

The *Saeima*¹ has adopted and
the President has proclaimed the following law:

Whistleblowing Law

Section 1. Terms Used in the Law

(1) The following terms are used in the Law:

1) **responsible person** - an employee who fulfils any of the following duties: receives and registers a submission of a person, assesses its *prima facie* conformity with the whistleblower's report, and takes the relevant decision, pseudonymises the personal data of the whistleblower, examines the whistleblower's report, ensures communication with the whistleblower and other authorities, fulfils the duties of a contact person;

2) **fulfilment of work duties** - fulfilment of certain work, including voluntary work, professional, or office (service) duties or provision of services;

3) **competent authority** - any institution of a public person which in conformity with the competence laid down in laws and regulation is fully or partly responsible for handling the issue on which the whistleblower is reporting, including a hierarchically higher institution, official or decision-making authority, leading institution (authority) of the sector or body which implements supervision or control of the issue on which the whistleblower is reporting, investigating institution or Office of the Prosecutor - in conformity with the competence thereof if the possible violation is a criminal offence or breach of law;

4) **contact person** - an employee who provides information to a person on the whistleblowing mechanisms in the competent authority, performs exchange of information with the whistleblowing contact persons of other authorities and the contact point of whistleblowers;

5) **violation** - a criminal offence, an administrative offence, or another violation of legal norms (act or omission), including action which is contrary to the purpose of the legal act, and also a violation of the binding ethical or professional standards;

6) **related person** - a natural person who supports or assists a whistleblower in whistleblowing or who is related to the whistleblower and might suffer from adverse effects. The related person may also be an economic operator or a legal person governed by private law who belongs to the whistleblower in which he or she is employed or with which he or she is otherwise related in fulfilling work duties;

7) **whistleblower** - a natural person who provides information on a possible violation which may harm the public interests if the person considers this information to be true and it has been obtained while fulfilling the work duties or establishing legal relations related to the fulfilment of work duties or while being in traineeship, and who might be subjected to adverse effects due to the provision of such information.

(2) The term "institution of a public person" and the term "relative" used in this Law conforms to the terms used in the law On Prevention of Conflict of Interest in Activities of Public Officials.

Section 2. Purpose and Scope of Application of this Law

(1) The purpose of this Law is to promote whistleblowing on violations in public interests and ensure the establishment and operation of whistleblowing mechanisms, and also due protection of whistleblowers.

(2) The Law shall be applied insofar as it is not in contradiction with the procedures for reporting violations provided for in the special laws and regulations, including the legal acts of the European Union in the field of financial and capital market, and also in the field of the prevention of money laundering and terrorism and proliferation financing, transport safety, and environmental protection. The Cabinet shall issue regulations indicating the legal acts of the European Union which provide for other procedures for reporting violations in the fields referred to in this Section.

(3) The rights and protection guarantees of a whistleblower specified in this Law may not be refused, and they may not be restricted.

Section 3. Whistleblowing

(1) A whistleblower is entitled to blow the whistle on any violation which harms the public interests, especially on violations in the following fields:

- 1) omission, negligence of officials, abuse of the official position by them, or any other wrongful act;
- 2) corruption and also violations of the provisions for financing of political organisations (parties) and their alliances and of the restrictions on pre-election campaigning;
- 3) squandering of financial resources or property of a public person;
- 4) tax evasion;
- 5) public health threat;
- 6) food safety threat;
- 7) construction safety threat;
- 8) environmental safety threat, including actions affecting climate change;
- 9) radiation protection and nuclear safety;
- 10) labour safety threat;
- 11) public order threat;
- 12) infringements of human rights;
- 13) violations in the field of public procurements and public-private partnerships;
- 14) violations in the financial and capital market sector, including fraud and other unlawful actions which endanger the financial interests of the European Union;
- 15) prevention of money laundering and terrorism and proliferation financing;
- 16) violations of the competition law and the regulations regarding aid for commercial activity;
- 17) violations in the field of provision of goods and services, including in relation to safety and conformity;
- 18) violations in transport safety;
- 19) violations in relation to the internal market;
- 20) violations in the field of animal welfare;
- 21) consumer rights protection;
- 22) protection of private life and personal data and safety of the network and information systems.

