AGJENCIONI
PËR FINANCIM
NË KOSOVË

# Written Guidelines on Whistleblowing Issues, Procedures and Whistleblower Protection pursuant to LAW No. 06/L -085 ON THE PROTECTION OF WHISTLEBLOWERS and the AFK WHISTLEBLOWING POLICY

The AFK, through the following material, presents the necessary written instructions regarding whistleblowing issues and procedures or otherwise stated, the reporting of violations that threaten or harm the general interest or the public interest within AFK.

These Guidelines are updated regularly and, in addition to their publication on the official AFK website, they are also appropriately communicated to AFK staff.

The Guidelines on the most important whistleblowing related issues are presented as follows:

## What does whistleblowing mean?

Whistleblowing is the reporting made to the AFK, of violations or abuses that are considered to threaten, infringe upon or damage the general interest of AFK and the public, caused by the acts or omissions of AFK employees within the framework of the employment relationship with the AFK. Furthermore, below you will see what a whistleblower is, who can become a whistleblower, what, how, when and to whom you can report, and other necessary things related to whistleblowing.

## Who is a whistleblower?

A Whistleblower is any person who reports or discloses information on threat or damage of the general interest in/or AFK in the context of the employment relationship in AFK.

## Who is a whistleblowing person in the context of the employment relationship?

It means a natural person who is or has been in an employment relationship regardless of the nature of the employment relationship, its duration or payment;

• an external or occasional associate, volunteer, in professional internship or training relationship;

• a candidate for employment, volunteering activities, professional internship or training;

• in contractual relationship for works, services or other types of cooperation or use of services of public institution or private entity, including contracting or subcontracting;

**What does general interest in AFK mean, as well as public interest?**

The general interest, in a broader sense, includes the general values of the AFK, such as its mission, purpose, image and reputation, common rights and responsibilities, assets and property, while the public interest refers to the fundamental values of society, and consequently, in a legal context it means the protection of fundamental human rights and freedoms, the prevention of risks to health, safety and security, the protection of the environment or the environment in which one lives and operates, the protection of property, business, a free and regulated market, the rule of law and the prevention of crime and corruption.

**Where should whistleblowing be carried out?**

Reporting must be made to the Whistleblowing Responsible Officer within the AFK.

**What does the Whistleblowing Responsible Officer (WRO) mean?**

The Whistleblowing Reporting Officer (WRO) means the person designated by the AFK to receive and handle reported whistleblowing cases.

**What is a detrimental act?**

Detrimental act – any direct or indirect action or omission of an AFK employee that harms the legitimate interest of the whistleblower or person associated with the whistleblower.

**Who is the person associated with the whistleblower?**

Person associated with the whistleblower is the person who assists the whistleblower or can provide evidence related to whistleblowing or any other person that may be harmed due to any association with the whistleblower;

**What are the obligations and responsibilities of the Whistleblowing Responsible Officer (WRO)?**

To act honestly, impartially and effectively by taking into consideration the legitimate interests of whistleblowing;

To keep the confidentiality of information related to whistleblowing;

To act and perform his/her duties independently towards political positions or any other undue influence that may hinder the exercise of their duties arising from the Law on the Protection of Whistleblowers;

To avoid any potential conflict of interest, and to immediately disclose to the competent authority any kind of interest before initiating an administrative investigation of the whistleblowing;

To undertake all necessary measures in order to protect the documentation and evidence regarding the notification of disappearance, concealment, alteration, falsification and other actions aimed at their destruction.

**Which violations should be reported or disclosed?**

A violation when an AFK employee has failed is failing or is likely to fail to fulfill any legally required obligation that must be fulfilled;

A violation where, as a result of an act or omission of any AFK employee, the health or safety of AFK staff has been endangered, is being endangered, or is likely to be endangered;

A violation where, as a result of an act or omission of any AFK employee, the working environment, offices, and assets of AFK have been damaged, are being damaged, or are likely to be damaged;

A violation whereby abuse of official duty by any AFK employee has occurred or is occurring;

A violation where, as a result of an act or omission of any AFK employee, AFK funds or resources have been misused or are being misused;

A violation where any act or omission by any AFK employee or on behalf of AFK is discriminatory, oppressive, or constitutes gross mismanagement toward AFK clients, associates, or the community;

Information purporting to indicate any of the issues falling within any of the above violations has been, is being, or is likely to be intentionally concealed or destroyed.

