



**CSH**  
Civil Service Hub  
Georgia



# WHISTLEBLOWING MECHANISM APPLICATION IN PRACTICE IN EUROPEAN COUNTRIES

Analysis of key findings of interviews conducted within the Project "Support of Application of Disclosure Mechanisms for Politically Neutral and Corruption Free Public Service"

# WHISTLEBLOWING MECHANISM APPLICATION IN PRACTICE IN EUROPEAN COUNTRIES

---

Analysis of key findings of interviews conducted within the Project “Support of Application of Disclosure Mechanisms for Politically Neutral and Corruption Free Public Service”

The assessment report was prepared within the project financially supported by the Embassy of the Kingdom of Netherlands. Civil Service Hub is responsible for the content of this document, and the views expressed do not necessarily reflect the position of the Embassy.



Kingdom of the Netherlands

**AUTHOR: NINO TSUKHISHVILI**

© Civil Service Hub / 2022

## CONTENTS

INTRODUCTION .....	5
LEGAL REGULATION OF WHISTLEBLOWING INSTITUTE: AN OVERVIEW OF THE EU WHISTLEBLOWER PROTECTION DIRECTIVE .....	6
THE GOVERNMENT AGENCY RESPONSIBLE FOR IMPLEMENTING THE INSTITUTION OF WHISTLEBLOWING AND ITS POWERS .....	8
MEASURES TO IMPLEMENT THE WHISTLEBLOWING MECHANISM IN PRACTICE .....	10
DIFFICULTIES OF IMPLEMENTING THE INSTITUTION OF WHISTLEBLOWING IN PRACTICE .....	12
CONCLUSION AND RECOMMENDATIONS .....	13

## 1. INTRODUCTION

---

This document aims to analyze the main findings of the interviews conducted with the representatives of the relevant institutions of the European countries selected within the framework of the project regarding the European experience of introducing whistleblowing into practice. Two groups of countries were selected by the project experts: a) countries with a long tradition and experience of implementing the whistleblowing mechanism in practice (the Republic of Ireland, and the Kingdom of the Netherlands); b) Two eastern European states, with relatively little experience in implementing the whistleblowing mechanism in practice (Lithuania and Slovakia).

The following issues were discussed during the interviews: a) Legal regulation of whistleblowing; b) State agencies responsible for implementing the whistleblowing mechanism in practice and their mandate; c) Steps taken to implement the whistleblowing mechanism in practice; d) Challenges identified in the process of application of the whistleblowing institute.

Based on the analysis of the interview data, this paper presents recommendations for improving the implementation of the whistleblower mechanism in Georgia.

## 2. LEGAL REGULATION OF WHISTLEBLOWING INSTITUTE: AN OVERVIEW OF THE EU WHISTLEBLOWER PROTECTION DIRECTIVE

---

At the time of the study, the aforementioned countries were actively working to introduce the European Union Whistleblower Protection Directive No. 2019/1937<sup>1</sup> into their national legislation. The EU Whistleblower Protection Directive establishes a common European standard on several important issues such as:

- **Whistleblower status:** The status of a whistleblower is granted to a person employed in the public or private sector who has received information about an existing or possible violation in the process of a working relationship.<sup>2</sup> Member States should also grant whistleblower status to former employees and job seekers, at the selection process or pre-contractual negotiation stage.<sup>3</sup> Whistleblower protection guarantees should also be extended to - a) the whistleblower's assistants; b) the whistleblower's colleagues and close relatives who may become victims of retaliation; c) legal entities where the whistleblower has a personal interest.<sup>4</sup>
- **The subject of whistleblowing:** The Directive establishes a list of objects of whistleblowing, namely: tax fraud; money laundering; corrupt practices detected in public procurement; product and transport safety; protection of the environment; public health; protection of consumer rights; personal data protection.<sup>5</sup>
- **The obligation to create an internal whistleblowing mechanism:** The obligation to create an internal whistleblowing mechanism applies to: a) state agencies; b) private companies with more than 50 employees; c) local government bodies with more than 10,000 registered employees.<sup>6</sup>
- **The obligation and requirements to create external whistleblowing mechanisms:** The Directive obliges states to create external whistleblowing mechanisms in other authorized agencies, which must meet high standards of independence, autonomy, and competence.<sup>7</sup>
- **Forms for reporting whistleblowing:** It should be possible to report whistleblowing verbally (through a telephone hotline, answering service, or online platform) as well as in writing.<sup>8</sup>

---

<sup>1</sup> The EU Whistleblower Protection Directive No. 2019 (1937), adopted by the European Parliament and the Council on 23 October 2019, available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>.

