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Whistleblower Protection Act – contents and obligations



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About the Whistleblower Protection Act training project

- This training material has been produced as part of an EU co-funded project for the Whistleblower Protection Act. The project was carried out from 1.9.2023 to 30.4.2025. The aim is to raise awareness of the content of the Whistleblower Protection Act.
- Project objectives:
 - Organizations required to establish a reporting channel must be able to meet legal obligations.
 - The expertise of those handling reports and the awareness of employees about the content of the law should be promoted.
 - Citizens' awareness of reporting procedures and channels should be increased.
- The project's steering group included representatives from the Ministry of Justice, the Ministry of Employment and the Economy, the Ministry of Finance, SAK, EK, the State Treasury, the Office of the Chancellor of Justice, and the Association of Finnish Local and Regional Authorities.



About the Whistleblower Protection Act

- The Act on the Protection of Persons who Report Breaches of Union or National Law (1171/2022, Whistleblower Protection Act) came into force on 1.1.2023. The Whistleblower Protection Act transposed the EU's so-called Whistleblower-Directive (2019/1937).
- The main goals of the regulation are:
 - To create effective and uniform EU-wide protection for whistleblowers.
 - To improve the implementation of EU legislation and promote the detection of breaches.
 - To safeguard the financial interests of the EU in areas of legislation where irregularities can cause significant harm to the public interest.
 - To promote a fair and well-functioning internal market, ensuring a level playing field for businesses and a healthy competitive environment overall.
- A significant reform imposing permanent obligations on thousands of organisations at the national level.

Protection of reporting persons promotes transparency and good governance

- Persons may have previously failed to report their observations due to:
 - Fear of retaliation
 - Uncertainty about where and how to report
 - Fears that reporting would be futile and not be followed up
 - Fears of reputation damage and/or perceptions of reporters as “informers” and “snitches”
- Reporting persons may have information of suspected wrongdoing at an early stage when the damage caused is still minor or even completely preventable.
- Reporting persons often have information which would rarely be possible for the organization’s management or supervisory authorities to become aware of otherwise at that time.

Scope of application (2 §) 1/2

- Applicable to violations in the following areas of legislation :
 - 1) public procurement (excluding defence and security procurement);
 - 2) financial services, products and markets;
 - 3) prevention of money laundering and terrorist financing;
 - 4) product safety and conformity;
 - 5) traffic safety;
 - 6) protection of the environment;
 - 7) radiation and nuclear safety;
 - 8) food and feed safety, animal health and welfare;
 - 9) public health as defined by article 168 of the Treaty on the Functioning of the European Union (TFEU);
 - 10) consumer protection;
 - 11) protection of privacy and personal data, and security of network and information systems.
- The scope of application includes violations of EU law, its national enforcement legislation as well as other national legislation concerning the above-mentioned areas of legislation. In other words, EU and national legislation are considered and applied.
- Concerning the above-mentioned offences, it is also a precondition that the act or omission:
 - 1) is a punishable offence;
 - 2) may result in an administrative penalty fee; or
 - 3) may seriously endanger the objectives in the public interest pursued by this legislation.



Scope of application (2 §) 2/2

- In addition, the Act applies to reports concerning:
 - 1) violations of rules concerning European Union fund management or expenditure implementation or European Union income or fund collection;
 - 2) violations of rules concerning the granting, use, or recovery of grants or state aid;
 - 3) violations of competition rules;
 - 4) violations of tax rules for businesses and corporations or arrangements made to obtain a tax advantage; or
 - 5) violations of legislation enacted to protect consumers.
- In the case of such reports, the reporting person is protected irrespective of the possible sanction provided for in that legislation.
- The scope of application is dynamic (changing).

Personal scope of application (5 §) – who are protected?

- The provisions on protection apply to a reporting person who has received information of a possible violation in a **work-related context**.
- The work-related context is defined broadly and includes e.g.:
 - Employment relationships and public-service employment relationships
 - Self-employed persons
 - Shareholders
 - Members of the board of directors or supervisory board of a corporation as well as CEO
 - voluntary workers or trainees
- Protection also applies to reporting persons who have become aware of a suspected violation during a recruitment process or during an employment relationship that has already ended.
- Protection applies also in certain respects, to other persons, such as persons assisting the reporting person in the reporting procedure and third parties who have contacts with the reporting person and who may be subject to retaliatory measures in the course of their work.

Preconditions for protection (5–9 §) – when are you entitled to protection?

1. Information or suspicion of a violation must be obtained in a work-related context.
2. The reporter must have reasonable grounds to believe that the reported information is correct.
 - The reporting person does not need to have comprehensive evidence of the offence, but the reporting person must act in good faith (bona fide).
3. The reporter must have reasonable grounds to believe that the reported violation falls within the material scope of application of the Act.
 - As a rule, no high requirements are set for the reporting person's awareness of the matter – however, the person's tasks and position for example may affect the assessment.
4. The reporter must follow a three-step reporting procedure.
 - The reporting person shall also be protected if he or she has, in good faith and due to an error, reported information that has subsequently proven to be incorrect.
 - However, protection may not be granted if false or misleading information is intentionally and deliberately reported.

