective guidelines further displayed.

4.2.1.2 Conditions for the appointment of authorised persons

The following are the criteria for the appointment of an authorised person for the reception and transmission of protected internal corruption reports:

- The individual should hold a managerial position;
- The individual should hold a university degree in law or economics; If no person with these qualification can be found, the appointee should at least be university educated;
- If the nominating institution deals with classified information, the individual should be in possession of, or alternatively, be willing to procure, a Security Certificate.
- The individual should have at least 3 years of experience in the public sector, responding to reports or complaints, working with clients, supervision, inspection or investigative actions, auditing or internal controls or other relevant work experience with the duties of confidentiality, receiving and sending data to other institutions and referral of clients;

4.2.2 Rules on protected external corruption reporting in the public sector

This directive regulates on the approach taken in the handling of information relating to corruption occurring inside a public administrative body that originates from outside of it. In other words, this directive deals with how these public bodies should deal with intelligence on corruption provided by the general public.

4.2.2.1 *Office equipment and training of authorised persons*

Article 4 of the corresponding directive details the necessary office equipment required by the appointed authorised person. The authorised person will receive:

- work space suitable for the reception of clients;
- special computer secured with a special password known only to the authorized officer with an Internet connection and a special electronic mailbox provided by a special password known only to the authorized officer;
- special receipt stamp;
- special logbook;
- special mailbox;
- special telephone line;
- documentation closet for secured storage of reports received, minutes, received and created documents, and other materials related to the protected external corruption reporting, special logbook, and the receipt stamp;

Aside from the necessary office equipment, the authorised people are obliged to partake in professional training courses in their field of work but also to endeavour to train themselves accordingly. These special, compulsory training courses are organised by the State Commission for Prevention of Corruption.

4.2.2.2 *Receipt and handling of confidential data and data protection*

The authorised person should be in receipt of the external whistleblower reports on corruption that are addressed to them, or those of another authorised person responsible for the receipt and processing of confidential internal corruption reports from another institution. These reports can be addressed individually or collectively in writing to the authorised person, by post, via special electronic mailbox or verbally by means of protocol.

The entry of these reports must be registered by the authorised person with a special receipt stamp and registration in a special logbook.

In accordance with the Data Protection Act, the authorised person is obliged to protect the data on the whistleblower or data that might permit conclusions as to the identity of the whistleblower to be drawn. Unless, of course, the whistleblower is content for the personal data to be disclosed.

Unless stated otherwise by a court ruling, it is forbidden to publish or facilitate the publishing of sensitive data relating to the identity of a whistleblower.

In addition, the duty falls on the authorised person to inform the whistleblower of the possible necessity for the disclosure of identity to the relevant, competent authority (e.g. the Public Prosecution Office) in the event that the progression of proceedings is reliant upon this disclosure. In such an event, the whistleblower will be informed of the witness protection measures taken in criminal proceedings. Should the disclosure of the whistleblower's identity become necessary in the course of the investigation, the authorised person is obliged to inform the whistleblower prior to disclosure. The whistleblower's personal information may not be made available to the party or parties who the whistleblower reported.

The collection, processing and storage of personal information relating to confidential external corruption reports is to take place in adherence with the guidelines on data protection. The personal information collected and processed in this context may be used for this purpose only, in accordance with the Data Protection Act.

In a similar vein, the holding of evidence is only permitted up until the point to which it is required to fulfill its necessary function.

4.2.2.3 Supplementing, modification, cancellation and use of a whistleblower's personal information

Article 10 of this directive deals with the supplementing, modification, cancellation and use of a whistleblower's personal information

It lays out something to the effect of: At the request of the whistleblower, the authorised person is obliged to supplement, edit, delete or modify a whistleblower's personal data if the data is incomplete, inaccurate, out of date or in the case that the data was not processed in accordance with the law.

Should such a request be made, the whistleblower is required to specify the data which is to be modified and cite specifically the information that is not to be used as personal data. Regardless of whether the whistleblower has made an application for the data to be changed, if it is discovered that the whistleblower's personal data is in some way incorrect,

the authorised person is required - even in the absence of the whistleblower - to amend the data accordingly.

