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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 Moldova. Here you can find out what protected reporting means, who can report corruption, and which wrongdoing can be reported. You can also find out about how to report wrongdoing and to whom. The following content provides information on the possibilities of protection against harmful actions that may be taken to deter reporting of wrongdoing or retaliation as a result of reporting.

Based on the following information, you can assess the information available to you that may indicate corruption, and decide whether your information provides a basis for protected reporting of corruption and what are the possible consequences of reporting corruption and the abuse of reporting corruption.

This content has been prepared on the basis of applicable regulation, primarily the Law on Whistleblowers. The information provided does not serve as legal advice and it is therefore recommended consulting the regulation in detail and addressing the competent authorities for specific instruction. This content provides information regarding relevant institutions which provide legal aid for the whistleblowers.

Key information about whistleblowing

What is whistleblowing?

According to the Law no. 122 of July 12, 2018 on whistleblowers (hereinafter: the Law), the disclosure in good faith by an employee of an illegal practice constituting a threat or damage to the public interest is called integrity disclosure. The whistleblower is the employee of a public or private entity who makes an integrity disclosure.

Who can report wrongdoing?

The wrongdoing can be reported, i.e. integrity disclosure can be made by a natural person who in the last 12 months:

- a) is or has been an employee engaged in an employment relationship with an employer (public or private entity, including a non-governmental organization) within the meaning of the labour law;
- b) is or has been a trainee or a volunteer engaged in an employment relationship with an employer (public or private entity, including a non-governmental organization);
- c) is or has been engaged in legal/contractual, civil relationships with an employer (public or private entity, including a non-governmental organization).

Who is entitled to protection for reporting wrongdoing?

The employee (and other aforementioned categories who can file an integrity disclosure) who, in connection with the integrity disclosure he/she made, is subject to retaliation (through actions, omissions or threats) by the employer or another person from the public or private entity in which he/she works, is entitled to request protection by the authorities.

Additionally, public officials who reported inappropriate influence or other attempts to involve them in corruption may be recognized as whistleblowers and may be protected, under the conditions of this law, if they do not enjoy protection in a capacity of a witness and/or injured party in a criminal proceeding.

Can wrongdoing be reported anonymously?

The Law does not regulate anonymous whistleblowing.

Is whistleblowing confidential?

According to the Law, the identity of the employee reporting wrongdoing shall not be disclosed and disseminated to persons suspected of committing wrongdoing if the employee himself/herself does not disclose or reveal his/her identity.

Personal data may be disclosed only in the case of the criminal investigation case initiated following public reporting of wrongdoing. In this case, the whistleblower is interviewed as a witness either under the provisions of the Criminal Procedure Code or of the Contravention Code. If a whistleblower is recognized as a witness or injured party in the framework of criminal proceeding, she/he may seek

protection in accordance with Law no. 105/2008 on protection of witnesses and other participants in criminal proceedings.

Disclosure of the identity of the integrity whistleblower to persons allegedly responsible for illegal practices which he/she invokes involves liability for disciplinary misconduct and/or an offence.

Which wrongdoing can be reported?

Under the Law, a whistleblower can report manifestations of corruption, as stipulated under the Integrity Law no. 82/2017, environmental violations, violations of the fundamental rights and freedoms of the person, those related to national security, as well as other violations, actions or inactions that threaten or harm the public interest.

The confidentiality and professional secrecy clauses between the employer and the employee shall not prevent disclosing illegal practices.

Corruption manifestations include acts of corruption, acts related to corruption, both as criminal offences and misdemeanours, and corruption deeds (including misdemeanours and professional misconduct/disciplinary violation).

Public interest is the general interest for developing the wellbeing of the society as a whole and for fulfilling the legitimate private interests, secured through the operation of public and private entities and by exercise of the service duties of the given entities' agents in strict conformity with the legal provisions, in efficient and economical way in terms of resource use.

