

**REPUBLIC OF LITHUANIA**  
**LAW**  
**ON PROTECTION OF WHISTLEBLOWERS**

No XIII-2017 of 28 November 804  
Vilnius

**Article 1. Purpose and objectives of this Law**

1. This Law shall lay down the rights and duties of the persons reporting about the infringements in institutions, the grounds and forms of their legal protection as well as the measures of protection, provision of incentives and assistance to such persons for the purposes of creating favourable conditions for reporting about the infringements of the law which pose a threat to or violate the public interest, or for the purposes of prevention and detection of such infringements.

2. In the event of any conflict between this Law and other laws, the provisions of this Law shall apply.

3. In the event of any conflict between this Law and the Code of Criminal Procedure of the Republic of Lithuania, the norms of the Code of Criminal Procedure shall apply.

**Article 2. Definitions**

1. **Information about the infringement** means information about the infringement containing the elements specified in paragraph 5 of the present Article which is reported by a person through an internal whistleblowing channel or directly to a competent authority, or in public.

2. **Institution** means a legal entity, whether public or private, any other organisation, or a branch of a foreign legal entity or organisation in which an infringement is being purportedly arranged, has been committed or is being committed.

3. **Competent authority** means an entity which, in accordance with this Law, receives, examines reports or information about the infringements or transmits them to other authorities, and coordinates the process of protection of and assistance to the whistleblowers in accordance with this Law.

4. **Confidentiality** means the principle of activities of institutions and other entities and their employees, civil servants or officials which ensures that the data of the person who has reported information about the infringement as well as any other information enabling identification of such person, either directly or indirectly, are processed solely for the purposes of performance of employment or official functions and that such information is not disclosed to the third parties, except in the cases provided for in this Law.

5. **Infringement** means a possible criminal offence, administrative offence, disciplinary offence or a violation of employment duties, also a serious breach of mandatory rules of professional ethics, or any other offence affecting or prejudicing the public interest, which is being arranged, is being committed or has been committed and of which a whistleblower becomes aware by virtue of his or her current or previous official, employment relations or contractual relations with the institution.

6. **Whistleblower** means a person who reports information about an infringement in the institution where the person has or had official or employment relations, or contractual relations (advisory, independent work, traineeship, internship, volunteering, etc.) and who is recognised as a whistleblower by the competent authority.

7. **Report** means a referral which is addressed to the competent authority, which complies with the formal requirements laid down in this Law and provides specific information about the infringement matching the elements laid down in this Law.

8. **Internal whistleblowing channel** means the procedure established and operated by the institution for the purposes of reporting and investigation of information about the infringements within that institution and notification of the person.

### **Article 3. Reporting of information about infringements**

1. Information about the infringements shall be reported for the purposes of protection of the public interest. Reporting of information for the sole purpose of defending the personal interests shall not be deemed to constitute a report.

2. For the purposes of this Law, information about the infringements shall be reported in the event of:

- (1) a risk to public security or health or to the life or health of a person;
- (2) risks to the environment;
- 3) obstruction of or unlawful interference with the investigations conducted by law enforcement authorities or administration of justice by courts;
- (4) financing of illegal activities;
- (5) illegal or non-transparent use of public funds or assets;
- (6) illicit assets;
- (7) concealing the consequences of an infringement, obstructing determination of the extent of the consequences;
- (8) other infringements.

3. Where a person reports information about the infringement relating to a commercial (industrial) secret, professional secret, bank secret, confidential information of the institution or

information concerning the private life of a person in accordance with the procedure laid down in this Law, such reporting shall not be regarded as disclosure of the commercial (industrial) secret, bank secrecy, confidential information or information concerning the private life of a person, with the exception of the case provided for in Article 4 paragraph 8 of this Law and the cases when reporting of the information containing the professional secret to the competent authority would contradict with the laws regulating separate professional activities.

