**RULES ON GRANTING PROTECTION TO PERSONS REPORTING OR PUBLICLY DISCLOSING INFORMATION ON BREACHES UNDER THE ACT ON PROTECTION OF PERSONS REPORTING OR PUBLICLY DISCLOSING INFORMATION ON BREACHES (WHISTLEBLOWER PROTECTION ACT)**

**1. GRANTING PROTECTION TO WHISTLEBLOWERS REPORTING THROUGH AN EXTERNAL CHANNEL**

1. Where a request for protection is made in connection with a report to the Commission for Personal Data Protection (“CPDP” or “the Commission”) in its capacity as the central external reporting authority, the staff of the External Reporting Channel Directorate (ERC Directorate) shall verify the following details with regard to such report:

* 1. whether the report contains the details specified in the report registration form;
	2. whether the request is filed by a person falling within the categories of persons referred to in Article 5(2) of the Whistleblower Protection Act;
	3. whether the report in respect of which the request for protection is made falls within the scope (*ratione materiae*) of Article 3 of the Whistleblower Protection Act, and whether the report is credible in the light of Article 15(6) of the same Act;
	4. whether the whistleblower consents in writing to disclosing his or her identity to his or her employer.

Where the whistleblower does not consent to disclosing his or her identity, the protection consists of non-disclosure of his or her identity and such person shall be informed that he or she may benefit from legal aid (information on protection measures and on support measures, and that legal aid is provided by the National Legal Aid Office, should also be included, in accordance with the provisions of the Whistleblower Protection Act).

* 1. Where the whistleblower consents to disclosing his or her identity, the Commission considers that such person has made his or her identity public and he or she is immediately subject to protection, without having to explicitly seek protection. Giving consent to identity disclosure is equivalent to a request for protection. In this case, full protection is required, as allowed by law, by sending a notification to:

 - the whistleblower shall be informed of the protection granted in respect of his or her employer and, additionally, of protection measures and support measures and the possibility to receive legal aid from the National Legal Aid Office;

 - a notification to the employer specifying the protection pursuant to the Whistleblower Protection Act;

 - a notification to the relevant administrative and judicial authorities, *where specifically requested.*

1.6. With regard to the authority implementing the protection measures:

1.6.1. Where the report is not submitted through the external channel, the internal channel is required to implement such protection measures;

1.6.2. Where the external channel is notified, three options exist to grant protection:

- Where protection is requested from the CPDP, the CPDP shall grant such protection. In the case of a criminal offence, the report shall be forwarded by the CPDP to the relevant public prosecutor’s office. The measures shall be provided by the competent public prosecutor’s office under the Whistleblower Protection Act, where legal basis for doing so exists. The assessment shall be carried out by the relevant public prosecutor’s office.

- Where protection is requested in the course of the investigation before a competent authority under Article 20(1) of the Whistleblower Protection Act, such authority shall grant the protection by notifying the CPDP thereof;

- As regards the person referred to in Article 6 of the Anti-Corruption Act (“ACA”), such reports shall be registered with the CPDP and then forwarded to the Anti-Corruption Commission (“ACC”). The ACC shall be the authority responsible for handling and admitting the report, verifying its admissibility and credibility and the public interest, and handling the issue of whistleblower protection. The ACC shall be required to ensure such protection, and where a decision of protection is taken, the ACC shall notify the CPDP accordingly in compliance with Article 67(2) of the ACA.

1.7. Where protection is requested after a dismissal, protection before a court is granted, provided that the requirements of the Whistleblower Protection Act, and of the Legal Aid Act accordingly, are met.

1.8. After checking and establishing that the report meets the requirements for admissibility and credibility pursuant to the Whistleblower Protection Act, protection is granted from the time of reporting, in accordance with Article 5(1) of the Whistleblower Protection Act. Where the report fails to meet the requirements of the Whistleblower Protection Act, no protection shall be granted to the whistleblower, the report case file shall be closed and the relevant person shall be notified accordingly.

1. Where the report fails to contain the details referred to in point 1.1, a notification to remedy such deficiencies shall be sent to the whistleblower within 7 days of receipt of the report.
2. Where the deficiencies are not remedied within the abovementioned period, the report, together with the request for protection and any attachments thereto, shall be returned to the whistleblower.

1. The checks referred to in points 1.2, 1.3 and 1.4 shall be carried out within the time limit referred to in point 2.
2. In the notification by which the CPDP informs the whistleblower of registering the report, the Commission shall, within 7 days of receiving the report, request the whistleblower to consent to disclosing his or her identity to the employer or the person concerned against whom the report is filed.
3. The request for protection, together with the report, shall be dealt with by the CPDP as a matter of priority in a non-public session, on the basis of a report by the Director of the ERC Directorate, which shall contain proposals for follow-up to the report. The CPDP shall decide on the request for protection.
4. The CPDP Chair shall inform the whistleblower’s employer, and the person concerned accordingly, of the prohibition of retaliation against the whistleblower.
5. The information referred to in point 7 on the protection granted shall also be sent to the whistleblower.

