

## Table of contents - Bosnia and Herzegovina

<b><i>How to report corruption and obtain legal protection?</i></b> .....	<b>2</b>
<b><i>Basic information about protected reporting of corruption</i></b> .....	<b>3</b>
What is protected reporting of the corruption? .....	3
Who can report corruption? .....	3
Who has the right to protection for reporting corruption?.....	3
Is anonymous corruption reporting allowed? .....	4
Is corruption reporting by whistleblower treated as confidential? .....	4
Which irregularities may be reported? .....	4
To report corruption, is it necessary to have evidence or it is sufficient to have reasonable grounds to believe?.....	4
Is whistleblower subjected to good faith test in the process of being granted protection? .....	5
What is abuse of the reporting and what are its consequences? .....	5
Are whistleblowers exempt from disciplinary, civil or criminal liability?.....	5
<b><i>Procedure for reporting corruption</i></b> .....	<b>6</b>
Which types of corruption reporting exist? .....	6
How is internal reporting of corruption done? .....	6
What procedure is conducted after receiving an internal report? .....	7
When can external reporting be done? .....	7
When is it possible to report corruption in public? .....	8
<b><i>Whistleblower protection from detrimental actions</i></b> .....	<b>9</b>
What protection does the Law provide to whistleblowers? .....	9
Against which detrimental actions is protection provided?.....	9
What is the whistleblower status and how to obtain it? .....	9
What kind of protection is available for whistleblowers who are experiencing harmful consequences?.....	9
Under which conditions is the protection withdrawn?.....	10
<b><i>Legal aid</i></b> .....	<b>11</b>
What legal aid is available to the whistleblowers? .....	11
What addition information is available about procedure of protected reporting of corruption? 11	
<b><i>Additional sources of information</i></b> .....	<b>13</b>

## How to report corruption and obtain legal protection?

This content aims to provide the public with information on the possibilities of protected reporting of corruption in Bosnia and Herzegovina. Presented below is the information on what protected reporting involves, who can report corruption, and which irregularities can be reported. Information on how and where one can file a report will also be included herein. The following content provides information on the possibilities for protection against detrimental actions that may be taken to deter someone from making the report or in retaliation for the filed report.

Based on the information provided below, it is possible to assess information at one's disposal that may indicate corruption and decide if it provides a basis for protected reporting of corruption, as well as possible consequences of both reporting corruption and abusing it.

This content was prepared based on the applicable regulations, primarily the Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina. The information provided here do not constitute legal advice; for this purpose it is recommended to consult the law in more detail and address the competent authorities. The following content also provides information about institutions and organizations providing legal aid.

## Basic information about protected reporting of corruption

### What is protected reporting of the corruption?

Protected reporting is corruption reporting subject to protection of persons filing a report, pursuant to the Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina (BiH Official Gazette, 100/13, available at <http://www.apik.ba/zakoni-i-drugi-akti/zastita-prijavitelja-korupcije/default.aspx?id=936&langTag=bs-BA>, hereinafter: the Law).

“Whistleblower” is a person who files a report in line with conditions prescribed by the Law. Persons who are granted whistleblower status in line with the Law, have the right to protection, i.e. corrective measures seeking to remedy the detrimental actions.

Protected reporting refers to reporting of corruption in the BiH institutions and legal entities established by the BiH institutions, and it includes filing a lawsuit, appeal or complaint, as well as giving testimony before court or an administrative body, and cooperation with investigative bodies.

Special form of protected reporting is publicly disclosing or making in any other way publicly available the information that indicate the corruption.

### Who can report corruption?

Any person employed in the BiH institutions or legal persons established by the institutions of Bosnia and Herzegovina can report corruption. According to the Law, protected reporting is enabled for the person employed in the above-mentioned institutions, who files a report on corruption in good faith and based on suspicion or circumstances that indicate the existence of corruption; i.e. they are afforded a whistleblower status.

Protected reporting is not enabled for persons who are not employed in the given BiH institutions, i.e. they cannot be granted the whistleblower status, according to the Law.

### Who has the right to protection for reporting corruption?

According to the Law, protected reporting is limited to persons employed in the BiH institutions and legal persons established by the BiH institutions.

