



# Protected or Exposed?

Whistleblower Protection  
in the Western Balkans:  
Progress and Challenges

**Banja Luka**

Krfska 64e  
78000 Banja Luka

**Sarajevo**

Zmaja od Bosne 20/1  
71000 Sarajevo

[www.ti-bih.org](http://www.ti-bih.org)

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## Whistleblower Protection in the Western Balkans: Progress and Challenges

### EDITORS:

Suzana Obradović, Transparency International Bosnia and Herzegovina  
Simona H. Bosiger, Senior Advisor on Compliance, Integrity & Whistleblower protection

### EXPERT REVIEWER:

Simona H. Bosiger, Senior Advisor on Compliance, Integrity & Whistleblower protection

### AUTHORS:

#### **Bosnia and Herzegovina**

Suzana Obradović, Transparency International Bosnia and Herzegovina

#### **Serbia**

Miša Bojović, Transparency Serbia

#### **North Macedonia**

Viktorija Mileska Cvetanoska, Transparency International Macedonia

#### **Montenegro**

Dejan Milovac, The Network for Affirmation of NGO Sector - MANS

#### **Kosovo**

Florent Spahija and Gresë Lamallari, Kosova Democratic Institute

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# List of Acronyms

<b>APIK</b>	Agency for the Prevention of Corruption and Coordination of the Fight Against Corruption
<b>APC</b>	Agency for the Prevention of Corruption
<b>ALAC</b>	Advocacy and Legal Advice Center
<b>CGES</b>	Montenegro´s Electricity Transmission System
<b>HRA</b>	Human Rights Action
<b>LPW</b>	Law on Protection of Whistleblowers
<b>LPC</b>	Law on Prevention of Corruption
<b>SCPC</b>	State Commission for the Prevention of Corruption

# Overview:

## How do Systems Function in Reality?

This report assesses whistleblower protection frameworks in five Western Balkan jurisdictions, focusing on the gap between normative legal design and operational effectiveness. Its core finding is consistent: while legal frameworks exist, they do not yet function as effective protection systems.

In terms of alignment with the EU Directive 2019/1937 on the protection of persons who report breaches of Union law, the report shows that most countries have adopted key structural elements. Still, these are often implemented in a restrictive or fragmented manner, undermining their effectiveness. At the same time, the analysis identifies good practices across the region, showing that more effective approaches already exist and can support further alignment.

One of the shortcomings lies in the limited material scope of protection, which, in some jurisdictions, is limited to corruption rather than to a broader range of breaches of

law and risks to public interest, and is also limited to the public sector. Similarly, the eligibility for protection is often restricted to employment-based relationships, leaving other individuals with relevant information unprotected.

External reporting is in some systems restricted or discouraged by requiring prior internal reporting, creating barriers when those channels are ineffective or compromised. In addition, the absence of clearly designated, independent authorities responsible for receiving and processing reports leads to uncertainty and weak follow-up with dispersed accountability. The lack of reliable data on reports, outcomes, and actions, and systematic monitoring makes it difficult to assess overall system effectiveness.

Reliance on “good faith” represents a further misalignment in some jurisdictions. By focusing on the whistleblower’s intent rather than on whether they had reasonable grounds to believe the information

was true, systems risk undermines protection. This is compounded by inconsistent application of the burden of proof, which, although formally shifted in some frameworks, is not reliably enforced in practice.

Real cases demonstrate that even where formal whistleblowing status or legal remedies exist, they often fail to prevent or adequately address retaliation. This reflects weak enforcement, a lack of timely protective measures, a lack of institutional authority to intervene, and insufficient consequences for

those responsible for retaliation. Additional gaps include limited protection for third parties connected to whistleblowers and weak follow-up on anonymous reports.

To address these shortcomings, reforms should focus on improving how systems operate in practice. The main challenge, therefore, is not the absence of regulation, but ensuring that existing systems function in a way that provides real and reliable protection. The report highlights key challenges in practice and provides key recommendations.

**Simona H. Bosiger,**  
*expert reviewer*

# Background and Scope

Whistleblowing stands as one of the most powerful tools for uncovering and preventing corruption and misconduct. By bringing hidden wrongdoing to light, whistleblowers play a crucial role in protecting the public interest and strengthening transparency, accountability, and institutional integrity. International standards, therefore, increasingly emphasize the need for effective protection mechanisms that safeguard whistleblowers from retaliation and enable them to report misconduct without fear of negative consequences.

In practice, effective whistleblowing systems depend not only on the existence of legal provisions but also on their implementation and on institutions' willingness to enforce them. For that reason, the role of organizations that provide direct support to whistleblowers is crucial, as they can identify gaps between law and practice through real cases and experience.

This analysis was prepared by chapters and partners of Transparency International, the global coalition against corruption, draw-

ing on their extensive experience supporting individuals who report wrongdoing. Through free legal assistance, advocacy, and public awareness initiatives, these organizations have worked to strengthen protection for individuals who report corruption and other misconduct. This report builds on those ongoing efforts to improve whistleblower protection systems across the Western Balkans. Structured by country, it was developed as part of the project "*Strengthening Regional Mechanisms for Combating Corruption and Impunity*," and contributes to broader efforts to promote accountability across the region.

All five Western Balkan countries covered in this analysis have introduced legal frameworks to protect whistleblowers, although one entity within Bosnia and Herzegovina has yet to adopt such legislation. In some countries, whistleblower protection is regulated through standalone laws, while in others it is embedded within broader anti-corruption legislation. At the same time, alignment with EU Directive 2019/1937 on the protection of persons who report breaches of

Union law (Whistleblower Protection Directive) varies across the region, with some countries making greater progress than others. The report examines both the quality of existing legal provisions and their effectiveness in practice. Its particular value lies in the fact that it was written by practitioners who provide free legal assistance to whistleblowers through their respective organizations. As a result, it offers valuable firsthand insights into key challenges, legal gaps, and practical obstacles, alongside concrete recommendations for improvement.



# Bosnia and Herzegovina

**Suzana Obradović**

Transparency International Bosnia and Herzegovina

# Introduction

Whistleblower protection in Bosnia and Herzegovina has developed within a complex, highly decentralized governance system that poses significant challenges for establishing coherent and effective legal standards. The country's constitutional structure—comprising the state level, two entities: Republika Srpska and the Federation of Bosnia and Herzegovina (which itself has ten cantons), and the Brčko District—results in fragmented approaches to the regulation of whistleblower protection.

Considering this structure, whistleblower protection is not regulated by a single, unified legal framework but through multiple laws adopted at different levels of government. Currently, relevant legislation exists at the level of Bosnia and Herzegovina with the *Law on the Protection of Persons Reporting Corruption in the Institutions of BiH*<sup>1</sup>, adopted in 2013, Republika Srpska with the *Law on the Protection of Persons Reporting Corruption*, adopted in 2017 and amended in 2024<sup>2</sup>, and the Brčko District, with the *Law on the Protection of Persons Reporting Corruption*, adopted in 2018<sup>3</sup>.

In addition, whistleblower protection has been partially regulated at the cantonal level within the Federation of Bosnia and Herzegovina. Notably, the Sarajevo Canton adopted the *Law on Prevention and Suppression of Corruption*<sup>4</sup>, which includes provisions on whistleblower protection. **The Federation of Bosnia and Herzegovina has not adopted a dedicated whistleblower protection law at the entity level, despite several draft proposals over the years. Consequently, within the Federation, only citizens in one out of ten cantons currently benefit from a legal framework that explicitly provides protection for whistleblowers.**

This fragmented and asymmetrical legal landscape results in uneven levels of protection, legal uncertainty, and practical obstacles for individuals seeking to report corruption and other misconduct. Despite the existence of formal mechanisms at certain levels, whistleblowers across Bosnia and Herzegovina continue to face significant risks, including retaliation, job loss, and social stigmatization.

Whistleblower protection remains narrowly focused on reports of corruption, rather than covering broader forms of wrongdoing or breaches of law, which limits the scope of protection available to reporting persons. In the context of European integration, Bosnia and Herzegovina is expected to align its legal framework with the EU Directive 2019/1937<sup>5</sup> (EU Directive), which introduces minimum standards for the protection of whistleblowers, including safe reporting channels, confidentiality guarantees, and protection against retaliation. Achieving compliance with EU standards will also require strengthening institutional capacities across all levels of government.

- 1 Official Gazette of Bosnia and Herzegovina (2013) *Law on the Protection of Persons Reporting Corruption in the Institutions of BiH*, Official Gazette of BiH, No. 100/13.
- 2 Official gazette of Republika Srpska (2024) *Law on the Protection of Persons Reporting Corruption*, No. 62/17, 98/24.
- 3 Official Gazette of the Brčko District (2018) *Law on the Protection of Persons Reporting Corruption*, Official Gazette of Brčko District of BiH, No. 25/18.
- 4 Official Gazette of Canton of Sarajevo (2022) *Law on Prevention and Suppression of Corruption*, Official Gazette of Canton Sarajevo, No. 35/22, 44/22, 52/22.
- 5 EUR-Lex (2019) *DIRECTIVE (EU) 2019/1937 on the protection of persons who report breaches of Union law*.

# Legal and Institutional Framework

## Material Scope of Protection

At the **state level**, reporting is limited to acts of corruption. The legal framework applies solely to the public sector, including state institutions and entities established by the state.

In the **Brčko District**, the scope of reportable wrongdoing is likewise restricted to corruption. However, the framework covers both public institutions and private sector entities, including companies and individual entrepreneurs.

In **Republika Srpska**, the reporting scope encompasses any form of corruption and applies to both the public and private sectors.

In **Sarajevo Canton**, the law addresses only corruption within public-sector institutions and explicitly excludes judicial institutions such as courts and prosecutorial offices.

## Personal Scope of Protection

At the **state level**, a whistleblower must be an employee of a public sector institution. Protection is granted only if the report is made in good faith, meaning the person genuinely believes the information to be true based on the facts available to them. The law does not regulate anonymous reporting.

In the **Brčko District**, any adult may report corruption regardless of employment status. Reports must be made in good faith, meaning the person reasonably believes the information indicates corrupt activity. Anony-

mous reporting is not explicitly addressed.

In **Republika Srpska**, any natural or legal person may act as a whistleblower, with no requirement for formal employment or connection to the relevant institution or private entity. Good faith—literally translated as “good intention”—remains a key condition. Reports must be based on facts that lead the whistleblower to reasonably suspect that corruption has occurred or been attempted. The law explicitly safeguards the whistleblower’s anonymity unless they consent to the disclosure of their identity.

In **Sarajevo Canton**, any individual may report wrongdoing, regardless of employment or connection to the institution involved. Reports may be based on direct or indirect knowledge and can be submitted through the institution’s official registry, post, e-mail, an online system, or orally. The law explicitly guarantees protection for anonymous reports.

## Whistleblower Status

At the **state level**, whistleblower status is granted by an independent body, the Agency for the Prevention of Corruption and Coordination of the Fight Against Corruption (APIK). The Agency assigns the status within 30 days of the request, regardless of whether any harmful measures have occurred or are only suspected, and notifies the whistleblower of its decision. The law does not provide legal remedies if the status is denied.

In the **Brčko District**, whistleblower status is granted by the Office for the Prevention of Corruption and Coordination of the Fight Against Corruption. The Office assigns the status within 30 days of receiving the request, regardless of whether harmful actions have occurred or are only suspected, and notifies the whistleblower of its decision. While the law does not prescribe specific legal remedies if the status is denied, it allows for an administrative dispute to be initiated against acts issued by the Office.

In **Republika Srpska**, there is no independent body that grants a specific “whistleblower status.” Instead, protection is provided through internal procedures conducted by the authorised person and through external

judicial mechanisms, in which courts assess whether the legal conditions for protection are met in cases involving harmful consequences.

In the **Sarajevo Canton**, the Office for Combating Corruption grants whistleblower status. Under Article 44 of the law, the Office assigns protected status within 30 days of receiving the request, regardless of whether harmful measures have already occurred or are only suspected. The law does not explicitly provide for an appeal procedure if the Office denies the status, but judicial protection is available if harmful measures are taken against the whistleblower as a result of reporting corruption.

## Protection of Third Parties

At the **state level**, the law does not provide protection for relatives or other persons connected to the whistleblower. Individuals who are wrongly perceived as whistleblowers are also not entitled to protection under the law.

In the **Brčko District**, the law similarly does not explicitly provide protection for related persons of the whistleblower or for those mistakenly identified as whistleblowers.

In **Republika Srpska**, the law explicitly extends protection to certain third parties. Protection is granted to persons who suffer harmful consequences due to their connection with a whistleblower, as well as to individuals who are wrongly perceived as whistleblowers, provided they can demonstrate that the harm they suffered is linked to those circumstances.

In **Sarajevo Canton**, the law does not explicitly provide protection for related persons, nor does it regulate protection for individuals who are mistakenly considered whistleblowers.

## Misuse of Reporting

At the **state level**, misuse of reporting is regulated by law. Any person who knowingly submits a false report of corruption is subject to a fine ranging from 1,000 BAM to 10,000 BAM (approx. EUR 510 to EUR 5,100).

In the **Brčko District**, the law likewise addresses misuse of reporting: individuals who knowingly submit false corruption reports may be held liable and fined between 500 BAM and 1,500 BAM (approx. EUR 255 to EUR 765).

In **Republika Srpska**, the misuse of reporting is explicitly regulated. It occurs when a person submits a corruption report knowing the information is not true, or when the report is made to obtain a material benefit as a reward or compensation. Such conduct is sanctioned by fines ranging from 5,000 BAM to 15,000 BAM (approx. EUR 2,550 to EUR 7,650).

In **Sarajevo Canton**, the law explicitly prohibits misuse of reporting, stating that a report constitutes misuse if the person submitting it knows at the time of the reporting that the information is false (Article 46). However, the law does not prescribe a specific penalty for this conduct.

## Reporting Channels

### » State level

Protected reporting can be internal, external, or public disclosure, and applies only to the public sector.

**Internal reporting** is submitted to a supervisor in the public institution, another responsible official, or an oversight or audit body. Internal reporting is conducted in accordance with the institution's internal acts on whistleblowing, if such acts exist. If the internal procedure is unavailable, unknown, or the responsible person may be connected to the corruption, the report can be submitted directly to the head of the institution.

**External reporting** can be made to the APIK, to the authority responsi-

ble for criminal investigation and prosecution, or to the public. External reporting may occur if the internal procedure takes longer than 15 days, is considered irregular, or if the whistleblower has reason to believe that the person to whom the report should be submitted according to the internal act, or the head of the institution, is suspected of being involved in corruption.

**Public disclosure** is considered a special form of protected reporting. As a condition, the whistleblower must reasonably believe that they may face harmful measures from a specific person, or if reported to the relevant authorities, no adequate action will be taken, or that prior reporting to the relevant authorities has not led to any adequate response. Before making such a public report, the whistleblower is required to carefully assess the potential harm that could result from their reporting.

## » Brčko District

Corruption can be reported internally, externally, or through public disclosure, and the framework applies to both the public and private sectors.

**Internal reporting** may be submitted to a supervisor, another authorized person, or the head of the institution or legal entity responsible for ensuring compliance with the law in relation to the person concerned, or to an oversight body. Reporting procedures must be regulated by an internal act, clearly displayed in the workplace, and on the institution's website. If such act and procedures are not in place, or if the whistleblower has reason to believe that the authorized recipient, who had been designated to receive reports in line with the internal act, is directly or indirectly linked to the act of corruption, the report may be submitted directly to the head of the institution or entity or another responsible competent authority in a different public or private body.

**External reporting** can be made to the authority responsible for criminal investigations and prosecution, to the Office for the Prevention of Corruption and Coordination of the Fight Against Corruption, or directly to the public. External reporting is generally allowed if the internal process has not produced a response within 15 days, if the internal procedure was irregular, or if the whistleblower believes the authorized recipient is directly

or indirectly linked to the corruption. Moreover, in urgent cases or where the matter has broader societal significance, external reporting can occur immediately without prior internal reporting.

**Public reporting** or disclosure is considered a special form of protected reporting. It is protected when the whistleblower reasonably believes they may face retaliation, or that an adequate response will not be taken if reported to authorities, and that evidence may be destroyed, or that prior reporting did not lead to any adequate response. Likewise, before making public disclosure, the whistleblower must consider the potential harm that their disclosure could cause.

## » **Republika Srpska**

Corruption can be reported through internal and external channels, applicable to both public and private sectors. The local law does not explicitly regulate public disclosure.

**Internal reporting** is submitted directly to the authorized responsible person within the public institution or private entity. The report must include the facts that led the whistleblower to suspect corruption, along with any available evidence. The authorized responsible person is obliged to act without delay, and must begin taking steps to detect, prevent, and sanction the harmful act or omission identified as corruption within seven days of receiving the report. Confidentiality and anonymity must be ensured. The whistleblower must be informed of the measures taken within 15 days of the request for notification, and of the outcome of the procedure within eight days of its completion. For organizations with 15 or more employees, the responsible person must issue instructions regulating the handling of corruption reports and the protection of whistleblowers, including maintaining anonymity.

**External reporting** allows a whistleblower to report directly to external bodies such as law enforcement authorities, the prosecution, or NGOs involved in human rights and anti-corruption. Reports must include factual information and evidence, and the whistleblower retains all legal protections. The law does not require submission of an internal report before reporting externally.

## » Sarajevo Canton

In Sarajevo Canton, protected reporting can be internal, external, or through public disclosure.

**Internal reporting** is submitted to the head of the institution or to an authorized responsible person(s) within the institution. The head of the institution shall regulate the reporting procedure by an internal act, clearly accessible to employees, and ensure a visible postbox for the corruption reports. The head of the institution or an authorized responsible person(s) must verify whether the report meets the formal requirements and may request its completion within seven days. If the report is not updated within this timeframe, it is considered withdrawn. Once a complete report is received, the authorized person must act without delay, and no later than 30 days. The whistleblower must be informed of the actions taken within 30 days and of the outcome, and within eight days of the procedure's completion.

**External reporting** is made directly to the Office for Combating Corruption of the Sarajevo Canton, and prior internal reporting is not required. External reporting may also follow internal reporting, particularly if the internal procedure lasts longer than 30 days from the report, or the whistleblower believes that the reporting procedure was conducted improperly, or the whistleblower has reason to believe that the head of the institution or designated responsible person(s) may be directly or indirectly linked to corruption. Upon receiving a report (also anonymous), the Office must act within 15 days, verify whether it meets formal requirements, and may request completion within 7 days. If the report is not completed within this timeframe, it is considered withdrawn. If the report is complete, the Office initiates a verification procedure, which includes collecting and analyzing data, accessing relevant records, and informing the competent authorities.

**Public disclosure** is defined as making information publicly available through media or other means. It is protected only under certain conditions: if the whistleblower reasonably believes that harmful actions or consequences may occur; if internal or external reporting would not lead to appropriate action, or the evidence may be concealed or destroyed; if no adequate response was taken following prior reporting within a reason-

able time, as perceived by the whistleblower. Notably, public disclosure is prohibited if it involves classified information defined by state law<sup>6</sup>.

## Forms of Retaliation

At the **state level**, whistleblower protection is limited to employment-related detrimental action. This includes measures such as dismissal, suspension, reassignment to a lower position, being declared redundant, disciplinary measures, negative performance evaluations, withholding of work assignments, or creating a hostile work environment.

In the **Brčko District**, protection of whistleblowers is similarly confined to employment-related consequences. It encompasses actions such as dismissal, suspension, reassignment to a lower position, redundancy, disciplinary measures, negative performance evaluations, denial of work assignments, and the creation of a hostile work environment.

In **Republika Srpska**, the law provides a significantly broader scope of protection. In addition to employment-related situations, it extends to other areas, including education (scholarships, enrolment, and assessment of exams), healthcare (access to treatment, waiting lists, and rehabilitation), social security, public services, participation in public procurement, and activities in sports, science, and culture. Protection also applies to any other circumstances in which a whistleblower suffers adverse consequences or is placed at a disadvantage as a result of reporting corruption, ensuring comprehensive safeguards against retaliation in both the public and private sectors.

In **Sarajevo Canton**, the law likewise establishes a broad scope of protection for whistleblowers that goes beyond employment-related situations. While it includes workplace protection (such as hiring, promotion, working conditions, and dismissal), it also covers areas including education,

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<sup>6</sup> Official Gazette of Bosnia and Herzegovina (2009) *Law on the Protection of Secret Data in Bosnia and Herzegovina*, Official Gazette of BiH, No. 54/05, 12/09.

healthcare, pension and disability insurance, social protection, public procurement, and participation in sports, science, and culture. This demonstrates that protection is not confined to the workplace but extends to a wide range of rights, including those in which a whistleblower may experience harmful consequences for reporting corruption.

## Protection Measures

At the **state level**, if a detrimental action is taken against a whistleblower, the APIK must request relevant documentation from the public institution and/or involve the Administrative Inspectorate of the Ministry of Justice to examine the allegations and establish the facts. Based on the findings, the Agency issues corrective measures, and the head of the institution shall remove the detrimental action within three days of receiving the Agency's instructions. If the head of the institution claims that the same action would have been taken against the whistleblower even if they had not submitted a report, they are obliged to prove it. If it is determined during the procedure that the whistleblower did not act in good faith when submitting a report, APIK will stop providing protection to the whistleblower.

In the **Brčko District**, if a whistleblower reports that an act of retaliation has been made, the Office for the Prevention of Corruption and Coordination of the Fight Against Corruption must request relevant documentation from the public or private entity within 15 days of receiving the report. If the documentation confirms that a detrimental action related to the report has occurred, the Office issues an instruction to the head of the institution or private entity to remedy the action and implement the corrective measures within three days. Similar to the framework at the state level, if the head of the institution or private entity claims that the same detrimental action would have been taken against the person even if they had not submitted a report, they bear the burden of proof. If it is established during the procedure that the whistleblower did not act in good faith when submitting a report, the Office will discontinue providing protection.

In **Republika Srpska**, the law provides measures to protect whistleblow-

ers from retaliation, combining both preventive and corrective safeguards. Preventive measures include the obligation of the responsible person (head of the public institution or private entity, a holder of public powers, or a responsible person in a business entity) to maintain the confidentiality and anonymity of the whistleblower, as well as the duty to take immediate action to eliminate any harmful consequences arising from the report. Corrective measures include internal procedures to address misconduct and access to judicial protection if the whistleblower suffers harm as a result of their reporting. The internal protection procedure is initiated by the whistleblower by submitting a request to the responsible person. This request must be filed within 30 days from the date the whistleblower became aware of the harmful consequence, and no later than one year from the occurrence of the harmful consequence. The responsible person is required to issue a decision on the request within 30 days of its submission.