**Is obstruction of whistleblowing permitted and what are the consequences for the person obstructing whistleblowing?**

NO, obstruction is not permitted, therefore any act or omission intended to obstruct reporting or whistleblowing of violations is prohibited from occurring and is considered and treated as null and void if it aims to:

- prevent or restrict reporting or whistleblowing in the general interest;
- exclude or restrict the implementation of AFK whistleblowing policies or the provisions of the Law on Protection of Whistleblowers;
- prevent a person from initiating any proceedings under the Law on the Protection of Whistleblowers;

- prevent a person associated with the whistleblower from contributing to a whistleblower case

The Whistleblowing Responsible Officer or any other person, in the relevant cases, who obstructs or attempts to obstruct reporting or whistleblowing of alleged violations shall be prosecuted in accordance with the criminal provisions in force in Kosovo.

**What rights and protections are provided to the whistleblower?**

The right to:

- protection of your identity during the whistleblowing process;
- preservation of the confidentiality of the source of reported or disclosed information;
- protection against detrimental acts.

These rights as a whistleblower are guaranteed pursuant to the Law on the Protection of Whistleblowers and the AFK whistleblowing policies, during the following periods:

- during the duration of the administrative investigation procedure of whistleblowing;
- after completion of the administrative investigation procedure of whistleblowing, with the aim to normally perform the functional duties of the whistleblower at your employment relationship;
- after termination of your employment relationship with the AFK,
- when, by reasonable circumstances, you as a whistleblower have requested protection under the Law on Protection of Whistleblowers.

A whistleblower that reports and discloses information in compliance with the provisions of the Law and AFK policies cannot be subject to criminal or civil liability or disciplinary procedures.

A whistleblower has the right to protection under the Law in cases when he/she:

- reports information on violations that have occurred, are alleged to have occurred, or are expected to occur;
- reasonably believes that the reported or disclosed information is true;
- when the whistleblower genuinely suspects or alleges a violation by someone, he/she is not obliged to necessarily prove good faith and the veracity of the reported information.

The whistleblower is guaranteed protection under the law and shall not face prejudice even if the threat to or infringement of the general interest which the whistleblower suspected and alleged to be occurring or to occur has not been materialized, realized, or concretized.

**What rights do the other persons associated with the whistleblower enjoy?**

The person associated with the whistleblower enjoys the same protection as the whistleblower if such person proves that the detrimental act is taken against him/her due to his/her association with the whistleblower.

A person who proves that detrimental act is taken against him because the person who commits such detrimental act incorrectly believes that he is a whistleblower or a person associated with a whistleblower, enjoys the same rights and protection as the whistleblower.

The Responsible Officer enjoys the same protection as the whistleblower if it is proven that a harmful act has been undertaken against him/her in connection with the receipt and handling of the whistleblowing.

**Does this mean that disputes, disagreements, conflicts or broken interpersonal or collegial relationships, or other employment-related issues, can also be reported within this whistleblowing reporting channel?**

NO, this whistleblowing channel should not be used for the submission or reporting of such actions or cases related to conflicts or abnormal interpersonal or collegial relations, as well as other issues related to harassment, discrimination, or other employment-related matters, and the same do not fall within the scope of this type of whistleblowing and as such, if eventually submitted by any employee, these shall not be handled by the responsible whistleblowing officer. Such types of conflict cases or other employment issues should be reported to your direct supervisor or to the human resources department officers and handled through the employee grievance mechanism and in accordance with the Employee Grievance Handling Policy.

**Can whistleblowing be misused, is it permitted to happen, and what consequences may it have?**

The whistleblower shall not have protection and shall not be considered in cases where:

- Whistleblowing is not carried out for the types of violations that infringe the general interest, as listed under the category of types of violations considered to infringe the general interest;
- Whistleblowing or reporting is made on the basis of facts, information or documents provided in connection with the provision of legal aid;
- The whistleblower intentionally reports or discloses information that he knows or must know is false/untrue.