Is evidence necessary, or does reasonable suspicion that information about a wrongdoing is accurate suffice?

In order to be entered into the Register of Disclosures of Illegal Practices and Integrity Disclosures and to be recognized as integrity disclosure, the disclosure of illegal practices needs to meet the following requirements:

- a) it is made by an employee of a public or private entity;
- b) it refers to the activity of the entity whose employee he/she is;
- c) it contains information/evidence about illegal practices and actual, imminent or potential damage to the public interest.
- d) the disclosing person shall be identified (surname, name, workplace, contact details and, if a written integrity disclosure is submitted – his/her signature).

Information/evidence is needed for consideration of the disclosure of illegal practices as whistleblowing and for further benefiting from the retaliation protection measures.

Is whistleblowers' motivation put on trial in terms of good faith?

The employee needs to act in good faith when reporting a wrongdoing. The good faith represents a standard of conduct, expressed through fairness, honesty and accountability and it is presumed to be truthful until proven otherwise.

The employee is considered to be acting in good faith when:

- her/his disclosure of illegal practice is truthful, or
- she/he reasonably believes that the information is true and threatens or damages the public interest.

What kind of protection for whistleblowers is afforded by the Law?

Whistleblower protection is administrative and can be sought from the employer, in the case of internal disclosures of illegal practices, and the People's Advocate, in the case of external and public disclosures of illegal practices. Protection is sought in case of retaliation measures as result of disclosure of illegal practices.

Protection depends on recognition of whistleblower status, except in cases of mass violations observed and acted upon by the People's Advocate.

Measures for protection of integrity whistleblowers may include ensuring the transfer to another job, with the consent of the integrity whistleblower, non-application (annulment) of disciplinary sanctions related to the integrity disclosure submitted in good faith, and others.

What constitutes abuse of whistleblowing and what are the consequences?

The Integrity Law no 82/2017 foresees disciplinary liability for public agents for submitting false information when lodging integrity disclosures.

Employers are obliged to hold disciplinary liable the public agents for whom the bad faith has been demonstrated when lodging the integrity disclosures containing inaccurate information.

The Law foresees that the protection for whistleblowers against retaliation may be withdrawn if:

a) the reported information is not true (i.e. the report is inaccurate), including it has been proven that the employee had known or had ought to know about the false nature of the content of his/her disclosure (the disclosure has not been made in good faith);

b) the alleged retaliation is not real;

c) there is no causal connection between the disclosure of public interest and the alleged retaliation.

Are whistleblowers immune from disciplinary, civil and criminal liability in connection with reporting of wrongdoing?

As a rule, the employees cannot be held disciplinary liable for disclosing of illegal practices in good faith. Civil and criminal liability in relation to integrity disclosure are not regulated in this context.

Whistleblowing procedures

How can wrongdoing be reported?

The disclosure of illegal practices and integrity disclosures may be internal (communicated to the employer), external (communicated to the National Anticorruption Center) and public.

The employee can choose whether to report wrongdoing internally or externally. The employee can decide to report wrongdoing externally rather than internally, when he/she:

- a) considers that the employer could be involved in the disclosed illegal practices;
- b) considers that there is a risk of non-confidentiality of his data;
- c) considers that there is a risk of loss, disappearance or destruction of evidence;

d) the employer did not ensure the registration of the disclosure of the illegal practices in the Register of disclosures of illegal practices and integrity disclosures or did not inform the employee about the results of the examination of integrity disclosure within 30 days (which can be extended up to 60 days) since the registration of integrity disclosure.

What is the procedure for reporting of wrongdoing?

