

LAW
OF THE REPUBLIC OF ARMENIA
ON THE SYSTEM OF WHISTLE-BLOWING

Adopted on 9 June 2017

CHAPTER 1
MAIN PROVISIONS

Article 1. Subject matter of the Law

1. This Law shall regulate the relations pertaining to whistle-blowing, the procedure for whistle-blowing, the rights of a whistle-blower, the obligations of state and local self-government bodies, state institutions and organisations, as well as public organisations in respect to whistle-blowing, as well as to the protection of a whistle-blower and persons affiliated thereto.

Article 2. Main concepts used in the Law

1. The following main concepts shall be used in this Law:

(1) **whistle-blowing** — written or oral reporting — by a whistle-blower to an authorised person or body provided for by this Law — of information regarding a case of corruption or a violation in respect of conflict of interests, or rules of ethics or incompatibility requirements, or other restrictions or declaration, or other harm to public interests or the threat thereof within state and local self-government bodies, state institutions and organisations, as well as within public organisations;

(2) **whistle-blower** — a natural or legal person, who reports, in good faith and as provided for by this Law, information — regarding a case of corruption or a violation in respect of conflict of interests, or rules of ethics or incompatibility requirements, or other restrictions or declaration, or other harm to public interests or the threat thereof — related to the official or the body, with whom he or she is or was in employment or civil law, or administrative law relations, or to whom he or she has applied for the purpose of rendering services, or who has been mistakenly perceived as a whistle-blower. The person shall be considered to be mistakenly perceived as a whistle-blower, where he or she has been perceived, without whistle-blowing, as a whistle-blower by other persons, or against whom harmful actions have been applied;

(3) **persons affiliated to a whistle-blower** — spouse, children, parents, sisters and brothers of a whistle-blower;

(4) **competent body** — a state and local self-government body, state institution and organisation, public organisation of the Republic of Armenia, which is obliged, by ensuring the guarantees prescribed by this Law, to process the whistle-blowing;

(5) **public organisation** — an organisation, carrying out activities in the field of regulation of public services, the number of employees or staff of which exceeds fifty;

(6) **harmful action** — an action or omission, which causes harm to a whistle-blower or a person affiliated thereto for whistle-blowing, by terminating his or her employment contract or demoting him or her, or reducing his or her staff, or failing to assign him or her work-related tasks, or artificially overloading him or her with instructions or tasks, or unduly and unlawfully interfering with his or her work-related activities, or refusing to use incentives with regard to him or her, or reducing his or her salary or bonuses, or damaging his or her property, or instituting disciplinary proceedings against him or her, or imposing any other sanction on him or her, which will deteriorate his or her property status or will not satisfy his or her

property and other advancement expectations, or applying other measures of influence aimed at keeping away from whistle-blowing or related thereto;

(7) **cases of corruption** — violations committed by use of the position;

(8) **other harm to public interests** — damage caused to the public health or environment, misapplication of state funds or property, as well as other damage caused to the public or state administration order.

Article 3. Goals of whistle-blowing

1. The goals of whistle-blowing shall be as follows:

(1) revealing cases of corruption, violations in respect of conflict of interests, rules of ethics, incompatibility requirements and other restrictions, declaration, and other harms to public interests;

(2) reducing and preventing corruption;

(3) contributing to the formation of intolerant attitude of the public towards corruption.

CHAPTER 2

TYPES AND PROCEDURE FOR WHISTLE-BLOWING

Article 4. Types of whistle-blowing

1. The types of whistle-blowing shall be as follows:

(1) internal whistle-blowing;

(2) external whistle-blowing.

2. Internal whistle-blowing shall be considered as submission of a report to his or her immediate supervisor or his or her superior, or another person exercising supervision over him or her, or the person authorised by the head of the competent authority.