A whistleblower intentionally reports fabricated or made-up cases that do not exist in reality, against AFK employees or associates, with the aim of damaging his/her image, reputation, integrity, dignity and profile.

**Are whistleblower reports kept confidential?**

YES, the Responsible Officer and any other person who receives or processes whistleblower reports while exercising official duties must at all times keep the whistleblower information confidential, not disseminate or transmit it to third parties inside or outside the institution, and not use it for other purposes, except with the written consent of the whistleblower or for the fulfillment of a legal obligation related to:

- the effective investigation of legal violations;
- the prevention of serious risk to state security, public health, public safety, or the environment;
- the prevention of crime or criminal prosecution;
- the necessity of disclosure in the public interest or when such disclosure is required by law.

The Responsible Officer and other persons must not notify the person mentioned in the whistleblowing, unless strictly required by law.

The Responsible Officer must obtain the whistleblower's written consent in cases where they are required to provide data that may reveal the identity of the whistleblower to a competent authority for actions that cannot be undertaken without revealing the identity of the whistleblower.

In cases where disclosure of the whistleblower's identity is required by law, the responsible officer shall notify the whistleblower of this fact before disclosing the identity.

**Are the whistleblower's personal data protected, or may they be misused for other purposes?**

The personal data of the whistleblower and other persons involved in the whistleblowing are processed solely for the purposes of this law.

The responsible officer and any other person who receives the personal data of the whistleblower under this law must process them in accordance with the Law on the Protection of Personal Data.

If, during the handling of the information submitted by the whistleblower, personal data that are not relevant to the case being handled are encountered, the responsible officer or the competent authority may not further process such data and must at the same time justify how such data were encountered.

**How is whistleblowing carried out/implemented?**

The whistleblower presents the information to the Responsible Whistleblowing Officer.

The information and data presented must be understandable and must contain the data of the person against whom the whistleblowing is presented, as well as the facts, if available.

Whistleblowing may be presented by:

e-mail: afksinjalizimi@afkonline.org;

written statement placed in a sealed envelope and addressed to the Responsible Officer;

verbally, by reporting to the Responsible Officer; and

any other appropriate means of communication.

When the information is presented verbally, the Whistleblowing Responsible Officer formulates and presents a written information, and then the same form is signed by the whistleblower and the Responsible Whistleblowing Officer.

**How is the whistleblowing received and recorded?**

After receiving the case reported by the whistleblower, the Whistleblowing Responsible Officer records the received report by registering it in the relevant register, which contains the following data:

- the date of receipt;
- the name and surname of the whistleblower;
- the whistleblower's contact details;
- the whistleblower's department/branch/or institution (when outside the AFK staff) and
- a brief information content (the title of the whistleblowing report, e.g. Misuse of AFK Asset).

The whistleblower is provided with proof (confirmation) of the submitted/made whistleblowing and a list of any supporting documents filed together with it

**How does the process of initiating and investigating/reviewing a reported case take place?**

The procedure for handling and administrative investigation of the reported whistleblowing case is initiated or commences from the moment the information is reported or disclosed by the whistleblower.

The Whistleblowing Responsible Officer informs the whistleblower of the acceptance or rejection of the whistleblowing within the prescribed deadlines.

Upon receipt of the report, the Responsible Officer, within the prescribed deadline, drafts a report regarding the details of the whistleblowing and addresses it to the relevant decision-making body in the AFK (which may be the Board of Directors, in relation to whistleblowing concerning members of senior management, or senior management, in relation to whistleblowing concerning all other AFK employees, with the exception of senior managers).

After drafting the report, within the same request, the Responsible Officer provides their opinion regarding the grounds of the whistleblowing and, if deemed necessary, proposes the involvement of relevant auxiliary officers to conduct the investigation.

Within the prescribed deadline, the relevant decision-making body grants approval or refusal for the initiation of the whistleblowing investigation.

After the relevant decision-making body grants approval, the Responsible Officer initiates the investigation, reviewing and evaluating the allegations raised by you as the whistleblower.

During the investigation stage, the Responsible Officer undertakes steps and actions according to procedural obligations from the beginning to the end of the handling of the reported whistleblowing case and takes actions to complete the investigation of the reported case as soon as possible, but in any case, not after the expiration of the prescribed deadlines.

