

BRNO UNIVERSITY OF TECHNOLOGY

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GUIDELINE NO 1/2023 ON THE PROTECTION OF WHISTLEBLOWERS

Article 1

Scope of regulation

- 1) This Guideline, in accordance with Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of whistleblowers (hereinafter the “EU Directive”), establishes an internal whistleblowing system (hereinafter the “IWS”) at Brno University of Technology (hereinafter “BUT”).
- 2) Under the conditions set out in the EU Directive, the protection is guaranteed to a natural person who reports or discloses information about a breach that they acquired in connection with work-related or other similar activities (hereinafter the “Whistleblower”).
- 3) In particular, the Whistleblower is an employee, a former employee, a job applicant, a trainee, a supplier of supplies, services, construction works or similar services, and employees of such supplier, or a bidder for a public contract.

Article 2

Report

- 1) The report shall mean the Whistleblower’s oral or written report containing information about a possible illegal conduct that has the attributes of a criminal offence or breaches a legal regulation or a regulation of the European Union in the areas referred to in paragraph 2 and that the Whistleblower has become aware of in connection with work-related or other similar activities.
- 2) The areas shall mean:
 - a) public procurement,
 - b) financial services, products and markets and the prevention of money laundering and terrorism financing,
 - c) product safety and compliance with regulations,
 - d) transport safety,
 - e) environmental protection,
 - f) radiation protection and nuclear safety,

- g) food and feed safety, animal health and welfare,
 - h) public health,
 - i) consumer protection,
 - j) privacy and personal data protection and security of networks and information systems.
- 3) The areas also include breaches that threaten the financial interests of the European Union, including breaches of EU competition and State aid rules, as well as breaches relating to the internal market in connection with conduct that breaches corporate tax rules or mechanisms designed to obtain a tax advantage that defeats the object or purpose of the relevant corporate tax law.

Article 3

Exceptions to the report

- 1) The Whistleblower may not report facts where the interest in their protection outweighs the interest in the Whistleblower's protection.
- 2) The facts referred to in paragraph 1 are in particular:
 - a) information that could immediately threaten the essential security interest of the Czech Republic and information on the activities of the intelligence services,
 - (b) facts covered by the obligation to protect classified information and information the disclosure of which could obviously jeopardise ongoing criminal proceedings,
 - (c) facts subject to protection under the law governing crisis management,
 - (d) facts that the Whistleblower has learned during their job as a notary, notary candidate or intern, public prosecutor, public prosecutor assistant or intern, lawyer or legal intern, bailiff, bailiff candidate or intern, judge, assistant judge, judicial candidate or tax adviser,
 - (e) facts that the Whistleblower has learned as an employee of a notary, lawyer, bailiff or tax adviser, or facts that the Whistleblower has learned during the provision of health services.
- 3) The Whistleblower who breaches the obligation of confidentiality or the confidentiality of the information provided is not protected and may be sanctioned for the unlawful conduct committed.
- 4) However, the Whistleblower is entitled to report information relating to bank secrecy, contractual confidentiality obligation, confidentiality obligation under the Tax Code and confidentiality obligation under other legal regulations governing work-related or other similar activities (with the exception of the confidentiality obligation of legal and health professionals).

Article 4

IWS and reporting

- 1) The IWS shall mean the set of procedures and tools used to receive and handle the reports, to protect the identity of the Whistleblower and other persons, to protect the information contained in the reports and to communicate with the Whistleblower.
- 2) The Whistleblower shall make the report:
 - a) to the following address: **Brno University of Technology, Antonínská 548/1, 601 90, Brno**, in an envelope marked "**Whistleblowing report - Do not open - Internal Audit and Control Department, to the hands of the competent person only**",
 - b) to the following email address: **whistleblowing@vutbr.cz**,
 - c) by phone at the following number: **+420 771 280 873**,
 - d) in person to the hands of the competent person.
- 3) The basis for the functioning of the IWS is the designated competent person who is authorised to receive and handle reports.
- 4) The competent person is an employee at the Internal Audit and Control Department (hereinafter the "IACD"). BUT is obliged to create for the competent person the conditions enabling them to carry out the activities under this Guideline independently and impartially. The competent person is obliged to act independently and impartially, to maintain confidentiality of the facts of which

they became aware during the performance of their activities, or even after that, and to comply with the BUT instructions, unless such instructions would endanger or hinder the performance of their activities. In their absence or in the event of their partiality, the competent person shall be represented by another IACD employee designated in advance.