<sup>2</sup> Ibid, article 4, paragraph 1.

<sup>3</sup> Ibid, article 4, paragraph 2.

<sup>4</sup> Ibid, article 4, paragraph 4.

<sup>5</sup> Ibid, article 2, paragraph 1.

<sup>6</sup> Ibid, article 8, paragraphs 3 and 4.

<sup>7</sup> Ibid, article 12.

<sup>8</sup> Ibid, article 9, paragraph 2.

- **Development and implementation of whistleblowing procedure:** Member States should take the following measures to implement the whistleblowing procedure: a) Secure channels for receiving whistleblower allegations and ensure restricted access to them, to protect the confidentiality of whistleblower information. If necessary, establish anonymous whistleblowing channels; b) Identify a competent person/agency dealing with whistleblowing allegations and define his/her/its powers; c) Establish unambiguous procedural rules for handling whistleblowing allegations; d) Define time limits for handling whistleblowing allegations, to "timely" handle the allegation.<sup>9</sup>
- **Timeline for whistleblowing allegation review:** A public/private institution must decide to initiate proceedings within 7 days of receiving the whistleblowing allegations and notify a disclosed person. According to the Directive, the institution must complete the initiated whistleblowing allegation proceedings no later than three months and, in special circumstances, no later than six months, and inform the whistleblower/disclosed person of the results of the investigation. In addition, if necessary, the public/private agency must forward the results of the investigation to other authorized government agencies within a reasonable time for further investigation.<sup>10</sup>
- **Mechanism for the protection of whistleblowers against retaliation:** The Directive obliges states to establish an effective mechanism to protect whistleblowers from retaliation and to determine sanctions for persons who: a) Obstruct or impede reporting; b) Take retaliatory or discriminatory measures against a whistleblower; c) Initiate unfair procedures against a whistleblower; d) Reveal the identity of the whistleblower and violate the obligation to maintain the confidentiality of his/her identity.<sup>11</sup>

---

<sup>9</sup> Ibid, article 9, paragraph 1.

<sup>10</sup> Ibid, article 11.

<sup>11</sup> Ibid, article 23, paragraph 3.

### 3. THE GOVERNMENT AGENCY RESPONSIBLE FOR IMPLEMENTING THE INSTITUTION OF WHISTLEBLOWING AND ITS POWERS

---

According to the information provided during the interviews, in the Netherlands and Slovakia, a specialized government agency, the Whistleblower Protection Office, which is independent and accountable to the Parliament, is responsible for implementing the whistleblowing mechanism.

**The whistleblower protection services established in the Netherlands and Slovakia have the following powers:**

- Monitors the implementation of the norms established by the law On the Protection of Whistleblowers by government agencies, including the process of establishing internal channels for whistleblowing and developing internal procedural standards; has authority to impose sanctions for violations of statutory standards;
- Reviews complaints filed by whistleblowers regarding retaliatory action taken against them in a government agency is authorized to suspend the retaliatory action and impose appropriate sanctions on the government agency;
- Advises civil servants on the preparation of a whistleblowing allegation, whistleblowing procedure, and mechanisms for protecting rights;
- Prepares methodological guidelines and expert conclusions regarding the institute of whistleblowing;
- Provides professional training for those responsible for implementing the institute of whistleblowing in practice in government agencies;
- Cooperates with government agencies to improve legal standards regulating the institute of whistleblowing;
- Cooperates with government human rights institutions as well as civil society organizations to protect the rights of whistleblowers;
- Conducts campaigns to raise awareness of the institute of whistleblowing among civil servants and the public.<sup>12</sup>

---

<sup>12</sup> Slovakia Law on Protection of Whistleblowers' Rights, article 13, paragraph 6, effective: 01.03.2019.



The Dutch Whistleblower Protection Office additionally functions as an external whistleblowing mechanism and has the power to investigate whistleblower allegations. In addition, the Office can conduct a parallel investigation of a government agency's investigation if the whistleblower is not satisfied with the quality of the investigation being carried out or/and conducted by the government agency.