(2) The Cabinet shall issue the regulations specifying such legal acts of the European Union for the violation of which whistle should be blown in the fields referred to in Paragraph one, Clauses 5, 6, 8, 9, 13, 14, 15, 17, 18, 20, 21, and 22 of this Section.

(3) The following shall not be considered whistleblowing:

- 1) provision of intentionally false information;
- 2) disclosure of information containing an official secret;
- 3) reporting only on an infringement of personal interests;
- 4) violation of the confidentiality of communication between an advocate and a client, a physician and a patient;
- 5) disclosure of confidential deliberations of judges and of the non-disclosable information which has been acquired during closed court hearings;
- 6) disclosure of information on the performance of special investigative actions and also disclosure of the information acquired as a result thereof;

7) disclosure of information on consulting with representatives of employees or trade unions, and also parties to the collective agreement insofar as the information necessary for entering into or amending of the collective agreement is affected.

Section 4. Whistleblowing Mechanisms

(1) One of the following mechanisms shall be used for whistleblowing:

- 1) internal whistleblowing system;
- 2) reporting to a competent authority;

3) through intermediation of a contact point of whistleblowers or association or foundation, including a trade union or an association of trade unions.

(2) The whistle may be blown also by providing information publicly if at least one of the following conditions is in effect:

1) within the time period specified in Section 7, Paragraph seven of this Law, the whistleblower is not informed of the course of examination of his or her report;

2) the violation indicated in the whistleblower's report is not eliminated for a lengthy period without any objective reason;

3) a person has reasonable grounds to believe that the violation may constitute an imminent or manifest danger to the public interest;

4) a person has reasonable grounds to believe that, in using the whistleblowing mechanism referred to in Paragraph one, Clause 2 of this Section, adverse effects will be caused, the violation will be hidden or will not be eliminated.

(3) The non-recognition of the submission of a person to be a whistleblower's report and non-examination thereof on its merits shall not be regarded as an objective reason in Paragraph two, Clause 2 of this Section. If the whistle is blown publicly, the information which contains non-disclosable information specified in laws and regulations shall not be provided and also conformity with general data protection requirements shall be ensured.

(4) The competent authority and the legal person governed by private law shall ensure the establishment of a safe and independent mechanism for the submission and examination of whistleblower's reports and shall determine the responsible persons. In addition, the competent authority shall determine contact persons and inform the contact point of whistleblowers thereof.

Section 5. Internal Whistleblowing System

(1) Institutions of a public person regardless of the number of employees and also legal persons governed by private law which have more than 50 employees shall establish an internal whistleblowing system, ensuring the employees with the possibility to report on violations in a safe manner and guaranteeing their protection. The operation of the internal whistleblowing system for a legal person governed by private law may be ensured by a third party.

(2) The requirement laid down in Paragraph one of this Section regarding at least 50 employees shall not be applied to legal persons governed by private law who operate in the financial and capital market sector and in the field of the prevention of money laundering and terrorism and proliferation financing, and also to legal persons the operation of which is governed by the legal acts of the European Union specified in the Cabinet regulations issued on the basis of Section 2, Paragraph two of this Law.

(3) Local government authorities with less than 50 employees may establish a joint internal whistleblowing system. The abovementioned condition shall also apply to legal persons governed by private law with 50 to 249 employees.

(4) A person shall be informed of the internal whistleblowing system upon commencement of traineeship, employment relationship, or service relations, or legal relations of another type related to professional activity, and easily accessible information on this system shall be provided at the workplace.

Section 6. Submission of a Whistleblower's Report

(1) A whistleblower shall submit a report in compliance with Section 3 of the Law on Submissions and indicating that it is a whistleblower's report, or by using the form of the whistleblower's report. A whistleblower's report may be submitted electronically in the portal of State administration services www.latvija.lv or on the website www.trauksmescelejs.lv without a secure electronic signature if the report is submitted and the identity of the person is verified through online forms which are available in the portal and on the website.