4. By reason of reporting information about the infringement, the person shall not be subject to any contractual or non-contractual liability, liability for defamation, libel if, when reporting information about the infringement in accordance with the procedure laid down in this Law, the person had reasonable grounds to believe that the information reported was correct.

5. A person shall be liable for any damage resulting from the reporting of information about the infringement only if it is proved that the person could not have reasonable grounds to believe that the information reported was correct.

6. A person who reports information about the infringement on an anonymous basis shall be subject to the measures laid down in Article 8 of this Law in cases where the person's identity has been disclosed and it is necessary to protect the person against any adverse actions.

7. Reporting of the information known to be false, also reporting of the information which constitutes state or official secrets, shall deprive the person of any guarantees under this Law. A person who has reported the information known to be false or has disclosed state, official or professional secrets shall be liable in accordance with the procedure laid down in the legal acts.

#### **Article 4. Means used to report information about infringements**

1. A person may report information about the infringement:

- (1) through an internal whistleblowing channel available within the institution;
- (2) directly to the competent authority;
- 3) in public.

2. A person shall report information about the infringement within the institution through an internal whistleblowing channel, except in the cases referred to in this Article. The institution shall, no later than with 5 working days after receipt of the information about the infringement, notify the person about the progress of examination of the information reported by him or about the refusal to examine such information. Having examined the information reported by the person, the institution shall immediately notify the person about the results of examination.

3. A person shall report information about the infringement directly to the competent authority in the event of existence of at least one of the following circumstances:

- (1) the infringement is of essential importance to the public interest;

(2) the infringement must be prevented or terminated within the shortest possible period of time since otherwise it may cause serious harm;

3) the heads of the institution or the persons bound by employment, official or contractual relations with the institution are possibly committing or have committed the infringements themselves;

(4) information about the infringement was reported through the internal whistleblowing channel but no reply was received or no action was taken in response to the information reported, or the measures taken were ineffective;

5) there are grounds to believe that reporting of information about the infringement through the internal whistleblowing channel may compromise the whistleblower's anonymity or the person's confidentiality, or attempts will be made to conceal the infringement reported;

(6) the institution does not have a functioning internal whistleblowing channel;

(7) the person cannot use the internal whistleblowing channel because he/she no longer has any employment, official or other legal relations with the institution.

4. When a person becomes aware of the elements of a possible criminal offence committed or being committed, the report shall be submitted to the competent authority.

5. A person shall report information about the infringement to the competent authority in a form approved by the Government of the Republic of Lithuania or an authority authorised by it. Information about the infringement may also be reported by a person to the competent authority by means of a free-form report by indicating that the report is made in accordance with this Law. Failure to comply with the reporting requirements as laid down in this paragraph shall result in the consequences referred to in Article 6 paragraph 1 of this Law.

6. In the report, the person shall indicate the following information of which he or she is aware:

(1) the specific factual circumstances of the infringement;

(2) the person who is preparing, taking part in or has taken part in the commission of the infringement;

(3) whether this infringement has already been reported by the person; if so, to whom it has been reported and whether a reply has been received;

4) the name, surname and contact details of the person who is reporting information about the infringement.

7. Where possible, the person shall enclose any written or other available details of the infringement to the report.

8. Information about the infringement may be reported in public for the purpose of notifying about the imminent danger to human life, public health or the environment where immediate action

is necessary in order to prevent such a threat and due to the lack of time it is not possible to report the infringement by other means or when reporting about the infringement by other means did not result in any timely and necessary actions. A person who has reported information about the infringement in public shall address the competent authority if the persons seeks to obtain the guarantees provided for in this Law to whistleblowers. A person who has reported information about the infringement in public shall not be subject to the measure referred to in Article 8 paragraph 1 subparagraph 2 of this Law or to the provisions of Article 3 paragraph 3 of this Law.

