

Whistleblowers: Specification of the procedure for the submission, receipt and follow up of reports to public and private sector entities

By Joint Ministerial Decision **no. 47312/18-11-2023** of the Minister of Interior, the Minister of Labour and Social Security and the Minister of Justice entitled "**Specification of the procedure for the submission, receipt and follow up of reports to public and private sector entities** according to Article 10 of Law 4990/2022 (OJ A/210) pursuant to indent (a) of paragraph 4 of Article 24 of the same law", published in the Official Journal (B/6944/11-12-2023), **a series of practical issues related to the handling of reports to public and private sector entities**, is clarified.

Namely, by the above mentioned JMD, the following regulations are introduced:

❖ Submission of an internal report

- An internal report may be submitted eponymously or anonymously, in writing or orally, or via an electronic platform hosted on the public or private body's website.
- **A written report must be submitted in person or by mail at the headquarters** of the entity in an envelope marked "For the attention of the Report Receipt and Follow Up Officer" or "Report of Law 4990/2022" or any other indication signifying that the report falls within the scope of Law 4990/2022. **A written report can also be submitted by e-mail to the e-mail address of the Report Receipt and Follow Up Officer.**
- **An oral report can be submitted in one of the following ways:**
 - a) **By telephone with the conversation** being recorded, provided that the reporting person has duly consented. The contents of a report submitted by telephone shall be documented either by making a recording of the conversation in a durable and retrievable form or through a complete and accurate transcript of the conversation prepared by the Report Receipt and Follow Up Officer, offering the reporting party the opportunity to check, rectify and agree to the final transcript of the call by signing it.
 - b) **By means of a voice mail system**, if the entity has one, with a recording of the call, if the reporting person has duly consented. The content of the report submitted by voice mail shall be documented by making a recording of the voice mail in a durable and retrievable form or through a complete and accurate transcript of the voice mail prepared by the Report Receipt and Follow Up Officer, offering the reporting party the opportunity to check, rectify and agree to the final transcript of the call by signing it.

In the case of an oral report, where no recording of the call takes place, the contents of the report shall be documented in the form of accurate minutes of the conversation written by the Report Receipt and Follow Up Officer, offering the reporting party the opportunity to check, rectify and agree to the record by signing it.

- c) **By means of a physical meeting between the reporting person and the Report Receipt and Follow Up Officer, which shall take place within a reasonable period of time from the date of the reporting**

person's request to that effect, which may be submitted in writing or orally or by e-mail to the Report Receipt and Follow Up Officer. In such a case, the Report Receipt and Follow Up Officer shall keep complete and accurate minutes of the meeting in a durable and retrievable form, either by recording the conversation, if the reporting person has duly consented, or in writing, which the reporting officer may check, rectify and agree to by signing the minutes.

- **A report via an electronic platform** can be submitted online on a dedicated electronic platform, which shall appear in a prominent place on the entity's website, with clear reporting instructions. The electronic platform shall also be accessible to persons with disabilities and shall be available in Greek and English.

The Report Receipt and Follow Up Officer shall facilitate the reporting person in submitting their report by providing them, upon request, with any necessary information on their rights and on the report handling procedure.

❖ Receipt of the report

- **An acknowledgement of receipt of the report shall be given to the reporting person within seven (7) business days from the receipt and regardless of the manner of submission.** The reporting person may be informed of the receipt of the report by any appropriate means, as long as there is proof of the receipt, in compliance with the confidentiality and personal data protection requirements of Chapter F of Law 4990/2022. Report Receipt and Follow Up Officers are not required to acknowledge receipt of the report referred to in indent (c) of paragraph 2 of Article 10 of Law 4990/2022, where, in the absence of the reporting party's necessary contact details, such notification is impossible.
- In the case of an oral report the minutes drawn up by the Report Receipt and Follow Up Officer, if signed by the reporting party, shall serve as acknowledgement of receipt of the report of paragraph 2 of Article 10 of Law 4990/2022. If the reporting person refuses to sign the minutes, the author of the minutes shall include a reference to that.
- Upon receipt of the report, regardless of the way it was submitted, the Report Receipt and Follow Up Officer shall ensure the confidentiality and protection of the personal data of the reporting person and any third party named in the report by preventing access to the report by unauthorized persons, in accordance with the provisions of Chapter F of Law 4990/2022.
- **The report, regardless of the way it was submitted, shall be recorded in a special record kept by the Report Receipt and Follow Up Officer in paper or digital form in accordance with the internal regulations of the relevant private sector entity and the provisions of Chapter F of Law 4990/2022.**
- Where the report is received by an unauthorized person, the latter shall be required to forward it immediately to the entity's Report Receipt and Follow Up Officer, without any modification of its contents or disclosure of information that may lead to the identification of the reporting person or any third party named in the report, in compliance with the provisions of Chapter F of Law 4990/2022.