(2) A person shall indicate in the whistleblower's report the information at his or her disposal on the violation,

including:

- 1) description of the violation by providing particular facts;
- 2) information regarding such natural or legal persons who may be reasonably considered as being involved in committing the violation.
- (3) A whistleblower shall additionally indicate in the report whether:
 - 1) the information on the violation has been obtained while fulfilling the work duties or establishing legal relations related to the fulfilment of work duties or being in traineeship;
 - 2) this violation has been previously reported;
 - 3) he or she wishes to receive a confirmation of the receipt of the report and the decision to recognise or not recognise the submission as a whistleblower's report;
 - 4) in case if a violation is to be established, he or she allows to publish information thereon in conformity with Section 7, Paragraph nine of this Law.
- (4) In the case referred to in Paragraph three, Clause 2 of this Section, a person shall add a reply if any has been received.
- (5) If a person has submitted the submission without indicating that it is a whistleblower's report, then, while the submission has not been yet examined on its merits, the person may request to recognise this submission to be the whistleblower's report. The competent authority shall suggest to recognise such submission as a whistleblower's report which has been submitted without indicating that it is a whistleblower's report; however, it *prima facie* conforms to the constituent elements of a whistleblower's report. The abovementioned submission shall be examined in accordance with the procedures laid down in this Law.

Section 7. Examination of a Whistleblower's Report

- (1) Institutions of a public person shall apply the procedures laid down in this Section in examining the reports which have been received within the scope of the internal whistleblowing system and the reports which have been received in this institution as the competent authority. Legal persons governed by private law shall apply Paragraphs two, five, seven, and eight of this Section in examination of the whistleblower's reports received.
- (2) After receipt of a submission of a person which is drawn up as a whistleblower's report on an issue which fully or partly falls within the competence of the authority, the authority shall, without delay, but not later than within seven days, send a confirmation of receipt of the report to the whistleblower and assess the *prima facie* conformity of the report with the constituent elements of whistleblowing specified in this Law, and also take the decision to recognise or not recognise the submission to be a whistleblower's report. The authority shall inform the person of the decision taken within three days from the day of taking the decision.
- (3) The authority shall not send the confirmation and the decision referred to in Paragraph two of this Section if it has been requested by the whistleblower or there are suspicions that the identity of the whistleblower will be revealed.
- (4) If the submission received does not fall within the competence of the authority, it shall, within seven days from the day of receipt of the submission, transmit the submission for examination based on the jurisdiction and inform the whistleblower thereof. If it is not useful to transmit the submission, the person shall be informed that the submission does not fall within the competence of the authority, if possible, indicating the authority to which the person may address the submission. If the received submission falls within the competence of several authorities, it may be examined jointly.
- (5) After recognition of a submission as a whistleblower's report, it shall be examined on its merits and, if a violation is established, the authority shall impose liability in accordance with laws and regulations. If, during examination of the submission, suspicions of a violation the examination of which does not fall within the competence of the authority arise, the whistleblower's report shall be transmitted for examination based on the jurisdiction and the whistleblower shall be informed thereof.
- (6) The authority which examines the whistleblower's report has the right to request and receive from other authorities, legal and natural persons information which is necessary to determine the circumstances of the case.
- (7) A whistleblower shall be informed of the course of examination of the whistleblower's report not later than within two months from the day when the submission of the person has been recognised to be the whistleblower's report.
- (8) After examination of the whistleblower's report has been completed, the authority shall inform the whistleblower of the facts established and the decision taken or activities performed.
- (9) The authority shall provide the information on the violations which were found with the help of a whistleblower publicly, without disclosing and endangering the identity of the whistleblower and in conformity with the general data

protection requirements, except for the case when the whistleblower objects against public disclosure.

Section 8. Contact Point of Whistleblowers

(1) The State Chancellery shall be the contact point of whistleblowers.

(2) The contact point of whistleblowers has the following obligations:

1) to provide information on the procedures for whistleblowing, the competent authorities and their contact persons in matters of whistleblowing, and also protection guarantees of whistleblowers on the website www.trauksmescelejs.lv;

2) to provide support and consultations to persons who wish to blow the whistle, to whistleblowers, their relatives or related persons in solving the issues caused due to the whistleblowing;

3) in receiving a submission which has been drawn up as a whistleblower's report and *prima facie* conforms to the constituent elements of whistleblowing, to identify the competent authority and, within seven days, to transmit the received whistleblower's report thereto, indicating that it is necessary to ensure the protection of the identity of the whistleblower and informing the whistleblower of the transmission. If a submission which has been drawn up as a whistleblower's report does not conform to the constituent elements of whistleblowing specified in this Law, the person shall be informed thereof, if possible, indicating the authority to which the person may address a submission;

4) to raise awareness of the public on whistleblowing;

