

# WHISTLEBLOWING REPORTING INSTRUCTIONS

## 1. INTRODUCTION

With Legislative Decree No. 24/2023, our legal system implemented Directive (EU) 2019/1937 of the European Parliament and of the Council of October 23, 2019, concerning the protection of people who report breaches of Union law and containing provisions on the protection of persons who report violations of national legal provisions.

Numerous innovations have been introduced, which have affected various aspects such as the subject matter of violations, the audience of reporting subjects, the activation of reporting channels and their methods of use, the involvement of ANAC, the extension of protective measures to individuals or entities supporting the whistleblower, etc.

These Instructions have been prepared by the Organisation to provide clear information to individuals intending to make a report under the aforementioned Decree on the channel available, the procedure, and the prerequisites for making an internal report, as well as on the channel available, the procedure, and the prerequisites for making an external report.

These Instructions are made available to potential reporters, also thanks to their publication on the Organisation's website.

## 2. WHO CAN FILE A COMPLAINT AND HAVE THE PROVIDED PROTECTIONS?

The reporting person, aka whistleblower, is the person who makes the report or public disclosure or statement of information on violations acquired within the scope of their work context. Specifically, reference is made to:

- Subordinate workers of the Organisation regardless of the type of employment contract (e.g., indefinite, part-time, intermittent, fixed-term, agency, apprenticeship, ancillary work, occasional, etc.);
- Self-employed workers, collaborators, suppliers of goods and/or services, or those who carry out work for third parties, who perform their work activity for the Organisation;
- Freelancers and consultants who provide their work activity for the Organisation (e.g., sales agents, lawyers, engineers, etc.);
- Volunteers and interns, paid or unpaid, who provide their work activity for the Organisation;
- Shareholders and persons with administrative, managerial, supervisory, oversight, or representative functions, even de facto, within the Organisation.

It is worth noting that the report can be made not only during the employment relationship but also during any probationary period or even before the actual establishment thereof (e.g., during the pre-contractual/selection phase) or after the termination of the relationship itself, provided that the information was acquired during the latter.

### **3. OTHER SUBJECTS CONSIDERED AND TO WHOM THE PROVIDED PROTECTIONS APPLY**

Among the innovations introduced by the aforementioned Decree is the fact that the Legislature, for the first time, has also focused on other subjects who may be involved in the matter and has extended protections to them as well. Specifically, these include:

- The facilitator, who is the natural person, also belonging to the same work context as the whistleblower, assists and, therefore provides support and/or advice to the whistleblower in the reporting process (e.g., an office colleague).
- Persons within the same work context as the whistleblower (reporter or individual making a public disclosure), i.e., individuals connected by a network of relationships arising from the fact that they work, or have worked in the past, in the same work environment as the whistleblower, and who have a stable emotional bond with them (e.g., cohabitant) or a family relationship within the fourth degree.
- Colleagues of the whistleblower (reporter or individual making a public disclosure) who work within the same work context, meaning their employment relationship must not have ceased, and who have a habitual and ongoing relationship with them, i.e., a relationship that is not merely sporadic, occasional, episodic, or exceptional, but current, prolonged over time, and with a continuity such as to determine a relationship of camaraderie/friendship.
- Entities exclusively or partially owned, provided it is majority-owned, by the whistleblower (reporter or individual making a public disclosure) or for which the whistleblower works, and entities operating within the same work context of such individual.

### **4. WHAT IS A REPORT?**

A report is a communication, written or oral, of information about violations submitted through the reporting channels that will be further discussed shortly.

### **5. WHAT CAN BE REPORTED AND WHAT DOES NOT FALL WITHIN THE SCOPE OF WHISTLEBLOWING LEGISLATION?**

Considering the characteristics of the Organisation, as also indicated in the ANAC Guidelines approved by Resolution No. 311/2023, the scope of the report is much narrower than that established within the aforementioned Decree.

A reportable matter through the internal or external reporting channel (and also through public disclosure or denunciation to the competent Authority) includes any information learned in the whistleblower's work context (see paragraph 2) about violations of EU law and national implementing legislation committed - i.e., acts, behaviours, or omissions - or about violations of EU law and national implementing legislation that, based on concrete elements, could be committed (e.g., irregularities, anomalies, symptomatic indications, etc.), including well-founded suspicions and elements concerning conduct aimed at concealing violations.

More specifically, and referring inevitably to the legislation for every detail, the following can be reported:

- Offences falling within the scope of EU or national acts relating to the following sectors: public procurement; financial services, products, and markets, and prevention of money laundering and terrorist financing; product safety and compliance; transport safety; environmental protection; radiation protection and nuclear safety; food and feed safety and animal health and welfare; public health; consumer protection; protection of privacy and personal data and security of networks and information systems;
- Acts or omissions affecting the financial interests of the Union;
- Acts or omissions concerning the internal market;
- Acts or behaviours that frustrate the purpose or objective of the provisions of the Union acts.