If the whistleblower is dissatisfied with the decision issued during the internal protection procedure, or if no decision is made within 30 days, they may seek judicial protection within 30 days of receiving the decision, or from the expiry of that deadline. Judicial protection may also be requested even if internal protection was not previously sought. However, the lawsuit is not admissible while internal protection proceedings are ongoing. The claimant is exempt from court fees and procedural costs, except in the case of an unsuccessful lawsuit. Judicial proceedings in cases of retaliation are designed to be urgent. A whistleblower may file a claim within 30 days of becoming aware of the harmful consequences, or no later than one year from the date the adverse action occurred. Once a claim is filed, the defendant must submit a written response within 15 days, and the first-instance court is required to issue a decision within 90 days of filing the claim. If the judge fails to decide within this timeframe, they must inform the court president of the reasons for the delay. Decisions of the first-instance court may be appealed within 15 days, with the second-instance court required to decide within 45 days. Revision is always permitted against the second-instance decision.

Through the lawsuit, the claimant may request the court to determine that their rights were violated or that they were placed at a disadvantage as a result of reporting corruption. The claimant may seek one or more of the following requests:

- ▶ annulment or prevention of harmful acts, including restoration of the previous situation;
- ▶ compensation for material and non-material damage; and
- ▶ publication of the court decision at the defendant's expense.

Regarding the burden of proof, in such proceedings, the whistleblower must demonstrate that the harm is causally linked to the report, while the defendant must prove the lawfulness of their actions or the absence of harm. The law also allows the court to order interim measures to protect the whistleblower while the case is pending. These measures may include suspending the execution of harmful acts or requiring the responsible person to take actions to eliminate harmful consequences. The court must issue a decision within 8 days of the request, and the claimant is not required to provide costs or security. If the measure is granted before filing the main lawsuit, the claimant must file the lawsuit within 30 days. While the law establishes these procedures, it does not explicitly require judges handling whistleblower cases to undergo specific training.

In **Sarajevo Canton**, whistleblowers are protected from retaliation through both preventive and corrective measures. Preventive protection is ensured through the prohibition of placing a whistleblower in a less favorable position as a result of reporting corruption, encompassing a wide range of harmful consequences. Corrective protection is provided through internal and external mechanisms, allowing whistleblowers to seek protection before the responsible person within the institution and through judicial proceedings before a competent court. Under the internal protection procedure, a whistleblower must submit a request for protection to the responsible person within 30 days of becoming aware of the detrimental action, and no later than one year from the date the detrimental action occurred. The responsible person is obliged to decide on the request within 30 days and, if it is well-founded, to take measures without delay to eliminate the harmful action.

Judicial protection is available when a whistleblower suffers detrimental actions as a result of reporting corruption. The whistleblower may initiate court proceedings within 30 days from becoming aware of the harmful action, and no later than one year from its occurrence. The law also allows the whistleblower to seek judicial protection even without first requesting internal protection. Also, if the whistleblower is not satisfied with the

decision made by the responsible person in the internal protection procedure, or if no decision is made within 30 days, the whistleblower may seek judicial protection. The competent court is the municipal court based on the place where the detrimental action occurred or the residence of the claimant. For procedural matters not regulated by this law, general civil procedure rules apply. The law does not explicitly regulate the burden of proof, interim judicial measures, or require specialized training for judges handling these cases.

## Oversight and Sanctions

At the **state level**, oversight of the implementation of the whistleblower protection law is carried out by the Administrative Inspectorate of the Ministry of Justice and the Agency for the Prevention of Corruption, each within its respective mandate. The law prescribes that the Agency collect data on whistleblower reports and annually publish a list of institutions where corruption has been reported, including the type of detrimental action and whether corrective measures were implemented. Violations under the law include the failure of an institution's management to implement corrective measures or adopt internal acts, as well as knowingly submitting a false report. Fines range from 1,000 BAM to 20,000 BAM (approx. EUR 510 to EUR 10,200), depending on the violation.

In the **Brčko District**, oversight is conducted by the Administrative Inspection of the Brčko District in public administration bodies and by competent inspections in other public institutions and private legal entities. Within the judiciary, supervision is exercised by the Judicial Commission of the Brčko District. The law requires the Office for the Prevention of Corruption and Coordination of the Fight Against Corruption to publish annually a list of public and private entities where corruption has been reported, indicating the harmful actions taken and the corrective measures implemented. Violations include the failure of the head of a legal entity to implement corrective measures or adopt internal acts, as well as knowingly submitting a false report. Fines range from 500 BAM to 3,000 BAM (approx. EUR 255 to EUR 1,530), depending on the offense.

In **Republika Srpska**, implementation is supervised by the Republic Administration for Inspection Affairs, which monitors compliance either upon receiving a report or on its own initiative. Legal entities and courts are required to collect and report data on the number and outcomes of whistleblower reports. These are submitted annually to the Ministry of Justice, which publishes the information on its website and submits an annual report to the Government of Republika Srpska. Regarding violations, responsible persons who fail to properly handle whistleblower reports—whether in internal procedures (e.g., refusal to accept a report, delays, or breaches of confidentiality) or external protection (e.g., non-compliance with court decisions)—may be fined between 5,000 BAM and 15,000 BAM (approx. EUR 2,550 to EUR 7,650). Whistleblowers who knowingly misuse the reporting process, including by submitting false information or seeking personal gain, are subject to the same fines.

In **Sarajevo Canton**, the Ministry of Justice and Administration is responsible for supervising the implementation of the whistleblower protection law, while the Office for Combating Corruption of the Sarajevo Canton provides advisory guidance on its proper application. If a whistleblower initiates court proceedings due to harmful measures taken against them, the Office will, upon request, provide the necessary expert assistance in proving the causal link between the corruption report and the resulting harm. Although the law does not explicitly require the publication of statistical data on whistleblower reports, institutions are obliged to inform the Office of the outcome of proceedings within eight days of their completion. Violations under the law may result in monetary fines and can be imposed on institutions, responsible officials, and authorized persons, ranging from 500 BAM to 20,000 BAM (approx. EUR 255 to EUR 10,200).

## Implementation in Practice

The establishment of an effective whistleblower protection system represents a key component in the fight against corruption and the enhancement of institutional transparency in Bosnia and Herzegovina. However, beyond the formal adoption of legal and institutional frameworks, particular importance lies in their practical implementation.

In this context, the implementation of whistleblower protection mechanisms can be assessed primarily through quantitative indicators, such as the number of submitted reports and the number of granted whistleblower statuses. One of the analyses regularly conducted by TI BiH includes data on protection requests submitted to competent public institutions, as well as reports submitted to Transparency International BiH, providing a comparative overview of reporting practices. These kinds of analysis are essential for understanding the actual scope and effectiveness of existing legal solutions in practice, serving as a basis for further examination of challenges and the development of recommendations for improving the whistleblower protection system.

In *Table 1 Practical application of whistleblower protection mechanisms in Bosnia and Herzegovina*, presented below, it can be observed that the practical application of whistleblower protection mechanisms in Bosnia and Herzegovina remains very limited. It shows data gathered by authorities responsible for collecting data and/or granting whistleblower status. Across different levels of government, the number of requests for whistleblower status is consistently low, while the number of granted statuses is minimal or, in some cases, entirely absent. In Republika Srpska, where judicial protection mechanisms are in place, the available data on initiated court proceedings also indicate a very low level of use of legal protection mechanisms.

The low number of requests for whistleblower status clearly indicates that reporting mechanisms are not functioning effectively.

	Institution <sup>7</sup>	2022	2023	2024	2025
<b>BiH (state level)</b>	APIK <sup>8</sup>	WB status requested: <b>1</b> WB status granted: <b>0</b>	WB status requested: <b>1</b> WB status granted: <b>1</b>	WB status requested: <b>1</b> WB status granted: <b>0</b>	WB status requested: <b>3</b> WB status granted: <b>0</b>
<b>Brčko District</b>	Office for the Prevention of Corruption	WB status requested: <b>4</b> WB status granted: <b>4</b> <sup>9</sup>	WB status requested: <b>0</b> WB status granted: <b>0</b> <sup>10</sup>	WB status requested: <b>0</b> WB status granted: <b>0</b> <sup>11</sup>	WB status requested: <b>3</b> WB status granted: <b>3</b> <sup>12</sup>
<b>Republika Srpska</b>	Ministry of Justice	Initiated court cases: <b>3</b> <sup>13</sup>	Initiated court cases: <b>0</b> <sup>14</sup>	Initiated court cases: <b>1</b> <sup>15</sup>	Initiated court cases: <b>0</b> <sup>16</sup>
<b>Sarajevo Canton</b>	Office for Combating Corruption <sup>17</sup>	N/A the Law was not in the force	WB status requested: <b>8</b> WB status granted: <b>7</b>	WB status requested: <b>8</b> WB status granted: <b>6</b>	WB status requested: <b>11</b> WB status granted: <b>8</b>

» **Table 1****Practical application of whistleblower protection mechanisms in Bosnia and Herzegovina**

<sup>7</sup> Institution refers to the authority responsible for collecting data and/or granting whistleblower status.

<sup>8</sup> The data were obtained through an official Freedom of Information request submitted to the APIK.

<sup>9</sup> Office for the Prevention of Corruption and Coordination of the Fight Against Corruption (2023) *Annual Report 2022*.

<sup>10</sup> Office for the Prevention of Corruption and Coordination of the Fight Against Corruption (2024) *Annual Report 2023*.

<sup>11</sup> Office for the Prevention of Corruption and Coordination of the Fight Against Corruption (2025) *Annual Report 2024*.

<sup>12</sup> Office for the Prevention of Corruption and Coordination of the Fight Against Corruption (2026) *Annual Report 2025*.

The data on the number of whistleblower reports received by Transparency International BiH through its Advocacy and Legal Advice Center (ALAC), as shown in *Table 2 Number of received reports by Transparency International BiH* indicate a significantly higher level of engagement compared to formal institutional reporting mechanisms. This indicates that whistleblowers more frequently rely on non-governmental support mechanisms rather than formal institutional procedures.

Transparency International BiH	2022	2023	2024	2025
<b>Number of WB reports received<sup>18</sup></b>	<b>37</b>	<b>40</b>	<b>21</b>	<b>35</b>

» **Table 2**

**Number of received reports by Transparency International BiH**

<sup>13</sup> Ministry of Justice Republika Srpska (2023) *Analytical report criminal offenses with elements of corruption for 2020, 2021, 2022.*

<sup>14</sup> Ministry of Justice Republika Srpska (2024) *Analytical report on criminal offenses with elements of corruption for 2023.*

<sup>15</sup> Ministry of Justice Republika Srpska (2025) *Analytical report on criminal offenses with elements of corruption for 2024.*

<sup>16</sup> The data were obtained through an official Freedom of Information request submitted to the Ministry of Justice Republika Srpska.

<sup>17</sup> The data were obtained through an official Freedom of Information request submitted to the Office for Combating Corruption Sarajevo Canton.

<sup>18</sup> Transparency International BiH (2026) *Advocacy and Legal Advice Center Annual Reports 2022 - 2025.*

The low level of public trust in the legal protection of those who speak out is driven not only by the lack of legislation or its gaps, but also by weak enforcement and a climate of intimidation, public shaming, and open threats against anyone who dares to publicly expose corruption. The inefficiency of the judiciary, which prioritizes minor cases while major corruption often goes unpunished, combined with relatively lenient penalties for corruption-related offenses, further discourages citizens from reporting corruption to the competent institutions.

Due to the factors described above, many citizens decide not to report corruption at all. Nevertheless, there are still those who, despite the risks and challenges, choose to come forward. One of them was Emir Mešić<sup>19</sup>.

**Emir Mešić**, an employee of the State Tax Authority, reported corruption involving customs revenues to the Prosecutor's Office in 2018. The country's anti-corruption agency, APIK, granted him protected whistleblower status; however, no effective action followed from the competent authorities. After waiting for almost two years, Mešić decided to publicly speak about the corruption he had uncovered, after which he faced significant reprisals. Despite his protected status, he was demoted and suspended. Transparency International BiH called on APIK to ensure the protection of Mešić and subsequently provided him with full legal assistance to challenge the reprisals in court. In response, the Tax Authority claimed that he had damaged its reputation and dismissed him in 2021. Meanwhile, during the court proceedings, the Prosecutor's Office decided not to investigate his original corruption report. The cases of Emir Mešić are currently pending before the Constitutional Court of Bosnia and Herzegovina and the European Court of Human Rights.

.....  
<sup>19</sup> Transparency International (2024) *Making Western Balkans Safe for Whistleblowers*, 19.06.2024.

## Key Challenges and Gaps

According to Transparency International<sup>20</sup>, people do not report corruption mainly because of fear of legal, financial, and reputational consequences, the belief that reporting will not lead to meaningful action, and uncertainty about how, where, and to whom to report corruption. These barriers are also evident in Bosnia and Herzegovina, where they significantly discourage individuals from reporting corruption.

An additional factor, particularly evident in Bosnia and Herzegovina, is its complex state structure and the resulting legal fragmentation, which further complicates the reporting process and weakens the overall effectiveness of whistleblower protection mechanisms. There is a general lack of positive examples of whistleblowers in Bosnia and Herzegovina and the wider region who have reported corruption and subsequently received adequate protection without experiencing negative consequences.

Moreover, corruption is increasingly perceived in public opinion as a normal rather than an illegal or immoral practice. Overall, public perception of whistleblowers alternates between viewing them as courageous individuals or as persons with questionable motives. In addition, there is no systematic institutional effort to promote whistleblowing or raise public awareness of reporting mechanisms, resulting in a very low number of individuals reporting wrongdoing and seeking protection.

As seen in the legal framework overview, legal protection for whistleblowers at the **state level** exists but is not advanced, as mechanisms for support and addressing the detrimental consequences of reporting corruption remain ineffective. The scope of the law is significantly limited, confining protection to public-sector employees only. In addition, the law does not prescribe a clear procedure for granting whistleblower status and does not provide a right to appeal if whistleblower status is denied.

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<sup>20</sup> Transparency International *Whistleblowing*, accessed 31.03.2026.

Whistleblowers also lack a legal remedy in cases concerning the termination of protection.

This lack of transparency and legal remedy creates legal uncertainty for whistleblowers, limits their rights, and, as seen in the Mešić case, even the granting of whistleblower status does not necessarily ensure their actual protection. Similar shortcomings are present in the Brčko District. Furthermore, regarding reporting channels in **Brčko District**, as at the state level, external reporting is conditioned by prior internal reporting, with few exceptions; however, such a requirement—particularly when it limits direct reporting to law enforcement or the prosecutor’s office—is incompatible with the principles of criminal law and may discourage the timely disclosure of corruption. Moreover, although the Brčko District law allows any individual to act as a whistleblower regardless of employment status, this provision is largely ineffective in practice, as protection is limited to employment-related harm, leaving whistleblowers outside an employment context without meaningful protection against other forms of retaliation.

In **Republika Srpska**, deadlines for filing lawsuits are excessively short, which, given the harmful consequences suffered by whistleblowers, significantly limits access to protection, particularly because many seek protection only after a longer period. In addition, the law does not provide for public disclosure or protection in such cases, which is a major shortcoming.

In **Sarajevo Canton**, similarly to Republika Srpska, the deadlines for filing lawsuits are short. Moreover, although the law prescribes that proceedings are urgent, it does not specify a deadline by which courts must issue a decision, nor does it specifically provide for the issuance of interim measures to protect whistleblowers while the case is pending or before the main lawsuit is filed.

In addition, the **Federation of Bosnia and Herzegovina has not yet adopted a dedicated whistleblower protection law. The absence of such legislation further contributes to an uneven legal framework and a lack of comprehensive protection across the country.** Although **Sarajevo Canton** has adopted its own law, protection is limited to institutions within its jurisdiction. It excludes judicial institutions (courts and prosecu-

tors' offices) and private sector entities, meaning that certain categories remain outside the scope of protection even within the canton.

One of the key problems across most whistleblower protection frameworks in Bosnia and Herzegovina is the requirement that a report be submitted in good faith, which, in practice, leads institutions to prioritize assessing the whistleblower's intent over focusing on the reported allegations, thereby undermining effective protection mechanisms.

Institutional reporting on whistleblower cases remains insufficient and varies across different levels of government. In **Sarajevo Canton**, there is no clear legal obligation to publish such reports, whereas such obligations exist at the **state level**, in the **Brčko District**, and in **Republika Srpska**. However, the scope and quality of published information differ significantly. While reports published in the **Brčko District** are more comprehensive and timely, available information at other levels generally remains limited, and publication is often delayed, while the information mainly concerns the number of corruption reports or initiated procedures, with little or no information on protection requests, granted status, or case outcomes.

# Recommendations

The following recommendations are based on the previously identified legal and practical shortcomings in the whistleblower protection system. A general recommendation is that new whistleblower protection laws, aligned with the EU Directive, should be adopted in Bosnia and Herzegovina in a coordinated manner across the state level, the two entities: Republika Srpska and the Federation of Bosnia and Herzegovina, and the Brčko District. However, recommendations for amendments to the current laws in force, aligned with the EU Directive, are outlined below.

## » Recommendations for the state level (Bosnia and Herzegovina):

- ▶ The personal scope of the law should be expanded to ensure that any individual can qualify as a whistleblower, regardless of employment status or connection to the institution involved, rather than being limited to persons employed within institutions.  
.....
- ▶ The material scope of the law should be expanded so that, in addition to cases of corruption, it provides protection for all reports revealing any form of illegality, including information on breaches of law or harm to the public interest, as well as reasonable suspicions of potential breaches of law.  
.....
- ▶ The phrase “in good faith” should be replaced with “*reasonable grounds to believe that the information was true at the time the report was made.*” The expression “in good faith” is often misinterpreted as a test of motive (whether a person had an honest intention to make a report), which leads institutions to assess the whistleblower’s intent rather than to investigate the reported allegations.  
.....
- ▶ The law should also provide protection for third parties, i.e., related persons. It should protect all individuals and legal entities connected to a person reporting wrongdoing, including those who assist in pre-

paring the report or who are wrongly perceived as whistleblowers.

- ▶ To ensure alignment with the EU Directive, persons reporting wrongdoing must have the right to freely choose between internal and external reporting channels when submitting a report.
- ▶ To amend the law to introduce the possibility of filing an appeal against decisions of the APIK rejecting requests for the granting of whistleblower status.
- ▶ To consider the option of introducing a judicial model at the state level as an external form of protection, in order to harmonize protection across all levels of government.
- ▶ To prescribe the deadline within which, after a whistleblower notifies APIK that a detrimental act has been taken against them, APIK is obliged to request documentation from the institution. It should also establish a deadline within which, after receiving the documentation, APIK must analyze it, determine whether a detrimental act has occurred, and issue instructions to the employer.
- ▶ To ensure consistency with the EU Directive, the employee should (1) demonstrate that they reported or publicly disclosed a breach, and (2) demonstrate that a detrimental action occurred thereafter. The burden of proof should lie with the employer, who must prove that the reporting of wrongdoing did not in any way influence the decision on the measures taken against the person who reported it.
- ▶ The law should provide protection for persons who reported or publicly disclosed breaches anonymously and are later identified and suffer retaliation.
- ▶ The law should provide a broader scope of protection. In addition to employment-related detrimental actions, it should extend to other areas and any other circumstances in which a whistleblower suffers detrimental consequences or is placed at a disadvantage as a result of reporting wrongdoing.

- ▶ APIK should publish more comprehensive and timely annual reports, with a particular focus on case outcomes.  
.....
- ▶ The law should provide a clear obligation for APIK to introduce mandatory training for employees responsible for receiving reports.

» **Recommendations for Brčko District:**

- ▶ The material scope of the law should be expanded so that, in addition to cases of corruption, it provides protection for all reports revealing any form of illegality, including information on breaches of law or harm to the public interest, as well as reasonable suspicions of potential breaches of law.  
.....
- ▶ The phrase “in good faith” should be replaced with “*reasonable grounds to believe that the information was true at the time the report was made.*” The expression “in good faith” is often misinterpreted as a test of motive (whether a person had an honest intention to make a report), which wrongly leads institutions to assess the whistleblower’s intent rather than focusing on investigating the reported allegations.  
.....
- ▶ The law should also provide protection for third parties, i.e., related persons. It should protect all individuals and legal entities connected to a person reporting wrongdoing, including those who assist in preparing the report or who are wrongly perceived as whistleblowers.  
.....
- ▶ To ensure alignment with the EU Directive, persons reporting wrongdoing must have the right to freely choose between internal and external reporting channels when submitting a report.  
.....
- ▶ To amend the law to introduce the possibility of filing an appeal against decisions of the Office rejecting requests for the granting of whistleblower status.  
.....
- ▶ To consider the option of introducing a judicial model as an external form of protection, in order to harmonize protection across all levels of

government.

- ▶ To establish a deadline within which, after receiving the documentation, the Office must analyze it, determine whether a detrimental act has occurred, and issue instructions to the employer.

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- ▶ To ensure consistency with the EU Directive, the employee should (1) demonstrate that they reported or publicly disclosed a breach, and (2) demonstrate that a detrimental action occurred thereafter. The burden of proof should lie with the employer, who must prove that the reporting of wrongdoing did not in any way influence the decision on the measures taken against the person who reported it.

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- ▶ The law should provide protection for persons who reported or publicly disclosed breaches anonymously and are later identified and suffer retaliation.

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- ▶ The law should provide a broader scope of protection. In addition to employment-related detrimental actions, it should extend to other areas and any other circumstances in which a whistleblower suffers detrimental consequences or is placed at a disadvantage as a result of reporting wrongdoing.

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- ▶ The law should provide a clear obligation for the Office to introduce mandatory training for employees responsible for receiving reports.

## » Recommendations for Republika Srpska:

- ▶ The material scope of the law should be expanded so that, in addition to cases of corruption, it provides protection for all reports revealing any form of illegality, including information on breaches of law or harm to the public interest, as well as reasonable suspicions of potential breaches of law.

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- ▶ The phrase “in good faith”—literally translated as “good intention”—should be replaced with “*reasonable grounds to believe that the information was true at the time the report was made.*” The expression

“in good faith/intention” is often misinterpreted as a test of motive (whether a person had an honest intention to make a report), which leads institutions to assess the whistleblower’s intent rather than to investigate the reported allegations.

.....

- ▶ To extend the time limits prescribed in the law for court proceedings concerning the protection of persons reporting wrongdoing, so that a lawsuit may be filed within 6 months (instead of 30 days) from the date the person becomes aware of the detrimental consequences, or no later than three years (instead of one year) from the date the adverse action occurred.

.....

- ▶ The law should introduce the inquisitorial principle into whistleblower protection court proceedings, allowing the court to establish facts even when they are not in dispute between the parties, and to independently investigate facts that have not been presented by either party if it considers them relevant to the outcome of the proceedings.