5) to provide methodological support in the field of whistleblowing, including to develop and publish on the website the best practice guidelines for the establishment of the internal whistleblowing system, the guidelines for the receipt and examination of whistleblower's reports in the competent authorities, and the form of whistleblower's report;

6) to compile the information on whistleblowing and protection of whistleblowers each year, including on the violations that were detected after submission of whistleblower's reports, and to publish the report thereon on the website, and also to submit it to the European Commission;

7) where necessary, to provide an opinion to the Legal Aid Administration on the necessity to ensure legal aid for a whistleblower in accordance with the procedures laid down in the State Ensured Legal Aid Law if the whistleblowing has *prima facie* conformed with the requirements of this Law and adverse effects have been caused for the whistleblower for the solving of which legal aid is necessary.

Section 9. Support of Associations and Foundations

Associations and foundations, including trade unions and associations thereof, may:

1) provide support, including consultations, for whistleblowers and persons who wishes to whistleblow to promote whistleblowing and protection of whistleblowers;

2) provide support, including consultations, to the members of the relevant organisations and persons whose interests they represent according to the articles of association, if the persons have blown the whistle or wish to blow the whistle;

3) without special authorisation, apply to an institution (authority) or a court on behalf of such whistleblower who is a member of the relevant organisation or a person whose interests it represents according to the articles of association, and to protect the rights and lawful interests of the whistleblower.

Section 10. Guarantees for the Protection of a Whistleblower, his or her Relative and Related Person

(1) From the moment when a whistleblower has blown the whistle in accordance with the procedures laid down in Section 4 of this Law, he or she, his or her relative and related person have the right to the following in the cases and in accordance with the procedures laid down in this Law and other laws and regulations:

1) protection of the identity;

2) protection against adverse effects caused due to whistleblowing;

3) the State ensured legal aid;

4) release from the payment of court expenses in civil proceedings and payment of the State fee in administrative court proceedings;

5) temporary protection in civil proceedings and administrative proceedings in the court;

6) release from legal liability;

7) appropriate compensation for losses or personal damage, also moral detriment;

8) consultations on the protection of his or her rights;

9) release from the obligation to comply with the extrajudicial examination procedures for the case in administrative proceedings.

(2) If, when examining the submission of a person, its conformity with the constituent elements of whistleblowing is not established, the person loses the rights referred to in Paragraph one of this Section.

(3) Paragraph one of this Section shall also apply to a person who has reported on a violation without complying with the conditions of Section 6, Paragraph one of this Law and has been later identified as a whistleblower if the information provided conforms to the constituent elements of whistleblowing specified in this Law.

Section 11. Protection of the Identity of a Whistleblower

(1) After a submission of a person has been recognised as a whistleblower's report, the personal data of its submitter shall be pseudonymised. Pseudonymisation need not be performed if the whistleblower has already disclosed his or her identity to the competent authority in a similar case or the whistle has been blown in accordance with the procedures laid down in Section 4, Paragraph two of this Law, or the person has disclosed his or her identity publicly.

(2) Personal data of a whistleblower, the report and written or physical evidence appended thereto, and also materials from the examination of the whistleblower's report shall have the status of restricted access information.

(3) Every person (authority) who has received the whistleblower's report or performs any activities with it has the obligation to ensure due protection of the personal data of the whistleblower.

(4) It is prohibited to disclose information which reveals the identity of the whistleblower without his or her consent, except for the case when the personal data of the whistleblower and the whistleblower's report are necessary to persons (authorities) examining the whistleblower's report or a case of violation initiated on the basis thereof, or it is necessary for the protection of the whistleblower, his or her relative or related person. The whistleblower shall be informed of the disclosure of the identity, except for the case when informing would harm examination of the whistleblower's report or a case of violation initiated on the basis thereof.

Section 12. Protection of the Identity of the Person Referred to in Whistleblower's Report

(1) It is prohibited to disclose such information which reveals the identity of the natural or legal person on whom the whistleblower has reported. The abovementioned information may be provided only to a person or authority which needs it for the examination of the whistleblower's report or the case of violation initiated on the basis thereof, or for the protection of the whistleblower, his or her relative or related person.

(2) The prohibition specified in Paragraph one of this Section shall not apply to the cases when a whistleblower, his or her relative or related person discloses this information for the purpose of protecting his or her rights or legal interests.

