

Based on Art. 4 st. 5 of the Law on Protection of Whistleblowers ("Official Gazette of the Republic of Macedonia" No. 196/19 and 35/18 and "Official Gazette of the Republic of North Macedonia" No. 257/20), and based on Art. 34 of the Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 101/2019), and in relation to Art. 2 paragraph 4 of the Rulebook on protected internal reporting in institutions in the public sector ("Official Gazette of the Republic of Moldova" number 46/16), the Director of the Agency for the Protection of the Right to Free Access to Public Information, Plamenka Bojcheva, on _____, passed the following

**PROCEDURE
ON THE METHOD OF PROCEEDING FOR PROTECTED INTERNAL AGENCY
REPORTING FOR THE PROTECTION OF THE RIGHT OF FREE ACCESS TO
PUBLIC INFORMATION**

Article 1

This Procedure governs the manner and procedure for receiving reports from whistleblowers submitted for protected internal reporting to the Agency for the Protection of the Right to Free Access to Public Information, the separation and processing of data from reports and taking measures to ensure the protection of personal and other data relating to whistleblowers and reports from whistleblowers in the Agency for the Protection of the Right to Free Access to Public Information.

Article 2

In the Agency for the Protection of the Right to Free Access to Public Information, a protected internal report is made by the whistleblower if they have reasonable suspicion or knowledge that a criminal offence or other illegal or unauthorized action has been committed, is being committed or is likely to commit injures or endangers the public interest.

The indicator is not obliged to prove the good intention and truthfulness of the report from paragraph 1 of this article.

The whistleblower is protected by law and guaranteed confidentiality.

Article 3

The reception of applications for protected internal reporting in the Agency for the Protection of the Right to Free Access to Public Information is carried out by a person authorized by the Agency for the Protection of the Right to Free Access to Public Information, who is guaranteed independence and smooth operation.

The person authorized to receive reports from whistleblowers for protected internal reporting receives the reports submitted to them directly by a whistleblower for protected reporting in accordance with the law, individually or in groups, in written form delivered in person or through a separate mailbox or electronic mailbox or orally on the record.

Article 4

The person who, according to Article 2 paragraph 3 of the Law on the Protection of Whistleblowers, can appear as a whistleblower, reports directly to the authorized person and verbally on a record or in writing, delivered in person or through a mailbox or electronic mailbox.

Article 5

In cases where the report is made directly to the authorized person in the Agency for the Protection of the Right to Free Access to Public Information, the authorized person must:

- act after the application in compliance with the procedures established by this Procedure;
- take measures to protect the whistleblower's personal data, that is, the data that can reveal the identity of the whistleblower who reports anonymously or confidentially, in accordance with the regulations for the protection of personal data;
- take measures to protect the information in the application if the same was obtained by inspecting classified documents or the same is classified information, in accordance with the regulations for the protection of classified information, and
 - informs the whistleblower, if known, about the measures taken in connection with the report without delay, and at the latest within 15 days from the day of receipt of the report.

Article 6

If the application is given orally, the authorized person compiles a record in which they contain the following data:

- a) name of the institution;
- b) data on the whistleblower
 - name and surname;
 - category of person who, according to the Law on Protection of Whistleblowers, can appear as a whistleblower;
 - request from the whistleblower to remain confidential and the extent to which he requires it;
- c) data on the person against whom the whistleblower reports;
- d) description of criminal or other illegal and impermissible conduct that injures or threatens the public interest;
- e) method and form of communication between the authorized person and the whistleblower (proposed by the whistleblower);

- f) attachments, and
- g) date and place of receipt of the application.

The matching of the data from the oral report in the content of the minutes is confirmed by the personal signature of the whistleblower and the authorized person.

The minutes from paragraph 1 of this article are recorded as a received application, and approximately it contains classified information, it is classified according to the content and everything recorded in the business book for classified information according to the degree of classification.

Article 7

The application for protected registration, which is submitted in writing, contains:

- a) name of the institution;
- b) data on the whistleblower
 - name and surname;
 - category of person who, according to the Law on Protection of Whistleblowers, can appear as a whistleblower;
 - request from the whistleblower to remain confidential and the extent to which he requires it;
- c) data on the person against whom the whistleblower reports;
- d) description of criminal or other illegal and impermissible conduct that injures or threatens the public interest;
- e) method and form of communication between the authorized person and the whistleblower (proposed by the whistleblower);
- f) attachments, and
- g) date and place of receipt of the application.

If the application contains classified information or attachments are submitted with a degree of classification, it is classified according to the information and attachments that are attached.

Article 8

If the application is submitted in electronic form on an electronic record carrier, i.e. electronically, the authorized person prints the record corresponding to the application according to the content and records the printed one with listed attachments received in the form of electronic records as a received application.

If the application has classified information in its content, it is classified by a degree according to the content and filed in a business book for classified information according to the degree of classification.

If printing the attachments from paragraph 1 of this article is uneconomical, the authorized person saves them in electronic form on the special computer provided with a password known only to them.

When the authorized person forwards the report to another competent institution or when it is necessary to transfer the attached electronic records to act on the report, in the case of paragraph 3 of this article, the authorized person performing the obligations and responsibilities in applying the provided technical and organizational protection measures of the data in accordance with the regulations governing the protection of personal data, copies the electronic records to an electronic record carrier and attaches it to the application.

Article 9

On the same day after receiving the application, the authorized person files the application with all attachments, reviews it, studies its content and acts in accordance with the law.

