



ORDINANCE NO. 1 OF 27 JULY 2023 ON THE KEEPING OF THE REGISTER OF REPORTS UNDER ARTICLE 18 OF THE ACT ON PROTECTION OF PERSONS, REPORTING INFORMATION, OR PUBLICLY DISCLOSING INFORMATION ABOUT BREACHES AND ON FORWARDING INTERNAL REPORTS TO THE COMMISSION FOR PERSONAL DATA PROTECTION

Effective from 4 August 2023

Issued by the Commission for Personal Data Protection

Prom., SG No. 67 of 4 August 2023

**Chapter One.
GENERAL PROVISIONS**

Article 1. (1) This ordinance shall define the procedure for keeping the register of reports under Article 18 (the Register) of the Act on Protection of Persons, Reporting Information, or Publicly Disclosing Information about Breaches (APPRIPDIB) (the Act) of the obliged subjects under Article 12, paragraph 1 of the Act and the conditions for forwarding internal reports to the Commission for Personal Data Protection (CPDP) (the Commission).

(2) The register shall be kept by the obliged subject under Article 12, paragraph 1 of the Act about reports of violations of Bulgarian legislation or acts of the European Union that threaten or damage the public interest and the law of the European Union (reports) submitted through the internal reporting channel created by it.

Article 2. (1) The Commission shall develop “Sample of the Register of Reports under Article 18, paragraph 2 of the Act” with the minimum content under Article 18, paragraph 2 of the Act and shall approve a sample form for receiving reports with the minimum content under Article 15, paragraph 2 of the Act, which it shall publish on its website for free use by all obliged subjects under Article 12, paragraph 1 of the Act.

(2) The procedure for keeping the register shall be determined by an act of the obliged subject under Article 12, paragraph 1 of the Act in implementation of this ordinance and the methodological guidelines of the CPDP under Article 19, paragraph 2, item 3 of the Act.

Article 3. The register shall be kept and maintained on a durable medium within the meaning of § 1, item 18 of the additional provisions of the Act by an employee designated by the obliged subject under Article 12, paragraph 1 of the Act, who shall be in charge of handling reports submitted through the internal reporting channel (the employee). The information from the register shall be stored in a way that allows its reproduction without data loss.

Article 4. (1) Each report under Article 3 of the Act, received through an internal channel, whether it is written or oral, shall be registered by filling in a form and with a unique identification number (UIN) provided by the CPDP. The UIN shall be generated by the website of the Commission, which shall be in charge of creating the technical possibility for this.

(2) To obtain a UIN in the publicly accessible functionality under paragraph 1, provided on the CPDP website, the following data shall be entered:

1. name and UIC/BULSTAT of the employer to whom the report has been filed;
2. identification data of the employee in charge of handling the report;
3. subject matter of the report (the relevant areas provided for in Article 3, paragraphs 1 and 2 of the Act); and
4. method of receiving the report (written or oral).

(3) By means of the generated UIN, the Commission shall coordinate and control the activities of handling each report in accordance with the procedure and under the terms and conditions of the Act.

(4) The obliged subjects under Article 12, paragraph 1 of the Act shall provide the Commission by 31 January with statistical information under Article 18, paragraph 5 of the Act about the previous year regarding the number of reports received, their UIN, subject matter, number of inspections performed and their results.

(5) The procedure for providing the information under paragraph 4 shall be determined by instructions of the Commission.

Article 5. The forwarding of an internal report to the CPDP shall not relieve the obliged subject under Article 12, paragraph 1 of the Act, the employee under Article 3 and any other person who has had access to the report of their obligation to protect the identity of the whistleblower and of any other person named in the report.

Chapter Two.

CONTENTS AND PROCEDURE FOR KEEPING THE REGISTER

Article 6. (1) After receiving the report, at least the circumstances specified in the form shall be entered in the register as follows:

1. the person who received the report;
2. the date of submission of the report;
3. the affected person, if such information is contained in the report;
4. summary data on the alleged violation, such as the place and period of commission of the violation, a description of the act and other circumstances in which it was committed;
5. the connection of the submitted report with other reports after its establishment in the report processing procedure;
6. information provided as feedback for the person who submitted the report and the date it was provided;
7. follow-up action taken;
8. results of the report verification;
9. the report storage period;
10. the obliged subject's own incoming number from the document flow information system or another similar registration number;
11. the unique identification number.