The protected whistleblower status enables protection from detrimental action and is afforded to the whistleblower who reports corruption in good faith, regardless of whether detrimental action occurred or the whistleblower only suspects that such an action could be taken against him/her. Protection is applied from the day of filing the corruption report.

The Law does not explicitly protect those who assist the whistleblower to file a report, nor those linked to him (e.g. colleagues, family members, friends). The Law also does not explicitly protect persons who are about to report corruption (conducting research necessary for the report that reflects reasonable grounds to believe its truthfulness) or are (mistakenly) suspected that they had reported corruption.

## Is anonymous corruption reporting allowed?

Anonymous reporting has not been regulated by the Law.

The model rulebook on internal reporting of corruption and protection of persons reporting corruption, proposed to the intuitions by the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption, provides for the possibility of anonymous internal reporting. Anonymous reporting involves reporting corruption without noting identity of the person making the report.

## Is corruption reporting by whistleblower treated as confidential?

Protection of identity and identifying information of the whistle-blowers has not been explicitly regulated by the Law.

The model rulebook on internal reporting of corruption and protection of persons reporting corruption, proposed to the institutions by the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption, provides for the possibility of confidential internal reporting. Confidential internal reporting is the reporting whereby persons in charge of receiving an internal report are informed about identity of the person making the report, but are obliged to treat the report, data from the report and identity of the persons making the report as confidential.

## Which irregularities may be reported?

Person employed in the BiH institutions and legal entities established by the BiH institutions can in good faith report to the competent authorities information on acts or omissions for which they have reasonable grounds to believe are an act of corruption.

According to the Law, corruption is taken to be any abuse of power entrusted to civil servant, employee, advisor, elected or appointed official, which that may lead to private gain of that person, domestic or foreign legal or natural person. Corruption may include requesting directly or indirectly, offering, giving or accepting the bribe or any other undue advantage or the prospect thereof, which violates appropriate performance of any duty or behaviour expected from the recipient of the bribe. Within the meaning of the Law, corruption also entails violation of the law, other regulations, as well as irregularities related to work and frauds that point to the existence of corruption.

## To report corruption, is it necessary to have evidence or it is sufficient to have reasonable grounds to believe?

If they have information and/or material evidence on corruption, any person employed in the BiH institutions or legal entities established by the BiH institutions can report corruption to the competent authority based on suspicion or circumstances indicating to existence of corruption.

To be afforded protection, the whistleblower is not obliged to collect and submit evidence on the corruption he/she is reporting.

Reasonable grounds to believe and good faith are conditions for protected reporting of corruption, i.e. being afforded the whistleblower status. Person employed in the BiH institutions and legal persons established by the BiH institutions can in good faith report to the competent authorities information

on acts or omissions for which he/she has reasonable grounds to believe that they constitute corruption.

Is whistleblower subjected to good faith test in the process of being granted protection?

According to the Law, good faith of the person reporting corruption is a condition for being afforded the whistleblower status and protecting him/her from detrimental action. It is deemed that whistleblower is reporting corruption in good faith when the reported information is based on facts and circumstances about which he/she has own knowledge and which he/she believes to be true. If it is established that the whistleblower did not act in good faith when reporting corruption, the protected whistleblower status and protection from detrimental action are withdrawn.

In case it is found during the proceeding that the whistleblower had not acted in good faith when filing a report, protection to the whistleblower is withdrawn, and decision to withdraw protection to the whistleblower is delivered to the whistleblower and director of the institution where the whistleblower is employed.

What is abuse of the reporting and what are its consequences?

Abuse of the right to report corruption entails a false report and reporting which is not done in good faith. According to the Law, abuse of the right to report corruption constitutes a severe breach of the work duties. In addition, if it is established in the procedure of protected reporting, i.e. protection of the whistleblower, that he/she knowingly submitted a false report with elements of a criminal offence, a criminal report will be filed against this person.

Are whistleblowers exempt from disciplinary, civil or criminal liability?

The whistleblower shall not be subjected to material, criminal or disciplinary liability for disclosing a business secret in case he/she reports an act of corruption to the competent authority.

According to the Law, initiating disciplinary action is one of the detrimental actions by which employers can cause harm to the employee because he/she reported corruption.

According to the Law, abuse of the right to report constitutes a severe breach of work duties. A misdemeanour fine amounting from BAM 1,000 to 10,000 shall be imposed on the person who knowingly submits a false corruption report. If it is established in the procedure of protected reporting, i.e. protection of the whistleblower, that he/she knowingly submitted a false report with elements of a criminal offence, a criminal report will be filed against this person.