The registration of the received applications is performed by the authorized person by placing a special receipt stamp and recording in the special ledger.

Article 10

If the authorized person determines that the received document or record does not represent or does not refer to a report from a whistleblower, they immediately put a note about it in the case, which is recorded in the special ledger.

The authorized person keeps a copy of the case and submits the case with the attached documents in original with a cover letter to the registry office of the competent institution.

For the actions taken from paragraph 2 of this article, the authorized person without delay informs the whistleblower if they are known.

Article 11

After receiving and filing the report, the authorized person without delay evaluates the content of the report to determine whether it is logical and reasonable, whether it is a report from a whistleblower in accordance with the Law on the Protection of Whistleblowers and whether the report contains enough elements to be forwarded for further action.

In assessing paragraph 1 of this article, the authorized person may request additional information from the whistleblower if they are known and consult with other persons, while paying attention to the protection of the identity of the whistleblower.

After carrying out the assessment from paragraph 1 of this article, the authorized person makes a conclusion for further action after the report, which refers to the

competence/incompetence for taking action of the institution where it is appointed and necessary to take measures for action after the report.

Article 12

About the allegations from the content of the application and the conclusions from Article 11 of this Procedure, the authorized person without delay notifies the director of the Agency for the protection of the right to free access to public information with a written notification, signed and certified by the authorized person of the Agency.

As an exception, if the authorized person assessing Article 11 of this Procedure finds that the allegations from the content of the application are directly or indirectly directed against the director of the Agency for the Protection of the Right to Free Access to Public Information, or their deputy, without while notifying the director or their deputy, forwards the application to the competent institution in accordance with the law.

Article 13

The authorized person to whom a report has been submitted, on which another institution is competent to act in accordance with the law, files the report and forwards it to the competent institution no later than eight days from the day of receipt.

If a crime has been reported against the state, against humanity and international law, in the field of organized crime and for which the Criminal Code prescribes a prison sentence of at least four years, the proof of which is accompanied by disproportionate difficulties or cannot be carried out without the testimony of the whistleblower who, due to the possible danger of being exposed to intimidation, the threat of retaliation or danger to life, health, freedom, physical integrity or property of a larger scale, does not agree to testify as a witness, the authorized person with written consent obtained from the whistleblower without delay delivers:

- to the Ministry of Internal Affairs or a competent public prosecutor, an initiative for submitting a written request for submitting a Proposal for inclusion in the Protection Program in accordance with the Law on Witness Protection, or

- to the Public Prosecutor of the Republic of North Macedonia, an initiative to submit a Proposal for inclusion in the Protection Program in accordance with the Law on Witness Protection.

For forwarding the application from paragraph 1 of this article and for delivering the written request from paragraph 2 paragraphs 1 and 2 of this article, the authorized person simultaneously notifies the whistleblower if they are known.

Article 14

Except when it is required by a court decision or when it is necessary to conduct a procedure before a competent authority, in other cases, it is prohibited to disclose or enable disclosure of the whistleblower's identity without their consent.

The authorized person is obliged to protect the whistleblower's data, that is, the data on the basis of which the identity of the whistleblower can be revealed, unless the whistleblower agrees to the disclosure of that data, and in accordance with a law regulating the protection of personal data.

Any person who learns the data from paragraph 1 of this article is obliged to protect that data.

The person authorized to receive reports from whistleblowers is obliged to inform the whistleblower during the reception of the information that their identity may be disclosed to the competent authority in accordance with paragraph 1 of this article, as well as to inform them about the measures for the protection of the participant in the criminal procedure.

For the disclosure of the whistleblower's identity based on a court decision in accordance with paragraph (1) of this article, the authorized person for receiving reports from whistleblowers is obliged to notify the whistleblower before the disclosure of the identity.

Article 15

The whistleblower has the right to legal protection before a competent court in accordance with the law.

The whistleblower can file a lawsuit before a competent court to request:

- determining that a harmful action has been taken or a right has been violated due to a protected report;
- prohibition of performing a harmful action or violation of a right and repetition of a harmful action or violation of a right due to protected reporting;
- annulment of an act by which the harmful action or violation of a right was carried out for the purpose of protected registration;
- removal of the consequences of a harmful action or violation of a right due to protected reporting;
- compensation for material and non-material damage due to protected reporting.

Article 16

The whistleblower has the right to compensation for damages that they or their close relatives may suffer due to protected internal reporting.

The request for compensation from paragraph 1 of this article is made by submitting a lawsuit to the competent court.

Article 17

Abuse of whistleblower reporting is knowingly reporting false information about a natural or legal person with the aim of causing harmful consequences for the same.

Abuse of reporting by the whistleblower is also if, with due care and conscientiousness, to the extent that the circumstances allow, he did not check whether they are correct and reliable.

By determining the abuse from paragraphs 1 and 2 of this article, the protection provided in accordance with the Law on the Protection of Whistleblowers is lost.

The misuse of the reporting of the whistleblower, due to which there were harmful consequences for the natural or legal person, is the basis for initiating a procedure to determine his responsibility in accordance with the law.

Article 18

The authorized person prepares a half-yearly report on received reports from whistleblowers for protected internal reporting in the Agency for the Protection of the Right to Free Access to Public Information and submits it to the State Commission for the Prevention of Corruption.

Article 19

This Procedure enters into force on the day of its adoption and it will be publicly available on the Agency's website.

Director,
Plamenka Bojcheva

Prepared by: Georges Popovski