#### **Article 5. Competent authority**

1. For the purposes of implementation of this Law, the competent authority shall perform the following functions:

- 1) receive reports from individuals;
- 2) assess compliance of the information reported by the person about the infringement with the requirements laid down in this Law and recognise the person who reported information about the infringement as a whistleblower;
- 3) investigate reports and information about the infringements within the limits of the competence laid down in the legal acts governing its activities;
- 4) transmit reports and information about the infringements to the authorities based on their competence;
- 5) take decisions on the application of measures of protection, provision of incentives and assistance to the whistleblower, and coordinate implementation of such decisions;
- 6) coordinate the actions taken by the authorities during the investigation of information about the infringements;
- 7) summarise the practice of application of this Law, develop and make recommendations for the improvement of whistleblower protection, compile statistical data and make them available in public;
- 8) publish summarised information about the infringements disclosed on the basis of the information reported by whistleblowers;
- 9) advise individuals and authorities on the application of this Law;
- 10) manage the information intended for whistleblowers in the online environment;
- 11) perform other functions laid down in this Law.

2. The functions of the competent authority set out in this Law shall be performed by the Public Prosecutor's Office of the Republic of Lithuania.

## **Article 6. Examination of information about the infringements reported to the competent authority**

1. Upon receipt of a report which complies with the requirements laid down in Article 4 paragraph 5 of this Law, the competent authority shall, from the moment of receipt of the report, ensure confidentiality of the person who made the report and shall immediately proceed with the assessment of information about the infringement. If a person reports an infringement without complying with the formal reporting requirements laid down in Article 4 paragraph 5 of this Law, but the information contained in the report complies with other requirements laid down in this Law, the competent authority may recognise the person as a whistleblower. In such cases, the competent authority shall ensure the person's confidentiality from the moment the person is recognised as a whistleblower.

2. When the competent authority carries out assessment of information about the infringement and finds that the information contained in the person's report does not comply with the provisions of this Law, it shall pass a decision on the refusal to recognise the person as a whistleblower and shall notify the person accordingly. If, on the basis of the information contained in the report, there are grounds to believe that another infringement not defined in Article 2 paragraph 5 of this Law, has been committed, the competent authority shall, based on its competence and in accordance with the procedure laid down in the legal acts, either launch an investigation itself or shall immediately forward the report to the authority empowered to investigate such infringements in accordance with the Law on Public Administration of the Republic of Lithuania or other legal acts, and shall notify the person accordingly.

3. Where the competent authority finds that the person making the report and the information provided by him about the infringement comply with the requirements laid down in this Law, it shall recognise the person as a whistleblower and notify him accordingly.

4. Where the competent authority is empowered to investigate the infringements referred to in the report, it shall establish the fact of existence or absence of the infringement and shall prosecute the perpetrators of the infringement or initiate prosecution of the perpetrators of the infringement in accordance with the legal acts governing the relevant liability.

5. Where the competent authority finds that it is not empowered to investigate the infringements referred to in the report, it shall, within no more than 5 working days of receipt of the report, forward it, based on competence, to another authority together with a decision to recognise the person as a whistleblower, and shall notify the whistleblower accordingly. The authority to which the report has been forwarded shall provide the competent authority with the information about the progress and results of investigation of the report.

6. Upon completion of investigation of the information provided by a whistleblower about the infringement and adoption of decisions in that regard or upon receipt of information about the results of examination of the report from another authority which examined the report, the competent authority shall notify the whistleblower accordingly.

7. The competent authority shall not investigate the reports and shall notify the person who submitted the report accordingly if:

(1) the report is based on the information that is manifestly contrary to reality;

(2) the person addresses the competent authority repeatedly in relation to the same circumstances where the previous information about the infringement was examined in accordance with the procedure laid down in this Law and a decision was passed in relation to such information.

8. The competent authority shall have the right to require that natural persons and institutions provide the information necessary for the performance of the functions of the competent authority laid down in this Law.

9. A decision of the competent authority on the refusal to recognise the person as a whistleblower may be appealed against to court in accordance with the procedure laid down in the Law on Administrative Proceedings of the Republic of Lithuania.