3. External whistle-blowing shall be considered as submission of a report to the competent authority.

Article 5. Procedure for whistle-blowing

1. Internal and external whistle-blowing shall be carried out as prescribed by Chapters 3 and 4 of this Law.

2. In case of internal and external whistle-blowing, the standard form for the record-keeping and formulation of reports, as well as the procedure for implementation of the means of protection provided to a whistle-blower shall be established by the Government of the Republic of Armenia.

3. The competent authority shall, on its own, establish the procedure for record-keeping and formulation of reports, as well as for implementation of the means of protection provided to a whistle-blower, considering the requirements of the decision of the Government of the Republic of Armenia provided for by part 2 of this Article as minimum requirements.

4. In case of adopting the act provided for by part 3 of this Article, the competent authority shall be obliged to post it on its website, and in case the website is not available — in the place visible for each person carrying out activities in its favour or making use of the services provided thereby.

5. In case of failure to adopt the act provided for by part 3 of this Article, the decision prescribed by part 2 of this Article shall be applicable.

CHAPTER 3

INTERNAL WHISTLE-BLOWING AND INTERNAL WHISTLE-BLOWING PROCEEDINGS

Article 6. Internal whistle-blowing and internal whistle-blowing proceedings

1. Internal whistle-blowing shall commence with submission of a report by a whistle-blower to his or her immediate supervisor or his or her superior, or another person exercising supervision over him or her, or the person authorised by the head of the competent authority.
2. Where the report has been received by the immediate supervisor of a whistle-blower or his or her superior, or another person exercising supervision over him or her, or the person not provided for by part 1 of this Article, he or she shall be obliged to promptly forward the report to the head of the competent authority or the person authorised by him or her.
3. The head of the competent authority or the person authorised by him or her shall:
 - (1) ensure prompt record-keeping of the report, but no later than within one working day;
 - (2) ensure, within his or her competences, the institution of proceedings within three working days following the record-keeping of the report in case of existence of grounds;
 - (3) ensure confidentiality of the instituted proceedings;
 - (4) undertake, within his or her competences, measures in order to verify the authenticity of the report;

(5) in case of detecting *prima facie* elements of crime while verifying the authenticity of the report, promptly inform the Prosecutor's Office of the Republic of Armenia thereon;

(6) undertake, within his or her competences, measures to protect whistle-blowers from harmful actions, as well as to eliminate the harmful actions and the consequences thereof;

(7) ensure non-disclosure of personal data of a whistle-blower, unless otherwise provided for by law;

(8) ensure, upon request of a whistle-blower, provision of information on the process of proceedings and the measures undertaken;

(9) enable a whistle-blower to furnish clarifications, documents and applications.

4. Failure to fulfil the obligations prescribed by part 3 of this Article shall entail liability provided for by law.

5. General supervision over internal whistle-blowing shall be exercised by the head of the competent authority or the person authorised by him or her.

6. The maximum period for the proceedings instituted on the basis of internal whistle-blowing shall be 30 days. A corresponding act shall be adopted as a result of the instituted proceedings, of which the whistle-blower is notified within a three-day period following adoption of the act.

7. Where it turns out during the proceedings that a whistle-blower has acted in bad faith when submitting a report as provided for by this Law, the head of the competent authority or the person authorised by him or her shall cease to provide protection to the whistle-blower, notifying him or her thereof within a three-day period following adoption of the decision.

8. Where the action committed by a whistle-blower in bad faith contains elements of crime, the person having received the report shall be obliged to promptly inform the Prosecutor's Office of the Republic of Armenia thereon.