- 5) The report should contain information from which the identity of the Whistleblower and the delivery address can be deduced; this information is intended for the use of the competent person only.
- 6) The report may also be made anonymously, but it must contain the Whistleblower's delivery address.
- 7) The report may also be made using the template in Annex 1.
- 8) The report must include at least the following information:
 - a) identification of the persons suspected of committing the breach and any other persons involved,
 - b) detailed description of the breach,
 - c) specific evidence of the unlawful conduct or any specific knowledge supporting the suspected breach.
- 9) The report may be made either internally through the IWS or externally through the Ministry of Justice.
- 10) The report may also be disclosed under the terms set out in paragraph 11.
- 11) The Whistleblower may disclose the report if
 - a) they made an internal or external report and no appropriate measure has been adopted within the specified time limits,
 - b) they have reasonable grounds to believe that the unlawful conduct referred to in the report may lead to an imminent threat to the internal order, health or life, environment or other public interest, or to the irreversible damage, or
 - c) it is not possible, in the case of an external report, to file a report with the Ministry of Justice without incurring increased risk (e.g. destruction of evidence, obstruction of a proper review of the report, or sanctioning the Whistleblower).
- 12) If the report is disclosed, the Whistleblower is entitled to protection against retaliation.

Article 5

Procedure after reporting

- 1) The competent person shall notify the Whistleblower of the receipt of the report, within seven days of its receipt, unless
 - (a) the Whistleblower has expressly requested the competent person not to notify them of the receipt of the report, or
 - (b) it is clear that the notification of receipt of the report would reveal the identity of the Whistleblower to another person.
- 2) If it is not possible to ascertain from the report what its purpose is, the competent person shall request the Whistleblower to complete the report within a period of not less than 15 days.
- 3) If the Whistleblower fails to complete the report despite the request, the competent person shall suspend the report.
- 4) The competent person may not disclose the identity of the Whistleblower and the concerned persons without their express consent to a third person or authority, except in response to a request from the investigative, prosecuting and adjudicating bodies.
- 5) The competent person will assess whether the Whistleblower meets the definition of a whistleblower under the EU Directive.

- 6) If the competent person finds out that the Whistleblower is not the person referred to in paragraph 5, they shall inform the Whistleblower thereof without undue delay, otherwise they shall investigate the report.
- 7) If the competent person finds the report to be reasonable, they shall propose remedial measures to the Rector. If the Rector agrees with the opinion of the competent person, the competent person shall notify the Whistleblower of the measures planned or adopted, no later than three months after the notification of receipt of the report in accordance with paragraph 1, or no later than three months after the receipt of the report if the Whistleblower has not been notified. If the Rector does not agree with the opinion of the competent person, the competent person shall proceed in accordance with paragraph 8.
- 8) If the competent person concludes that the report is not reasonable, they shall inform the Whistleblower thereof, providing the reasoning, no later than three months after the notification of receipt of the report in accordance with paragraph 1, or no later than three months after the receipt of the report if the Whistleblower has not been notified.
- 9) If the report contains facts indicating that a criminal offence might have been committed, the competent person shall refer the report to the investigative, prosecuting and adjudicating bodies.
- 10) All BUT employees are obliged to provide the competent person with all assistance.

Article 6

Oral report

- 1) If the report is made orally or by phone, the competent person shall make an audio recording or transcript of the report and make it available for the Whistleblower. The Whistleblower is entitled to make comments on the recording or transcript.
- 2) The competent person may not make the recording or transcript if the Whistleblower does not give their consent to it. In such a case, the competent person shall only make a written record of the report, the content of which shall correspond to the protocol under the Code of Administrative Procedure. The competent person shall proceed in a similar way if the audio recording cannot be made for any reason.

Article 7

Report recording

- 1) The competent person shall keep proper and conclusive records of the reports.
- 2) The competent person shall keep the records in such a way that no one else has access to them and the identity of the Whistleblower and the confidentiality of the information contained in the report are not compromised. The report may only be kept for as long as necessary to fulfil the purpose of the EU Directive, in particular to protect the Whistleblower against retaliation or to be available for any further investigations by the competent public authorities.

Article 8

Retaliation

- 1) The retaliation includes in particular:
 - a) termination or non-renewal of employment,
 - b) termination of legal relationship established by an agreement to complete a job or an agreement to perform work,
 - c) removal of a manager from office,
 - d) imposition of a disciplinary measure or penalty,
 - e) reduction of wage or bonus, non-award of a performance premium,
 - f) discrimination,
 - g) negative employment report,

- h) ostracization, coercion, intimidation,
 - i) taking away the possibility of professional development,
 - j) changing the working time schedule,
 - k) requiring a medical report or occupational health examination where not necessary,
 - l) notice or withdrawal from the contract,
 - m) interference with the right to protection of personality,
 - n) early termination or cancellation of a contract for the supply of goods or services.
- 2) Retaliation is prohibited.
 - 3) Protection from retaliation cannot be claimed by the Whistleblower who knowingly made a false report.
 - 4) If the person referred to in Article 4(4) of the EU Directive notifies the competent person of retaliation, the Rector shall set up an impartial committee to investigate the notification and the composition of the committee shall be determined by the circumstances of the particular case.

Article 9

Final Provisions

This Guideline shall enter into force on the date of issue.

List of annexes:

Annex 1 - Possible Unlawful Conduct Report Template

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Rector