.....

- ▶ The law should be amended to allow public disclosure of information on breaches in cases where internal and external reporting has been made (or direct external reporting where applicable), but no appropriate action was taken within the required timeframe, or where the reporting person has reasonable grounds to believe that the breach poses an imminent danger to the public interest or that effective follow-up is unlikely due to the circumstances of the case.

.....

- ▶ To ensure consistency with the EU Directive, the employee should (1) demonstrate that they reported or publicly disclosed a breach, and (2) demonstrate that a detrimental action occurred thereafter. The burden of proof should lie with the employer, who must prove that the reporting of wrongdoing did not in any way influence the decision on the measures taken against the person who reported it.

.....

- ▶ The Ministry of Justice should publish more comprehensive and timely annual reports, with a particular focus on case outcomes. The law should be amended to require that such reports be submitted to Parliament rather than to the Government.

- ▶ The law should provide a clear obligation for the Ministry to introduce mandatory training for judges handling such cases and employees responsible for receiving reports.

## » Recommendations for the Federation of Bosnia and Herzegovina:

### **The Whistleblower Protection Law should be adopted and fully aligned with the EU Directive.**

#### **Recommendations for Sarajevo Canton:**

- ▶ The material scope of the law should be expanded so that, in addition to cases of corruption, it provides protection for all reports revealing any form of illegality, including information on breaches of law or harm to the public interest, as well as reasonable suspicions of potential breaches of law.
- ▶ To amend the law to introduce the possibility of filing an appeal against decisions of the Office rejecting requests for the granting of whistleblower status.
- ▶ The law should also provide protection for third parties, i.e., related persons. It should protect all individuals and legal entities connected to a person reporting wrongdoing, including those who assist in preparing the report or who are wrongly perceived as whistleblowers.
- ▶ To extend the time limits prescribed in the law for court proceedings concerning the protection of persons reporting wrongdoing, so that a lawsuit may be filed within 6 months (instead of 30 days) from the date the person becomes aware of the detrimental consequences, or no later than three years (instead of one year) from the date the adverse action occurred.
- ▶ The law should introduce the inquisitorial principle into whistleblower protection court proceedings, allowing the court to establish facts even when they are not in dispute between the parties, and to inde-

pendently investigate facts that have not been presented by either party if it considers them relevant to the outcome of the proceedings.

.....

- ▶ To ensure consistency with the EU Directive, the employee should (1) demonstrate that they reported or publicly disclosed a breach, and (2) demonstrate that a detrimental action occurred thereafter. The burden of proof should lie with the employer, who must prove that the reporting of wrongdoing did not in any way influence the decision on the measures taken against the person who reported it.

.....

- ▶ Although court procedures in whistleblower protection cases are urgent, it is advisable to prescribe clear deadlines within which decisions must be made, as well as to introduce the possibility of requesting interim measures in court proceedings, following the example of the Law on the Protection of Persons Reporting Corruption in Republika Srpska.

.....

- ▶ The law should explicitly require the Office to publish annual reports on corruption reports and protection requests.

.....

- ▶ The law should provide a clear obligation for the Office/Ministry of Justice and Administration to introduce mandatory training for judges handling such cases and employees responsible for receiving reports.

.....

- ▶ Given that this law does not cover either the private sector or judicial institutions such as courts and prosecutorial offices, it is advisable to repeal it once the law at the level of the Federation of Bosnia and Herzegovina is adopted. This would ensure a unified procedure across the Federation of Bosnia and Herzegovina, applicable to all public institutions and the private sector.



# Serbia

**Miša Bojović**  
Transparency Serbia

# Introduction

Serbia has established a relatively comprehensive legal framework governing whistleblower protection with the Law on Protection of Whistleblowers<sup>21</sup> (LPW), introduced as part of broader anti-corruption reforms linked to Serbia's EU accession process. The LPW defines whistleblowing more broadly as it covers a wide range of violations and threats to public interest beyond specific sectors, compared to the EU Directive, which focuses on breaches of EU law in predefined policy areas. Judicial protection represents the core enforcement mechanism, allowing whistleblowers to challenge retaliation before the courts and seek remedies such as reinstatement, compensation, or the annulment of harmful measures.

Internationally, the Serbian law has often been praised for its relatively advanced provisions. However, several shortcomings have become more visible through practical implementation and persisting structural challenges, such as legal ambiguities in assessing whistleblowers' good faith, limited institutional oversight, insufficient monitoring of external reporting

channels, and a decline in reporting and in court cases. Shortcomings have also been noted in the European Commission's reports<sup>22</sup>, which, since 2019, have pointed to the need to align the Serbian legal framework with the EU *acquis* on whistleblower protection.<sup>23</sup>

According to data published by the Supreme Court of Serbia, the number of new whistleblower-related court cases fell from a peak of 295 in 2016 to only 58 in 2024. The unusually high number in the first years after the adoption of the Law has partly been attributed to public unfamiliarity with the legal framework, which led some individuals to initiate multiple proceedings related to the same issue. Nevertheless, the continuing decline in cases may also reflect broader systemic problems.<sup>24</sup> According to analyses of Ministry of Justice data cited by CSO Pištaljka<sup>25</sup>, none of the whistleblower disclosures submitted by ministry employees during the last three years resulted in a criminal complaint. The absence of visible investigations, prosecutorial action, or sanctions may discourage potential whistleblowers from reporting wrong-

doing. At the same time, external whistleblowing remains difficult to assess because ministries are not required to maintain standardized records of such reports.

Strengthening institutional accountability, improving data collection and oversight, and ensuring effective investigation of whistleblower allegations would be essential steps to enhance the credibility and effectiveness of whistleblower protection in the Serbian public sector.

<sup>21</sup> Official Gazette of the Republic of Serbia (2014) *Law on Protection of Whistleblowers*.

<sup>22</sup> European Commission, *Serbia webpage*, accessed 08.05.2026.

<sup>23</sup> European Commission, *Serbia 2024 Report*, pg. 34, 30.10.2024.

<sup>24</sup> Pištaljka (2025) *Data from the Ministry of Justice analysis reveal: Tens of thousands of employees, only six whistleblower reports, and not a single criminal complaint filed based on those reports*. 14.11.2025.

<sup>25</sup> Ibid.

# Legal and Institutional Framework

The legal framework governing whistleblower protection in Serbia is primarily regulated by the Law on Protection of Whistleblowers, adopted in 2014 and in force since 2015. This law establishes the general legal basis for the protection of individuals who disclose information about wrongdoing and applies to both the public and private sectors. In addition to the law itself, certain aspects of implementation are regulated through secondary legislation and internal acts adopted by employers. Employers with more than ten employees are required to adopt internal acts regulating whistleblowing procedures and to designate a person responsible for receiving and processing reports. Model rules and guidance for such internal procedures have been developed through rulebooks issued by the Ministry of Justice of the Republic of Serbia.

## Material Scope of Protection

The LPW defines whistleblowing broadly as the disclosure of information concerning violations of regulations, violations of human rights, abuse of public authority contrary to its intended purpose, threats to life, public health, safety, or the environment, or actions that could cause large-scale damage. This broad definition means that whistleblowing is not limited to corruption-related offenses but may encompass a wide range of unlawful or harmful conduct affecting public interest.

The LPW does not prescribe strict deadlines for submitting a whistleblower report, whether subjective or objective. However, procedural deadlines apply once a report has been submitted. The employer or competent authority must inform the whistleblower within 15 days that the report has been received and must notify the whistleblower of the outcome of the procedure within 15 days after the procedure has been completed. Unlike the EU Directive, the LPW does not establish a maximum timeframe for

completing investigations or follow-up actions after a report has been submitted.

## Personal Scope of Protection

To qualify as a whistleblower under LPW, the individual generally must have some form of connection with the organization concerned. Such a connection may arise from employment, contractual engagement, business cooperation, or the provision or use of services. This requirement may create practical limitations in situations where a person becomes aware of wrongdoing outside the scope of their professional relationship with the institution concerned. For example, a public servant who discovers irregularities in another public body with which they have no formal relationship may face uncertainty as to whether they can obtain whistleblower protection under the LPW.

The law does not explicitly require that a whistleblower possess direct knowledge of the wrongdoing. Individuals may disclose information or provide documents indicating irregularities even when their knowledge is indirect.

## Whistleblower Status

The LPW allows anonymous whistleblowing, and explicitly requires employers and competent authorities to act on anonymous reports, and provides that individuals who report anonymously may benefit from protection if their identity later becomes known and they suffer retaliation because of their report. These provisions are, in the majority, aligned with the EU Directive.

Before the adoption of the 2014 Law on the Protection of Whistleblowers, Serbian anti-corruption legislation allowed certain institutions, particularly the Anti-Corruption Agency under its earlier framework, to formally recognize an individual as a protected whistleblower. In practice, a person could obtain an official confirmation or “status” as a whistleblower through an

administrative procedure. Under the current legal framework, this mechanism no longer exists. There is no separate administrative act or official certification granting someone whistleblower status in advance. Instead, whether a person qualifies for whistleblower protection is assessed by courts during judicial proceedings, usually after retaliation or another dispute has already arisen.

The law does not explicitly refer to the concept of good faith. Instead, protection depends on whether the whistleblower had reasonable grounds to believe that the disclosed information was true at the time of reporting. The law introduces an objective test: protection depends on whether a hypothetical person with average knowledge and experience comparable to that of the whistleblower would have believed the information to be true based on the available facts. The disclosed information need not be proven true for the whistleblower to receive protection. While this approach aims to avoid placing an excessive burden on whistleblowers to verify their claims, the formulation has also raised concerns among legal experts because it relies on a hypothetical standard rather than the whistleblower's subjective belief.

## Protection Measures

When retaliation occurs, whistleblowers may seek judicial protection in court. The LPW establishes a procedural rule that shifts the burden of proof in favor of whistleblowers once certain conditions are met. According to the Law, in case the plaintiff has, in the course of proceedings, established the probability of having suffered damaging consequences in connection with whistleblowing, the burden of proving that the damaging consequences are not the result of whistleblowing shall lie with the employer.<sup>26</sup> This provision is intended to make judicial protection more accessible by reducing the evidentiary burden placed on whistleblowers. However, the formulation of this rule raises a certain logical inconsis-

.....  
<sup>26</sup> Official Gazette of the Republic of Serbia, No. 128/2014, Article 29 – Burden of Proof, *Law on the Protection of Whistleblowers*.

tency in the structure of the law. The definition of damaging action, in law called “tortious action,” already includes the element of connection with whistleblowing. Article 2 defines a damaging action as any action or omission connected to whistleblowing that jeopardizes or violates the right of the whistleblower or the person entitled to protection as a whistleblower or places that person at a disadvantage. Consequently, Article 29 appears to require the whistleblower to demonstrate the probability that the damaging action was linked to whistleblowing. At the same time, the defendant must prove that the same action was not caused by whistleblowing. Linguistically and logically, this creates a circular construction. In practice, courts tend to resolve this difficulty by interpreting “damaging action” in a broader sense, as an objectively harmful action directed at the whistleblower, while leaving the causal link with whistleblowing to be determined within the evidentiary framework established by Article 29.

## Reporting Channels

The law recognizes three types of whistleblowing: internal reporting, external reporting, and public disclosure.

**Internal whistleblowing** refers to the disclosure of information to the employer. Employers with more than 10 employees must establish internal reporting mechanisms and designate a person responsible for receiving whistleblower reports. Internal procedures must be regulated through internal acts and made accessible to employees, typically by posting them in a visible place within the organization or on the organization's website, where technically possible. Once a report has been submitted, the employer must confirm receipt within 15 days and provide information on the outcome of the procedure within 15 days after the procedure has been concluded.

**External whistleblowing** refers to the disclosure of information to a competent authority. The law defines a competent authority broadly as any national, provincial, or local authority or holder of public powers that has jurisdiction to act upon the information disclosed. However, the law does not establish a central authority responsible for receiving whistleblower reports or coordinating follow-up actions. Instead, the appropriate au-

thority depends on the subject matter of the reported wrongdoing. This approach may create uncertainty for whistleblowers, as they must determine which authority is competent in each particular case. In general, whistleblowers are expected to attempt internal reporting before submitting an external report. However, exceptions exist, for example, when the report concerns the head of the institution or private entity, when the employer fails to act within the prescribed timeframe, or when other justified reasons exist to bypass internal reporting.

**Public disclosure** is generally considered a measure of last resort and is usually permitted only when internal or external reporting has failed to produce an appropriate response or when there is an immediate risk to the public interest. Additional restrictions apply in cases involving the disclosure of confidential information, which also brings open discussions among experts, especially in the private sector.

## Oversight and Sanctions

The LPW also contains provisions on sanctions for violations of whistleblower protection rules. Misdemeanor penalties are primarily directed at employers and responsible persons within institutions. Article 37 of the Law provides sanctions when employers fail to adopt an internal act regulating whistleblowing or fail to make such acts accessible to employees. Article 38 introduces additional penalties for violations such as failing to protect whistleblowers from detrimental actions, failing to notify employees about their rights under the law, failing to designate a responsible person for handling reports, failing to act upon received information within the prescribed time limits, or failing to inform whistleblowers about the outcome of the procedure.

Despite these provisions, several important violations are not explicitly sanctioned under the current legal framework. For example, the law does not prescribe specific penalties for preventing whistleblowing, breaching the confidentiality of the whistleblower's identity, failing to protect the personal data of whistleblowers, or taking actions that reveal the identity of anonymous whistleblowers. Similarly, the law does not establish misdemeanor penalties for individuals who undertake retaliatory actions

against whistleblowers outside the employer's organizational structure or for those who initiate vexatious proceedings against them. Nor does it prescribe penalties for individuals who knowingly submit false reports, although such behavior may, in certain circumstances, fall under other legal provisions such as false reporting or defamation.

From a legal-technical perspective, the law avoids creating new criminal offenses within its penal provisions, leaving criminal liability to the Criminal Code of Serbia<sup>27</sup>. While this approach ensures systematic coherence within the legal framework, the adoption of the LPW was not accompanied by corresponding amendments to the Criminal Code. As a result, certain harmful forms of conduct related to whistleblowing remain insufficiently regulated, since they are neither clearly defined as criminal offenses nor covered by misdemeanor provisions. This legislative gap has not yet been addressed despite several opportunities to amend the legal framework.

The monitoring of the implementation of the LPW remains fragmented. The Ministry of Justice of the Republic of Serbia publishes periodic reports on the application of the law within ministries as part of obligations under the EU accession process. However, these reports cover only a limited part of the public sector. Oversight responsibilities are formally assigned to the Administrative Inspectorate and the Labor Inspectorate. Still, their competencies are not clearly divided and do not encompass all institutions required to implement whistleblower protection mechanisms.

Comparative analysis with the EU Directive also reveals areas where the Serbian framework could be strengthened. The Directive envisages the establishment of centralized bodies responsible for providing assistance and information to reporting persons. In Serbia, however, no single state body has been assigned such a role. Although the Ministry of Justice of the Republic of Serbia has published certain guidance materials following the adoption of the law, the system lacks a central institution responsible for coordinating assistance to whistleblowers.

<sup>27</sup> Official Gazette of the Republic of Serbia (2005) *Criminal Code of Serbia*.

Overall, the Serbian legal framework for whistleblower protection contains several progressive elements and, in some respects, provides broader protection than the EU Directive requires. Nevertheless, the effectiveness of the system is limited by gaps in sanctioning mechanisms, logical inconsistencies in certain legal provisions, the absence of a central institutional framework for supporting whistleblowers, and incomplete alignment with evolving European standards. Strengthening these aspects of the legal framework would significantly improve the practical protection of whistleblowers and enhance public trust in institutional accountability.

## Implementation in Practice

The practical implementation of whistleblower protection in Serbia reveals a mixed picture of formal legal guarantees and limited systemic institutional enforcement. Although the Law on Protection of Whistleblowers provides substantive legal protections, the law does not establish a centralized authority responsible for monitoring whistleblowing reports and outcomes. In practice, the absence of a centralized monitoring authority means that data on whistleblower reporting and outcomes remain fragmented and incomplete. As implementation responsibilities are dispersed among employers, competent authorities, and courts, this contributes to fragmented and incomplete data on reporting practices and case outcomes. The Ministry of Justice of the Republic of Serbia, which has no statutory obligation to collect and publish comprehensive whistleblowing statistics, has nonetheless occasionally produced reports that offer partial insight into implementation. In practice, comprehensive statistical monitoring has remained limited, with much of the available insight coming from court statistics, others, including local government reports, and civil society assessments.

According to the Report on the Implementation of the Law on Whistleblower Protection for 2024<sup>28</sup>, Serbian courts received 58 new whistleblower-related cases in 2024. These cases were processed across various judicial levels, including basic courts, higher courts, appellate courts, the Administrative Court, misdemeanor courts, and the Supreme Court of Serbia. In the same reporting period, 64 cases were resolved, while 37 remained pending at the end of the year. Although this data confirms continued judicial engagement with whistleblower claims, it lacks disaggregation by type and does not provide equivalent figures for internal or external non-judicial reports. The absence of centralized data on internal and external reporting volumes, as well as whistleblower status requests

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<sup>28</sup> Ministry of Justice (2025) *Report on the Implementation of the Law on Whistleblower Protection for 2024*.

and their outcomes, makes it difficult to assess overall trends with precision.

Court practice remains the core mechanism for enforcing whistleblower protection. Whistleblowers who experience retaliation must file lawsuits in competent higher courts within six months of learning about the harmful action, or no later than three years from its occurrence. Proceedings are treated urgently, and where the law does not specifically regulate procedures, labor dispute rules apply to make the process more accessible for employees. However, the practical experience of several high-profile cases highlights systemic weaknesses in applying legal protections in sensitive or politically charged contexts.

One of the most widely publicized whistleblower cases in Serbia is that of **Aleksandar Obradović**, who worked at the state-owned Krušik Valjevo ammunition factory. Obradović uncovered and shared documents alleging corruption and irregular arms deals involving private companies connected to powerful political figures. His disclosures triggered mass public protests and drew national and international attention to procurement practices in a key defense industry. Despite the public interest nature of his revelations, Obradović was arrested at his workplace on 18 September 2019 on suspicion of disclosing business secrets and was initially detained before being placed under house arrest. His case has remained under investigation for years, with no final indictment or resolution, while he has been suspended from his position at Krušik and remains unemployed. Government officials and private actors implicated in the alleged corruption continued business activities without apparent legal repercussions. Obradović's prolonged legal limbo and lack of effective protection under the whistleblower law illustrate significant implementation gaps and the challenges faced by individuals exposing wrongdoing in powerful institutional contexts.<sup>29</sup>

Another emblematic case concerns **Katarina Petrović**, a police officer from Valjevo who disclosed information related to a traffic accident involv-

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<sup>29</sup> Cvijić Vuk Z. (2024) *Progon uzbunjivača i nagrađeni akteri*, Radar, Izdanje 29 (Rubrika društvo). 29.09.2024.

ing a close associate of a high-ranking political figure. In 2023, Petrović provided a police report showing that Nikola Petrović, described in media reports as a close friend or “best man” of the Serbian president, was involved in a car crash while allegedly under the influence of alcohol and cocaine. She shared the information, asserting that the public had a right to be informed about institutional conduct. Police officer Petrović was arrested, charged under the Law on Classified Information<sup>30</sup>, and suspended from duty, prompting public outcry and protests. Initial court rulings, including by a Higher Court in Valjevo and later the Court of Appeal in Belgrade, resulted in acquittals on the basis that the disclosed data could not be considered confidential. Petrović herself characterized such rulings as not only personal victories but affirmations that judicial institutions can act in accordance with legal norms and public interest. However, disciplinary proceedings within the police force continued, and in 2025, a disciplinary body found her responsible for a breach of duty, imposing a temporary salary reduction. The Petrović case highlights how whistleblowers in sensitive institutional contexts can face multiple forms of retaliation, including administrative and disciplinary actions, even when courts ultimately protect their rights.<sup>31</sup>

Another notable whistleblower case in Serbia involves **Milenko Jovanović**, an employee of the Environmental Protection Agency who drew public attention at the end of 2020 after being dismissed for raising concerns about unauthorized changes to air quality assessment criteria without expert approval. Following his dismissal, Jovanović, with the support of legal counsel from the Pištaljka organization, challenged the decision in court. In February 2021, the Higher Court in Belgrade ordered his reinstatement under the Law on the Protection of Whistleblowers. Despite this decision, the Agency initially withheld his salary, which was only paid in full, including arrears, after Pištaljka’s lawyers issued a pre-litigation warning to the Agency. While Jovanović now receives regular pay, he has not been returned to his original position as Head of the Air Quality Control De-

<sup>30</sup> Official Gazette (2029) *The Law on Classified Information*, Official Gazette of the Republic of Serbia, No. 104/2009.

<sup>31</sup> S.M.S (2024) *Katarina Petrović za NI: Oslobođajuća presuda nije samo moja pobeda, nego i institucija*, NI Vesti; 31.10.2024.

partment because of a restructuring that merged his department with other units, effectively eliminating the post he formerly held. Currently, he maintains the Agency's information technology system, though he is still officially listed on the Agency's website as Head of Air Quality Control. This case illustrates both the potential for judicial protection of whistleblowers in Serbia and the practical limitations of enforcement, including ongoing career setbacks and organizational resistance despite court rulings in the whistleblower's favor.<sup>32</sup>

While the Ministry of Justice report notes ongoing judicial engagement with whistleblower claims, the lack of publicly available case details, outcome analyses, and systemic evaluations makes it difficult to assess whether protections have effectively deterred retaliation or encouraged reporting. Reports from civil society indicate that enforcement remains uneven, institutional capacity to handle whistleblower disclosures varies widely, and many competent authorities either lack functional procedures or fail to distinguish clearly between whistleblower reports and general complaints.

In summary, Serbia's experience with implementing whistleblower protection laws demonstrates that while judicial protection mechanisms remain actively used, overall practice is constrained by limited data transparency, fragmented oversight, and varying levels of institutional responsiveness. Prominent cases such as those of Obradović and Petrović underscore the real-world stakes of whistleblowing and the challenges whistleblowers face in securing effective protection and accountability in a politically and institutionally complex environment.

Based on research conducted by Transparency Serbia on external whistleblowing practice between 2015 and 2022<sup>33</sup>, the external whistleblowing within Serbian Public Prosecutors' Offices appears largely underdeveloped and poorly documented. Responses received from the offices in Pančevo, Jagodina, Čačak, Kruševac, Novi Pazar, Požarevac, Sombor, Užice, Valjevo, Vranje, and Zrenjanin indicate that, between 5 June 2015

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<sup>32</sup> Pištaljka (2021) *Uzbunjivač Milenko Jovanović najzad dobio platu, ali ne i staro radno mesto*, 17.1.2021.