The Responsible Officer, after collecting all facts, evidence and findings during the investigation stage, completes the file and submits it to the relevant Decision-Making Body, which, within the prescribed deadline, reviews the findings of the Responsible Officer.

If it results that the reported suspected action or practice constitutes or may constitute a legal violation, the relevant Decision-Making Body authorizes the competent authority within the AFK to initiate disciplinary proceedings, and/or notifies the competent institutions in cases where the acts or omissions are of such a nature that reporting to competent institutions is mandatory.

The whistleblowing investigation procedure is completed as soon as possible, but in any case, no later than the deadline prescribed from the date of receipt of the whistleblowing. In cases where the circumstances of the case require an extension of the deadline, the procedure may be extended and completed within an additional period from the date of receipt of the notification.

After the investigation procedure is completed, the Responsible Officer notifies the Whistleblower regarding the completion of the procedure.

**In what cases may a whistleblowing be submitted to Senior Management, the Executive Director or the Board of Directors and not to the Whistleblowing Responsible Officer?**

Exceptionally, the whistleblower may address the employer's Chairperson and/or members of the Board of Directors in cases where:

- the whistleblower has reasonable suspicion that the Responsible Officer is or may be involved in the suspected whistleblowing practice (be it the subject of the whistleblowing or the perpetrator of the violation);
- the whistleblower has reasonable suspicion that the Responsible Officer, due to any relationship or association with a person who is or may be involved in the alleged whistleblowing issue, is not the appropriate person to be informed of the whistleblowing (suspects that the Responsible Officer has close ties with the perpetrator and this may affect the provision of an objective rather than subjective approach by the Responsible Officer, thus being non-objective);

- regarding senior management staff, when suspecting that the Responsible Officer may not be objective, may relativize or minimize the reported whistleblowing case, or may compromise the process related to the reported whistleblowing case;
- the whistleblower has reasonable suspicion that the internal whistleblowing procedures are not effective.

Such whistleblowing/reporting cases and situations to members of the Senior Management, the Executive Director or the Board of Directors, may be made by **e-mail to their official personal e-mail addresses, or by a telephone to their official personal numbers,** in order to maintain confidentiality and not expose and reveal the identity of the whistleblower to the Responsible Officer against whom the whistleblowing report is being made (this is understood to apply in cases where the whistleblower wishes to remain anonymous to the Responsible Officer).

**Is the whistleblower protected from harmful acts that he/she may suffer due to the whistleblowing made?**

Yes, the whistleblower is protected from any harmful action that may be taken against him/her by the AFK due to whistleblowing in accordance with the provisions of the Law on the Protection of Whistleblowers, including but not limited to:

- dismissal from work;
- suspension from work or of one or more duties;
- transfer within or outside the public institution or private entity without his consent;
- demotion (downgrade in duty);
- reduction of payment;
- loss of status and privileges;
- restriction of promotion obstruction to advancement;
- removal of right to attend training;
- negative appraisal in employment relationship; (negative/unfavorable appraisal);
- cancellation of a license or permit;
- termination of a contract for goods or services;
- other detrimental acts related to employment relationship.

Any detrimental act against the whistleblower is null and void, and the whistleblower in the capacity of an employee, who is subject to detrimental acts at the workplace has the right to address the competent court for the realization of protection and rights as a whistleblower.

**Whistleblower is entitled to compensation in the event of detrimental actions being taken against him/her.**

Any person who may have suffered any detrimental act as a result of whistleblowing has the right to claim compensation to the competent court for damage suffered from the detrimental act in accordance with the applicable legislation.

**For more information, you may also refer to the following documents:**

- AFK POLICY ON RECEIVING AND HANDLING WHISTLEBLOWING CASES AND PROTECTION OF WHISTLEBLOWERS, WHISTLEBLOWING and

- LAW No. 06/L-085 ON THE PROTECTION OF WHISTLEBLOWERS

## Contact details of the Whistleblowing Responsible Officer:

**e-mail: afksinjalizimi@afkonline.org**

**mob: +383 49 47 57 55**

**Address (office of the Responsible Officer) for the receipt of whistleblowing cases by envelope by mail:**

**Sheshi Mujë Krasniqi, No. 2, Klina 32000**