#### **Article 7. Transmission of reports to the competent authority**

Where a public administration entity receives a report which meets the requirements laid down in Article 4 paragraph 5 of this Law or which contains information that matches the elements specified laid down in this Law, it shall immediately, but no later than within 2 working days from the date of receipt of the report, forward the report to the competent authority and shall notify the person who submitted the report accordingly.

#### **Article 8. Measures of protection, provision of incentives and assistance applied to the persons who report information about infringements**

1. The following main measures of protection, provision of incentives and assistance shall be applied to the persons who report information about the infringements include:

(1) ensuring secure channels for reporting about the infringements;

(2) ensuring the person's confidentiality;

(3) prohibition to take adverse actions against the person who has reported information about the infringements;

(4) the right to be remunerated for valuable information;

(5) the right to compensation;

(6) ensuring free legal aid;

(7) exemption from liability.

2. The measures referred to in paragraph 1 subparagraphs 2 and 3 of this Article shall apply from the moment of receipt of information about the infringement reported by a person to the institution or the competent authority and shall apply to all persons (except in the cases referred to in Article 6 paragraph 1 of this Law) who reported information about the infringement in accordance with the procedure laid down in this Law, whether or not the person who reported information about the infringement has been recognised as a whistleblower. The measures referred to in paragraph 1 subparagraphs 4, 5, 6 and 7 of this Article may be applied from the date on which the competent authority has recognised the person who reported information about the infringement as a whistleblower.

### **Article 9. Confidentiality**

1. Confidentiality of the persons who have reported information about the infringements shall be guaranteed during the public administration, official (disciplinary) infringement investigation procedures or administrative or criminal proceedings to the extent to which such confidentiality is objectively possible in the light of the information reported and its relationship with the whistleblower.

2. Each institution and person which/who receives or examines information about the infringement shall ensure confidentiality of the person who reported information about the infringement.

3. The data of the whistleblower which enable identification of the whistleblower shall be provided only to the person or authority engaged in the examination of information about the infringement.

4. If the competent authority has not recognised the person who reported information about the infringement as a whistleblower and has forwarded the information about the infringement to another authority in accordance with Article 6 paragraph 2 of this Law, confidentiality shall be ensured by the authority to which information about the infringement has been forwarded.

5. The requirement to ensure confidentiality shall not apply where:

(1) there is a written request of the person who is reporting or has reported information about the infringement;

2) the person reports information known to be false.

6. It shall be prohibited to provide any information about the whistleblowers to the persons not participating in the investigation.

## **Article 10. Prohibition to take adverse actions against the persons who have reported information about the infringements**

1. The following adverse actions shall be prohibited against the person who has reported information about the infringement from the date of reporting such information and by reason of reporting such information: dismissal from work or service, downgrading or transfer to another position, intimidation, harassment, discrimination, threatening reprisals, restriction of career opportunities, reduction of the wage, changing of working hours, raising doubts about the person's competence, communication of negative information about the person to the third persons, deprivation of the right to work with information which constitutes state or official secrets, or taking any other measures of adverse effect.

2. Prohibition to take adverse actions against the person who has reported information about the infringement shall apply to the employer and other employees of the institution.

3. It shall also be prohibited to take adverse actions against the family members of the person who has reported information about the infringement, who are employed in the institution or in another legal entity subordinate to the institution where a family member of the person who has reported information about the infringement may suffer adverse consequences by reason of reporting of information about the infringement. The provisions of Articles 11 and 14 of this Law shall apply *mutatis mutandis* to the family members of the person who has reported information about the infringement against whom adverse actions have been taken by reason of reporting of information about the infringement.

4. If any adverse actions have been taken against the person who has reported information about the infringement and in the event of a dispute, the employer shall bear the burden of proving that the adverse consequences suffered by the person who has reported information about the infringement have not been caused by the report or information about the infringement.

## **Article 11. Legal remedies**

1. If any adverse actions are taken against a whistleblower, he or she shall notify the competent authority thereof.

2. Where adverse actions are taken against the person who has reported information about the infringement in accordance with the procedure laid down in this Law through the internal whistleblowing channel of the institution, the person shall report to the competent authority which shall decide on his or her recognition as a whistleblower.