CHAPTER 4

EXTERNAL WHISTLE-BLOWING AND EXTERNAL WHISTLE-BLOWING PROCEEDINGS

Article 7. External whistle-blowing and external whistle-blowing proceedings

1. External whistle-blowing shall commence with submission of a report by a whistle-blower to the competent authority.
2. Where the report concerns the employee of the competent authority, whistle-blowing shall be made to the head of the competent authority. Where the report concerns the head of the competent authority, it shall be submitted to the head of the superior body of the competent authority. In case of absence of the superior body of the competent authority, the report shall be submitted to the Commission on Ethics of Public Servants of the relevant body (where available), and in case of high-ranking officials — to the competent authority in the sphere of prevention of corruption.
3. The competent authority shall:
 - (1) ensure prompt record-keeping of the report, but no later than within one working day;
 - (2) institute, within its competence, proceedings within three working days following record-keeping of the report in case of existence of grounds;
 - (3) ensure confidentiality of the proceedings;
 - (4) undertake, within its competence, measures in order to verify the authenticity of the report;

(5) in case of detecting *prima facie* elements of crime while verifying the authenticity of the report, promptly inform the Prosecutor's Office of the Republic of Armenia thereon;

(6) undertake, within its competences, measures to protect whistle-blowers from harmful actions, as well as to eliminate the harmful actions and the consequences thereof;

(7) ensure non-disclosure of personal data of a whistle-blower, unless otherwise provided by law;

(8) ensure, upon request of a whistle-blower, provision of information on the process of proceedings and the measures undertaken;

(9) enable a whistle-blower to furnish clarifications, documents and applications.

4. Failure to fulfil the obligations prescribed by part 3 of this Article shall entail liability prescribed by law.

5. Where the report has been submitted to an incompetent authority, the body having received the report shall re-address it to the competent authority within a three-day period, notifying the whistle-blower.

6. The procedure provided for by the Criminal Procedure Code of the Republic of Armenia for consideration and handling of reports on a crime by criminal prosecution bodies shall not be considered as external whistle-blowing.

7. Where the whistle-blower has not agreed on the disclosure of his or her personal data, the body which has received the report submitted by the whistle-blower and is not competent to institute proceedings, shall be obliged to obtain the initial consent of a whistle-blower, before forwarding the report according to subordination, unless otherwise provided by law. In case of absence of the consent of a whistle-blower, the report shall be forwarded according to subordination, without disclosing the personal data of a whistle-blower.

8. The maximum period for the proceedings instituted on the basis of external whistle-blowing shall be 30 days. A corresponding act shall be adopted as a result of the instituted proceedings, of which the whistle-blower is notified within a three-day period following adoption of the act.

9. Where it turns out during the proceedings that the whistle-blower has acted in bad faith when submitting a report as provided for by this Law, the competent authority shall cease to provide protection to the whistle-blower, of which it shall notify the whistle-blower within a three-day period following adoption of the decision.

10. Where the action committed by the whistle-blower in bad faith contains elements of crime, the competent authority shall be obliged to promptly inform the Prosecutor's Office of the Republic of Armenia thereon.

Article 8. Unified electronic platform for whistle-blowing

1. Through the unified electronic platform for whistle-blowing (hereinafter referred to as “the unified electronic platform”), the whistle-blower may anonymously submit information about a crime.

2. Through the unified electronic platform, the Republic of Armenia, represented by the authorised body of the Government of the Republic of Armenia, shall guarantee the protection of a whistle-blower, ensuring his or her anonymity.

3. Anonymity of a whistle-blower shall be guaranteed through the unified electronic platform, by coding his or her Internet Protocol Address.

4. The unified electronic platform shall ensure accessibility to the Prosecutor General's Office of the Republic of Armenia.

5. The unified electronic platform shall be designed in such a way as to collect, through the feedback, necessary information and facts regarding the anonymous report.

6. The unified electronic platform shall be maintained by the authorised body of the Government of the Republic of Armenia.

7. The technical specifications of the unified electronic platform and the procedure for the maintenance thereof shall be approved by the Government of the Republic of Armenia.

Article 9. Anonymous reports and their peculiarities

1. A whistle-blower shall submit an anonymous report by entering it into the unified electronic platform.

2. The Prosecutor General's Office of the Republic of Armenia shall, within the scope of its competence, ensure record-keeping, consideration of each report having entered into the unified electronic system, undertaking of measures within the scope of its competences and adoption of a relevant act, if necessary.