Wrongdoing is reported by whistleblowers either:

- 1) in writing (paper-based) by filling in and signing a form (<https://www.cna.md/pageview.php?l=ro&idc=183&t=/Avertizorii-de-integritate/Depune-o-avertizare/In-scris&>) prescribed by the employee;
- 2) electronically, via online disclosure system available at <https://www.cna.md/practicailegala.php?l=en&idc=181&t=/Integrity-Whistleblowers/Report-whistleblowing/Online&>;
- 3) through anti-corruption telephone lines of employers, or
- 4) dedicated (nationwide) anti-corruption telephone line of National Anticorruption Centre (<https://www.cna.md/pageview.php?l=en&idc=182&t=/Integrity-Whistleblowers/Report-whistleblowing/Phone/Disclosing-illegal-practices-at-the-National-Anticorruption-Line/>).

If the wrongdoing was reported electronically (via email) or through dedicated anti-corruption telephone lines of examining authorities (employers or National Anticorruption Center), the disclosure made by the whistleblower shall be documented accordingly by the responsible person or by the telephone line operator.

All the submitted reports shall be registered into the Register of Disclosures of Illegal Practices and Integrity Disclosures kept by employers and the National Anticorruption Center.

Employers are responsible for registration and documenting of internal disclosures. The National Anticorruption Centre is the responsible authority for recording (and documenting) the external wrongdoing reports submitted by the whistleblowers in writing via the online electronic disclosure system, as well as those received through the national anti-corruption telephone line, and through public disclosures.

Which is the procedure following receipt of internal report?

Internal reports are filed with employers. Employers, as responsible authority for internal disclosures, are obliged by the Law:

- to adopt administrative acts for setting the rules for submission and registration of integrity disclosures, their examination, and for ensuring the protection of employees (public agents);
- to appoint the specialized structure responsible for registration of integrity disclosures;
- to ensure personally or, if applicable, through the specialized structure, the confidential registration of integrity disclosures submitted by the public agents in the public entity's register of integrity disclosures.

Employers (as responsible authority for internal disclosures) are obliged to ensure the examination of the integrity disclosure and inform the whistleblower about the results of examination within 30 days from the date of registration in the Register of disclosures of illegal practices and integrity disclosures in writing or by telephone. In case the deadline of 30 days is insufficient, it can be extended by another 30 days, of which the whistleblower will be informed accordingly.

The employer refers the report on wrongdoing to the competent investigative body, if it considers that there are sufficient grounds or a reasonable suspicion that an offence or a misdemeanour was committed. In this case, the whistleblower is informed within the aforementioned timeframes about the examination of his/her report on wrongdoing under the provisions of Criminal Procedure Code or of Contravention Code. If, on the basis of the integrity disclosure, a contravention or criminal trial is initiated, the whistleblower is informed that the integrity disclosure will be examined under the conditions and terms of the Contravention Code or the Criminal Procedure Code of the Republic of Moldova.

Employers are obliged to inform the National Anticorruption Center about information received from whistleblower about corruption manifestations reported, if such information indicates elements of an offence or misdemeanour, and if such information was not communicated to the Center directly by whistleblowers, or specifically on their request.

Which is the procedure following receipt of external report?

External reporting of wrongdoing is done to the National Anticorruption Centre. The National Anticorruption Center ensures the recording and further examining of external and/or public disclosures of illegal practices received in writing through online electronic disclosure system or via dedicated national anti-corruption telephone line.

The provisions regulating internal disclosures are applicable to the external disclosures too.

The National Anticorruption Center, as the authority responsible for examining the external disclosures of illegal practices, shall refer the case which does not constitute any form of corruption manifestation, within 3 working days, to other competent public entities responsible for protection from environmental violations, violations of the fundamental rights and freedoms of the person, as well as those related to national security.

Are there penalties for obstructing reporting?

Employers (as responsible authority for internal disclosures) are obliged to hold disciplinary liable the persons responsible from the specialized structure for non-ensuring the registration and examination of integrity disclosures related to public agents, for non-communication of the integrity disclosure examination results within the set legal deadline, as well as for non-ensuring the protection of personal data of the integrity whistleblower.

The violation of the procedure of receiving, investigating and examining the reports can trigger liability of examining authority (employer/head of public of private entity) according to criminal, contravention or disciplinary procedures.