Furthermore, any retaliations suffered can be reported to ANAC.

However, a report cannot concern unfounded news or information that is already fully in the public domain, or information acquired solely through unreliable rumours or gossip (e.g., rumours or hearsay).

As for explicitly excluded contents, these include:

- Disputes, claims, or requests related to a personal interest that solely concern individual work or employment relationships, including relationships with hierarchical superiors;
- Reports of violations already mandatory and regulated by other legislative sources that already guarantee specific reporting procedures;
- Reports of violations relating to national security, as well as contracts relating to aspects of defence or national security unless these aspects fall within the relevant EU derivative law.

The Legislature has expressly stated that the legislation under discussion does not affect the application of national and European provisions on classified information; medical or forensic professional secrecy; confidentiality of deliberations of judicial bodies; criminal procedural rules; autonomy and independence of the judiciary; national defence and public order and security; exercise of workers' rights.

Lastly, it is noted that the reasons prompting the individual to make a report are irrelevant to the treatment of the report itself and for the protection of the individual.

## **6. WHAT IS THE MINIMUM CONTENT OF A REPORT?**

In general, a report should be as detailed as possible. In summary, it should include:

- The personal details of the whistleblower.
- The time and place circumstances of the reported incident.
- A description of the incident.
- The personal details or other elements allow the identification of the subject to whom the reported facts can be attributed.

To ensure an adequate level of completeness and facilitate investigative activities, it is advisable for the whistleblower to attach any documents that may provide evidence of the reported facts and to indicate other individuals potentially aware of the facts.

However, regardless of the aforementioned, the Organisation has prepared a specific form for whistleblowing reports, which can be used as a guide for those who cannot or do not wish to use this document directly to submit their report.

In any case, if necessary, the entity managing the reports will proceed to request additional information from the whistleblower.

## **7. CAN REPORTS BE ANONYMOUS?**

The term "anonymous report" refers to a report from which the identity of the whistleblower cannot be derived. Such reports fall outside the scope of whistleblowing legislation and will be treated by the Organisation as ordinary reports.

Nonetheless, the Organisation will record received anonymous reports and retain the related documentation.

## **8. HOW CAN A REPORT BE MADE?**

The Organisation has established a dedicated internal communication channel that ensures the confidentiality of the whistleblower's identity and other parties involved in the procedure.

The whistleblower can submit the report via postal service (preferably by registered mail without acknowledgment of receipt addressed to the Manager with the wording "confidential whistleblowing" or similar) to the address: Via Egidio Forcellini 168 - 35128 Padova (PD).

Inside the envelope bearing the aforementioned wording, there should be two other sealed envelopes: one containing the whistleblower's data and a photocopy of their identification card or other identification document; the other containing the report and any supporting documentation.

Although not mandatory, it is recommended to use the form prepared by the Organisation for whistleblowing reports, which is also available on the website. If it is not possible or desired to use this document, the report must contain the minimum elements mentioned earlier.

In addition to this method, it is always possible to request a direct meeting using the same communication tool mentioned above, which will be scheduled as soon as possible or within a reasonable timeframe.

For maximum confidentiality, it is advisable not to use Organisation-owned tools to prepare the report (e.g., computers, tablets, printers, internet networks, etc.). Furthermore, for the same reasons, it is recommended to make the report outside of working hours.

## **9. WHO MANAGES THE INTERNAL REPORTING CHANNEL?**

The channel is managed, on behalf of the Organisation, by Angela Barlow.

## **10. WHAT HAPPENS IF THE REPORT IS RECEIVED BY A PARTY OTHER THAN THE ONE TASKED WITH MANAGING REPORTS BY THE ORGANISATION?**

Any party receiving a whistleblowing report, if not authorised to handle it, must, within 7 days of receiving it, forward the report to the designated manager and inform the whistleblower of this forwarding.

## **11. WHAT HAPPENS AFTER RECEIVING THE REPORT OR A REQUEST FOR A MEETING?**

The party tasked with managing whistleblowing reports must, within 7 days of receiving the report or meeting request, send the whistleblower an acknowledgment of receipt, either taking charge of the report or providing the whistleblower with the date, time, and location of the meeting. The only reports that do not receive an acknowledgment of receipt are those received during the meeting with the manager. After receiving the report, an evaluation of its admissibility/procedural/acceptance requirements follows. In case of a negative outcome, the report will not be pursued. Otherwise, the investigation phase begins. The whistleblower will receive final feedback, indicating the measures taken or to be taken, the reasons for the decision, and any other necessary information, within 3 months from the date of the acknowledgment of receipt or, in the absence of such acknowledgment, within 3 months from the expiration of the 7-day term from the report submission.