## Procedure for reporting corruption

### Which types of corruption reporting exist?

Reporting of corruption may be internal and external.

Internal reporting is done by the person submitting a report to his/her supervisor or other person in his/her institution, who is responsible for compliance of that institution with the law, or to a person or body in charge of oversight or audit in the BiH institutions.

External report is submitted to the body in charge of conducting criminal investigation and prosecution of perpetrators of criminal offences; or the Agency for Prevention of Corruption and Coordination of Fight Against Corruption.

External reporting can also be directed towards the public, which constitutes a special form of protected reporting.

### How is internal reporting of corruption done?

Internal reporting is done in the manner specified by the institution's internal by-law on reporting and protection of whistleblowers. Each institution is obliged to adopt such internal act, which is to be displayed in a visible place on the institution's premises and on its web page. Failure to issue this internal by-law constitutes a misdemeanour, and in such case a fine in the amount from BAM 10,000 to 20,000 is imposed on the institution's director.

The internal act regulates reporting of corruption, acting upon received reports, reviewing of received reports, obligation to inform the person who reported corruption about undertaken steps, protection of persons who report corruption and other issues related to internal corruption reporting. This act also identifies competent service, body or person to be in charge of receiving and reviewing the report and its content.

Internal report can be submitted directly to the institution's manager in the event that the manager of an institution has not issued the internal by-law on reporting and protecting or the procedure for internal reporting is not known, namely if the information on the service, body or person responsible for receiving and reviewing reports is not visibly displayed on the institution's premises and on its web site. Corruption can also be reported directly to the manager, if the whistleblower has reason to believe that the authorised person, who in line with the internal act is designated to receive reports, is directly or indirectly linked to the corruption committed.

The Law does not regulate how the report is submitted, but the model rulebook on internal reporting of the corruption and protection of persons reporting corruption, proposed to the institutions by the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption, provides for the possibility that confidential internal reporting can be done either orally or in writing.

According to this model, when reporting is done in writing, it must contain information on the act of corruption or other irregularities that are being reported, description of the facts, first and last name, job title of the employee that the report refers to, motion on evidence, i.e. objects that serve as evidence, materials confirming allegations of the request (meaning the written evidence, in the appendix), first and last name, position (work post) and own signature of the person submitting the report. A special form for reporting corruption has not been prescribed.

When reporting is done orally, the person who received the report is obliged to make an official record on this.

Anonymous reporting can only be done in writing. Anonymous report needs to include information on the act of corruption or other irregularities that are being reported, description of the facts, first and last name, job title of the employee that the report refers to, motion on evidence, i.e. objects that serve as evidence, materials confirming allegations of the request (meaning the written evidence, in the appendix).

Person in charge of receiving and recording the corruption report is obliged to report each received report, i.e. official record on the report, immediately and directly to the manager under whose office the central records of all internal corruption reports and other irregularities are maintained.

### What procedure is conducted after receiving an internal report?

The Law does not regulate procedure conducted upon receiving the internal report. However, the model rulebook on internal reporting of the corruption and protection of persons reporting corruption, proposed to the institutions by the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption to the institutions, provides for the manager of the institution to designate a person who will be in charge of conducting preliminary actions to establish whether the report is well-founded. The preliminary actions, which seek to establish whether allegations from the report are well-founded and ascertain the legal qualification for the reported act, are conducted within 10 days from the day on which the assignment was received, and the manager of the institution is informed about the outcome. The person who made the report is informed about the preliminary actions, within 15 days at the latest from the day of receiving the report. The person who made an anonymous report will be informed about the undertaken preliminary actions, if there is appropriate means of communication (e.g. anonymous email).

The person who is authorised to conduct preliminary actions and establish whether the report is well-founded is obliged to review in detail each internal report. This includes having direct insight into cases, acts and official facilities of an institution, as well as taking statements from civil servants, employees and other staff in the institution regarding subject of the report. Based on findings, the person in charge of implementation of the preliminary actions provides his/her opinion on whether the report is well-founded and on the possible legal qualification of the act.

