

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
ROMANIA**

**ARTICLE 8, PARAGRAPH 4 UNCAC
REPORTING ON ACTS OF CORRUPTION**

ROMANIA (EIGHTH MEETING)

- *Establish or improve procedures, rules and regulations for the reporting, including by members of criminal justice institutions, of acts of corruption to appropriate authorities and the mechanisms for the protection of reporting persons;*

Our national legislation ensures legal protection of the persons who intent to report on corruption deeds (Criminal Code, Criminal Procedure Code, Law no. 682/2002 on witness protection, Law no. 571/2004 on protecting personnel within public authorities and institutions and from other units who report on breaches of the law), though there are indications that the lack of internal procedures affect the efficiency of whistleblower protection mechanisms.

In Romania, the law on protection of whistleblowers in the public interest was adopted in 2004 (Law no. 571/2004 on the protection of personnel in public authorities, public institutions and other units who report violations). The law applies to Parliament, the Presidential Administration and the Government, the central and local administration and autonomous administrative authorities, national companies, autonomous administrations of national and local and national companies with state capital. The law does not apply to the judiciary or private companies.

From a legal perspective, the law is built on the principles of the Constitution on freedom of conscience (art. 29), freedom of expression (art. 30) and the right to information (art. 31) and the European Charter of Fundamental Rights on freedom of thought, conscience and religion (art. 10 par 2), freedom of expression and information (art. 11), the right to protection against unfair dismissal and termination of employment contract (art. 30) and the right to good administration (art. 41).

Whistleblowing is defined as a complaint made in good faith of any offense involving a violation of the law, professional ethics and principles of good administration, efficiency, effectiveness, economy and transparency.

At MoIA level, the legislation on protection of whistleblowers and the obligation of the public servants to report corruption deeds are an important objective of all training and informing activities conducted by AGD at MoIA level.

Publicity of the free-of-charge telephone line

AGD administrates a free-of-charge telephone line 0800.806.806 that can be reached 24/7 by citizens who want to report a corruption deed. MoIA represents an important part of the citizens who use this line.

The analysis of the most recent poll on the perception of MolA personnel reveals that, in case they want to report a corruption deed, they prefer to report it to his direct head or call the anti-corruption line mentioned above.

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ROMANIA (SECOND SESSION)

Law no. 571/2004 on the protection of the personnel within public authorities, public institutions and other budgetary units who notify law's infringements. This normative act aims to ensure the protection of persons reporting in good faith any deed that constitutes infringement of law, professional deontology or good administration and transparency principles, when such acts come to their attention in the performance of their functions. Employees who are victimized and subject to harm for blowing the whistle on improper behaviour are now protected against any disciplinary or jurisdictional action if they act in good faith.

The law applies to:

- public authorities and institutions within the public central administration,
- local public administration,
- Parliament staff,
- Presidential Administration staff,
- Government staff,
- autonomous administrative authorities,
- public institutions in the field of culture, education, health and social assistance,
- national companies,
- autonomous regions of national and local administration,
- persons appointed in scientific and consultative councils, specialized committees and other collegial bodies, organized within or attached to public authorities and institutions.

Definitions under the law:

- Whistleblowing for public interest – the notification made with *bona fides* regarding the deed assumed to be an infringement of the law, of the professional deontology or of the principles of good administration, efficiency, effectiveness and transparency;
- Whistleblower – the person making a notification as aforementioned and working for one of the public authorities, public institutions or other units;
- Disciplinary Commission – any body having disciplinary investigation prerogatives, provided by law or by the regulations for organizing and functioning of the mentioned public authorities, institutions or other groups.

Whistleblowing for public interest regards:

- corruption offences, offences assimilated to corruption, offences connected to corruption, forgery offences and abuse in office or related to office;
- offences against financial interests of the European Communities;
- infringements of the provisions on the incompatibilities and the conflict of interests;
- the abusive use of material and human resources; political support in exercising the prerogatives of the office, except for the persons politically selected or appointed;
- infringements of the legal provisions regarding the public procurement and non-reimbursable financing contracts;
- infringements of the law on the access to information and decisional transparency;
- incompetence or negligence in office;
- non-objective assessments of the personnel, during the process of recruitment, selection, promotion, changing to a lower position and release from office;
- infringements of administrative procedures or establishing internal procedures without observing the law;
- issuing administrative or other types of documents serving group interests;
- the defective or fraudulent management of public and private patrimony of public authorities, public institutions and other units;
- infringements of other legal provisions imposing the observance of the principle of good administration and protecting public interest.

The notifications regarding infringements of the law or of deontological and professional norms can be sent to:

- the superior of the person who infringed the legal provisions,
- the person having the highest leading position within the respective public authority, public institution or budgetary unit where the person infringing the law performs his/her activity or where an illegal practice is reported, even if the perpetrator cannot be identified,
- disciplinary commissions or other similar organisms within the public authority, public institution or unit where the person infringing the law performs his/her activity,
- judicial bodies,
- the bodies with competencies in ascertaining and investigating conflicts of interests and incompatibilities,
- parliamentary commissions,
- mass-media,
- NGO's.