3. The report, which contains elements of crime and is submitted through the unified electronic platform, shall be subject to verification as prescribed by the Law of the Republic of Armenia "On operational intelligence activity", where the information submitted with the report is sufficiently substantiated, relates to a specific official or a body and contains data which can be reasonably verified.

4. For the purpose of verifying the report provided for by part 3 of this Article, the Prosecutor General's Office of the Republic of Armenia shall re-address it to the body carrying out operational intelligence activity.

5. The provisions of Article 7 of this Law shall extend to anonymous reports to the extent that they are applicable by mutatis mutandis.

CHAPTER 5

PROTECTION OF A WHISTLE-BLOWER AND PERSONS RELATED THERE TO AND OBLIGATION OF A WHISTLE-BLOWER TO ACT IN GOOD FAITH

Article 10. Right to protection of a whistle-blower and persons related thereto

1. A whistle-blower shall have the right to protection in conformity with this Law. The protection provided to the natural person acting as a whistle-blower shall extend to the legal person acting as a whistle-blower to the extent that the protection is applicable thereto by mutatis mutandis.
2. A whistle-blower shall have the right to confidentiality of his or her personal data and protection from harmful actions and consequences thereof.
3. The whistle-blower, who has submitted a report or whose report has been forwarded to criminal prosecution bodies, shall be subject to protection as prescribed by the Criminal Procedure Code of the Republic of Armenia.
4. Each contract or a contract provision aimed at depriving a person of the right of whistle-blowing or protection of a whistle-blower, or limiting it, shall be null and void.
5. The person related to a whistle-blower shall have the right to enjoy the means of protection provided to a whistle-blower, where he or she reasonably substantiates that harmful actions may be carried out against him or her due to his or her link to the whistle-blower.

Article 11. Protection of personal data of a whistle-blower when submitting anonymous report

1. When submitting an anonymous report, non-disclosure of personal data of a whistle-blower to both the competent authority and other persons

shall be guaranteed, except for the cases when the whistle-blower discloses his or her personal data.

2. The competent authority shall not have the right to undertake measures to disclose the personal data of a whistle-blower having submitted an anonymous report.

Article 12. Judicial protection of a whistle-blower and persons related thereto

1. A whistle-blower against whom a harmful action has been initiated due to whistle-blowing shall have the right to judicial protection.

2. A person related to a whistle-blower against whom a harmful action has been initiated due to the link to a whistle-blower, shall have the right to judicial protection.

3. The judicial protection of a whistle-blower and persons related thereto shall be carried out as prescribed by the legislation of the Republic of Armenia.

Article 13. Obligation of a whistle-blower to act in good faith

1. A whistle-blower shall act in good faith, where at the moment of whistle-blowing he or she has reasonable grounds for suspicion regarding a case of corruption or a violation in respect of conflict of interests, or rules of ethics or incompatibility requirements, or other restrictions or declaration, or other harm to public interests or the threat thereof, he or she believes the information is veracious, and where, prior to whistle-blowing, he or she had undertaken measures to verify the veracity and completeness of the information within the scope of his or her real opportunities.

2. A whistle-blower shall act in bad faith, where:

(1) the elements of acting in good faith provided for by part 1 of this Article are missing; or

(2) the whistle-blowing has been committed unlawfully, including on the basis of information acquired by commission of a crime or by violation of the constitutional rights of a person; or

(3) he or she demands or gains any advantage for himself or herself, or another person; or

(4) intentionally provides false information in order to cause harm to another person.

CHAPTER 6

FINAL AND TRANSITIONAL PROVISIONS

Article 14. Entry into Force of the Law

1. This Law shall enter into force on 1 January 2018.

Article 15. Creation of a unified electronic platform

1. The unified electronic platform for receiving anonymous reports shall be subject to creation after the entry into force of this Law — before 1 July 2018.

**President
of the Republic of Armenia**

S. Sargsyan

28 June 2017

Yerevan

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