<sup>33</sup> Transparency Serbia, *Whistleblowing in Serbia and EU directive*, pg. 72-74, 2023.

and November 2022, “*there have been no submissions of reports concerning external whistleblowing*,” which is the most common formulation. The Higher Public Prosecutors’ Office in Jagodina provided a more specific response, noting that while reports were submitted by whistleblowers, they were not entered into the official record books labeled “U” and “I” as required under the Law on Protection of Whistleblowers. Other offices reported similarly low numbers of external whistleblowing submissions. The Higher Public Prosecutors’ Office in Novi Sad confirmed that, since the establishment of the Special Department for the Suppression of Corruption on 1 March 2018, no whistleblower reports have been submitted. The Higher Public Prosecutors’ Office in Kragujevac reported two criminal reports in 2016 and one in 2017, all forwarded to the relevant Public Prosecutors’ Offices. In Negotin, one report was received and forwarded, with knowledge of an additional public procurement-related report processed locally. Pirot received one report in 2015, which resulted in three plea agreements, while in Sremska Mitrovica, two reports were submitted and subsequently forwarded to Novi Sad.<sup>34</sup>

While the official statistics suggest an extremely low number of whistleblower submissions, this conclusion is misleading when considered in light of the broad definition of a whistleblower under the law. It is practically impossible that, over 7 years, higher public prosecutors’ offices received virtually no reports. Rather, this reflects a structural deficiency: there is no consistent system in place to track and record external whistleblowing submissions, and no authority, either within the prosecutors’ offices or within the Ministry of Justice, maintains centralized records or evaluates the law’s practical effects.<sup>35</sup>

The available data also suggest that many Public Prosecutors’ Offices recognize the obligation to act on whistleblower reports primarily when the reporting individual explicitly identifies as a whistleblower or is represented by legal counsel. This indicates that the framework could be significantly improved by clear instructions from the prosecution hierar-

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<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

chy and updated bylaws aligned with current judicial regulations, potentially creating a more organized and effective system for handling external whistleblowing.<sup>36</sup>

## Key Challenges and Gaps

The analysis of the implementation and legal framework of whistleblower protection in Serbia highlights several critical gaps and challenges that persist despite some progressive aspects of the Law on the Protection of Whistleblowers. One major gap is that protection remains tied to a prior connection to the institution where the wrongdoing occurred, meaning that individuals acting in good faith outside an employment or service relationship may not qualify for protection. Similarly, legal entities such as civil society organizations, which may report wrongdoing in the public interest, are not afforded any protection.

Legal and procedural shortcomings also persist. The LPW contains inconsistencies and unclear definitions, particularly regarding anonymous reporting, damaging actions, and the role of “competent authorities”, that complicate enforcement. For instance, although the law establishes a duty to act on anonymous reports, it lacks clarity on which authority is responsible when multiple bodies could be involved, and how the connection between a whistleblower and the institution should be determined. In addition, there is no general protection for whistleblowers who might violate other legal duties (e.g., classified information regulations) while reporting in the public interest, leaving them vulnerable to prosecution despite their good faith.

Another debated issue concerns situations where individuals involved in criminal conduct, such as extortion or blackmail, could still claim whistleblower protection. Although criminal proceedings may still be initiated for such offenses independently from whistleblower protection, the overlap between these situations may negatively affect public trust in the system.

The law also does not distinguish between minor and serious violations. Consequently, individuals who report minor breaches of internal rules may receive the same legal protection as those exposing large-scale corruption or threats to public health. Some analysts warn that this may dilute the concept of whistleblowing and create opportunities for misuse

of the mechanism for workplace disputes or harassment.

Several legal limitations further restrict the scope of protection. Whistleblowers who disclose confidential information directly to the public may not always receive protection. In addition, the Law generally requires a professional or contractual relationship between the whistleblower and the institution concerned, such as employment or business cooperation. As a result, individuals without such a connection, as well as legal entities acting as whistleblowers, are not covered by the current framework. Institutionally, Serbia lacks a centralized authority to oversee the implementation of the LPW or to collect comprehensive statistics on whistleblower reports and their outcomes. While the Ministry of Justice has occasionally published partial reports, and courts handle whistleblower claims through urgent procedures, the absence of a centralized monitoring system limits transparency and accountability. Courts have repeatedly confirmed the right to protection, yet whistleblowers often continue to face practical obstacles, such as delayed reinstatement, withheld salaries, or reassignment to unrelated positions.

Further gaps relate to protective measures: retaliation against legal entities associated with whistleblowers is not addressed, and assistance mechanisms, including counseling or cross-border cooperation, remain largely undeveloped. Finally, sanctions for violations of the LPW do not fully cover all harmful acts, nor is there a system to ensure penalties are effective, proportionate, and dissuasive, and no centralized reporting exists on the impact and outcomes of whistleblowing.

Overall, while Serbia has established a relatively advanced legal framework in some respects, practical and structural weaknesses leave whistleblowers exposed to risks and reduce the overall effectiveness of the law. Furthermore, full alignment with the EU Directive has yet to be achieved, while retaining the more advanced solutions already embedded in the current legal framework.

# Recommendations

The following recommendations are aligned with the EU Directive.

- ▶ Expand protection for public-interest disclosures. Amend the LPW to safeguard whistleblowers even if disclosure breaches another legal duty (e.g., classified information regulation).
- ▶ Expand who qualifies for protection and extend protection to legal entities. Include civil society organizations and other entities acting as whistleblowers.
- ▶ Broaden the scope of protection beyond institutional or work-related connections. Ensure protection for any person, not only those with prior employment or formal connection to the organization.
- ▶ Introduce clear procedural timeframes. Mandate deadlines for acknowledging reports, conducting initial assessment, providing feedback, and completing internal and external procedures.
- ▶ Enable flexible, secure, accessible, and standardized internal and external reporting channels, supported by clear procedures for handling all types of reports. Allow third-party managed channels, joint channels across authorities, and oral reporting (phone or voice messaging).
- ▶ Designate competent authorities and responsible persons. Require authorities to clearly define personnel responsible for handling external whistleblowing and clearly define the responsibilities of employers, responsible persons, and authorities. Update the internal reporting by-law, implement an external reporting by-law, and require the implementation of updated internal acts.
- ▶ Enhance oversight, monitoring, recordkeeping, and transparency. Establish a centralized system for recording reports, and harmonized reporting standard, tracking follow-up actions, and publishing annual statistics.

- ▶ Strengthen protection against retaliation. Include safeguards for third parties connected to whistleblowers, provide legal and financial support, and enable cross-border cooperation.  
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- ▶ Improve handling of anonymous reports with clear procedures.  
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- ▶ Review and adjust sanctions. Ensure penalties are effective, proportionate, and dissuasive, covering omissions, breaches of confidentiality, and actions undermining protection.



# North Macedonia

**Viktoria Mileska Cvetanoska**  
Transparency International Macedonia

# Introduction

Whistleblowing has been recognized in North Macedonian legislation since 2015. But even before the regulation, whistleblowers were active and had exposed several high-level corruption cases, but in the absence of legal protection, they suffered consequences. Two employees of the Ministry of Interior pointed to illegal wiretapping carried out by state services. The disclosure of such enormous wrongdoings, while at the same time suffering dismissal from their jobs and facing criminal charges, demonstrated the need for legislative protection for whistleblowers. Transparency International Macedonia was the first initiator of the adoption of a law on the protection of whistleblowers. The *Law on the Protection of Whistleblowers* (NM LPW) was first adopted in 2015<sup>37</sup> and was amended twice in 2018 and 2020. The law regulates protected reporting in the public and private sectors to protect the public interest, defines who whistleblowers are and their rights,

and sets out the procedures and obligations of institutions and legal entities in relation to protected reporting and the provision of protection for whistleblowers.

Following the adoption of the *North Macedonian LPW*, the Ministry of Justice adopted by-laws that describe in more detail the procedures for protected internal and external reporting in the public and private sectors, namely: the *Rulebook on Protected Internal Reporting in the Public Sector*; the *Rulebook on Protected External Reporting*; and the *Rulebook on Guidelines for the Adoption of Internal Acts for Protected Internal Reporting* within legal entities in the private sector.

Although the legislation recognizes whistleblowers and provides for their protection, its implementation appears unsatisfactory. According to the Annual Report 2024<sup>38</sup> of the State Commission for the Prevention of Corruption, out

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<sup>37</sup> Official Gazette of the Republic of North Macedonia (2015) *Law on the Protection of Whistleblowers*, Official Gazette No. 196/2015, No. 35/18 and 257/2020.

of 1,324 institutions, only 217 have appointed authorized persons to receive whistleblower reports, i.e., 16.39%, representing very low coverage. According to the available official information so far, there have been only two court proceedings to protect whistleblowers, which have been marked by either lengthy procedures or the dismissal of the claim. Such circumstances point to the necessity of greater awareness, higher institutional engagement, and a stronger collective consciousness regarding whistleblowers<sup>39</sup>. The need to improve whistleblower legislation has been repeatedly emphasized by the European Union, which calls for further alignment with the EU *acquis* and for adequate enforcement mechanisms<sup>40</sup>.

<sup>38</sup> State Commission for the Prevention of Corruption of North Macedonia (2025) *Annual Report of the State Commission for Prevention of Corruption 2024*.

<sup>39</sup> Cvetanoska, Viktorija Mileska (2024) North Macedonia (Chapter) in *How Well are Western Balkan Countries Protecting Whistleblowers?*

<sup>40</sup> EU Commission (2025) *North Macedonia 2025 Report*, Commission staff working document; 2025 Communication on EU enlargement policy.

# Legal and Institutional Framework

## Material Scope of Protection

The NM LPW regulates protected reporting in the public and private sectors for the purpose of protecting the public interest, whistleblowers' rights, as well as the procedures and obligations of institutions and legal entities in relation to protected reporting, and to ensure the protection of whistleblowers<sup>41</sup>.

Within the meaning of the law, whistleblowers may make a protected report, that is, disclose a reasonable suspicion or knowledge that a criminal, unethical, or other illegal or impermissible act has been committed, is being committed, or is likely to be committed, which violates or endangers the public interest. The legislator more specifically defines the material scope of the law under the concept of public interest, which includes the protection of the fundamental freedoms and rights of individuals and citizens recognized by international law and established by the Constitution of the Republic of North Macedonia, the prevention of risks to health, defense and security; the protection of the environment and nature; the protection of property and the freedom of the market and entrepreneurship; the rule of law; and the prevention of corruption.

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<sup>41</sup> Official Gazette of the Republic of North Macedonia Article 1 (2015) *Law on the Protection of Whistleblowers*, Official Gazette No. 196/2015, No. 35/18 and 257/2020.

## Personal Scope of Protection

A whistleblower is a person who, in good faith, makes a protected report. The law defines the categories of persons who may appear in the capacity of whistleblowers, namely:

- ▶ a person who has established an employment relationship for an indefinite or fixed term with the institution or legal entity about which they are reporting;
- ▶ a candidate for employment, a candidate for volunteering, or an intern in the institution or legal entity about which they are reporting;
- ▶ a person who is or has been a volunteer or intern in the institution or legal entity about which they are reporting;
- ▶ a person who, on any basis, is or has been engaged to perform work for the institution or legal entity about which they are reporting;
- ▶ a person who, on any basis, is or has been in a business relationship or other form of cooperation with the institution or legal entity about which they are reporting;
- ▶ a person who uses or has used services in the institution or legal entity in the public or private sector about which they are reporting.

Protected reporting may be carried out anonymously or confidentially, in good faith and based on a reasonable belief at the time of reporting that the information contained in the report is true. The whistleblower is provided protection in accordance with the law, and confidentiality is guaranteed, including in cases where the identity may be disclosed during the procedure, even though this is not explicitly stated. Additionally, the legislator has provided that the whistleblower is not obliged to prove their good faith or the truthfulness of the report.

## Whistleblower Status

In North Macedonian legislation, there is no separate body that determines the status of a whistleblower, nor is there any confirmation or other written document.

A person who falls within the category of a whistleblower and whose report is processed is recognized by designated institutions for external reporting channels or by the authorized persons for receiving whistleblower reports in internal reporting channels. Upon receiving a whistleblower report, if the person meets the conditions defined by the material scope of the law, the report shall be treated as a whistleblower report without delay. Furthermore, within 15 days of receiving the report, the whistleblower must be informed of the measures taken by the competent authorities, if their identity is known.

Upon receipt and registration of the report, the authorized person must, according to the law, immediately assess its content to determine whether it is logical and reasonable, whether it constitutes a whistleblower report in accordance with the law, and whether the report contains sufficient elements to be forwarded for further action. In conducting this assessment, the authorized person may request additional information from the whistleblower if the whistleblower's identity is known and may consult with other individuals, while carefully ensuring the whistleblower's identity is protected. After completing the assessment, the authorized person shall draw conclusions regarding further action on the report, which relate to the competence of the institution where they are appointed and the necessary measures to be taken for handling the report<sup>42</sup>.

## Protection of Third Parties

Both the whistleblower and persons close to them must be provided with protection against any type of infringement of rights, including the imposition of liability, sanctions, termination of employment, suspension from their position, reassignment to a less favorable position, discrimination, or any harmful action or the risk of such actions arising from the whistleblower's protected internal or external reporting, or protected public

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<sup>42</sup> Official Gazette of the Republic of North Macedonia (2015) Article 9 of the *Rulebook on Protected External Reporting and Rulebook on Protected Internal Reporting in Public Sector Institutions* No. 196/2015.

reporting.

According to the law, the category of close persons includes a spouse or common-law partner, blood relatives in the direct line, relatives in the collateral line up to the third degree, relatives by marriage up to the second degree, adoptees and adoptive parents, as well as any other person whom the protected individual considers close and for whom protection is requested in accordance with the provisions of the law.

## Misuse of Reporting

The law provides for the abuse of whistleblower reporting, and if such abuse is determined, the protection granted to the whistleblower is lost. Abuse is defined as knowingly submitting false information about a natural or legal person with the intent to cause harmful consequences for them, and failing, with due care and consciously to the extent allowed by the circumstances, to verify whether the information is accurate and reliable. Abuse of whistleblower reporting that causes harm to a natural or legal person constitutes grounds for initiating proceedings to determine the whistleblower's liability in accordance with the law.

## Reporting Channels

National legislation recognizes protected internal reporting, protected external reporting, and protected public reporting.

**Protected internal reporting** is carried out within the institution or legal entity when there is a suspicion or knowledge that a criminal act or other illegal or impermissible conduct has been committed, is being committed, or is likely to be committed, which violates or endangers the public interest.

Reporting can be done orally, recorded in minutes, or in written form to the authorized person within the institution. If no authorized person is appointed to receive reports, the head of the institution receives the report.

The authorized person is obliged to:

- ▶ act on the report in accordance with the procedures established in the internal reporting act;
- ▶ protect the personal data of the whistleblower, including any information that could reveal the identity of a whistleblower who reports anonymously or confidentially, in accordance with personal data protection regulations;
- ▶ inform the whistleblower, if known, of the measures taken regarding the report without delay, and no later than 15 days from the day the report was received.

Protected internal reporting in public sector institutions is regulated by the *Rulebook on Protected Internal Reporting in Public Sector Institutions*, while protected internal reporting in the private sector is regulated by an internal act of the legal entity employing at least 10 persons.

**Protected external reporting** can be made to the Ministry of Interior, the competent public prosecutor's office, the State Commission for the Prevention of Corruption, the Ombudsman of the Republic of North Macedonia, or other competent institutions if:

- ▶ internal reporting is directly or indirectly directed against the head of the institution or legal entity being reported;
- ▶ the whistleblower does not receive information about the measures taken regarding the report within 15 days; or
- ▶ no measures are taken, or the whistleblower is not satisfied with the handling of the report, or suspects that no measures will be taken, or that internal reporting may cause harmful consequences for them or a person close to them.

Protected external reporting can be made orally, recorded in minutes, or in writing to the authorized person or the head of the institution where the report is submitted. The institutions to which the whistleblower has made a protected external report are obliged, within the scope of their authority, to act on the report, to protect the personal data of the whistleblower including any information that could reveal the identity of a whistleblower reporting anonymously or confidentially, in accordance with personal data protection regulations and to inform the whistleblow-

er, without delay and no later than 15 days from the day the report is received, about the measures taken.

The institution or legal entity to which the whistleblower has submitted the report is obliged to:

- ▶ upon the whistleblower's request, provide information on the progress and actions taken in handling the report, and allow the whistleblower access to the case files, in accordance with the law;
- ▶ at the conclusion of the procedure, inform the whistleblower, if known, of the outcome of the proceedings regarding the report, in accordance with the law.

A whistleblower may make a **protected public report** by making information publicly available if:

- ▶ internal and external reporting is impossible due to the absence of an established procedure or process for receiving reports in accordance with the law;
- ▶ the whistleblower does not receive information about the measures taken regarding the protected internal or external report within the legally prescribed timeframe; or no measures have been taken, or there is an easily recognizable risk of evidence being destroyed or accountability being concealed.

A whistleblower who makes a protected public report must not make publicly available:

- ▶ personal data of the subject that is not relevant to the protected reporting;
- ▶ data or information that is considered classified under the law, in accordance with regulations on classified information, as well as data or information that could compromise the conduct of criminal, misdemeanor, or civil proceedings if such risk is direct and easily recognizable;
- ▶ data or information whose public disclosure would violate or endanger national security, the defense of the state, its independence, or territorial integrity.

A whistleblower who makes information publicly available in violation of these provisions loses the right to protection provided under the law.

## Forms of Retaliation

Both the whistleblower and persons close to them are provided protection against any type of infringement of rights, including the imposition of liability, sanctions, termination of employment, suspension from their position, reassignment to a less favorable position, discrimination, or any harmful action or the risk of such actions arising from the whistleblower's protected internal or external reporting.

## Protection Measures

The protection of the whistleblower must be ensured by the institution or legal entity to which the report was made, by taking measures to prevent any violation of employment or other rights, and by refraining from any actions that could infringe or endanger any right of the whistleblower arising from the report. If such protection is not provided, the whistleblower may report this to the State Commission for the Prevention of Corruption, the Ombudsman of the Republic of North Macedonia, the Inspection Council, the Ministry of Interior, or the Public Prosecutor's Office of the Republic of North Macedonia, which, upon receiving the report, shall act without delay in accordance with their respective authorities. They must, without delay, request information on whether any type of rights violation has occurred against the whistleblower or their family members as a result of the report. The relevant institution to which the disclosure has been made is obliged to provide this information without delay, and no later than 8 days, and report any potential violations that may have occurred.

If it is determined that the institution or legal entity where the report was made has violated the rights of the whistleblower, a member of their family, or a close person, the competent authorities listed above must immediately submit a written request to the competent institutions and

authorities for urgent measures to protect the whistleblower, including the cessation of harmful actions or the removal of deficiencies that violate the whistleblower's rights. If, despite these actions, the violation of rights continues, those authorities must, without delay and no later than 8 days, initiate proceedings for criminal prosecution, or initiate proceedings before the competent authorities for the dismissal, reassignment, removal, or application of other accountability measures against elected or appointed persons, officials, or responsible persons in public enterprises or other legal entities with state capital.

If a criminal offense is reported against the state, against humanity and international law, or related to organized crime, for which the Criminal Code prescribes a prison sentence of at least four years, and whose proof involves disproportionate difficulties or cannot be carried out without the testimony of the whistleblower—who, due to potential risks of intimidation, retaliatory punishment, or threats to life, health, freedom, physical integrity, or property on a larger scale, does not agree to testify as a witness—the institutions, with the whistleblower's written consent, shall submit:

- ▶ to the Ministry of Interior or the competent public prosecutor, a proposal for submitting a written request for inclusion in the Witness Protection Program in accordance with the Law on Witness Protection; or
- ▶ to the Public Prosecutor of the Republic of North Macedonia, a proposal for inclusion in the Witness Protection Program in accordance with the Law on Witness Protection.

A whistleblower has the right to judicial protection before the competent court in accordance with the law and may, by filing a lawsuit, request:

- ▶ a determination that a harmful action was taken, or a right was violated, due to protected reporting;
- ▶ a prohibition on committing harmful actions or violating rights due to protected reporting, as well as on repeating such harmful actions or violations;
- ▶ annulment of an act by which a harmful action was taken, or a right was violated, due to protected reporting;
- ▶ removal of the consequences of a harmful action or rights violation

- arising from protected reporting;
- ▶ compensation for material and non-material damages caused by protected reporting.

Proceedings on such a lawsuit are urgent, and an appeal (revision) is allowed in judicial protection procedures related to reporting.

## Oversight and Sanctions

Under the existing Law on the Protection of Whistleblowers, the authorized persons in public sector institutions to whom reports are submitted are obliged to submit semi-annual reports on the whistleblower reports they receive to the State Commission for the Prevention of Corruption. The State Commission for the Prevention of Corruption is then required to submit an annual report on received whistleblower reports to the Assembly of the Republic of North Macedonia as part of its annual work report.

The Ministry of Justice supervises the implementation of the Law on the Protection of Whistleblowers.

The law provides for the sanctioning of the authorized person responsible for receiving whistleblower reports through internal channels for: Failing to follow the procedures established in the internal reporting acts; Disclosing the identity or data of the whistleblower; and failing to inform the whistleblower of the measures taken within the legally prescribed 15-day period. A sanction is also provided for a legal entity that has not established internal reporting acts or failed to make them publicly accessible.

The same sanction applies to external reporting channels for failing to follow the procedures established in the external reporting acts, for disclosing the identity or data of the whistleblower, and for failing to inform the whistleblower of the measures taken within the legally prescribed 15-day period.

The legislator has more broadly addressed fines for disclosing the identity and data of a whistleblower, providing for the sanctioning of any person who comes into contact with such information and unlawfully reveals it in

violation of the law.

Sanctions are also foreseen for failure to act within the legally established deadlines in ensuring the protection of whistleblowers and persons close to them, applicable to both legal and natural persons.

The law foresees sanctions for institutions and their authorized officers that do not submit biannual reports on disclosures received from whistleblowers to the State Commission for the Prevention of Corruption.

The sanctions foreseen in the law are not deterrent, and therefore, the implementation of the law is not at a high level.

# Implementation in Practice

The Law on the Protection of Whistleblowers in North Macedonia was adopted in 2015, and after 11 years of its implementation, the situation has not reached a satisfactory level.

Among the institutions designated to receive reports as external reporting channels, the State Commission for the Prevention of Corruption, as the leading institution, and the Ombudsman possess the relevant data, which are publicly available on their official websites, whereas the Public Prosecutor's Office of the Republic of North Macedonia and the Ministry of Interior do not have easily accessible information regarding whistleblowers. These allegations are also stated in the last Greco Report, which recommends substantially strengthening measures for the practical implementation of the Law on the Protection of Whistleblowers within the police and making related information accessible to the public<sup>43</sup>.