In this case, the authorised person is obliged to inform the whistleblower, the users of the data or any third party about which the information was collected accordingly, within 15 days of inspection, as laid out in the statutory provisions.

4.2.2.4 Storing confidential external reports, classified information and forms

The authorised person is obliged to keep all data and all material related to a confidential external corruption report separate. The special logbook and special receipt stamp are to be kept separate from other documents and reports, so as to ensure their safety and confidentiality.

If the data or the material in question are classified or are in some way related to a classified case, the authorised person is obliged to approach this information with strict adherence to the rules that deal with the handling of classified information.

4.2.2.5 Handling external confidential corruption reports

The State Commission for Prevention of Corruption should undertake to publish on its website, or make otherwise available, the forms for the confidential, external reporting of corruption. This lays the foundation for the standardisation of reporting on corruption. For the purpose of achieving a level of standardisation and comparability, it is strongly recommended that these forms are used.

Oral reports:

Oral reports are to be protocolled by the receiving authorised person and registered as an incoming report. The accuracy of the protocol is confirmed by the application of the whistleblower's and authorised person's signature. The protocol must contain the following information:

- a) Data about the whistleblower:
 - name and surname,
 - category of a person who under the Law on Protection of Whistleblowers may appear as a whistleblower,
 - request from the whistleblower to remain classified and the extent to which this is requested;
- b) Data about the person or legal entity against which the whistleblower reports;
- c) A description of the offense or other unlawful and unacceptable conduct that infringes or threatens the public interest;
- d) Data for the executed or non-executed protected internal corruption reporting;

- e) Proposed, by the whistleblower, manner and form of communication between the authorized officer and the whistleblower;
- f) Attachments;
- g) Date and place of receipt of the report.

The report should be submitted in an electronic form or on to an electronic data carrier. The authorised person is then to print the report and attach to it the electronic attachment. After which it is to be registered as one, complete report.

If the printing of the electronic data is deemed to be uneconomical, the authorized person is obliged to store this data on a dedicated computer. The computer must be password secured and the password is to be known solely to the dedicated person.

If the authorised person relays the report to other competent institutions and the electronic data are not otherwise manageable, the authorised person is required to copy the data on to an electronic data carrier and to attach the report.

4.2.2.6 Verifying the truth content of statements, disclosure and information requirements and responsibilities

The authorised person is obliged to register the report, together with all attachments, immediately on the day of receipt.

He must immediately examine the contents and proceed in accordance with the law and his personal responsibility to it.

If the authorised person determines that the received document or recording does not belong to a whistleblower's report, the authorised person is obliged to make a note outlining this case in a special logbook, to make a copy of the case, attach the case and original documents to a cover letter and send them to the archives of the respective competent institution. In this case, the authorised person must immediately inform the whistleblower, provided their identity is known.

The authorised person is obliged to verify the report upon receipt and filing. The verification is needed to ascertain whether the report is logical, credible and provides sufficient information for additional proceedings and whether or not it conforms to the requirements of the law on the protection of whistleblowers.

Provided that the whistleblower's identity remains protected and is known to the authorised person, the authorised person is permitted to seek further information from the whistleblower in this regard and discuss the relevant information with others.

Upon completion of the verification process, the authorised person is required to submit a summary, which should serve to facilitate the further handling of the report. In doing so he is to make a judgement as to the jurisdiction or lack of jurisdiction of the institution concerned and to decide on the measures for dealing with the report.

If an authorised person receives a report outside of the institution's jurisdiction, they are obliged to register the report and forward it to the responsible institution within a period of eight days.

After which time the responsible authority shall overtake the responsibility and duty to the protection of the whistleblower. The initial receiving institution is then required to inform the whistleblower as to the relocation of the report.

Should the report need to be passed on to several institutions, these institutions are required to fully cooperate and support one another.