## **12. HOW AND WHEN CAN REPORTS BE MADE THROUGH THE EXTERNAL REPORTING CHANNEL?**

The individuals mentioned above can also use the external communication channel provided by the National Anti-Corruption Authority, known as ANAC. A report can be made using this channel if:

- The internal communication channel is not mandatory, or, if mandatory, is not active, or is active but not compliant.
- A report has already been made through the internal communication channel, but no response has been received within a reasonable timeframe (please note that acknowledgment of receipt must be provided within 7 days of receipt, and a response within 3 months from the date of acknowledgment of receipt or, failing that, within 3 months from the expiration of the 7 days from the report submission).
- The whistleblower has reasonable grounds to believe that if they were to make an internal report, it would not be effectively followed up (e.g., in case of conflicts of interest) or that it could lead to retaliation.
- The whistleblower has reasonable grounds to believe that the violation may pose an imminent or obvious danger to the public interest.

The aforementioned individuals can also report to ANAC (exclusively to this Authority) any retaliatory actions they believe they have suffered due to the report, disclosure, or public disclosure made. To use the external communication channel to ANAC or to obtain further clarifications about the characteristics and

details of this channel, the procedure, and the requirements for making a report, please refer to the tools and clarifications available at the following link, which directly lead to the institutional website of the National Anti-Corruption Authority: [link to ANAC website](#).

Here is the link to directly access the platform for reporting to ANAC: [link to ANAC reporting platform](#).

### **13. WHAT IS MEANT BY PUBLIC DISCLOSURE?**

Public disclosure refers to making information about violations (please see paragraph 5) publicly available through the press, electronic media, or other means of disclosure capable of reaching a high or even indeterminate number of people (e.g., television, radio, social networks, using the internet in general, etc.).

### **14. DOES A PERSON MAKING A PUBLIC DISCLOSURE ALWAYS AND IN ANY CASE BENEFIT FROM THE DESCRIBED PROTECTIONS? AND IN CASE OF REPORTING TO THE JUDICIAL AUTHORITY?**

Regarding public disclosure, a person benefits from the protections provided by the aforementioned Decree if at least one of the following conditions is met:

- The whistleblower, after making an internal report without receiving a response within the specified timeframe, has made an external report to ANAC and has not received a response within a reasonable time.
- The whistleblower has made an external report to ANAC and has not received a response regarding the measures taken or to be taken to follow up on the report within a reasonable time.
- The person has reasonable grounds to believe, based on concrete circumstances (not mere speculations), that the violation may represent an imminent or obvious danger to the public interest.
- The person has reasonable grounds to believe that making an external report to ANAC may entail the risk of retaliation or may not be followed up effectively.

The person making a public disclosure should consider themselves distinct from the source of information for journalists.

The legislature has provided the possibility for individuals to directly address the competent judicial authorities. In this case, as well, individuals enjoy the protections provided by the aforementioned Decree.

Regarding individuals with the status of public officials or those entrusted with public service tasks, making an internal or external report does not exempt them from complying with Articles 361, 362, and 331 of the Criminal Code (or Codice Penale).

## 15. WHAT PROTECTIONS AND SUPPORT MEASURES ARE PROVIDED BY WHISTLEBLOWING LEGISLATION?

The protection system includes:

- Protection of the confidentiality of the whistleblower's identity, the facilitator, the person or persons identified as possible responsible parties for the reported conduct, any other person named in the report or attached acts and documents, and anyone else involved in any capacity in the reported events.
- Protection against any retaliatory actions taken by the Organisation due to the report, public disclosure, or complaint.
- Limitations on liability regarding the disclosure and dissemination of certain categories of information (e.g., information protected by copyright law, data protected by privacy regulations, etc.) under specific conditions.

Below is a merely illustrative list of what could be considered retaliation:

- Termination of employment, suspension, or equivalent measures.
- Demotion or failure to promote.
- Change of duties, relocation, salary reduction, changes in working hours.
- Suspension of training or any restrictions on access to it.
- Negative performance evaluations or references.
- Disciplinary measures or other sanctions, including financial penalties.
- Coercion, intimidation, harassment, or ostracism.
- Discrimination or unfavourable treatment.
- Failure to convert a fixed-term employment contract into a permanent one, where the worker had a legitimate expectation of such conversion.
- Non-renewal or early termination of a fixed-term employment contract.
- Damages, including damage to reputation, particularly on social media, or economic and financial prejudice, including loss of economic opportunities and income.
- Placement on improper lists based on a formal or informal sectoral or industrial agreement may prevent the person from finding employment in the sector or industry in the future.
- Early termination or cancellation of a supply contract for goods or services.
- Cancellation of a licence or permit.

Support measures consist of information, assistance, and free advice on reporting methods and protection against retaliation offered by national and European Union legislative provisions, on the rights of the individuals involved, as well as on the methods and conditions for accessing legal representation at the State's expense. ANAC maintains a list of Third Sector organisations that provide support measures to whistleblowers.

**16. HOW WILL THE ORGANISATION HANDLE THE PERSONAL DATA OF THE INDIVIDUALS INVOLVED?**

The Organisation will handle the data under the notice, available also on its website. In any case, the data subject may request a copy of said information or clarification regarding the processing of their data from the Organisation at any time.