Another indicator that the implementation of the law is at a low level is the Annual report on the work of the State Commission for the Prevention of Corruption for 2025<sup>44</sup>, which shows that out of 1,324 institutions, only 270 institutions have designated a person responsible for receiving whistleblower reports, representing only 20.39%. Although compared with previous years, these data show a growing trend, unlike in 2020, when

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<sup>43</sup> GRECO (2025) *FIFTH EVALUATION ROUND Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies ADDENDUM TO THE SECOND COMPLIANCE REPORT NORTH MACEDONIA*, Adopted by GRECO at its 99th Plenary Meeting (Strasbourg, 17-19 March 2025).

<sup>44</sup> State Commission for the Prevention of Corruption of North Macedonia (2026) *Annual report on the work of the state commission for the prevention of corruption for 2025*.

<sup>45</sup> State Commission for the Prevention of Corruption of North Macedonia (2023) *Annual Report on the Work of the State Commission for Prevention of Corruption for 2022*.

the percentage was 8.5%, the overall level remains low and unsatisfactory after 11 years of the law's implementation<sup>45</sup>.

Year	Number of institutions	Number of institutions with authorized persons	Number of authorized persons	In %
2020	1324	113	115	8.5%
2021	1324	178	179	13.44%
2022	1324	200	201	15.10%
2023	1324	207	208	15.63%
2024	1324	217	223	16.39%
2025	1324	270	280	20.39%

» **Table 3**

Number of institutions and authorized persons under the Law on Protection of Whistleblowers

When reviewing the semi-annual reports submitted by institutions to the State Commission for the Prevention of Corruption, in addition to the low number of institutions that have submitted reports, a similarly low number of whistleblower reports is observed. In the period from 2022 to 2025, the most common trend is a single-digit number of institutions that received reports (see table).

Year	Period	Public sector institutions	Private sector legal entities	Total	Institutions that have received reports	Filed reports
<b>2022<sup>46</sup></b>	01.01. - 30.06.	<b>103</b>	<b>10</b>	<b>113</b>	<b>4</b>	<b>17</b>
	01.07. - 31.12.	<b>118</b>	<b>5</b>	<b>123</b>	<b>5</b>	<b>7</b>
<b>2023<sup>47</sup></b>	01.01. - 30.06.	<b>107</b>	<b>8</b>	<b>115</b>	<b>6</b>	<b>11</b>
	01.07. - 31.12.	<b>126</b>	<b>7</b>	<b>133</b>	<b>2</b>	<b>4</b>
<b>2024<sup>48</sup></b>	01.01. - 30.06.	<b>106</b>	<b>8</b>	<b>114</b>	<b>3</b>	<b>3</b>
	01.07. - 31.12.	<b>125</b>	<b>5</b>	<b>130</b>	<b>2</b>	<b>3</b>
<b>2025<sup>49</sup></b>	01.01. - 30.06.	<b>101</b>	<b>7</b>	<b>108</b>	<b>6</b>	<b>18</b>
	01.07. - 31.12.	<b>159</b>	<b>5</b>	<b>164</b>	<b>13</b>	<b>27</b>

» **Table 4****Semi-annual reports submitted to the State Commission for the Prevention of Corruption (SCPC)**

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<sup>46</sup> Ibid.

<sup>47</sup> State Commission for the Prevention of Corruption of North Macedonia (2024) *Annual Report on the Work of the State Commission for Prevention of Corruption for 2023*.

<sup>48</sup> State Commission for the Prevention of Corruption of North Macedonia (2025) *Annual Report of the State Commission for Prevention of Corruption 2024*.

<sup>49</sup> State Commission for the Prevention of Corruption of North Macedonia (2026) *Annual Report of the State Commission for Prevention of Corruption 2025*.

The State Commission for the Prevention of Corruption reports separately in its annual report on the whistleblower reports received, as well as on the actions taken and their outcomes. Compared with 2022, the downward trend continues in this area until 2025, when a higher number of reports is recorded (see *Table 4: Semi-annual reports submitted to the State Commission for the Prevention of Corruption (SCPC)*). In 2022, the Commission received 10 reports from whistleblowers<sup>50</sup>; in 2023, 6; two years later, in 2024<sup>51</sup>, the number decreased to 3, while the following year it increased to 15<sup>52</sup>.

This declining trend is the result of several factors. One of them is insufficient awareness among citizens regarding the concept of whistleblowing, their rights and obligations, as well as its importance in the fight against corruption. A second, extremely important factor is the amendments to the Criminal Code adopted in 2023, which resulted in the statute of limitations expiring for a large number of corruption cases and ongoing investigations, as well as the shortening of the deadline for filing new indictments involving “Abuse of Official Position and Authority,” particularly in cases causing damage to the state budget and public procurement. These developments have contributed to a sense of impunity for corruption-related criminal offenses and reduced public trust in institutions and the overall judicial system.

The reports<sup>53</sup> show that from the law's adoption until 2024, the institutions designated to provide protection to whistleblowers received a total of 7 protection requests. Out of these, 3 were submitted to the State Commission for the Prevention of Corruption, 2 of which were from the same whistleblower, and 4 requests were submitted to the Ombudsman. The

<sup>50</sup> State Commission for the Prevention of Corruption of North Macedonia (2023) *Annual Report on the Work of the State Commission for Prevention of Corruption for 2022*.

<sup>51</sup> State Commission for the Prevention of Corruption of North Macedonia (2023) *Annual Report on the Work of the State Commission for Prevention of Corruption for 2022*.

<sup>52</sup> State Commission for the Prevention of Corruption of North Macedonia (2025) *Annual Report of the State Commission for Prevention of Corruption 2024*.

<sup>53</sup> State Commission for the Prevention of Corruption of North Macedonia (2026) *Annual report on the work of the state commission for the prevention of corruption for 2025*.

other authorized institutions responsible for providing protection, such as the Ministry of Interior, the Public Prosecutor's Office of the Republic of North Macedonia, and the Inspection Council, reported that they had not received any requests for protection.

If we compare the number of whistleblower reports received by institutions over the years, which remains in the single digits, such a low number of submitted requests for protection corresponds to this trend. A low number of submitted reports naturally corresponds to a low number of requests for protection.

However, it is important to highlight one of the protection requests submitted to the State Commission for the Prevention of Corruption, which resulted in a positive outcome for the whistleblower. The whistleblower, who had reported irregularities in the institution where he was employed, faced reassignment to another job position after a certain period, contrary to the Law on Labor Relations. Although the Commission, together with the inspection services, took measures for protection, the whistleblower was dismissed and continued the fight for his rights through court proceedings. The court proceedings concluded after nearly two years with a positive outcome, whereby the whistleblower was reinstated to his workplace, and the State Commission for the Prevention of Corruption submitted an initiative to determine the responsibility of the managerial official in the reported institution.<sup>54</sup>

The positive connotation in this case lies in the functioning of the institutions and the mechanisms for protecting the whistleblower, even though the entire procedure lasted a long period during which the whistleblower faced harmful consequences. The fact that the system ultimately worked is worth highlighting. The length of the procedure also reflects the weaknesses in the functioning of the judicial system and serves as another indicator that successful protection of whistleblowers requires efficiency across a broader range of institutions. These include the institutions designated for internal and external reporting channels, the institutions

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<sup>54</sup> Cvetanoska, Viktoria Mileska (2024) North Macedonia (Chapter, page 76) in *How Well are Western Balkan Countries Protecting Whistleblowers?*

responsible for providing protection, inspection services, lawyers, as well as the courts in the country.

Transparency International Macedonia, in its work, advocates for and assists potential whistleblowers in understanding the process of submitting a report, as well as their rights and obligations. Over the past year, a group of whistleblowers came to our offices to consult with the organization regarding the reporting of irregularities in the selection of a director at an educational institution in the country. The irregularities concerned the conduct of the selection procedure, favoring a specific candidate and bypassing the regular procedures. Using the available legal mechanisms, the group of whistleblowers succeeded in having the irregular selection procedure annulled by alerting the supervisory institutions and inspection services to act.

## Key Challenges and Gaps

The nearly 10-year implementation of the existing legal framework has demonstrated the need for amendments and improvements to the law. Although the law covers the basic elements provided for in the EU Directive, it is necessary to more precisely define the material scope, as well as to clarify key terms, in order to improve the coherence of the law. Furthermore, there is a need to strengthen protective measures, introduce interim protection measures, and increase sanctions so that they serve as an effective deterrent. A weakness of the current legal solution is the absence of a designated institution responsible for overseeing the implementation and enforcement of the law. Although certain reporting responsibilities have been assigned to the State Commission for the Prevention of Corruption, they have not achieved the desired effect. The need to improve the legal framework has already been recognized, and the Ministry of Justice has established a working group to prepare a new draft solution.

In its annual reports, the State Commission for the Prevention of Corruption consistently emphasizes that only a small number of public sector institutions have appointed persons responsible for receiving whistleblower reports and have established internal reporting systems. Additionally, even those institutions that have appointed such persons have not ensured adequate visibility of the necessary information regarding the established reporting channels. These findings are also reflected in GRECO reports, which highlight the need to improve visibility among designated institutions for receiving whistleblower reports.

Moreover, the European Union, in each of its reports, emphasizes the need for stronger protection of whistleblowers in the country, which, in practice, would improve both the situation and the perception of whistleblowers. Based on practice over the years and official data, there is very limited experience with whistleblower protection, making it difficult to identify a specific gap in the legal framework. Nevertheless, the introduction of interim measures within judicial protection is essential, given that whistleblowers are often faced with dismissal or other workplace-related irregularities.

A general gap also exists in public awareness and in greater transparency from institutions. There is a need to promote the law itself, as well as the rights and obligations arising from it.

# Recommendations

The following recommendations are fully aligned with the EU Directive.

- ▶ Amend the Law in accordance with the EU Directive to provide greater protection for whistleblowers.  
.....
- ▶ Expand the material scope of the law in line with the EU Directive.  
.....
- ▶ Provide more precise definitions of terms in accordance with the EU Directive and national legislation.  
.....
- ▶ Regulate the establishment of protected reporting channels without restrictions, allowing whistleblowers the freedom to choose whether to report directly to an external or internal channel.  
.....
- ▶ Clearly establish deadlines for designated institutions to report actions taken and procedures to the whistleblower.  
.....
- ▶ Further regulate provisions covering protective measures.  
.....
- ▶ Expand and define judicial protection provisions, and foresee interim measures to ensure greater security and reduce harmful consequences for whistleblowers.  
.....
- ▶ Introduce higher and deterrent sanctions.  
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- ▶ Strengthen inter-institutional cooperation among designated institutions responsible for protecting whistleblowers.  
.....
- ▶ Ensure continuous training of designated persons responsible for receiving whistleblower reports.  
.....
- ▶ Conduct public awareness campaigns to inform citizens about the importance of whistleblowers.

- ▶ Raise awareness and encourage a proactive role of the media, civil society organizations, and associations of lawyers, judges, and prosecutors regarding the significance and protection of whistleblowers.



**Montenegro**

**Dejan Milovac**

The Network for Affirmation of NGO Sector - MANS

# Introduction

In Montenegro, whistleblower protection has developed within the anti-corruption framework rather than through a separate, standalone whistleblower law. The current framework is set out in the 2024 *Law on Prevention of Corruption* (LPC)<sup>55</sup>. The law expressly states that the provisions of the EU Directive were transposed into the Montenegrin framework.

Montenegro plans to adopt a separate new dedicated Law on Whistleblowing Protection in 2026 and align with the EU Directive<sup>56</sup>. During 2024 and 2025, official discussions between the Agency for Prevention of Corruption and the Ministry of Justice concluded that Montenegro should adopt a separate Law on Protection of Whistleblowers, and the Ministry of Justice then moved from policy discussion to formal drafting: it announced preparation of the draft in March 2025, published the Draft

Law on Protection of Whistleblowers in June 2025, and published the report on the public consultation in July 2025. This confirms that the existing model, based on the Law on Prevention of Corruption, is still viewed by state institutions themselves as transitional and in need of further legislative consolidation.

Montenegro's current whistleblower protection framework is centered on the Agency for Prevention of Corruption (APC), which serves as the key institution for receiving and handling reports of corruption-related wrongdoing. Under the 2024 law, the Agency acts on whistleblower reports concerning irregularities related to threats to the public interest, indicating corruption. The law provides for internal reporting, external reporting to APC, and public disclosure under defined conditions. Employers with at least 20 employees must designate an

<sup>55</sup> NATLEX (2024) *Law on Prevention of Corruption* adopted on 7 June 2024, published in the Official Gazette on 11 June 2024, and in force since 12 June 2024.

<sup>56</sup> Agency for Prevention of Corruption Montenegro (2026) *Summary of Results of the APC Work in 2025*.

impartial person or organizational unit to receive and process internal reports. Internal reporters must be notified of receipt within seven days and informed about measures taken within 45 days. The law also provides confidentiality guarantees, protection against retaliation, access to urgent court protection, reversal of the burden of proof in court proceedings, interim measures, and support from APC, including legal, financial, psychological, and other professional assistance upon request.

Montenegro's current whistleblower framework is broader and more structured than its previous framework, particularly following the proposed amendments to the LPC in 2024. At the same time, implementation remains uneven. The European Commission's 2025 report noted that Montenegro was making progress in implementing its improved legal framework for protecting whistleblowers but also stated that the revised law still requires further alignment with EU

standards.

Practice data show that whistleblowing is not a marginal issue in Montenegro's public integrity system. APC reported receiving 188 whistleblower reports in 2022<sup>57</sup> and 190 in 2023<sup>58</sup>. APC's 2024 annual report<sup>59</sup> states that it had a total of 438 whistleblower files in work in 2024, including 163 new reports from 2024 and 275 carried over from previous years. In 2025, APC received 156 whistleblowing reports, a total of 180, including reports received from institutions. APC had a total of 433 whistleblower files in work, including 180 new reports from 2025 and 253 carried over from previous years. APC received 6 requests for whistleblower protection and guided requestors to courts where they could exercise their rights. APC supported whistleblowers in court proceedings (2 requests for financial support were granted, and in one case, the update of the request was required).<sup>60</sup> These figures indicate sustained use of reporting channels, but they

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 57 Agency for Prevention of Corruption Montenegro (2023) *Summary of Results of the APC Work in 2022*.

58 Agency for Prevention of Corruption Montenegro (2024) *Summary of Results of the APC Work in 2023*.

59 Agency for Prevention of Corruption Montenegro (2025) *Summary of Results of the APC Work in 2024*.

do not by themselves show that whistleblowers receive timely and effective protection in practice.

Overall, Montenegro now has a comparatively developed normative framework for whistleblower protection in the public sector. However, the central challenge is no longer only the existence of legal rules, but their consistent and credible implementation. The effectiveness of the system depends on the functioning and independence of APC, the capacity of public bodies to process internal reports properly, the practical availability of support and court protection for whistleblowers, and the degree of trust that potential whistleblowers place in these mechanisms. The following chapters, therefore, examine both the legal design of the Montenegrin system and the available evidence on how it functions in practice.

60 Agency for Prevention of Corruption Montenegro (2026) *Summary of Results of the APC Work in 2025*.

# Legal and Institutional Framework

Montenegro does not regulate whistleblowing in a separate, standalone whistleblower law. Instead, whistleblower protection is embedded in the 2024 Law on Prevention of Corruption, which entered into force on 12 June 2024 and expressly states that the provisions of EU Directive were transposed into the law. This matters for the structure of the system: whistleblower protection is framed as part of the broader anti-corruption regime, with APC at its centre<sup>61</sup>.

## Material Scope of Protection

The law defines reportable irregularities broadly. It covers violations of regulations, attempts to conceal such violations, and wrongdoing in fields such as labor relations, public procurement, financial services, food and product safety, healthcare, privacy and personal data, traffic safety, environmental protection, and radiation and nuclear safety. It also covers threats to the public interest that indicate corruption, violations affecting the EU's financial interests, internal-market violations, and acts or omissions that are not formally illegal but are contrary to the legal aim or purpose of the rules. In other words, the material scope is not limited to classic corruption offenses alone. At the same time, APC's own whistleblower competence is narrower than the overall definition of irregularities: under the law, it gives opinions and recommendations where the report concerns a threat to the public interest indicating corruption, while other reports are forwarded to the competent authority.

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<sup>61</sup> NATLEX (2024) *Law on Prevention of Corruption* adopted on 7 June 2024, published in the Official Gazette on 11 June 2024, and in force since 12 June 2024.

The law does not set a specific substantive time limit on how old the wrongdoing may be or by when a whistleblower must report it. The clearest time limits in the whistleblower chapter are procedural deadlines that begin after a report has been filed. Although this report focuses on the public sector, the statutory framework itself is broader and applies across both the public and private sectors.

## Personal Scope of Protection

Under the law, a whistleblower is a natural person in the public or private sector who obtained information on irregularities in the work environment and submitted a report.

Coverage extends beyond standard employees to self-employed persons, shareholders and members of management or supervisory bodies, volunteers, trainees, persons undergoing professional training, persons working under the supervision of contractors, subcontractors or suppliers, and persons who otherwise participate in the activities of a legal or natural person. The definitions of work environment and employer also make clear that the law reaches former workers and prospective workers, because it includes situations where the activity has stopped, is about to begin, or should have begun.

Direct personal knowledge is not required in a strict sense. The law protects reports based on information on irregularities, including justified reasons for suspecting real or possible irregularities, and makes protection depend on whether the whistleblower had a justified reason to believe the reported information was true at the time of reporting or public disclosure.

Anonymous reporting is expressly allowed. If anonymity later falls away, the person's identity is still protected by confidentiality rules, although disclosure is permitted where necessary and proportionate under a special law in investigations or court proceedings.

## Whistleblower Status

Montenegro's current model does not create a separate formal procedure for granting whistleblower status by administrative decision in the way some earlier or comparative systems do. Instead, the law works through a definitional and remedial model: it defines who a whistleblower is, sets the substantive conditions for protection, assigns APC a role in handling reports and issuing opinions in corruption-related cases, and leaves judicial protection to the courts. The whistleblower chapter does not establish a standalone APC decision formally recognizing someone as a whistleblower as a precondition for protection.

Because there is no separate status-granting decision in the statute, there is likewise no dedicated appeal mechanism for refusal of that status under the current model. In practice, the key legal question is resolved when protection is needed: if a person alleges retaliation or threatened retaliation, the court assesses the claim through the whistleblower-protection lawsuit. APC may conclude that a report does not disclose a threat to the public interest indicating corruption, but that is not the same thing as a separate formal denial of whistleblower status.

## Protection of Third Parties

The law expressly protects third parties in two categories: the whistleblower's helper and the person related to the whistleblower. A related person includes a colleague or another person who may suffer harm because of the connection with the whistleblower in the work environment, a natural or legal person otherwise connected with the whistleblower in that environment, and a relative connected to the whistleblower in the work environment regardless of the type or degree of kinship. The law states that the helper and the connected person enjoy protection under the same whistleblower-protection rules.

The law does not expressly mention persons who are mistaken for whistleblowers. Some such persons could potentially fall within the category of a person related to the whistleblower, but mistaken identity is not sepa-

rately named as an autonomous ground of protection.

## Misuse of Reporting

Bad-faith reporting is expressly regulated. The law prohibits abuse of whistleblower reporting and states that abuse exists where a person files a report containing information on irregularities that the applicant knew to be untrue. This is important because the law distinguishes malicious false reporting from reports that later prove unsubstantiated but were made honestly.

That distinction is reinforced by the rule that protection depends on justified belief in the truth of the information at the time of reporting, not on whether the allegation is ultimately proven. A natural person who knowingly files an untrue report may be fined between EUR 500 and EUR 2,000.

## Reporting Channels

**Internal reporting** is regulated in detail. A report may be submitted to the employer in writing, orally on the record, by post, electronically, or by telephone. The employer must verify the allegations and take measures within its competence to prevent the irregularity. Employers with fewer than 20 employees may appoint an impartial person or organizational unit to receive and process reports, while employers with at least 20 employees must do so. Information on the designated person or unit must be easily accessible in the work environment and published on the employer's website. If the report is initially received by an incompetent person or unit, it must be forwarded without delay and without alteration, while preserving identity and confidentiality. The whistleblower must be notified of receipt within seven days and informed of the measures taken, or their outcome, within 45 days.

Confidentiality is built into the internal channel. The identities of the whistleblower, helper, related person, and reported person, and the infor-

mation contained in the report, may be accessed only by the designated internal handler, the Agency, or the competent authority in the cases provided by law. Participants in the procedure are under a duty to protect that information and may not use or disclose it for unrelated purposes.

**External reporting** is handled by the central external body, Agency for Prevention of Corruption. A whistleblower may go to the Agency if they were not notified internally, are dissatisfied with the internal response, or may bypass the employer altogether and report directly to APC. If the report is incomplete, APC invites the whistleblower to supplement it within eight days; otherwise, the procedure is suspended. If APC receives a report that does not concern an irregularity amounting to a threat to the public interest, indicating corruption, it must forward the report to the competent authority without delay, and that authority must inform APC of the outcome; APC then forwards that notification to the whistleblower within seven days of receipt.

Where APC finds a threat to the public interest indicating corruption, it issues an opinion containing recommendations on what should be done, sets a deadline for action, and sends that opinion to both the employer and the whistleblower. The employer must then report on implementation within the deadline. If the employer does not act or does not report back, APC informs the authority supervising that employer, sends a special report to the competent parliamentary committee, and informs the public. The law is more explicit on internal deadlines than on a single over-all deadline for APC's own opinion, but it clearly gives the Agency a formal external review and recommendation role.

**Public disclosure** is allowed in three situations. First, the whistleblower may go public after previously reporting internally and to APC, if no measures were taken within the relevant legal deadlines. Second, public disclosure is permitted where the whistleblower has justified reasons to believe the irregularity presents an obvious danger, arises in a crisis situation, or risks irreparable damage. Third, it is allowed where reporting to APC would create a risk of harm or where, due to the special circumstances of the case, the chances of the irregularity being remedied are low. Montenegro, therefore, allows public disclosure without prior exhaustion of internal and external channels in emergency-type or risk-based situations.

## Protection Measures

Montenegro regulates retaliation through the prohibition on placing a whistleblower at a disadvantage. The law uses a broad and non-exhaustive list. It covers threats to life, health and property; impossibility of employment; blocking access to trainee or volunteer status; disadvantage in non-standard work; blocking training or promotion; disciplinary proceedings; unjustified proceedings; dismissal; suspension; termination of business cooperation; non-renewal or premature termination of fixed-term contracts; salary reduction; loss of benefits; reassignment; change of workplace or working hours without justification; failure to protect against harassment; forced or unjustified medical examinations; contract cancellation; sector-wide blacklisting; material and non-material damage, including online harm; discrimination; and mobbing. Although the provision is framed around harm in the work environment, its examples go well beyond a narrow traditional employment relationship.