Section 13. Protection against Adverse Effects Caused due to Whistleblowing

(1) It is prohibited to cause adverse effects to a whistleblower, his or her relative and related person due to a whistleblower's report and (if applicable):

1) to impose a disciplinary or other punishment;

2) to dismiss from work or office, including without extending an employment contract or without appointing to the office for an indefinite period of time, if there had been grounds for considering that it will be done;

3) to transfer to another work or office;

4) to deny a promotion, vocational training, or raising of qualification;

5) to change work or official duties, working hours and place, or remuneration;

6) to give a negative assessment of work, official duties;

7) to insult dignity, honour, and reputation;

8) to cancel licences and authorisations;

9) to unilaterally withdraw from a contract regarding the supply of goods, a purchase, or the provision of a service or to terminate it;

10) to request an opinion of a physician;

11) to otherwise cause adverse effects directly or indirectly, including by violating the principle of equal treatment.

(2) The adverse effects related to whistleblowing depending on its type shall be eliminated in conformity with the legal acts governing employment relationship or other civil legal relations or State service relations.

(3) The party causing the treatment has the obligation to prove that adverse effects have not been caused on a whistleblower, his or her relative or related person in relation to submitting the whistleblower's report or the information indicated therein.

(4) The State Labour Inspectorate shall provide consultations on the possibilities to prevent causing adverse effects on a whistleblower, his or her relative or related person in the field of employment relationship or labour safety.

Section 14. State Ensured Legal Aid to a Whistleblower

State ensured legal aid, on the basis of the documents submitted by the whistleblower, and also, if necessary, the opinion received from the contact point of whistleblowers, shall be provided to a whistleblower upon his or her request in accordance with the State Ensured Legal Aid Law, without evaluating the state of property and level of income of the person, if whistleblowing has *prima facie* conformed to the requirements of this Law and it has resulted in adverse effects on the whistleblower.

Section 15. Release of a Whistleblower, his or her Relative and Related Person from Legal Liability

Legal liability, including civil legal liability and criminal liability, shall not set in for a whistleblower, his or her relative and related person for whistleblowing in accordance with the requirements of this Law, including disclosure of the non-disclosable information specified in laws and regulations which is not an official secret.

Section 16. Release from State Fee and Extrajudicial Examination Procedures of a Case in Administrative Proceedings

A whistleblower, his or her relative and related person, if it is necessary for the protection against the adverse effects caused due to whistleblowing, are released from the obligation to comply with the extrajudicial examination procedures of a case in administrative proceedings, and also, if the application is related to the prevention of adverse effects caused due to whistleblowing, are released from the State fee in administrative proceedings in a court.

Section 17. Administrative Liability for Causing Adverse Effects

For causing adverse effects to a whistleblower, his or her relative or related person, a fine from six to one hundred and forty units of fine shall be imposed on a natural person, a fine from eight to one hundred and forty units of fine shall be imposed on an official, and a fine from fourteen to two thousand and eight hundred units of fine shall be imposed on a legal person.

Section 18. Administrative Liability for Providing False Information

For knowingly providing false information by using whistleblowing mechanisms or by providing information publicly, a fine from six to one hundred and forty units of fine shall be imposed.

Section 19. Administrative Liability for Hindering Whistleblowing

For hindering or an attempt to hinder whistleblowing, including hindering the submission or examination of a whistleblower's report, a fine from three to seventy units of fine shall be imposed on a natural person, a fine from four to seventy units of fine shall be imposed on an official, and a fine from seven to one thousand and four hundred units of fine shall be imposed on a legal person.

Section 20. Competence in Administrative Offence Proceedings

(1) Administrative offence proceedings for the offences referred to in Section 17 of this Law shall be conducted by the State Labour Inspectorate (for offences in the field of employment relationship and State civil service) or the State Police (in other fields).

(2) Administrative offence proceedings for the offences referred to in Sections 18 and 19 of this Law shall be conducted by the State Police.

Transitional Provision

With the coming into force of this Law, the Whistleblowing Law (*Latvijas Vēstnesis*, 2018, No. 210; 2020, No. 29) is repealed.

Informative Reference to European Union Directive

The Law contains legal norms arising from Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law.

The Law shall come into force on the day following its proclamation.

The Law has been adopted by the *Saeima* on 20 January 2022.

President E. Levits

¹ The Parliament of the Republic of Latvia

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