Upon receipt of an audited, logical, credible report at the responsible institution, the authorised person passes it to a senior colleague in whose remit it falls. Prior to the data transfer taking place and subject to the individual confidentiality wishes of the whistleblower, all indications as to the identity of the whistleblower are to be removed. The authorised person is obliged to provide the whistleblower with progress reports relating to the status of the case, if so requested by the whistleblower.

The provision of information to the whistleblower can, however, be limited should it be determined that divulgement could jeopardise proceedings. In such an event, the whistleblower is to be informed of such.

The competent authorised person shall inform the whistleblower on the outcome of the proceedings.

4.2.2.7 Public information requirements

The authorized person shall submit a semiannual report on the confidential external corruption information. This report shall include the following general statistical data and information on the individual reports received.

General statistical data:

- a) Total number of reports received;
- b) Number of reports received pursuant to the following parameters:
 - form and manner of submitting reports (oral delivery through minutes, written delivery by ordinary mail, written delivery by e-mail),
 - reported criminal or unacceptable activity,

- category of persons as a whistleblower,
 - position/job of reported persons,
 - confidential whistleblowers,
 - anonymous whistleblowers,
 - whistleblowers that are not anonymous and that did not require to be confidential;
- c) Total number of whistleblowers;
 - d) Number of anonymous whistleblowers;
 - e) Number of confidential whistleblowers;
 - f) Number of reports that have been forwarded to the competent institution for processing;
 - g) Number of reports upon which the institution acted within its competence;

Data about cases formed upon reports received:

- a) Total number of reports received;
- b) Number of reports received pursuant to the parameters:
 - form and manner of submitting reports (oral delivery through minutes, written delivery by ordinary mail, written delivery by e-mail),
 - reported criminal or unacceptable activity,
 - category of persons as a whistleblower,
 - position/job of reported persons,
 - confidential whistleblowers,
 - anonymous whistleblowers,
 - whistleblowers that are not anonymous and that did not require to be confidential;
- c) Total number of whistleblowers who submitted reports for which cases were formed;
- d) Number of anonymous whistleblowers who submitted reports for which cases were formed;
- e) Number of confidential whistleblowers who submitted applications for which cases were formed;
- f) Number of cases formed upon reports received;
- g) Measures undertaken for handling reports received;
- h) Status of the cases formed upon reports received and the outcome of proceedings in cases;

4.2.3 Rules on protected internal corruption reporting in the public sector institutions

This directive regulates on the approach taken in the handling of information relating to corruption occurring inside the public administrative body. In other words, this directive deals with how these public bodies should deal with intelligence on corruption provided by a member of staff from within their organisation.

4.2.3.1 *Office equipment and training of authorised persons*

Article 4 of the corresponding directive details the necessary office equipment required by the appointed authorised person. The authorised person will receive:

- work space suitable for reception of clients;
- special computer secured with a special password known only to the authorized officer with an Internet connection and a special electronic mailbox secured by a special password known only to the authorized officer;
- a special place for secured storage of
 - reports received,
 - received or created documents and other materials related to the protected internal corruption reporting,
 - logbook of protected internal corruption reporting,
 - receipt stamp for special archiving;
- special mailbox;
- special telephone line.

Aside from the necessary office equipment, the authorised people are obliged to partake in professional training courses in their field of work but also to endeavour to train themselves accordingly. These special, compulsory training courses are organised by the State Commission for Prevention of Corruption.

4.2.3.2 *Receipt and handling of confidential data and data protection*

The authorised person can obtain the relevant whistleblower's reports in the following ways:

- by means of an oral recording or
- in writing via a special mailbox,
- personally from the whistleblower or
- electronically via a special, password protected mailbox. The password must be known to no one except the authorised person.

Once the authorised person has received a message, it must be logged in a separate register on the same day. The report contains a unique number and, for example, a specific label.

If the report in question is only available electronically and cannot be printed (as with video, audio or photographic recordings), the authorised person is obliged to transfer the relative date onto a CD or other suitable electronic data storage device and attach these to the report.