Three-step reporting procedure (7–9 §)

- Primarily, the report should be submitted via the internal reporting channel of the organization where the violation occurred.
- However, the report may be submitted directly via an external channel under certain conditions:
 - 1) the organisation does not have an internal reporting channel or the reporting person has not been given the opportunity to report through an internal reporting channel;
 - 2) the reporter has reasonable grounds to believe that no action has been taken as a result of the internal report within a 3-month time period;
 - 3) the reporter has reasonable grounds to believe that the violation cannot be effectively addressed internally; or
 - 4) if the reporter has reasonable grounds to believe that there is a risk of retaliation.
- In exceptional situations, the information of the report may also be published directly and still receive protection:
 - 1) the reporter has reasonable grounds to believe that the competent authority has not initiated a review of the accuracy of the report within the time period;
 - 2) the reporter has reasonable grounds to believe that the violation may present an immediate risk to the public interest;
 - 3) the reporter has reasonable grounds to believe that reporting to the authorities may pose a risk of retaliation; or
 - 4) the reporter has reasonable grounds to believe that the competent authority is involved in the violation or that it is otherwise likely that the competent authority will not intervene effectively in the violation due to the specific circumstances of the case.

How reporters are protected?

- **Confidentiality and prohibition of retaliation:** the identity of the reporting person is confidential information and the reporting person is protected against any possible retaliation (very broad concept).
- **Discharge from liability:** when a person reports or publishes information on a violation, he or she shall not be deemed to violate any restriction concerning disclosure and shall not be held liable in any way for such disclosure. Reporting persons shall not be held liable for reported or published information, provided that such information is necessary for the disclosure of the violation. Additionally, obtaining the information in itself must not be an offence.
- **Reversed burden of proof:** In official or judicial proceedings concerning harm to the reporting person where, on the basis of the evidence provided or other factors, it is to be presumed that the harm was caused by retaliatory action taken as a result of reporting, it is the duty of the subject carrying out the harmful action to demonstrate that the action was taken based on duly justified reasons.
- **Compensation and damages:** A remedial measure for damage caused to the reporting person by a breach of the prohibition of retaliatory measures. Also applicable to a reporter who has deliberately reported or disclosed false information – must compensate the object of the report for the damages caused.
- **Compensation:** Compensation to the reporter for the violation caused by the retaliation. Separate from tort liability-based compensation.
- **Sanctions:** Deliberate reporting of false information, violation of the Whistleblower Protection Act, references to criminal code provisions: violation of the secrecy obligation, data protection offence, violation of communications secrecy, defamation.
- **Mandatory nature of the provisions of the Act:** An agreement that reduces the rights and legal remedies available to the reporting person or the object of the report under the Act shall be null and void.

Key requirements for report processing (1/2)

- Access to the internal channel must be offered at least to persons in a contractual or public-service employment relationship in the organization. (10.2 §)
- Received reports must be entered in a case management register or otherwise registered. (37.1 §)
- Organizations must separately designate the person or persons responsible for processing the reports, who must be able to carry out their duties in an impartial and independent manner. (14 §)
- Reporting must be possible in writing or orally via an internal reporting channel. (15.1 §)
- The organisation that receives the report must submit an acknowledgement of receipt to the reporter within seven days of receipt of the notification. (15.2 §)
- The person responsible for processing the report must take the necessary measures to verify the accuracy of the report and, if necessary, to intervene in the violation. (16.1 §)
- Within three months of the submission of the report, the person responsible for processing the report must inform the reporter of the measures to be taken on the basis of the report. (16.2 §)

Key requirements for report processing (2/2)

- The organizations may also decide to receive anonymous notifications on their internal reporting channel. No acknowledgement of receipt or information about measures taken need be submitted on the basis of anonymous notifications (17 §).
- An organisation that has established an internal reporting channel must provide information on reporting to the internal reporting channel and the central reporting channel of the Office of the Chancellor of Justice, the procedures related to reporting and the prerequisites for protection. The information must be presented in a clear format and in such a way that it is easily accessible to reporting persons. (15.4 §)
- As a rule, data received through the reporting channels must be erased five years after the arrival of the report. Manifestly irrelevant personal data shall be deleted without undue delay. (29.2 §)
- Persons processing reports are bound by duty to confidentiality (incl. persons assisting the reporting person and providing legal advice). Confidential information includes the identity of the reporting person, the object of the report and the third parties mentioned in the report. (32 §)
- Confidential information may, under certain conditions, be disclosed, such as to criminal investigation authorities, for the purpose of preventing, detecting, investigating and submitting cases for consideration of charges. (33 §)

Thank you!

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