❖ Handling of the report

- **Upon receipt of the report, the Report Receipt and Follow Up Officer shall take one of the following actions:**
 - a) **forward the report for investigation, after pseudonymization** and in accordance with the provisions of Chapter F of Law. 4990/2022 on confidentiality and protection of personal data:
 - aa) to the competent bodies of their entity, making an entry in the special registry or special record kept by the Officer,
 - ab) to the competent bodies, making an entry in the special registry or special record kept by the Officer. Indicatively, such bodies are the Financial Crime Prosecutor and, more generally, the Prosecution Authorities, the National Transparency Authority, the Competition Commission, the Bank of Greece, the Authority for the Protection of Personal Data, the Single Public Procurement Authority, the Hellenic Atomic Energy Commission, the Single Food Control Authority, the Consumer Ombudsman, the National Cyber Security Authority, the Authority for Combating Money Laundering and Terrorist Financing and Auditing Asset Declarations, the Independent Public Revenue Authority and the General Directorate of Financial Crime Investigation.
 - b) place the report in the files by a decision notified to the reporting person, where possible, when:
 - ba) The report is obviously unreasonable, vague, imprecise, unintelligible or abusively repetitive, such as in the case of resubmission of the same content without providing new information.
 - bb) The contents of the report do not fall within the scope of Article 4 of Law 4990/2022. If, however, the report contains information on breaches for which another entity of the authority and/or another public body is competent, the Reporting and Following Up Officer shall be required under Article 4 of the Code of Administrative Procedure to forward it to the competent body. In such a case, the obligation to follow up the report referred to in indent (f) of paragraph 2 of Article 10 of Law 4990/2022 ceases.
 - bc) There are no serious indications of breaches falling within the scope of Article 4 of Law 4990/2022.

If new information is submitted in connection with a report that has already been placed in the files, the Report Receipt and Follow Up Officer shall withdraw the report from the files and take the actions referred to in either subparagraph (a) or subparagraph (b) of this Article.
- If on the basis of the submitted information the Report Receipt and Follow Up Officer finds evidence of the commission of a criminal offence prosecuted ex officio, they must promptly forward a copy of the report to the locally competent Public Prosecutor, informing the reporting person. If the breach falls within the scope of Law 4990/2022, the report shall be forwarded in accordance with the provisions of Chapter F of Law 4990/2022 on confidentiality and protection of personal data and at the same time there shall be a requirement to follow up the report under indent (f) of paragraph 2 of Article 10. If the breach does not fall within the scope of Law 4990/2022, a copy of the report shall be forwarded without any follow up requirement under indent (f) of paragraph 2 of Article 10.

- If the Report Receipt and Follow Up Officer receives a report, in which complaints are made against themselves or against a body responsible for investigating reports within the entity, then they shall only be required to enter the report in the special register or record, and to forward it to the National Transparency Authority as an external reporting channel, informing the reporting party.
- Reports, minutes and transcripts of oral reports shall be stored for a reasonable and necessary period of time in order to be retrievable and to comply with the requirements imposed by Law 4990/2022, EU or national law and in any case until the conclusion of any investigation or judicial proceedings initiated as a consequence of the report.

❖ Follow up on the report

- The Report Receipt and Follow Up Officer shall maintain contact with the reporting person and, if necessary and feasible, request further information and/or data from the reporting person.
- The Report Receipt and Follow Up Officer shall follow up on the case of the report by communicating with the competent body of the entity dealing with the report or with the competent bodies to which the report has been forwarded in accordance with the provisions of Chapter F of Law 4990/2022.
- **The competent body of the entity or the competent body that is dealing with the report shall promptly provide information to the Report Receipt and Follow Up Officer on the actions taken, so that the latter may provide feedback to the reporting person within a reasonable period of time, which shall not exceed three (3) months from the acknowledgement of receipt or, if no acknowledgement has been sent to the reporting party, three (3) months from the expiry of seven (7) business days from the submission of the report.** If no acknowledgement has been sent to the reporting person, the feedback referred to in the previous subparagraph shall be provided upon the reporting person's initiative and by reference to the relevant reference number or by reference to the contents of the report.

For any relevant information you may contact
Ms. **Betty Smyrniou**, email: b.smyrniou@bahagram.com