The law also provides corrective protection. Employer internal acts that harm the whistleblower or a connected person due to filling of the whistleblower's report or public disclosure of information have no legal effect. The whistleblower has a right to compensation for damage, and the law also protects the whistleblower against liability in related court proceedings, including proceedings concerning confidentiality, data protection, trade secrets, or damages from employment relations, provided the statutory conditions are met. Confidentiality rules function as an additional protective measure.

**Judicial protection** is provided under the law as an urgent procedure. A whistleblower who has suffered damage, or is threatened with damage, may file a whistleblower-protection lawsuit before the competent court. Jurisdiction lies with the first-instance basic court, with local jurisdiction in the place where the plaintiff resides or where the harmful action occurred. The procedure is expressly described as urgent. The lawsuit does not need to be preceded by peaceful settlement before the Agency for Peaceful Resolution of Labour Disputes or before the Centre for Alternative Dispute Resolution, and the civil-procedure rules applicable to labor disputes apply accordingly.

The filing deadline is the general limitation period under the law on obligations; the whistleblower law itself does not set a shorter special limitation period. The claimant may request a declaration that harmful action occurred, prohibition of repeated harmful action, removal of consequences, compensation for material and non-material damage, and publication of the judgment in the media at the defendant's expense. The burden of proof is reversed once the whistleblower makes it likely that they reported or disclosed information and suffered harm: the defendant must then prove that the harmful action was not causally linked to the report. Courts may also order temporary measures under the law on enforcement and security. The law itself contains no express provision on specialized judicial training for whistleblower cases.

## Oversight and Sanctions

The main oversight body is the APC. It receives external reports, issues opinions and recommendations in corruption-related cases, forwards other cases to competent authorities, keeps records, and may initiate misdemeanor proceedings. The law also requires institutional reporting: the Council submits an annual report on the Agency's work to the Assembly, and the Agency submits an annual report to the competent parliamentary board on whistleblower procedures. APC must also review its procedures for receiving and handling whistleblower reports annually to adapt and improve them.

Data collection is mandatory for both employers and APC. Employers must keep records of whistleblower reports, including basic data on the report, acknowledgment, and follow-up. APC must keep records of both the reports it handled itself and those it forwarded to other competent authorities. At the same time, the law limits access to those records where disclosure could affect the procedure or breach data confidentiality and personal data rules. APC must inform the public about its work, but it must do so in a manner that protects secret and personal data.

The law also provides concrete support measures. APC must make public, free of charge, information on available procedures and legal remedies, and, if the whistleblower commences court proceedings due to damage

suffered, APC must provide the necessary legal, financial, psychological, and other professional assistance on request. Sanctions are also built into the framework. Legal entities may be fined from EUR 1,000 to EUR 20,000 for a range of whistleblower-related violations, including confidentiality breaches, failure to appoint an impartial recipient, failure to notify within statutory deadlines, failure to keep records, and retaliation. Responsible persons in those entities or public bodies may be fined from EUR 500 to EUR 2,000. Natural persons may be fined from EUR 500 to EUR 2,000 for knowingly false reports, breaches of confidentiality, and retaliation against whistleblowers, helpers, or connected persons.

## Other relevant legal provisions

Two Montenegro-specific elements deserve separate mention. First, the law gives the APC an ex officio role: the Agency may initiate proceedings on its own when it has information suggesting a threat to the public interest, indicating corruption. This means the system is not limited to purely reactive handling of incoming reports. Second, Montenegro retains a reward mechanism. Employers may reward a whistleblower who helped prevent irregularities, and a whistleblower who contributed to the realization of public revenue or employer income is entitled to a monetary reward. Where criminal proceedings triggered by the report lead to the final confiscation of property, the right to a reward also arises. The amount must be between 3% and 5% of the realized income or confiscated property. The whistleblower requests the reward in writing from the employer; the employer must decide within 30 days, set a payment deadline not longer than six months, and the decision is final but subject to administrative dispute.

A further relevant feature is that the law relies on subordinate regulation and transitional arrangements. The Ministry is tasked with prescribing the detailed procedure for internal handling, the handling of applications before APC, and the forms and methods of keeping records. The law also provided transitional deadlines, including a 60-day period for employers that are obliged to do so to designate an impartial person or organizational unit for handling whistleblower reports.

# Implementation in Practice

The Agency for Prevention of Corruption (APC) publishes reliable, consistent data for the reports it handles directly. However, data is much less complete or consistent for:

- ▶ internal reporting within institutions (e.g., reports handled inside ministries, companies, etc.)
- ▶ the court-based protection system introduced after the Law on the Prevention of Corruption was introduced in June 2024.

Because of these gaps, some of the indicators required by the report methodology cannot be tracked year-by-year using APC's public data alone. Data for the whole system are not available, which limits longitudinal analysis. Some of the gaps are also highlighted in one of the reports about the implementation of anti-corruption measures for the health sector.<sup>62</sup>

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62 UNDP (2025) *Integrity In Action - Assessment Report on the Implementation of Anti-Corruption Measures for the Health Sector* within the project "Zero Tolerance for Corruption: Strengthening Integrity, Transparency and Accountability in Public Administration in Montenegro."

63 Agency for Prevention of Corruption Montenegro (2023) *Summary of Results of the APC Work in 2022*.

64 Agency for Prevention of Corruption Montenegro (2024) *Summary of Results of the APC Work in 2023*.

65 Agency for Prevention of Corruption Montenegro (2025) *Summary of Results of the APC Work in 2024*.

66 Agency for Prevention of Corruption Montenegro (2026) *Summary of Results of the APC Work in 2025*.

Indicator	2022 <sup>63</sup>	2023 <sup>64</sup>	2024 <sup>65</sup>	2025 <sup>66</sup>
<b>Internal reports inside institutions</b>	No consolidated national annual APC total publicly identified	No consolidated national annual APC total publicly identified	No consolidated national annual APC total publicly identified	No consolidated national annual APC total publicly identified
<b>External reports received by APC (new reports)</b>	<b>188</b>	<b>190</b>	<b>136</b>	<b>180</b> *156 by whistleblowers & 24 of legal entities
<b>Total whistleblower files in work before APC (including carry-over)</b>	<b>320</b> *Including 131 from previous years	<b>382</b> *Including 192 from previous years	<b>438</b> *Including 275 from previous years	<b>433</b> *Including 253 from previous years
<b>Requests for whistleblower protection / status before APC</b>	<b>7</b>	<b>7</b>	Not comparable after June 2024 reform *2 requests, work on 6 from previous years, finalized 3 procedures, one substantiated, 2 recommendations sent to the relevant institution until June 2024 when the role of APC to provide administrative protection of whistleblowers was dismissed	Not comparable after June 2024 reform *6 requests - guided requestors to courts where they could exercise their rights. APC supported whistleblowers in court proceedings (2 requests for financial support were granted, and in one case, the update of the request was required)

Indicator	2022 <sup>63</sup>	2023 <sup>64</sup>	2024 <sup>65</sup>	2025 <sup>66</sup>
<b>Positive APC protection outcomes / opinions</b>	<b>2</b>	<b>1</b>	Not comparable	Not comparable
<b>Negative APC protection outcomes / opinions</b>	No clear annual breakdown published	<b>1</b>	Not comparable	Not comparable
<b>Judicial protection cases</b>	No systematic APC annual series publicly identified	No systematic APC annual series publicly identified	No systematic APC annual series publicly identified	No systematic APC annual series publicly identified

» **Table 5**

**Indicators on handling reports and procedures and statistics per year**

The clearest annual trend in APC's own data is that new external reporting to APC increased slightly between 2022 and 2023, from 188 to 190, and then declined in 2024 to 163. That decline should not be read as reduced pressure on the system. APC's own figures show a large carry-over case-load, with 382 files in work in 2023 and 438 in 2024, which suggests that the system has continued to operate under significant backlog pressure. The 2025 figures point more to continued backlog management and intensified case processing than to a settled long-term decline.

As in earlier years, the most common allegations appear to come from labor relations. APC's 2022 reporting shows that 42% of whistleblower reports fell under work relations, while the 2023 materials state that nearly 40% of reports concerned irregularities in labor relations. This is an important practical pattern: Montenegro's whistleblower system is used not only for classic bribery-type allegations, but also very heavily for retaliation-prone workplace and employment-related grievances connected to the public interest.<sup>67</sup>

Internal channels appear to be used formally, but not yet in a consistently strong or transparent way. APC's sectoral assessments indicate uneven implementation: in the health sector, most institutions had designated a responsible person, but only about half made that information publicly available; in the courts sector, all authorities had designated a person to receive and handle whistleblower reports; and in prosecutors' offices, almost all authorities had designated a person to receive and act on whistleblower reports. The overall picture is one of formal compliance improving faster than practical usability and transparency.<sup>68</sup>

As for whether court-based protection is accessible or mostly formal, official APC data do not yet allow a firm annual statistical answer. The reason is structural: the system changed in June 2024, when APC's formal pro-

<sup>67</sup> Agency for Prevention of Corruption Montenegro (2023) *Summary of Results of the APC Work in 2022*.

<sup>68</sup> UNDP (2025) *Integrity In Action - Assessment Report on the Implementation of Anti-Corruption Measures for the Health Sector within the project "Zero Tolerance for Corruption: Strengthening Integrity, Transparency and Accountability in Public Administration in Montenegro."*

tection competence moved to the courts, but the public APC materials reviewed do not provide a comparable annual series of court protection requests, interim measures, or final outcomes. That gap in official public reporting is itself significant, because it makes it difficult to monitor whether the new court-based model is actually more effective for whistleblowers than the older APC-led model.<sup>69</sup>

The question of whether confidentiality and anti-retaliation guarantees work in practice can only be answered cautiously. APC's own practice materials show that the Agency is actively processing reports, identifying threats to the public interest, and issuing recommendations. But public reporting by civil society and the media still points to fears of retaliation and low trust. MANS' 2024 *National Integrity System* assessment states that citizens often refrain from reporting corruption because of fear of retribution or a belief that their complaints will not lead to meaningful action.<sup>70</sup>

## Institutional and court practice

APC's practice confirms that the Agency functions as a screening, referral, and recommendation body, not merely as a passive registry. In 2022, APC reported 81 completed procedures based on whistleblower reports, with the existence of a threat to the public interest established in 5 cases. APC also reported forwarding 12 whistleblower reports to prosecutors' offices and 34 to other competent authorities. In the same reporting cycle, it noted 3 requests to initiate misdemeanor proceedings for violations of whistleblower-protection provisions.<sup>71</sup>

The 2023 Annual Report shows the same hybrid practice of case-handling,

<sup>69</sup> NATLEX (2024) *Law on Prevention of Corruption* adopted on 7 June 2024, published in the Official Gazette on 11 June 2024, and in force since 12 June 2024.

<sup>70</sup> MANS (2024) *Assessment of the National Integrity System of Montenegro*.

<sup>71</sup> Agency for Prevention of Corruption Montenegro (2023) *Summary of Results of the APC Work in 2022*.

referrals, and protection review. APC's first-quarter summary reported 57 whistleblower reports in the first quarter, the highest number recorded at the level of the first three months since the Agency began operating. APC's 2023 summary also states that the Agency forwarded 17 cases to competent prosecutors' offices, 16 based on whistleblower reports and 1 ex officio proceeding. On the protection side, APC continued deciding older protection cases: one opinion confirmed harm or possible harm to the whistleblower, while in another, the allegations were not established.<sup>72</sup>

The 2024 and 2025 Annual reports point to an intensification of APC's operational activity. APC reported that, from September to December 2024, it had determined 25 cases of threats to the public interest<sup>73</sup>, and this was the total in 2024, according to the annual report<sup>74</sup>. APC forwarded 23 cases to competent prosecutors' offices; 3 were from whistleblowers, and 1 ex officio proceeding was dismissed. In June 2025, APC stated that in the first half of 2025, it had acted on 58 whistleblower reports. In July 2025, APC reported that whistleblower reports had led to 57 recommendations to strengthen transparency and reduce corruption risks. And overall, in 2025, APC has reported that it finalized 82 procedures (68 from previous years and 14 from 2025), from which it determined 18 cases of threats to the public interest.

These official updates indicate that APC became more assertive in filtering cases and issuing recommendations after the 2024 reform, even though the protection component formally shifted to the courts. Oversight findings available on APC's website reinforce the conclusion that the internal-reporting system is unevenly institutionalized. Formal designation of responsible persons is now common and, in some sectors, universal, but transparency and procedural quality remain inconsistent.

<sup>72</sup> Agency for Prevention of Corruption Montenegro (2024) *Summary of Results of the APC Work in 2023*.

<sup>73</sup> Agency for Prevention of Corruption Montenegro (2025) *The Agency intensifies procedures on whistleblower reports: 25 cases of threats to the public interest determined from September to December*; 15.01.2025.

<sup>74</sup> Agency for Prevention of Corruption Montenegro (2025) *Summary of Results of the APC Work in 2024*.

This matters because a whistleblower mechanism is only credible if staff can identify the responsible person, understand the steps, and trust the confidentiality of the process.<sup>75</sup>

Public debate in 2024 and 2025 also shows that Montenegro's institutions themselves recognize shortcomings in the current model. APC and the Ministry of Justice published joint recommendations in January 2025 stating that a separate Whistleblower Protection Law should be adopted in 2025. This was followed by concrete legislative steps by the Ministry of Justice, which announced preparation of the draft in March 2025, published the Draft Law on Protection of Whistleblowers in June 2025, and published the report on the public consultation in July 2025. This confirms that the current framework is not only under review in principle but has already entered a formal legislative reform process.

In Montenegro, several documented cases point to shortcomings of the whistleblowing framework:

**Case of Milisav Dragojević.** Milisav Dragojević, a Railway Transport engineer, publicly raised concerns about serious irregularities and safety-related issues in railway operations. Human Rights Action (HRA) reported that the Anti-Corruption Agency granted him whistleblower status in 2016 and later documented retaliation against him. HRA also reported that he was unlawfully punished and later subjected to continuing workplace pressure<sup>76</sup>.

The key legal issue in this case was whether the system could protect a whistleblower not only on paper, but also in practice against suspension, disciplinary pressure, and deteriorated working conditions. The case shows that protection was possible under the old model, but only through a long and multi-forum struggle involving both APC and the courts.

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<sup>75</sup> UNDP (2025) *Integrity In Action - Assessment Report on the Implementation of Anti-Corruption Measures for the Health Sector* within the project "Zero Tolerance for Corruption: Strengthening Integrity, Transparency and Accountability in Public Administration in Montenegro."

<sup>76</sup> Human Rights Action (2016) *9/8/2016 whistleblower status and decision of the anti-corruption agency director*. 10.08.2016.

The lesson of the Dragojević case is that a formal protection decision is not enough unless the institution actually stops retaliation and the courts respond quickly and coherently.

**Case of CGES whistleblower.** A whistleblower from the Montenegrin Electricity Transmission System (CGES) reported suspected corruption and later faced disciplinary proceedings.<sup>77</sup> Online news portal ETV reported that the Higher Court in Podgorica upheld the earlier ruling annulling the disciplinary sanction and that the whistleblower linked the retaliation to his refusal to interfere in a procurement process and to his reporting of suspected corruption. Portal ETV also noted that APC had granted him protection in May 2023 after the disciplinary proceedings were launched. The legal issue in this case was retaliation in the form of disciplinary punishment, followed by a jurisdictional and procedural conflict over the protection side of the case after the 2024 legislative reform. Later reporting shows that the whistleblower continued to argue that APC was mishandling the transitional regime and undermining protection in a case started under the previous law<sup>78</sup>. The outcome appears mixed: the whistleblower won an important labor-law victory against disciplinary retaliation, but the protection dimension remained contested and procedurally unstable. The lesson is that Montenegro's shift from APC-led protection to court-based protection creates a real risk of legal uncertainty in ongoing cases<sup>79</sup>.

**Case of Goran Đurović.** Goran Đurović, a civil-society activist and former Radio Television Montenegro Supervisory Council member, challenged his dismissal from 2017 through a long sequence of judicial proceedings<sup>80</sup>. Human Rights Action reported an initial first-instance victory, a High Court quashing of that judgment, a later rejection of jurisdiction, and finally a second Basic Court judgment again in his favor<sup>81</sup>.

<sup>77</sup> Standard (2025) *Pravosnažno poništen disciplinski postupak protiv zviždača iz CGES-a* 11.07.2025 7:24.

<sup>78</sup> Kaćuša Krsmanović (2025) *Zviždač: Tomović i Drakić prikrili dokaze od suda da bi mi ukinuli zaštitu*, ETV Portal 28.1.2025, 09:18.

<sup>79</sup> Standard (2025) *Pravosnažno poništen disciplinski postupak protiv zviždača iz CGES-a* 11.07.2025 7:24.

<sup>80</sup> Jane Ferrie (2019) *Court Dismissed: Montenegro Whistleblowers Fear Losing Legal Recourse* OCCRP-Organized Crime and Corruption Reporting Project 15.11.2019.

The central issue in this case was whether ordinary courts had jurisdiction and were prepared to provide effective protection in a public-interest retaliation-type dispute. The response was fragmented and inconsistent across judicial instances, and the case became emblematic of how prolonged and unstable judicial pathways can weaken practical protection even where later rulings favor the claimant.<sup>82</sup>

The lesson for the system is that inconsistent jurisdictional doctrine can itself become a form of institutional discouragement in whistleblower and public-interest retaliation cases.<sup>83</sup>

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**81** Human Rights Action (2019) *High court in Podgorica abolishes judgment in favor of Goran Djurović with reference to disputed general position of supreme court*, 16.09.2019.

**82** Human Rights Action (2019) *Basic court in Podgorica rejects jurisdiction in the case of civil society activist Goran Djurovic against the Montenegrin parliament*, 05.11.2019.

**83** Ibid.

# Key Challenges and Gaps

## Legal gaps

The first structural problem is that Montenegro still regulates whistleblowing inside the general Law on Prevention of Corruption rather than through a dedicated whistleblower protection statute. The 2024 law defines reportable irregularities very broadly, but APC's own external role is narrower, focused on threats to the public interest, and indicates corruption. The result is a fragmented model in which the material scope of reporting is wide, but the institutional pathway is split. That this is now viewed as a real design weakness is confirmed by the 2024-2025 round tables organized by APC and the Ministry of Justice, which concluded that Montenegro should adopt a separate Whistleblower Protection Law. The weakness is further confirmed by the fact that the Ministry of Justice has already begun preparing that separate law: it announced the drafting process in March 2025, published the draft law in June 2025, and published the consultation report in July 2025.

Another gap concerns the level of legal certainty after the 2024 reform. The law stipulates that proceedings initiated under the old framework are to be completed under the old rules, but APC has also publicly stated that, since June 2024, formal competence for whistleblower protection has moved to the courts. That combination creates room for disputes over jurisdiction in ongoing or older cases. The CGES whistleblower case illustrates this problem: even after the whistleblower won the labor dispute over disciplinary retaliation, the protection side of the case remained contested after the reform. The current law also protects helpers and related persons, but it does not expressly regulate protection for persons merely mistaken for whistleblowers, and while it establishes an urgent court procedure, reversed burden of proof, and interim measures, it contains no express rule on specialized training for judges handling whistleblower cases<sup>84</sup>.

## Procedural gaps

Montenegro’s framework is procedurally detailed on paper, but not yet fully coherent in practice. The law requires internal recipients to be designated, reports to be acknowledged within seven days, whistleblowers to be informed of measures taken within 45 days, and records to be kept. Yet APC’s own sectoral assessments show that the internal-reporting system continues to develop unevenly across institutions. In some sectors, formal designation is high, but transparency and publication of reporting information remain incomplete. This suggests that Montenegro has built the formal skeleton of an internal-reporting system, but not yet a uniformly functional one across the public sector<sup>85</sup>.

There is also a procedural weakness in the external-reporting chain. Because APC deals substantively only with reports indicating a threat to the public interest linked to corruption, other irregularities are referred onward to another authority. This may be legally rational, but in practice, it creates a longer and less transparent path for whistleblowers, especially where allegations sit at the border between corruption, labor retaliation, administrative abuse, and other public-interest violations. In a system where many reports concern labor relations, that split in competence can make the procedure harder to follow and easier to delay<sup>86</sup>.

## Institutional weaknesses

A central weakness remains the institutional fragility of the system’s main oversight body. Even after the 2024 reform, Montenegro still relies heavily on APC to receive external reports, screen cases, issue recommendations, keep records, support whistleblowers in litigation, and monitor imple-

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<sup>84</sup> NATLEX (2024) *Law on Prevention of Corruption* adopted on 7 June 2024, published in the Official Gazette on 11 June 2024, and in force since 12 June 2024.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

mentation. At the same time, the European Commission's 2025 Enlargement Report<sup>87</sup> stated that the revised law still requires further alignment with EU standards, while APC and the Ministry of Justice themselves later concluded that Montenegro should adopt a separate law. This points to an institutional model that is still transitional and not fully settled.

The fact that official reform discussions in 2025 called for a separate whistleblower law is also an institutional warning sign. It suggests that the authorities themselves recognize that the current model, built around anti-corruption legislation and the APC's mixed mandate, may be too indirect and too cumbersome to deliver consistent protection in practice. That conclusion is reinforced by the Ministry of Justice's subsequent drafting process, including the public call in March 2025, the publication of the draft law in June 2025, and the publication of the consultation report in July 2025.

## Weak protection in practice

The practice data point to a recurring gap between the volume of reporting and the volume of effective protection. APC received 188 whistleblower reports in 2022 and 190 in 2023, but the older APC-led protection generated only 7 protection requests in 2022 and 7 in 2023, with only a small number of opinions finding actual or possible harm to the whistleblower. This does not show that retaliation is rare. More likely, it shows that the protection track was narrow, slow, and difficult to access even before the transfer of competence to the courts. The latter data from statistics is thus incomparable as presented in *Table 5 Indicators on handling reports and procedures and statistics per year*.

Documented cases reinforce that conclusion. Milisav Dragojević ultimately received APC support and later court backing, but only after years of pressure and litigation. Goran Đurović's case became bogged down in contradictory rulings about jurisdiction before a later first-instance success. The CGES whistleblower won the labor case against disciplinary retaliation, yet the protection side of the case remained procedurally unstable and contested. The pattern is therefore not the total absence of remedies, but their slowness, fragmentation, and unpredictability<sup>88</sup>.