In Ireland and Lithuania, the authority to implement the of whistleblowing mechanism in practice has been delegated to independent state institutions, such as the Prosecution Service (Lithuania) and the Police Ombudsman Service (Republic of Ireland). These state institutions act as internal and external whistleblowing mechanisms, and their powers include conducting inquiries/investigative activities based on whistleblower allegations that may lead to disciplinary or criminal liability. These state institutions do not have the authority to review the legality of reprisals taken against a whistleblower by other government agencies or supervise their activities in any way.

## 4. MEASURES TO IMPLEMENT THE WHISTLEBLOWING MECHANISM IN PRACTICE

---

According to the information provided during the interviews, the state agencies responsible for the implementation of the institute of whistleblowing carry out the following measures to promote and encourage whistleblowers:

- **Refinement and improvement of legal norms on whistleblowing, development of internal mechanisms and procedure for whistleblowing**

According to the information provided, the aforementioned states are actively working to bring their national legislation in line with the requirements of the EU Directive and are preparing amendments to the laws governing whistleblowing that reflect the basic requirements and obligations of the Directive.

The states pay special attention to having public agencies:

- Fulfill the obligation to introduce internal mechanisms and procedures of whistleblowing;
  - Fulfill the obligation of anonymity and confidentiality in the whistleblowing process;
  - Strengthen the mechanisms for protecting the rights of whistleblowers, especially the oversight and suspension/cancellation of retaliation against whistleblowers;
  - Create independent external mechanisms of whistleblowing;
  - Create an independent government institution responsible for the introduction of the institute of whistleblowing.
- **Raising the awareness of civil servants and citizens**
    - Conducting a survey among civil servants and citizens about the awareness of the Whistleblower Protection Office as well as conducting an information campaign about the creation/powers of the Office;
    - Planning public campaigns regarding the institute of whistleblowing: a) Public and expert discussions in the center and regions; b) Television and radio broadcasts; c) Involvement of famous people (influencers) in the campaign; d) Informing the public about positive cases of whistleblowing and its results; e) Preparing billboards, information brochures, and practical guides; f) Anti-corruption events (concerts, excursions, tours, etc.).

- Professional training of civil servants on the mechanism of whistleblowing; Development of an electronic training course on whistleblowing for civil servants.

- **Processing and publication of statistics on the institute of whistleblowing**

According to the provided information, the responsible state agencies are required to process whistleblowing statistics in various aspects and publish them on their website. In addition, as a result of the analysis of whistleblowing statistics, they are required to develop recommendations for state agencies to improve whistleblowing practices. For this purpose, state agencies have developed a methodology for processing whistleblowing statistics and detailed guidelines for civil servants.

## 5. DIFFICULTIES OF IMPLEMENTING THE INSTITUTION OF WHISTLEBLOWING IN PRACTICE

---

According to the information provided during the interviews, the state agencies responsible for the implementation of the institution of whistleblowing face the following difficulties and challenges:

- Incomplete legal framework;
- Different experience and internal organizational culture of state agencies;
- A large number of whistleblowing allegations concerning cases that occurred many years ago and that are difficult or/and impossible to investigate because of the passage of time;
- Shortage of human resources and lack of professional staff;
- Lack of financial resources, especially for large-scale information campaigns;
- Cultural perceptions in society regarding the institute of whistleblowing.

## 6. CONCLUSION AND RECOMMENDATIONS

---

The analysis of the information from the interviews demonstrated that the legal regulation of the institute of whistleblowing and its implementation in practice is an important challenge for the European states under study, for the improvement of which several measures are being implemented.

As a result of the analysis of the experience of the countries studied, the paper presents the following recommendations for Georgia:

- The whistleblowing norms established by the Law on Conflict of Interest and Corruption in Public Service must be brought into compliance with the basic standards set by the EU Directive;
- To determine a state agency responsible for implementing the whistleblowing mechanism in practice, which will provide support and supervision to state agencies in the implementation of the mechanism;
- State agencies must develop an internal whistleblowing procedure and encourage the use of internal whistleblowing mechanisms;
- Awareness-raising activities about the institution of whistleblowing must be planned for civil servants and society.