**2. GRANTING PROTECTION TO PERSONS REPORTING THROUGH AN INTERNAL CHANNEL WITHIN THE CPDP**

9. Where a request for protection is made in connection with a report to the CPDP submitted through an internal reporting channel, the staff of the ERC Directorate shall verify the details referred to in point 1.

1. Where the report fails to contain the details referred to in point 1.1, a notification to remedy such deficiencies shall be sent to the whistleblower within 7 days of receipt of the report.
2. Where the deficiencies are not remedied within the abovementioned period, the report, together with the request for protection and any attachments thereto, shall be returned to the whistleblower.
3. The checks referred to in points 1.2, 1.3 and 1.4 shall be carried out within the time limit referred to in point 2.
4. In the notification informing the whistleblower of registering the report and, in the event that the whistleblower wants to be granted protection under the Whistleblower Protection Act, the whistleblower shall be required, within 7 days of the receipt of the report, to consent to disclosing his or her identity to the employer or the person concerned against whom the report is filed.
* Where the whistleblower consents to disclosing his or her identity, it shall be considered that such person has made his or her identity public and he or she is immediately subject to protection, without having to explicitly seek such protection. Giving consent to identity disclosure is equivalent to a request for protection. In this case, full protection is required, as allowed by law, by sending a notification to the CPDP Chair.
* Where the whistleblower does not consent to disclosing his or her identity, no legal possibility exists to notify the employer.
* Where disciplinary proceedings are initiated, the CPDP Chair shall ask the Director of the External Reporting Channel Directorate (ERC Directorate), who is designated as an officer responsible for handling reports, whether the whistleblower has reported in accordance with the Whistleblower Protection Act and, accordingly, whether he or she is subject to protection.

Where the whistleblower has made a report and consents to disclosing his or her identity, a notification shall be sent that the said employee has made a report. Where the whistleblower has made a report and does not consent to disclosing his or her identity, the latter may not be disclosed to the employer.

Where the whistleblower’s report is not in compliance with the Whistleblower Protection Act, or the whistleblower does not consent to disclosing his or her identity, the disciplinary procedure shall proceed.

1. The request for protection, together with the report, shall be dealt with by the CPDP as a matter of priority in a non-public session, on the basis of a report by the Director of the ERC Directorate, which shall contain proposals for follow-up to the report. The CPDP shall decide on the request for protection.
2. The CPDP Chair shall inform the whistleblower’s immediate superior, and the person concerned accordingly, of the prohibition of retaliation against the whistleblower.
3. The information referred to in point 7 on the protection granted shall also be sent to the whistleblower.

17.1. Where the report (received through an external or internal channel) contains details of breaches by the CPDP Chair, the Director of the ERC Directorate shall immediately forward it to the Anti-Corruption Commission for investigation, in accordance with Article 20(3) of the Whistleblower Protection Act. The report case file in the CPDP shall be closed. Reports of breaches by other CPDP members shall be dealt with under the general procedure.

17.2. In the event that the report (received through an external or internal channel) contains details of criminal offences committed by the CPDP Chair or another CPDP member, the Director of the ERC Directorate shall without delay inform the CPDP of the report and then shall forward it to the competent public prosecutor’s office for investigation. The report case file in the CPDP shall be closed.

**3. GRANTING PROTECTION TO PERSONS PUBLICLY DISCLOSING INFORMATION ON BREACHES**

18.1. In the event of a request for protection in connection with publicly disclosed information on breaches, the staff of the ERC Directorate shall check the details referred to in points 1.1, 1.2 and 1.3 on the basis of the information provided in the request for protection.

18.2. Where the report fails to contain the details referred to in point 1.1, a notification to remedy such deficiencies shall be sent to the whistleblower within 7 days of receipt of the report.

19. Where the deficiencies are not remedied within the abovementioned period, the report, together with the request for protection and any attachments thereto, shall be returned to the whistleblower.

20. The check under points 1.2 and 1.3 shall be carried out within the time limit referred to in point 2. After carrying out a check and establishing that the publicly disclosed information meets the requirements of admissibility and credibility pursuant to the Whistleblower Protection Act, protection is granted from the time of reporting, in accordance with Article 5(1) of the Whistleblower Protection Act. Where the report fails to meet the requirements of the Whistleblower Protection Act, no protection shall be granted to the whistleblower and he or she shall be notified thereof.

21. The request for protection shall be dealt with by the CPDP as a matter of priority in a non-public session, on the basis of a report by the Director of the ERC Directorate, which shall contain proposals for follow-up. The CPDP shall decide on the request for protection.

22. The CPDP Chair shall inform the whistleblower’s employer, and the person concerned accordingly, of the prohibition of retaliation against the whistleblower.

23. Information on the protection granted shall also be sent to the whistleblower.

24. These Rules are to be uploaded as a separate subsection in the Whistleblower Protection Act section on the CPDP website.

25. These Rules were adopted at a CPDP meeting held on 4 June 2024.