## Lack of data and transparency

Another major weakness is the lack of complete public data. The 2024 law clearly requires both employers and APC to keep records of whistleblower reports, and APC's public summaries do provide usable figures for reports handled by the Agency itself. However, the reviewed APC Annual Reports and other publications do not provide a consolidated national annual total for internal reports received by public institutions, nor do they provide a comparable public annual series for court-based protection outcomes after the June 2024 reform. Because APC has also stated that formal competence for protection has shifted to the courts, the older statistics on APC protection requests are no longer comparable with the new model. See also *Table 5 Indicators on handling reports and procedures and statistics per year* and its explanation.

This data gap is not minor. In an area as sensitive as whistleblower protection, missing public statistics on internal reports, court claims, interim measures, and final outcomes are themselves evidence of weak oversight. A system cannot be credibly evaluated if key implementation indicators are either not collected centrally or not published in a way that allows year-to-year comparison.

## Limited trust in reporting channels

Low trust remains a systemic barrier to the use of formal reporting channels. MANS' 2024 *National Integrity System* assessment states that public trust in institutions is low, that citizens often avoid reporting corruption because they fear retaliation or believe their complaints will not lead to meaningful action, and that this environment perpetuates cynicism and disengagement. In a whistleblower system, that kind of distrust is not just

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**87** European Commission (2025) *Montenegro Report 2025*.

**88** Human Rights Action (2016) *9/8/2016 whistleblower status and decision of the anti-corruption agency director*. 10.08.2016.

background context; it is itself a core implementation failure<sup>89</sup>.

## Weak enforcement and sanctions

Montenegro's sanctions framework is broad on paper. The law prescribes fines for retaliation, confidentiality breaches, failure to establish channels, failure to notify whistleblowers within deadlines, failure to keep records, and knowingly false reporting. APC has also used misdemeanor proceedings against institutions in whistleblower-related cases: its 2022 summary reports 3 requests to initiate misdemeanor proceedings in the area of whistleblower protection, in 2023, 8 requests, in 2024, 4 requests were made, and in 2025, they sent to the courts 4 requests. The requests mainly refer to failures to deliver requested information documentation to APC, non-reporting on mitigation actions based on APC recommendations, failing to do that in the prescribed timeline, and failing to inform the whistleblower about measures taken regarding their report or the outcome of those measures. In some cases, a financial fine was issued.

Public Annual Reports of APC or other annual publications of other relevant institutions do not yet provide a clear picture of how many whistleblower-related violations across the whole system ended in final sanctions, their content, and imposed fines, if any, whether sanctions were directed mainly at institutions or individuals, or whether they changed institutional behavior. Overview of Annual Reports does not allow for comparison over the years on this topic. When that enforcement overview is combined with the continuing need to remind institutions to designate reporting persons, keep records, and make procedures visible, the overall impression is that sanctions exist, but their preventive effect is still limited<sup>90</sup>.

<sup>89</sup> MANS (2024) *Assessment of the National Integrity System of Montenegro*.

<sup>90</sup> UNDP (2025) *Integrity In Action - Assessment Report on the Implementation of Anti-Corruption Measures for the Health Sector within the project "Zero Tolerance for Corruption: Strengthening Integrity, Transparency and Accountability in Public Administration in Montenegro."*

# Recommendations

The following recommendations are fully aligned with the EU Directive<sup>91</sup>.

## Address the fragmented legal framework

**Problem:** Montenegro still regulates whistleblowing through the general Law on Prevention of Corruption rather than through a dedicated whistleblower protection law, even though official reform discussions and the Ministry of Justice’s 2025 drafting process show that a separate legislative framework is already considered necessary. In practice, the current model remains fragmented: the legal definition of reportable irregularities is broad, but APC’s substantive external role is narrower and focused on threats to the public interest, indicating corruption.

**Recommendation:** Adopt a separate, comprehensive Whistleblower Protection Law that consolidates material scope, reporting channels, protection measures, institutional competences, and remedies into one coherent framework. The new law should make clear that all work-related public-interest reports receive protection, regardless of whether the underlying allegation is classified as corruption, labor retaliation, administrative abuse, procurement irregularity, or another public-interest breach. It should also preserve or improve the current level of protection rather than narrowing it during reform.

EU alignment: Directive (EU) 2019/1937, especially Articles 1, 2, 4, and 25.

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<sup>91</sup> EUR-Lex (2019) *DIRECTIVE (EU) 2019/1937 on the protection of persons who report breaches of Union law*.

## Remove procedural fragmentation and standardize reporting practice

**Problem:** Internal reporting rules exist on paper, but implementation remains uneven across institutions, and the external pathway is split because APC handles corruption-linked public-interest threats while other reports are forwarded elsewhere. That makes the system harder to navigate and increases the risk of delay, inconsistency, and loss of confidence.

**Recommendation:** Adopt uniform by-law and binding operational standards for all public bodies covering designation of responsible persons, publication of reporting information, secure receipt of reports, confidentiality safeguards, acknowledgment of receipt, feedback deadlines, record-keeping, referral rules, and cooperation with APC and courts. Montenegro should also create a single user-friendly public guide explaining exactly where different categories of reports should go and what follow-up a whistleblower can expect at each stage.

EU Directive alignment: especially Articles 8, 9, 11, 13, 14, and 16.

## Strengthen the APC's independence, capacity, and coordination role

**Problem:** The system still depends heavily on APC, but the current legal model remains transitional, and both the European Commission and domestic reform discussions have indicated that further alignment and structural improvement are needed. The delay in the implementation of report management and protection is also due to these shortcomings.

**Recommendation:** Strengthen the APC institutionally by ensuring stable leadership, adequate staffing, secure budgetary conditions, and a clearly defined coordination mandate with courts, labor inspectorates, prosecutors, and other competent bodies. APC should remain the central oversight and support body even when courts decide protection claims, and the new dedicated law should expressly define what information courts and other authorities must share back with APC for monitoring purposes.

EU Directive alignment: especially Articles 11, 13, 14, and 20.

## Make judicial protection fast, specialized, and usable in practice

**Problem:** Montenegro now relies more heavily on courts for protection, but the available practice points to delay, fragmented procedures, and legal uncertainty in retaliation cases. High-profile cases show that remedies may ultimately be possible, but often only after prolonged and inconsistent proceedings<sup>92</sup>.

**Recommendation:** Establish a specialized judicial approach for whistleblower retaliation cases through mandatory training, internal court guidelines, priority handling, and systematic use of interim measures. The law or accompanying judicial guidance should clarify evidentiary standards, burden-shifting, deadlines for urgent measures, and protection in ongoing transitional cases that began under the earlier framework. Montenegro should also ensure that whistleblowers have rapid access to reinstatement, suspension of harmful measures, compensation, and protection from related liability claims.

EU Directive alignment: especially Articles 20 and 21.

## Build a complete and publicly accessible data system

**Problem:** APC publishes useful data on reports handled by the Agency, but there is still no clearly published, comparable annual national consolidated dataset on required reporting by public institutions on received and handled internal reports or on court-based whistleblower protection

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<sup>92</sup> Human Rights Action (2019) *Basic court in Podgorica rejects jurisdiction in the case of civil society activist Goran Djurovic against Montenegrin parliament* 05.11.2019.

outcomes after the 2024 reform. This makes it difficult to assess whether the new model is working<sup>93</sup>.

**Recommendation:** Introduce a unified national whistleblower statistics system with mandatory annual publication of at least the following indicators: number of internal reports, external reports, referrals, requests for protection, interim measures requested and granted, court outcomes, sanctions and content imposed, categories of alleged wrongdoing, and support provided to the whistleblower. The data should be broken down by sector and published in a way that protects confidentiality while allowing year-to-year comparisons. APC should be legally designated as the body responsible for consolidating and publishing the national dataset.

EU Directive alignment: especially Articles 11, 13, and 14.

## Rebuild trust in reporting channels through visible support and confidentiality guarantees

**Problem:** Fear of retaliation and low confidence in institutions continue to discourage reporting. Even where formal channels exist, whistleblowers may still prefer NGOs or the media if they do not believe internal or external mechanisms will protect them<sup>94</sup>.

**Recommendation:** Create a visible support system for potential and actual whistleblowers that includes free confidential advice before reporting, practical guidance on choosing the right channel, legal counselling, psychological support, and public information campaigns explaining rights and protections. Public bodies should be required to display reporting information clearly and to notify staff regularly about confidentiality guarantees and anti-retaliation safeguards. APC should also publish anonymized

<sup>93</sup> UNDP (2025) *Integrity In Action - Assessment Report on the Implementation of Anti-Corruption Measures for the Health Sector* within the project “Zero Tolerance for Corruption: Strengthening Integrity, Transparency and Accountability in Public Administration in Montenegro.”

<sup>94</sup> MANS (2024) *Assessment of the National Integrity System of Montenegro*.

examples of successful protection and corrective action to demonstrate that reporting can lead to real results, not just bare statistical data.

EU Directive alignment: especially Articles 9, 13, 16, and 20.

## **Make enforcement and sanctions effective in practice**

**Problem:** Montenegro's law provides sanctions for retaliation, confidentiality breaches, failure to establish channels, and knowingly false reporting, but public reporting still does not show a strong, system-wide enforcement record capable of deterring violations and changing institutional behavior.

**Recommendation:** Strengthen enforcement by requiring APC and other competent bodies to systematically initiate misdemeanor proceedings where legal obligations are breached, and to publish annual data on initiated proceedings, final sanctions, and institutional compliance. Sanctions should be applied not only formally but strategically, with priority given to retaliation, confidentiality breaches, and obstruction of reporting. Montenegro should also review whether current fine levels are sufficiently dissuasive in relation to public bodies, state-owned enterprises, and responsible officials.

EU Directive alignment: especially Articles 21 and 23.



**KOSOVO**

**Florent Spahija and Gresë Lamallari**  
Kosova Democratic Institute

# Introduction

Kosovo adopted its first law in this field in 2011, marking the first step toward regulating whistleblowing within the country's legal framework. However, this law was criticized for lacking a comprehensive approach to whistleblower protection and for using the term "informant," which carried a negative connotation and did not treat whistleblowing as an act in the public interest. This undermined efforts to build the necessary institutional and social trust for reporting violations.<sup>95</sup>

With the development of international standards and the need for a more advanced approach in this field, a new Law on the Protection of Whistleblowers was adopted in 2018<sup>96</sup>, which constitutes the current legal framework in Kosovo. This law aims to establish clear and secure mechanisms for reporting violations in the public interest. It provides for internal and external reporting channels, the obligation of public institutions and certain

private entities to appoint responsible officials for receiving and handling reports, as well as protective measures for people who report violations.

Within this framework, the Kosovo Agency for the Prevention of Corruption (Kosovo Agency) plays an important role in monitoring the implementation of the law, providing guidance to institutions, and promoting whistleblowing as part of institutional integrity. Following the adoption of the 2018 law, Kosovo continued to strengthen its whistleblower protection framework through the adoption of additional regulations and guidance documents intended to facilitate the practical implementation of reporting procedures and institutional responsibilities.

While the law in Kosovo is broadly aligned with the EU Directive 2019/1937, the system still faces ongoing challenges in building trust in reporting mechanisms,

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<sup>95</sup> Official Gazette of the Republic of Kosova (2011) *Law No. 04/L-043 On Protection Of Informants*.

<sup>96</sup> Official Gazette of the Republic of Kosova (2018) *Law No. 06/L-085 On Protection Of Whistleblowers*.

weak protection of whistleblowers in practice, and persistent obstacles to fostering a culture where whistleblowing is seen as a tool for integrity rather than a threat.

Kosovo's experience reveals that laws alone cannot guarantee protection; the effectiveness of safeguards also depends on the consistent commitment of institutions and broader societal support for their implementation. By nurturing a culture of integrity and responsibility, legal safeguards can evolve from written provisions into meaningful protection for those who courageously report violations in the public interest.

# Legal and Institutional Framework

The current legal framework governing whistleblower protection in Kosovo is based on *Law No. 06/L-085 on the Protection of Whistleblowers*, adopted in 2018. The law regulates the procedures for reporting violations in the public interest, determines the responsibilities of competent authorities, and guarantees protection for individuals who report misconduct<sup>97</sup>.

To further detail the internal whistleblowing procedure, Kosovo also adopted *Regulation (GRK) No. 03/2021 on Determining the Procedure for Receiving and Handling of the Cases of Whistleblowing*, which regulates the handling of whistleblowing reports by public institutions<sup>98</sup>.

In addition, by decision from September 2023, the Ministry of Justice approved the *Guide for the Protection of Persons Reporting in Public Interest, on the Obligations of Employers and the Right of Whistleblowers to Judicial Protection*<sup>99</sup>, as well as the *Guidance for the Manner of Conducting the Administrative Investigation* under Decision No. 128/2023<sup>100</sup>.

The current law has not been amended since its adoption and provides solid provisions for the protection of whistleblowers, although its implementation in practice still requires further improvement. It applies to both

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<sup>97</sup> Official Gazette of the Republic of Kosova (2018) *Law No. 06/L -085 On Protection Of Whistleblowers*.

<sup>98</sup> Official Gazette of the Republic of Kosova (2011) *Regulation (Grk) - No.03/ 2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing*.

<sup>99</sup> Ministry of Justice of the Republic of Kosovo (2023) *Guide for the Protection of Persons Reporting in Public Interest, on the Obligations of Employers and the Right of Whistleblowers to Judicial Protection*.

<sup>100</sup> Ministry of Justice of the Republic of Kosovo (2023) *Guidance for the Manner of Conducting the Administrative Investigation*. The guideline is approved by the Decision No.128/2023 of the Minister of Justice dated 18.07.2023. No.128/2023, 18.07.2023.

the public and private sectors and establishes mechanisms to facilitate the reporting and protection of persons reporting breaches in the public interest.

## Material Scope of Protection

The scope of protection is broad and does not cover only corruption, but a wider range of violations. Under the law, information is protected in cases where:

- ▶ the violation has been committed, is being committed, or is likely to be committed;
- ▶ a person has failed, is failing, or is likely to fail to comply with a legal obligation;
- ▶ a miscarriage of justice has occurred, is occurring, or is likely to occur;
- ▶ an individual's health or safety has been endangered, is being endangered, or is likely to be endangered;
- ▶ the environment has been damaged, is being damaged, or is likely to be damaged;
- ▶ there has been abuse of official duty or authority, public money, or the resources of a public institution, this is occurring, or is likely to occur;
- ▶ an act or omission by or on behalf of a public institution is discriminatory, oppressive, negligent, or constitutes serious mismanagement;
- ▶ information intended to show any of the matters falling under any of the above subparagraphs has been, is being, or is likely to be concealed or destroyed.

The law applies to both the public and private sectors and does not establish any subjective or objective deadlines for reporting violations, thereby leaving it to the whistleblower to report when he or she considers that the circumstances for reporting the violation have been met.

## Personal Scope of Protection

A whistleblower is “any person who reports or discloses information about a threat to or violation of the public interest in the context of his or her employment relationship in the public or private sector.” The scope of protected persons is broad, but only within the context of the employment relationship.

A “person in the context of an employment relationship,” according to the law, is any natural person who has or has had an employment or cooperation relationship with a public institution or a private entity, regardless of the nature of the employment relationship, its duration, or remuneration. Whistleblowers may also be external collaborators, persons under service contracts or contracts for specific work, volunteers, interns, and persons in professional training. Protection also extends to candidates for employment, internships, or training if, during the application process, they obtain information about violations and report it.

The law does not require direct knowledge of the wrongdoing; rather, it adopts a more flexible standard based on reasonable belief. A whistleblower is not obligated to prove the good faith or the accuracy of the reported information, but is entitled to disclose it when they reasonably believe it to be true. This standard of “reasonable belief” is assessed objectively, meaning the belief a person with ordinary knowledge and experience would hold in the same circumstances. This approach lowers the evidentiary threshold and encourages reporting without requiring conclusive proof at the outset. It is also recognized as best practice in EU enlargement countries<sup>101</sup>. However, the law does not provide protection for individuals who report anonymously.

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<sup>101</sup> Transparency International (2026) *Whistleblower protection in EU enlargement countries. Towards EU standards and best practice?*

## Whistleblower Status

Kosovo does not have a single, centralized body that formally grants the “*whistleblower status*.” Instead, it operates through a distributed institutional framework: the Agency oversees the implementation of the law and handles external reporting, while individual public institutions and private entities appoint officers responsible for managing internal reports. In cases of retaliation, whistleblowers may seek protection and remedies through the courts, without the obligation to exhaust administrative remedies beforehand. As a result, the practical effect of protection is ensured through the combined functioning of these mechanisms rather than through a single authority.

## Protection of Third Parties

The law also provides that protection is guaranteed to persons connected to the whistleblower, who, according to the law, are “*persons who assist the whistleblower or may provide evidence related to the whistleblowing, or any other person who may suffer harm due to any connection with the whistleblower*.” Likewise, officials responsible for receiving and handling whistleblowing reports, as well as persons mistakenly perceived as whistleblowers, enjoy the same legal treatment under the law.

## Misuse of Reporting

The Law on Whistleblowing excludes protection for false reporting. Specifically, protection is denied where: (1) the whistleblowing is not carried out for the purposes set out in Article 5 of the Law; (2) the report or disclosure is based on facts, information, or documents obtained in the course of providing legal assistance; and (3) the whistleblower reports or discloses information that he or she knows, or may reasonably be expected to know, is false. Through these provisions, the law sets clear limitations that prohibit the misuse of reporting in such cases by removing legal protection.

However, the law does not prescribe specific sanctions for submitting false reports or for abusing the reporting mechanism. On the other hand, the sub-legal framework adopts a clearer approach regarding the motives of the whistleblower. *Regulation (Grk) - No.03/2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing*<sup>102</sup> provides that the fact that reporting in the public interest may also serve the whistleblower's personal interests does not remove its character as such. This implies that the existence of a personal interest, including the possibility of obtaining a reward or other advantage, does not affect the classification of the report as whistleblowing, provided that it has a factual basis and concerns violations affecting the public interest.

## Reporting Channels

Kosovo currently requires whistleblowers to report internally first before accessing external reporting channels.

**Internal Reporting.** The internal whistleblowing procedure under the Law on the Protection of Whistleblowers establishes a structured and time-bound framework for reporting, registering, and investigating alleged violations. The employer must appoint a responsible officer (public employers with more than 15 employees and private employers with more than 50 employees). The procedure is initiated when the whistleblower submits information to the responsible officer. The report must be clear, include the identity of the person concerned, and include the available facts. Reporting may be in writing, via post or email, or oral; in the latter case, the responsible officer formalizes it in writing, and both parties sign it.

Upon receipt, the responsible officer registers the report, including date of submission, full name, contact details, institutional affiliation, and a brief summary. The whistleblower is provided with proof of submission and a list of submitted documents. After receiving the report, the responsible

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<sup>102</sup> Official Gazette of the Republic of Kosova (2011) *Regulation (Grk) - No.03/2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing.*

official conducts an initial assessment to determine its admissibility. The employer notifies the whistleblower within 15 days of acceptance or rejection.

If the official concludes that they are not competent to handle the report, they shall refer the information to the competent authority. If the official concludes that they are competent, the administrative investigation must be conducted without delay and completed within 45 days. This deadline may be extended once, for an additional period of up to 45 days, where justified by the complexity of the case. The responsible officer must review and assess the allegations, may request additional information or documentation, order inspections, obtain statements from knowledgeable persons, and consult experts. The responsible officer must act with integrity, impartiality, efficiency, confidentiality, and independence, avoid conflicts of interest, and safeguard evidence.

All parties are guaranteed due process in accordance with the Law on General Administrative Procedure, including the right to submit written statements, present evidence or opinions, access the investigation file, and be heard. The employer must provide all relevant data, documentation, and evidence. If the reported conduct constitutes or may constitute a legal violation, the employer must notify the competent authority and must take immediate measures to prevent or stop harmful consequences.

The employer must, according to the law, protect documentation and evidence, and protect the whistleblower from harmful actions, including stopping such actions and eliminating their consequences. Where the administrative investigation concludes that the report in the public interest is well-founded, the responsible officer includes recommended measures, which may include: suspension of an administrative procedure; revocation or annulment of an administrative decision; and initiation of disciplinary or other relevant proceedings against responsible officials.

The whistleblower may report directly to the head of the institution where no responsible officer is appointed, internal procedures are not established or published, there are reasonable grounds to believe the responsible officer is involved, the officer may be compromised due to relationships, or internal procedures are ineffective.

The responsible officer and any person receiving or processing public interest reports in the course of their official duties must always maintain strict confidentiality, refraining from disclosing information to third parties within or outside the institution, and may use it only with the whistleblower's written consent or to fulfill a legal obligation. They must not inform the individual reported on unless legally mandated, and written consent is required before revealing the whistleblower's identity to competent authorities for actions that cannot proceed otherwise. If disclosure is required by law, the whistleblower must be notified in advance.

Personal data of the whistleblower and other involved persons must be processed solely for the purposes of this law and in compliance with data protection legislation. Any personal data encountered that is irrelevant to the case must not be further processed and should be justified. The whistleblower has the right to the protection of their identity during the reporting process, to maintain the confidentiality of the information source, and to be safeguarded against any harmful actions.

All public and private institutions must submit an annual whistleblowing report to the Agency for the previous year. The report must include the number of reports and disclosures, including rejected ones and those in the public interest, as well as the actions taken, while preserving the confidentiality of the whistleblower and protecting personal data.

**External reporting.** According to the law, reporting information to the competent authority is considered external whistleblowing. The reporting person needs to demonstrate specific exceptions, such as urgency, risk of retaliation, or ineffectiveness of internal procedures, before filing an external report.

The whistleblower may submit an external report after having made an internal one, or may report externally directly if:

- ▶ the report concerns the head of the employer;
- ▶ the report has an urgent nature related to a serious and immediate risk or irreparable damage;
- ▶ there are reasonable suspicions that harmful actions may be taken against the whistleblower, or that evidence may be concealed or destroyed if an internal report were made;

- ▶ the whistleblower has reasonable suspicions that the internal whistleblowing procedures are ineffective.

Except for the above-mentioned circumstances, external whistleblowing is conditional on completing internal whistleblowing first. In the public sector, the competent authority for conducting external whistleblowing procedures is the Kosovo Agency for Prevention of Corruption. The Agency reviews cases within its competence, while cases outside its competence are forwarded to the relevant institutions. In cases where the whistleblower does not consent to the disclosure of their identity, and the Agency does not have competence to handle the information, it must, before forwarding the information to another competent authority, seek the whistleblower's consent, unless otherwise provided by law.

Upon the whistleblower's request, the Agency is obliged to inform the whistleblower of actions taken following the report, provide access to the case file, and allow the whistleblower to participate in the procedure. The Agency applies the same handling and investigation procedures to external whistleblowing cases as for internal whistleblowing, as prescribed by law.