(2) The entry in the register of the data under paragraph 1, items 10 and 11 and other circumstances under paragraph 1, known from the content of the submitted report, shall be carried out immediately.

(3) In case the report lacks information on any of the requisites of the form, the employee under Article 3 shall notify the whistleblower in writing of the need to provide additional information within a 7-day period in order to fill in the missing information, giving instructions that failure to provide them will cause the termination of the report handling proceedings. In this case, the addition to the register shall be carried out immediately after receiving the provided additional information.

(4) The entry of the circumstances under paragraph 1, which are not known as at the date of submission of the report, and of other additional circumstances and/or notes at the discretion of the obliged subject under Article 12, paragraph 1 of the Act shall be carried out gradually according to the information received during the handling of the report.

(5) In the gradual addition of data in the register, a note shall be made about the current status of the report.

(6) The employee under Article 3 shall keep up-to-date data in the register in Bulgarian, regardless of the language in which the communication with the whistleblower is conducted.

(7) The rules and criteria for handling reports, including for determining the current status of a report, shall be regulated by the Commission's instructions.

Article 7. The employee under Article 3 shall notify the whistleblower of the UIN of his/her report and of the own incoming number from the document flow information system of the obliged subject or other similar registration number within seven days of receiving the report.

Chapter Three.

STORAGE OF REPORTS AND ACCESS TO THE REGISTER

Article 8. The reports and the materials attached to them, including the subsequent documentation related to their handling, shall be kept by the obliged subject under Article 12, paragraph 1 of the Act for a period of five years after the completion of the handling of the report by it, except in the presence of instituted criminal, civil, labour-law and/or administrative proceedings in relation to the submitted report.

Article 9. (1) The information entered in the register shall be stored in a way that guarantees its confidentiality and security.

(2) In case of closure or deletion of an obliged subject under Article 12, paragraph 1 of the Act without a legal successor, the information under Article 8 of this Ordinance and the register under Article 18 of the Act shall be handed over for storage to the CPDP under rules determined by the Commission's instructions.

Article 10. (1) The register shall not be public.

(2) Only the following subjects shall have access to the register:

1. the employee under Article 3;
2. the CPDP and employees under Article 22 of the Act.

(3) The employee under Article 3 may provide the obliged person under Article 12, paragraph 1 of the Act with information from the register and this shall not result in the disclosure of the identity of the whistleblower and the affected person in the cases under Article 16, item 11 (b) of the Act.

Chapter Four.

FORWARDING OF INTERNAL REPORTS TO THE CPDP

Article 11. (1) The employee under Article 3 shall forward to the CPDP the report falling within the scope of Article 3 of the Act, for which it has been established that:

1. it has been received from an employer in the private sector who is not an obliged subject under Article 12, paragraph 1, items 2 and 3 of the Act and is not obliged to build and maintain an internal reporting channel;

2. it reports violations committed by persons holding senior public positions under Article 6 of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act, for the purpose of subsequent forwarding to the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Commission;

3. it refers to the activity of another obliged subject under Article 12, paragraph 1 of the Act, without it being specifically mentioned in the report;

4. there is a need for taking action by the Commission under the Act.

(2) In the event that a report which falls within the scope of Article 3 of the Act is received directly by one of the authorities under Article 20 of the Act, after its registration within the meaning of Article 4, paragraph 1 of this Ordinance, the relevant head shall immediately forward it to the Commission.

Article 12. (1) When establishing the circumstances under Article 11, paragraph 1 within 7 days, the employee under Article 3 shall forward the report to the CPDP along with all initial and/or subsequently collected documentation thereto, without deleting data.

(2) The employee under Article 3 shall notify the whistleblower of the forwarding under paragraph 1.

Additional Provisions

§ 1. Pursuant to this Ordinance:

1. “Employee in charge of handling reports” shall mean one or more natural persons (employee/s) or a structurally separate unit of an obliged subject under Article 12, paragraph 1 of the Act, designated to handle reports received through an internal channel.

2. “Report” or “Reporting” shall mean oral or written transmission of information about breaches under Article 3 of the Act.

Final Provisions

§ 2. The Commission for Personal Data Protection shall keep the register under Article 29, paragraph 1 of the Act in accordance with this Ordinance.

§ 3. The Ordinance is adopted by decision under Protocol No. 28 of 27 July 2023 of the Commission for Personal Data Protection on the grounds of Article 19, paragraph 2, item 3 of the APPRIDIB and shall enter into force from the day of its promulgation in the State Gazette.