If the report is well-founded, actions that can be taken include initiating disciplinary procedure against the responsible person, informing the competent prosecutor's office if the act has elements of a criminal offense, as well as taking actions to prevent further irregular conduct and remove detrimental consequences of the committed act.

### When can external reporting be done?

The whistleblower can report corruption externally in case when the procedure in line with internal reporting takes longer than 15 days. External reporting can also be made if the whistleblower finds that the internal procedure in terms of the submitted report was irregular, or if the whistleblower has reason to believe that the authorised person, who is designated to receive reports in line with the internal act, or manager of the institution, is directly or indirectly linked to the committed act of corruption.

If external report is submitted to the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption, this can be done through mail, including electronic mail, or reported in person. Information about filing report via mail is available at <http://www.apik.ba/ContactMailBA.aspx?langTag=bs-BA>. Instructions on how to file personal report is available at <http://www.apik.ba/kontakt/default.aspx?id=1253&langTag=bs-BA>.

Web page of the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption has a free phone line - 0800 54321, through which one can report corruption.

### When is it possible to report corruption in public?

Special form of protected reporting is publicly disclosing or making in any other way publicly available the information that indicate the existence of corruption.

Public reporting is possible provided that the whistleblower has a reason to suspect that he/she will be subjected to detrimental action by a certain person, or that in the event of protected reporting to competent authorities there will be no appropriate action taken, or that the evidence and information will be concealed or destroyed, or that if the same information has been reported to the competent authorities, but adequate measures have not been undertaken within the legal deadline.

## Whistleblower protection from detrimental actions

### What protection does the Law provide to whistleblowers?

The Law provides administrative protection to the whistleblower by affording the whistleblower status to the person who had in good faith reported corruption, regardless of whether some of the detrimental actions have occurred or the whistleblower only suspects that detrimental actions against him could be taken, as well as by ordering corrective measures to the institutions for the purpose of removing detrimental actions against the whistleblower in relation to the reported case.

Protection is applied from the day of filing the corruption report.

### Against which detrimental actions is protection provided?

Detrimental actions are actions whereby the employer causes harm to the employee to deter him/her from reporting corruption. Detrimental action is an action which represents retaliation against the employee who reported suspected acts of corruption.

According to the law, these detrimental actions include a decision to terminate his/her employment, cancellation of the employment contract, suspension from work, reassignment to a lower-ranked position, declaration of redundancy, initiation of a disciplinary action, blackmailing or giving negative appraisals, creating hostile work environment, absence of work engagement.

### What is the whistleblower status and how to obtain it?

The protected whistleblower status is afforded by the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption, within 30 days from the day on which the request in writing was submitted, together with evidence on reporting the corruption. If the whistleblower does not submit evidence on reporting the corruption, the Agency will ask him/her to forward this evidence and provide additional deadline. If the evidence is not subsequently submitted, it will be considered that the whistleblower gave up on the request to be afforded the protected whistleblower status and the submitted request will be dismissed. The Agency is obliged to inform the whistleblower in writing that he/she got the protected whistleblower status.

### What kind of protection is available for whistleblowers who are experiencing harmful consequences?

In case that a whistleblower informs the Agency for Prevention of Corruption and Coordination of Fight against Corruption that any detrimental action has been taken against him/her, the Agency for Prevention of Corruption and Coordination of Fight against Corruption is obliged to request all relevant documentation from the institution and/or request from the Administrative Inspectorate of the BiH Ministry of Justice to investigate the allegations, establish the facts, and undertake measures as set out by the Law, and to submit the record thereof to the Agency for Prevention of Corruption and Coordination of Fight against Corruption.

In case that director of the institution claims that the same detrimental action would have been taken against the whistleblower even in case that he/she had not reported the suspected act of corruption, the director is required to prove it.

If it is established, based on documentation received from the institution and/or the record, that any detrimental action was taken against the whistleblower, in relation to the reported corruption, the Agency for Prevention of Corruption and Coordination of Fight Against Corruption will issue an instruction to director of the institution to remove the consequences of detrimental action that the whistleblower suffered.

Director of the institution is required to take corrective measure in order to remove the detrimental action, within three days after receiving instruction from the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption. Director of the institution will be imposed a misdemeanour fine amounting from BAM 10,000 to BAM 20,000 in case she/he fails to act in line with instruction from the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption and carry out such corrective measure.