3. Where the competent authority finds that adverse actions are being taken against the whistleblower, it shall address the institution by indicating the guarantees applicable to the whistleblowers.

4. A person who has reported information about the infringement may address the court in respect of the adverse consequences suffered by him or her. A person who has employment relations with the institution shall have the right to challenge the administrative decision or any other act or omission taken against him or her and resulting in adverse consequences suffered by him or her, in accordance with the procedure laid down in the Law on Administrative Proceedings.

5. The adverse consequences resulting from the report shall be rectified in accordance with the procedures laid down in the legal acts governing employment or official relations unless otherwise provided for in this Law.

6. A whistleblower shall have the right to claim compensation of non-property damage or compensation for adverse consequences suffered by him or her.

### **Article 12. Remuneration for valuable information**

1. Whistleblowers who have reported valuable information about the infringements to the competent authority may be remunerated in accordance with the procedure laid down by the Government.

2. A decision on remuneration of the whistleblower for reporting valuable information shall be taken and the amount of remuneration shall be calculated and paid in compliance with the following principles:

1) the whistleblower may be remunerated for the information about any infringement regardless of the type or nature of the infringement;

(2) remuneration to the whistleblower shall be proportionate to the damage caused or likely to be caused by the infringement provided that such damage can be calculated;

(3) remuneration to the whistleblower shall not comprise the maximum amount;

4) remuneration to the whistleblower shall not be linked to the final judgment.

### **Article 13. Compensation to whistleblowers**

1. At the reasoned request of the whistleblower during the investigation of the report, the competent authority may grant him or her a compensation in the amount of up to 50 base social benefits in order to compensate the whistleblower for the adverse actions taken against him or her or for the potential consequences of the report made by him or her.

2. No compensation shall be granted if the whistleblower has received remuneration referred to in Article 12 of this Law.

3. The procedure of granting compensations to the whistleblowers shall be laid down by the Government.

#### **Article 14. Legal aid to whistleblowers**

1. At the request of the whistleblower, the secondary state-guaranteed legal aid shall be granted to the whistleblower in accordance with the procedure laid down in the Republic of Lithuania Law on State-Guaranteed Legal Aid regardless of the property and income levels established by the Government for the provision of legal aid.

2. The secondary state-guaranteed legal aid shall be granted to the whistleblower on the basis of the decision of the competent authority to recognise the person as a whistleblower.

3. The entities taking decisions on granting the secondary state-guaranteed legal aid and providing such legal aid shall, as far as possible, ensure the whistleblower's confidentiality.

#### **Article 15. Exemption from liability**

A whistleblower who has participated in the commission of infringements and has reported about this to the competent authority in accordance with the procedure laid down in this Law may be exempted from liability for participation in such infringements in accordance with the procedure laid down in the legal acts.

#### **Article 16. Introduction of internal whistleblowing channels**

1. The institutions shall set up the internal whistleblowing channels and shall ensure their functioning in accordance with the procedure and requirements laid down by the Government.

2. The internal whistleblowing channels shall ensure confidentiality of the persons reporting information about the infringements.

3. The head of the institution shall be responsible for setting up and functioning of the internal whistleblowing channel. The head of the institution shall notify the employees, civil servants and officials about the internal whistleblowing channel available within the institution and shall display the relevant information in the manner accessible to all of them.

#### **Article 17. Liability**

Persons who violate the provisions of this Law shall be liable in accordance with the procedure laid down by the laws of the Republic of Lithuania.

#### **Article 18. Entry into force and implementation of the Law**

1. This Law shall enter into force on 1 January 2019.

2. The Government or the authorities authorised by it shall adopt the implementing legislation by 31 December 2018.

*I promulgate this Law adopted by the Seimas of the Republic of Lithuania.*

President of the Republic

Dalia Grybauskaitė