**Public reporting.** Disclosure through the media, non-governmental organizations, the internet, public meetings, or any other manner, making information public, constitutes public whistleblowing according to the law. This form applies only under specific circumstances:

- ▶ the whistleblower reasonably believes they would face retaliation if reporting internally or externally;
- ▶ evidence is likely to be concealed or destroyed if reported through prescribed channels;
- ▶ there is an immediate threat to life, public health, safety, or the environment, or large-scale or irreparable damage;
- ▶ competent authorities have not acted on the report within six months of disclosure.

Public whistleblowing is governed by strict conditions to balance public interest with human rights, requiring respect for the presumption of innocence, protection of personal data, proportionality, and safeguarding of state security. Reports involving classified information, national security,

defense, intelligence, or international relations must be referred directly to the competent body.

## Forms of Retaliation

The law currently protects whistleblowers and other involved subjects exclusively against harmful actions connected to the employment relationship and does not extend to non-employment contexts. Whistleblowers are safeguarded from any employer action, including but not limited to dismissal, suspension from work or duties, transfer within or outside the institution without consent, demotion, pay reduction, loss of status or privileges, denial of promotion, removal of training rights, negative employment assessments, revocation of licenses or permits, termination of contracts for goods or services, and other employment-related harms.

## Protection Measures

The law provides confidentiality of identity, protection from retaliation (detrimental acts), the right to participate in investigations, and the right to judicial protection. Actions that obstruct reporting or the disclosure of information in the public interest are considered null and void. Likewise, any agreement clause that restricts reporting, limits the application of this law, or prevents related procedures is also null and void. Whistleblowers are entitled to the protection of their identity, the confidentiality of information sources, and protection against harmful actions, while reporting or disclosure carried out in accordance with the law does not give rise to criminal, civil, or disciplinary liability. Responsible officials are required to maintain strict confidentiality and may use the information only for its intended purpose or when legally obligated. The disclosure of a whistleblower's identity to competent authorities requires prior written consent, except in cases mandated by law, in which case the whistleblower must be notified. Furthermore, personal data must be processed exclusively for the purposes of the whistleblowing report, and any irrelevant data must not be handled without proper justification.

Employers are obliged to protect whistleblowers from harmful actions and to eliminate any resulting consequences, while all data processing must be carried out in full compliance with the Law on Personal Data Protection. Under the law, protection is guaranteed to the whistleblower even if the alleged threat or violation of public interest has not materialized. This special provision ensures that whistleblowers are not discouraged from reporting potential wrongdoing due to uncertainty about the actual impact or outcome. Harmful actions taken against whistleblowers are considered null and void.

The law allows whistleblowers and related persons to seek judicial protection against harmful actions without first exhausting internal administrative remedies. They may also request compensation for any damage suffered. Claims must be filed within 6 months from the date the claimant became aware of the retaliation, and no later than 3 years from the date the retaliation occurred. Jurisdiction depends on the claimant's status: civil servants may submit claims to the Basic Court in Prishtina – Department for Administrative Matters, while other employees may apply to the competent basic court based on either the employer's seat or the whistleblower's residence.

In cases involving employment-related harm, courts may order reinstatement, compensation for damages, or other remedial measures, including specific corrective actions to be implemented by the public or private entity. Furthermore, whistleblowers and connected persons have the right to propose precautionary or security measures before the court. Whistleblowers are exempt from paying a security deposit to any court when requesting protective or interim measures. These rights are guaranteed at all stages, including after the termination of employment, provided that continued protection is reasonably requested. All whistleblowing cases should be treated as a priority.

The law shifts the burden of proof to the employer, who must demonstrate that the harmful action was unrelated to whistleblowing. This compensates for the whistleblower's weaker procedural position. While procedural rights are detailed, there is no explicit requirement for specialized judicial training.

## Oversight and Sanctions

The Agency for the Prevention of Corruption Kosovo is mandated to oversee the implementation of the *Law on the Protection of Whistleblowers*, including the supervision and undertaking of necessary measures to ensure their protection.

Public institutions, private entities, and relevant regulators in the field where reporting occurs are required to prepare an annual report on whistleblowing activities for the preceding year by December 31. Reports must be submitted to the Agency no later than January 31 of the following year. The Agency, in turn, prepares and publishes a comprehensive annual report on whistleblowing for the previous year by March 31. Although the law provides certain obligations regarding annual reporting and publication of whistleblowing data, including the number of reports and actions taken, it does not establish a comprehensive and detailed framework for systematic national statistics fully aligned with EU standards.

The law establishes a mixed system of responsibility for employers (public & private) in handling reports at the internal level, and appointing a responsible officer who receives, records, investigates reports, and competent authorities that receive cases escalated externally (e.g., the Agency for the Prevention of Corruption Kosovo).

The law addresses violations such as retaliation against whistleblowers, breach of confidentiality, and failure to comply with procedural obligations. The law includes sanctions, but they are not comprehensive, as international assessment shows. Kosovo does not cover all 4 key violation categories with penalties stipulated in the EU Directive (e.g., hindering reporting, vexatious proceedings against reporting persons). Under the Law on Whistleblower Protection, the competent court may impose fines ranging from EUR 500 to EUR 20,000 on public institutions, private entities, or competent authorities for violations of whistleblower protection obligations, in cases where they:

- ▶ fail to protect the whistleblower from harmful actions or to prevent and remedy their consequences;
- ▶ fail to inform employees in writing about the rights provided under the law;
- ▶ fail to appoint a responsible official;
- ▶ fail to take action following a report within the legal deadline;
- ▶ fail to inform the whistleblower of the outcome within the prescribed deadline;
- ▶ fail to provide information on the progress of the procedure, access to case files, or participation in procedural actions;
- ▶ obstruct whistleblowing as defined by Article 6 of the law;
- ▶ act in violation of Article 11 of the Law on Protection of Whistleblowers.

Certain violations may also result in fines for responsible officials ranging from EUR 300 to EUR 2,000, with repeat violations subject to increased penalties (up to double the amount). The Agency for the Prevention of Corruption is empowered to initiate misdemeanor proceedings against public institutions or responsible officials for such violations. If the institution or competent authority fails to act within 60 days, the whistleblower may personally initiate misdemeanor proceedings.<sup>103</sup>

<sup>103</sup> Transparency International (2026) *Whistleblower protection in EU enlargement countries. Towards EU standards and best practice?*

# Implementation in Practice

The law requires the Agency to publish annual consolidated reporting, including its own statistics (external reporting) and those gathered from public institutions and private entities (internal reporting). Available data on whistleblowing in Kosovo remains fragmented and partly inconsistent across years. For 2020<sup>104</sup> and 2021<sup>105</sup>, figures are primarily derived from secondary analyses of the Kosovo Law Institute, which indicate 146 internal reports and 5 external reports in 2020, and 38 internal reports and 9 external reports in 2021 (excluded from the *Table 6 Whistleblowing Data (2022–2025), Agency for Prevention of Corruption Kosovo*).

The APC *Annual Work Report 2024* provides external-report figures for 2022–2024. Internal reporting data is incomplete and not fully comparable across years. For 2022, only partial data are available, with 36 internal reports recorded for the first half of the year and 17 external reports received by the Agency for Prevention of Corruption (APC). More complete data exist for 2023<sup>106</sup>, while in 2024, no consolidated national figure for internal reporting has been published. Overall, the data show a clear upward trend in external reporting, in contrast to incomplete and inconsistent internal reporting data, which limits comparability across years.

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**104** Kosovo Law Institute report 2020.

**105** Kosovo Law Institute (2024) *Fulfilling the Promise for Whistleblowers: Implementation of the Law on Protection of Whistleblowers*.

**106** Kosovo Law Institute (2024) *Civil Society Report Civil Society Report On The Implementation Of On The Implementation Of Chapter II (Prevention) & Chapter V (Asset Recovery) Of The Chapter II (Prevention) & Chapter V (Asset Recovery) Of The United Nations Convention Against Corruption*. Of these 18 reported cases in 2023, 11 were rejected, three were closed, two were forwarded to the State Prosecutor's Office, and two were forwarded as requests for further proceedings to the competent body.

Indicator	2022 <sup>107</sup>	2023 <sup>108</sup>	2024 <sup>109</sup>	2025 <sup>110</sup>
<b>Internal reports inside institutions</b>	Not available *only partial number H1 (36 cases) limiting its reliability as a full annual indicator	<b>84 cases</b> handled	Not available	Not available
<b>Gender distribution of internal reports</b>	Not available	<b>22 women</b> <b>51 men</b> <b>11 anonymous</b>	Not available	Not available
<b>External reports received by APC</b>	<b>14</b> *Annual report of 2024 refers to 17 received, and annual report of 2023 to 14 reports received and 17 handled	<b>20</b>	<b>48</b>	Not available
<b>External whistleblowing cases referred to competent authorities by APC</b>	<b>4 cases</b> (1 State Prosecutor; 1 Court of Misdemeanors; 1 partially referred to a competent authority; 1 referral to a competent authority)	<b>4 cases</b> (2 partially to State Prosecutor; 2 to other authorities)	<b>23 cases</b> (5 Court of Misdemeanors; 3 State Prosecutor; 6 Kosovo Police; 9 other competent institutions)	Not available

» **Table 6****Whistleblowing Data (2022–2025), Agency for Prevention of Corruption Kosovo**

Across 2022, 2023, and 2024, external whistleblowing cases demonstrate a clear upward trajectory, increasing from 14 reports received in 2022 to 20 reports in 2023, and reaching 48 reports in 2024. This steady rise in reporting may indicate increasing reliance on external whistleblowing mechanisms and a gradual strengthening of reporting culture and institutional trust. In terms of case referral and the Agency's role as a filtering and reporting intermediary, the data shows a consistent pattern of forwarding cases to competent authorities across all three years. This trend highlights the Agency's dual role as both a screening mechanism and a referral body, ensuring escalation of potentially substantiated cases to enforcement authorities.

Regarding case outcomes, a significant proportion of external whistleblowing cases across all three years were either closed or rejected. In 2022, 13 cases were either fully rejected or closed due to lack of competence, failure to meet legal requirements for whistleblowing, insufficient or unverified information, absence of a public interest violation, improper reporting channels, requirement for prior internal handling, or lack of jurisdiction under the Law on Protection of Whistleblowers, while another case was partially closed due to insufficient evidence.

In 2023, out of 20 received reports, 18 cases were concluded, and 2 were forwarded to be investigated in 2024. Out of 18 concluded cases, 2 cases involved one allegation each being forwarded to the State Prosecution Office, while the remaining allegations were closed due to insufficient evidence or lack of legal violations, and 2 other cases were referred to com-

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**107** The 2022 Annual Report is not publicly available on the official website of the Agency. The data presented in this study were obtained through an official request submitted to the Agency for access to the report and some data was presented in 2024 report.

**108** Agency for Prevention of Corruption Kosovo (2024) *Annual Work Report 2023* (Internal reports: p. 24; Gender breakdown p.24; External reports: 20 received / 18 handled p.25; Referrals p.25; 2022 partial internal data: 36 (H1) p. 23).

**109** Agency for Prevention of Corruption Kosovo (2025) *Annual Work Report 2024* (External reports p. 29–30; Referrals p. 30).

**110** According to information provided by the Agency, the 2025 Annual Report is still in the drafting phase and will be published after its submission to the Assembly of the Republic of Kosovo.

petent authorities for further proceedings. One report was rejected for not meeting the protected whistleblowing criteria under *Law No. 06/L-085*, another was redirected to internal whistleblowing procedures, and one case was referred internally under *Law No. 08/L-108* due to the Agency's competence. Additionally, 7 cases were rejected because of incomplete information, 3 cases were closed as the alleged actions did not constitute legal violations, and 1 report was rejected because the matter was already under investigation by the Basic Prosecution Office in Pristina.

In 2024, out of 48 cases, 9 cases were fully closed after investigation due to incomplete allegations lacking sufficient evidence, while 16 cases were rejected due to non-fulfillment of legal requirements, insufficient information, lack of follow-up by whistleblowers, or absence of a public interest element. The high number of closed or rejected cases across all years may indicate potential gaps in whistleblower awareness, particularly regarding reporting thresholds, evidentiary requirements, and proper procedural channels.

In 2022 and 2023, the Agency issued written clarifications in 7 cases per year (14 cases in total across the two years), where submitted information did not meet legal criteria for formal treatment under the Law on Protection of Whistleblowers. These interventions reflect the Agency's advisory and screening function at an early assessment stage, ensuring that non-qualifying reports are filtered while providing guidance to reporting parties.

Concerning internal whistleblowing reports, a total of 84 cases were handled at the national level in 2023, while data on the total number of such reports received for 2022 and 2024 are not included in the Agency's reports.

Institutional reporting compliance shows gradual improvement over time. In 2022, 141 public institutions and 2 private entities submitted annual whistleblowing reports to the Agency, while 40 public institutions failed to comply. In 2023, reporting increased to 156 public institutions (183 officers) and 2 private entities, with 23 public institutions failing to submit reports. In 2024, reporting further expanded to 184 public institutions and 11 private entities, while only 11 public institutions failed to comply. This upward trend reflects strengthening institutional engagement with reporting

obligations and improved administrative compliance over time.

However, from a data governance perspective, several limitations remain. The Agency’s annual reporting does not consistently include outcome-level information on internal whistleblowing processes, including measures taken and case processing timelines, even though institutions are legally required under *Regulation No. 03/2021* to report to the Agency both the number of cases received and the actions taken in response. Additionally, disaggregated data such as gender breakdowns and national-level internal whistleblowing case data for 2022 and 2024 are missing. The 2022 annual report is also not accessible on the Agency’s official website, limiting transparency. Overall, while reporting volumes and institutional coverage have increased, gaps persist in data completeness, standardization, and outcome-level transparency across reporting cycles.

## Court practice

Judicial practice appears limited and not yet systematically documented. The Basic Court in Mitrovica reported having received a claim, which is still under review, while the Basic Court in Prishtina noted that its electronic system does not categorize cases by subject matter, making it impossible to identify such claims and leaving the number of cases unclear. Other courts indicated that they have not received any cases of this nature. Regardless of the limited judicial practice, several high-profile cases—both in terms of the importance of the reports and the retaliatory measures taken against whistleblowers have been publicly reported through the media in Kosovo.

**Deme Elezaj**, an aeronautical lighting engineer at Adem Jashari International Airport since 2002, identified critical safety defects in the runway extended in 2019. He reported deformed light bases, poor installation of runway lights, and improperly laid secondary cables in both the runway

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 111 Xharra, Jeta and Bami, Xhorxhina (2022) *Kosovo Whistleblower ‘Fired’ for Warning of Safety Risks at Airport*, Balkan Insight Pristina, BIRN, 3.3.2022 17:02.

and aircraft parking areas. Elezaj emphasized that these defects posed a direct and high risk of air accidents during take-offs and landings. Despite notifying the airport safety department, no action was taken. Elezaj compiled a detailed report highlighting these safety hazards and potential operational risks. As a consequence of raising these issues, Elezaj's employment contract was terminated<sup>111</sup>.

Auditor **Shyqeri Krasniqi**, working within the Fushë-Kosova Municipality, repeatedly submitted cases to the Prosecutor's Office concerning the protection of municipal assets. He publicly reported his findings that the Municipality had effectively transferred a municipal property into private ownership within the geoportal records, highlighting potential irregularities and misuse of public assets. Following his disclosures, Krasniqi faced professional repercussions, including dismissal<sup>112</sup>.

**Makfirete Dibrani**, a senior official at the Ministry of Environment, Spatial Planning, and Infrastructure. She gained attention for exposing alleged serious abuses and irregularities in decisions regarding debt forgiveness for water bottling companies, actions she argued led to the misuse of public funds and harmed the public interest. Dibrani has reportedly faced personal and professional retaliation, including threats to her safety<sup>113</sup>.

## ALAC Contribution to Whistleblower Protection

The Free Legal Aid Center has supported whistleblower protection by providing free legal assistance. It has initiated the first related cases before the Basic Court in Prishtina and contributed to the drafting of the law and relevant regulations. In addition, it has engaged in advocacy for legal improvements, including a recent letter addressed to the Minister of Justice requesting the inclusion of amendments to the Law on the Protection of

<sup>112</sup> Gërguri, Festim (2025) *Komuna e Fushë-Kosovës shkarkon Shyqeri Krasniqin, një muaj pasi denoncoi shkelje në emisionin "Betimi për Drejtësi"* Betimiperdrejtesi, 13.05.2025, 14:52.

<sup>113</sup> Lëvizja FOL (2024) *Sinjalizuesja Makfirete Dibrani, fituese e Çmimit për Guxim Qytetar 2024*, Prishtinë 9.12.2024.

Whistleblowers in the 2026 legislative agenda of the Assembly, in order to address existing gaps and further align the framework with the EU Directive.

# Key Challenges and Gaps

## Legal Gaps

Although the law is advanced, certain challenges and gaps remain. A key legal gap concerns the absence of explicit provisions allowing anonymous whistleblowing. This limitation exposes individuals to potential retaliation and may significantly deter reporting.

The requirement to condition access to external reporting channels on the prior use of internal reporting mechanisms constitutes a legal gap, as it may limit the effectiveness of the reporting framework by creating an additional procedural barrier that could discourage reporting in practice. Additionally, there is no structured provision for free legal aid or psychological assistance for whistleblowers during administrative or judicial proceedings. This deficiency leaves individuals vulnerable to professional and personal consequences.

The legislation lacks explicit provisions penalizing knowingly false or malicious whistleblower reports. This absence undermines the integrity of the reporting system and leaves affected parties insufficiently protected against potential harm arising from malicious or knowingly false whistleblowing.

A legal gap exists also, in the absence of clear, merit-based criteria for appointing responsible officers, despite the requirement of independence and impartiality. The lack of defined standards on qualifications and integrity may result in inconsistent appointments across institutions. This may affect the consistency and reliability of whistleblowing case handling in practice.

## Procedural gaps

The new Law on the Agency for the Prevention of Corruption has reconfigured the Agency's mandate by removing its mechanism for conducting preliminary investigations when handling external reports, which has affected the effectiveness of addressing external whistleblowing reports. Despite these changes, the Agency may still conduct administrative investigations, which should represent a key area where it fully mobilizes its institutional capacity to ensure thorough fact-finding and a comprehensive, effective handling of cases<sup>114</sup>.

A further concern relates to the requirement for whistleblowers to exhaust internal reporting channels before accessing external mechanisms. While this rule is intended to strengthen internal accountability, in practice it may create a procedural burden and reduce reporting flexibility, thereby potentially discouraging the disclosure of violations and weakening the overall effectiveness of the reporting system.

## Institutional weaknesses

Institutions responsible for handling whistleblowing reports face notable weaknesses that may affect the effectiveness and credibility of the system. A key concern relates to employees' misunderstanding of the role of the responsible officer, indicating insufficient communication and awareness-raising within institutions. In some cases, the officer is perceived as the whistleblower rather than the designated recipient of reports, which may discourage reporting and weaken internal reporting mechanisms. While the Agency's public statements indicate that responsible officials have received basic training, it remains unclear to what extent continuous, specialized, and need-based training is systematically implemented. Given the complexity and sensitivity of their work, the absence of clearly operationalized and targeted capacity-building may contribute to ineffi-

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<sup>114</sup> Official Gazette of the Republic of Kosovo (2010) *Law No. 03/L-159 On Anti-Corruption Agency*.

ciencies and affect the overall effectiveness of the whistleblowing system. A further concern is the relatively high proportion of cases that were either rejected or closed without establishing legal violations, which points to potential gaps in guidance provided to whistleblowers regarding the types of conduct eligible for reporting and the evidentiary standards required. This can affect the quality of reports and limit their ability to meet the legal criteria established by the law.

## **Weak protection in practice**

In Kosovo, whistleblower protection faces challenges in effective implementation. Several reported cases, such as those of Deme Elezaj, Shyqeri Krasniqi, and Makfirete Dibrani, illustrate difficulties that whistleblowers may encounter, where individuals who raised concerns about alleged wrongdoing have reported experiencing professional and personal repercussions. The absence of legal assistance and broader support mechanisms increases the vulnerability of whistleblowers when facing such situations.

According to the Agency's public statements, whistleblowers who engage in public disclosure tend to face higher levels of retaliation compared to those who use formal external reporting channels. This suggests that further awareness-raising is needed regarding the availability and advantages of reporting through the Agency's external mechanism as a safer option for protecting identity and from retaliatory measures. Furthermore, there is no fully consolidated judicial practice regarding whistleblower protection that could serve as a consistent standard for the protection of whistleblowers and provide additional reassurance and encouragement for potential whistleblowers. Taken together, these factors may affect confidence in the system and could influence individuals' willingness to report wrongdoing, suggesting ongoing challenges in the practical effectiveness of protection mechanisms in Kosovo.

# Recommendations

The following recommendations are aimed at improving the effectiveness of the whistleblower protection system and ensuring closer alignment with the EU Directive, particularly in relation to secure reporting channels, protection against retaliation, access to support measures, effective enforcement, institutional capacity, and regular monitoring of implementation.

- ▶ The legislation should be revised to explicitly permit and guarantee anonymous whistleblowing, supported by secure reporting systems such as encrypted channels and dedicated online platforms to ensure confidentiality and trust.  
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- ▶ The law should provide for more flexible use of external reporting channels, enabling reporting persons to choose the appropriate reporting mechanism in light of the specific circumstances of each case.  
.....
- ▶ Institutions should establish structured mechanisms for free legal aid and psychological support for whistleblowers during administrative and judicial proceedings to reduce procedural burdens and retaliation risks.  
.....
- ▶ The law should introduce clear sanctions for knowingly false or malicious reports to protect system integrity and prevent misuse of reporting channels.  
.....
- ▶ Clear and merit-based criteria should be established for appointing whistleblowing officials to ensure competence, independence, and effective case management.  
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- ▶ Institutions should engage more in strengthening internal reporting mechanisms by providing dedicated physical and digital infrastructure for whistleblowing, ensuring secure communication channels

managed exclusively by responsible officers under strict confidentiality.

- ▶ The Agency for the Prevention of Corruption should strengthen its role in monitoring, training, awareness-raising, and systematic case tracking. In parallel, the Agency should move beyond predominantly statistical reporting towards more detailed, disaggregated, and diverse data collection, ensuring the systematic integration of reliable information to support evidence-based monitoring and facilitate the continuous assessment of whistleblowing practices.
- ▶ Courts should strengthen their institutional capacity to handle whistleblowing-related cases through targeted training, the development of a coherent and consistent judicial practice, and the prioritization of such cases, as required by law.
- ▶ The law should provide for a systematic review of its implementation at least every three years, to draw lessons from practice and ensure its continuous improvement and alignment with evolving standards and institutional needs.