The corrective measure is any action that forbids, alleviates or removes the causes or consequences of the detrimental actions against the whistleblower in relation to the reported case of corruption, which particularly covers the security measure and damage compensation. The corrective measure must include removal of detrimental action and restitution to previous state. The corrective measure can be cancelled after final verdict of the competent court from the labour dispute proceedings, initiated by the employer.

#### Under which conditions is the protection withdrawn?

In case it is found during the proceeding that the whistleblower did not act in good faith when he/she reported corruption, the Agency for Prevention of Corruption and Coordination of Fight against Corruption will withdraw protection afforded to the whistleblower. The Agency for Prevention of Corruption and Coordination of Fight against Corruption is obliged to forward decision on withdrawal of protection to the whistleblower and director of the institution where the whistleblower is employed.

## Legal aid

### What legal aid is available to the whistleblowers?

The Law does not regulate legal aid for whistleblowers.

According to Law on free legal aid (BiH Official Gazette, 83/16), based on their status, the right to free legal aid is exercised by the following population categories: persons on social welfare, a child in line with the Convention on the rights of the child, persons whose legal capacity had been taken away and mentally ill persons, persons who receive pension in the amount that below the average wage in BiH, unemployed persons and persons without other regular allowances and income; victims of domestic violence or gender based violence, asylum seekers, persons under subsidiary or temporary protection, persons undergoing process of expulsion, stateless persons and victims of trafficking in humans. Disadvantaged persons are also eligible for free legal aid, when their disadvantaged status is established by the body competent for provision of free legal aid.

The BiH Office for free legal aid is the body in charge of provision of free legal aid before the bodies and institutions of Bosnia and Herzegovina. This Office is an internal organisational unit within the BiH Ministry of Justice ([http://www.mpr.gov.ba/organizacija\\_nadleznosti/Besplatna\\_pravna\\_pomoc/default.aspx?id=12535&langTag=bs-BA](http://www.mpr.gov.ba/organizacija_nadleznosti/Besplatna_pravna_pomoc/default.aspx?id=12535&langTag=bs-BA))

Transparency International BiH also provides assistance to those who report corruption through its Centre for Legal Aid in the Fight against Corruption. Information on available assistance can be found at

<https://ti-bih.org/projekat/alac-centar-za-pruzanje-besplatne-pravne-pomoci-gradjanima/>

and <https://ti-bih.org/oblast/pravna-pomoc/>.

Vasa prava (<https://pravnapomoc.app/ba/about>) is a CSO that provides free legal aid, including information on the rights and obligations of the service beneficiaries, legal advice, drafting of different motions, representing service beneficiaries in proceedings before courts, state level institutions, bodies and authorities in line with relevant laws and international instruments of human rights protection. The CSO provides free legal aid in the legal areas of labour law, property relations, family law, social rights, status rights, pension and disability insurance, among others.

### What addition information is available about procedure of protected reporting of corruption?

Information on how to report corruption is available in a brochure put together by the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption, at

[http://apik.ba/acms\\_documents/Apik\\_antikorupcija\\_brosura.pdf](http://apik.ba/acms_documents/Apik_antikorupcija_brosura.pdf).

A manual for protection of whistleblowers in the institutions of BiH was developed as part of the Anti-Corruption Network of Civil Society Organisations in Bosnia and Herzegovina - ACCOUNT, implemented by the Centre for Media Development and Analysis (CRMA) as a lead and INFOHOUSE as a main partner, with financial support by the US Agency for International Development (USAID). The manual is available at

[https://infohouse.ba/wp-content/uploads/2021/03/PRIRUCNIK\\_za-zastitu-prijavitelja-korupcije.pdf?x42792.](https://infohouse.ba/wp-content/uploads/2021/03/PRIRUCNIK_za-zastitu-prijavitelja-korupcije.pdf?x42792)

## Additional sources of information

Agency for Prevention of Corruption and Coordination of the Fight Against Corruption is obliged to publicise each year a special annual list of institutions in which corruption was reported, noting the type of inflicted detrimental action and information on whether corrective measures were implemented in line with instruction issued by the Agency.

Last report of the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption was publicised in September 2020, for 2019. Work report of the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption for 2019 contains information on reported corruption, as per institutions and their outcomes. The report is available at <http://www.apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=2251&langTag=bs-BA>.