In the event the whistleblower's report was given orally, the authorised person is required to immediately produce a written protocol. This protocol should include:

- date and place of making the minutes;
- whether there is a request from the whistleblower to remain classified and the extent to which this is requested;
- personal data of the whistleblower;
- category of a person who under the Law on Protection of Whistleblowers may appear as a whistleblower,
- data on the manner and form of communication between the authorized officer and the whistleblower, upon a proposal from the whistleblower;
- a description of the offense or other unlawful and unacceptable conduct that infringes or threatens the public interest;
- a person against whom the whistleblower has submitted a corruption report.

The authenticity of this protocol is to be confirmed by the signature of the whistleblower.

It is particularly important to ensure that the data that has been recorded orally or in the form of a protocol by the authorised person and might potentially point to the identity of the whistleblower, is stored and processed in accordance with the requirements of the Data Protection Act.

4.2.3.3 Verifying the truth content of statements, disclosure and information requirements

The authorised person is obliged to check the contents and its supporting evidence. Once the authorised person determines that the allegations in the report include logical, credible and sufficient detail, he must immediately inform the manager of such.

If, however, the authorised person determines that the report could directly or indirectly concern the manager, it is incumbent upon him to immediately send the completed report in a sealed envelope to a competent institution (e.g. the Public Prosecution Office) and to inform the whistleblower, should the identity be known.

The authorised person is to act on the basis of the directives given by their superior and inform the whistleblower, where known, as to the provisions enacted without delay but at the latest after 15 days upon receipt of the information.

The authorised person shall prepare a semi-annual report on the received whistleblower intelligence and transfer this to the public sector institution and to the State Commission for Prevention of Corruption. This report includes the following data:

- Number of corruption reports;
- Form of received corruption reports;
- Number of whistleblowers;
- Reported persons;
- Measures taken;
- Results.

4.2.4 Guidelines for adoption of internal acts governing protected internal corruption reporting in legal entities in the private sector

The following provisions relate to internal anti-corruption schemes in the private sector. In this context, it is incumbent upon private sector legal entities, employing at least ten employees, to draft internal rules governing the approach taken with regard to protected internal corruption reports.

Protected internal corruption reporting is one of the elements of system integrity, a model of good governance or compliance system and is part of the anti-corruption policy or program of the legal entity in the private sector. Successfully established protected internal corruption reporting strengthens the integrity of the legal entity, reduces its legal risks, protects its reputation, contributes to building trust in the community, and thus positively affects the market competitiveness.

It is necessary when developing and implementing internal regulations to ensure that due diligence is paid to the compliance with the law on the protection of whistleblowers, as well as the guidelines governing internal and external corruption reporting within public administration. This includes:

- Access to a person or to a designated place for internal corruption reports and the availability of internal act on protected internal corruption reporting to all employees of the legal entity;
- Annulment of all the provisions and contracts relating to workers' rights and work obligations which prohibit reporting of suspicion or knowledge of a crime or other illegal or unacceptable conduct which infringes or threatens the public interest, security and defense, or when such reporting is defined as a violation of the provisions on confidentiality, loyalty and professionalism that consequently are considered null;
- Protection of the whistleblower, persons close to them or others against any kind of legal violation, infringement or threat in connection with their submitted report;
- Prohibiting the revelation or facilitating the revelation of the whistleblower's identity except when it has been decided by a court;
- Protection of the whistleblower's personal data;
- Data protection for all incoming reports, protocols, received or generated documents or other material in relation to a protected corruption report;
- The right of the whistleblower to be informed without delay or within a specified time period, in accordance with the law, as to the provisions enacted as a result of their report and also the measures taken to protect them.
- Recommendations for protected external corruption reporting or protected public corruption reporting;
- Information on adopted internal corruption reports to facilitate better self-assessment.

An association, chamber or another organization of associated legal entities in the private sector, by the introduction and establishment of protected internal corruption reporting, may include more entities, so that it shall be deemed that the legal entities, which by their

own act have acceded to use that procedure or channel for protected internal corruption reporting in the organization of associated legal entities, have introduced protected internal corruption reporting, in accordance with the act adopted by the organization.

Cooperation among legal entities in the private sector and their joining in business and professional associations may contribute to the introduction, establishment and monitoring of protected internal corruption reporting in the private sector.