Protection of whistleblowers from retaliation

Against what type of retaliation does a whistleblower enjoy protection?

The Law defines retaliation as any form of reprisal, pressure, disadvantage or discrimination at workplace that is connected to, or results from, the integrity disclosure. The retaliation forms are: dismissal, suspension, downgrading, refusal to promote or provide training, repressive transfer, cancellation of bonuses, aids or other benefits, harassment or other repressive treatment, as well as threats to take such actions.

Who is entitled to protection?

The recording of the disclosure of illegal practices of public interest in the Register of Disclosures of Illegal Practices and Integrity Disclosures grants the disclosing employee the status of integrity whistleblower.

If the disclosure is recorded, the employee shall, subject to his/her recognition as integrity whistleblower, be informed about the following details:

- if the integrity disclosure is submitted in writing – a written confirmation of the entry into the Register of Disclosures of Practices and Integrity Disclosures, initiation of examination of the circumstances described in the integrity disclosure, and the term within which it will be informed about the results of the examination;
- if the integrity disclosure is made through telephone – the call record number, initiation of examination of the circumstances described in the integrity disclosure, and the term within which he/she can call back or, where appropriate, within which the operator will call him/her (at the discretion of the employee) in order to inform him/her about the examination results;
- regardless of the means of communication of the integrity disclosure – about provision of confidentiality of his/her identity in examining the disclosure, except in cases where criminal or contravention proceedings have been initiated in which he/she is involved as a witness and requests protection;
- in all cases – the fact that the status of integrity whistle-blower will be withdrawn if, during the examination, it is ascertained that the disclosure does not meet any of the prescribed requirements.

If the whistleblower is subject to retaliation from the employer or another person from the public or private entity in which he/she is employed, she/he is entitled to request protection. In order to benefit from the protection measures, the employee who discloses an illegal practice (reporting wrongdoing) must meet the following requirements:

- she/he was recognized as a whistleblower,
- she/he was subject to retaliation, and
- there is a causal connection between the disclosure of illegal practices and the alleged retaliation.

In the case of public disclosure of illegal practices, the employee may be recognized as an integrity whistleblower either by the examining authorities (employer or the National Anticorruption Center) or by the protection authorities (employer or Ombudsman) when requesting protection.

In case the Ombudsman has information on a mass or serious breach of human rights and freedoms, in cases of particular social importance or where it is necessary to defend the interests of persons who are unable to use legal means of defence independently, the Ombudsman may act *ex officio* and in that case it is not mandatory to confirm the status of whistleblower.

From whom can protection be sought?

The request for protection can be made to the:

- employer, in case of internal whistleblowing (internal disclosure of illegal practices)
- Ombudsman, in case of external or/and public whistleblowing.

The protecting authority (i.e. employer or Ombudsman) shall examine the request for protection of the integrity whistleblower, as a matter of priority (maximum within 15 days calculated from the date of entering and registering the request), after which it shall inform the whistleblower on accepting or not her/his request thereto.

The employer shall take administrative actions to cease retaliation against the employee, including at workplace, and to ensure that she/he is protected as a whistleblower. Accordingly, the employer shall cancel administrative acts of retaliation in connection with the disclosure of illegal practices made by the integrity whistleblower.

The People's Advocate shall examine the request for protection of integrity whistleblowers and shall contribute to their protection in accordance with the provisions of Law no. 52/2014 on the People's Advocate.

The employer has the burden to prove that the actions taken with respect to the employee are not connected to the integrity disclosure or his/her involvement in any capacity with respect to an integrity disclosure. Otherwise, the employer's acts are considered retaliation.

The Law foresees the following protection safeguards from retaliation of the whistleblower:

- transfer of the whistleblower during the period of examination of the request for protection, to another subdivision of the public or private entity in which he/she works, while maintaining the specifics of activity;
- transfer of the person who exerted retaliation towards whistleblower. In case of failure to do so, transfer is operated to a subdivision that carries out a related activity as to exclude or limit the influence of the person who exerted retaliation following reporting wrongdoing;
- imposing sanctions on the person who exerted retaliation following reporting wrongdoing;
- sanctioning of the head of a public or private entity for failure to provide protection measures;
- cancellation of the disciplinary sanction, ascertained by the employer or, as the case may be, by administrative court, which was applied to the employee following a disclosure in public interest done in good faith;

- indemnity for material and moral damages incurred as a result of retaliation.

Failure to ensure protection measures for the public servant, (i.e. failure to ensure legal measures foreseen for protecting whistleblowers) represents a misdemeanour which is sanctioned by a fine of 30 up to 90 conventional units (i.e. 1500 MDL up to 4500 MDL – approx. 75 EUR up to 225 EUR) applicable to responsible public official. The National Anticorruption Center is the responsible authority for investigating misdemeanour cases and to impose sanctions thereof.

On the other hand, the protecting authority (i.e. employer or the People's Advocate) may withdraw the protection granted if further finds out that:

- reported wrongdoing was done in bad faith, i.e. the reported information is incorrect (untruthful) or false;

- the alleged retaliation is not real;

- there is no causal link between the disclosure illegal practices of public interest and the alleged retaliation.

Legal support for whistleblowers

Which legal support is available for whistleblowers?

Legal support is not defined by the Law.

Nonetheless, the employees who are seeking protection from retaliation following reporting wrongdoing can ask the legal support from [Bar Association](#), [National Legal Aid Council](#), [National Anticorruption Center](#), [Ombudsman](#) (People's Advocate) and different NGOs.

The Law on the state guaranteed legal aid No. 198-XVI foresees the categories of persons entrusted with the right to benefit from a qualified free legal aid if they:

- a) need legal aid in criminal cases, and the interests of justice require it, but they do not have sufficient means to pay for this service;
- b) need emergency legal aid in case of apprehension in a criminal or a misdemeanour (contravention) procedure;
- c) need emergency legal aid in case of submitting the application for instituting protection measures in cases of domestic violence or sexual offenses;
- d) have the right to compulsory legal aid under the Criminal Procedure Code;
- e) have the right to compulsory legal aid under the Civil Procedure Code and the Civil Code;
- f) need legal aid in contravention, civil and administrative litigation cases, but they do not have sufficient means to pay for these services, the cases being complex from a legal or procedural point of view.

Qualified legal aid may be requested at any stage of the criminal proceedings, and in civil cases until the trial commencement.

Which information materials on whistleblower system are available?

Online information and mechanisms for reporting wrongdoing are available at <http://ombudsman.md/avertizari-de-integritate/> and <https://www.cna.md/practicailegala.php?l=en&idc=181&t=/Integrity-Whistleblowers/Report-whistleblowing/Online/>.

Guide on whistleblowing, available at <https://www.avertizori.capc.md/Ghidul-avertizorului-de-integritate-pentru-cet%C4%83%C8%9Beni.pdf>.

Video tutorial on encouraging whistleblowing, available at <https://www.facebook.com/watch/?v=548090979277275> or <https://www.youtube.com/watch?v=ORGsxKGwCck>

Step by step tutorial published in mass-media available at <https://www.zdg.md/stiri/cum-poti-sa-devii-avertizor-de-integritate-curs-online-de-instruire/>.

Further information and resources

Practical guide on whistleblowing for judges and prosecutors, available at <https://www.cna.md/public/files/Ghid-practic-pentru-judecatori-si-procurori-Avertizorii-de-integritate45a20.pdf>.

E-learning tutorial provided by the Ombudsman Office at <http://ombudsman.md/courses/>.

Video on whistleblowing <https://www.facebook.com/PNUDMoldova/videos/2857647474478256/>.

Anticorruption campaign “Integrity Dictionary”, available at <https://www.facebook.com/watch/165158373553979/611165282886210/>.

