

# The Whistleblowing Directive Transposition into Cypriot legislation

June 2022

Dear Clients, Associates, and Friends

The Protection of Persons Reporting Breaches of Union and National Law of 2022 (**'the Whistleblowing Law'**) was published, on 4 February 2022, in the Official Gazette, transposing the Directive on the Protection of Persons who Report Breaches of Union Law (Directive (EU) 2019/1937) (**'the Whistleblowing Directive'**) into national law.

## A. Key Considerations and highlights

The Whistleblowing Law **affords protection** to persons who report acts or omissions relating to the commission or potential **commission of a criminal offence** with respect to:

- corruption,
  - non-compliance with any legal obligation imposed on a person,
  - (endangering) health or safety, and
  - damage to the environment
- (**"whistleblower(s)"**).

The Whistleblowing Law applies to:

- civil servants,
- employees,
- self-employed persons,
- shareholders and persons belonging to the administrative, management, or supervisory body of an undertaking, including non-executive members, as well as volunteers and paid or unpaid trainees, among others.

Nicosia (Cyprus) – Limassol (Cyprus) – Moscow (Russia) – Athens (Greece) – Valletta (Malta)

## **B. Reporting Procedures**

### **Internal Reporting Channel**

The Whistleblowing Law provides for both internal reporting channels (internal to the organisation) and external (to a public body). Establishment of internal reporting channels is obligatory for private sector entities with 50 or more employees, as well as all public sector legal entities with exceptions.

The procedures for internal reporting and monitoring include:

- channels for the receipt of reports which safeguard the protection of confidentiality of the identity of whistleblowers and every third person named in such report, prohibiting access to such reporting by non-authorized members of the staff,
- the appointment of an impartial person or service with the authority to monitor the reports and communicate with the person who reports someone, asking, when necessary, further information from the whistleblower and updating him/her of the progress of the reporting.

Notably, the Whistleblowing Law requires all private sector entities with 50 to 249 employees to establish their internal reporting channels by 17 December 2023.

### **External Reporting Channel**

Save from the internal reporting channels, a whistleblower may report someone through external reporting channels set up by the relevant authorities.

Specifically, the relevant authorities:

- appoint an independent external channel responsible for the receipt and monitoring of information in relation to the relevant breach(es).
- confirm immediately and in any event within seven days from the day of receipt of the reporting such reporting.
- monitor diligently the reporting.
- provide updates to the whistleblower within reasonable time which shall not exceed 3 months or 6 months in specific and fully justified circumstances.
- pass on the information of such reporting to the relevant competent institutions and other organs of the European Union, as per the case, for further investigation.

### **Whistleblower Protection**

The Law affords protection to whistleblowers by prohibiting any form of retaliation, including threats and attempts to retaliate. Whistleblowers are also protected when disclosing information during the recruitment process or after the end of a working relationship.

The protection under the law is extended to facilitators, and any third persons or legal entities having a connection with the reporting.

Moreover, the Whistleblowing Law provides, among other things, that any processing of personal data shall be carried out in accordance with the General Data Protection Regulation (Regulation (EU) 2016/679) ('GDPR').

## **C. Public Disclosure**

A whistleblower who makes a public disclosure has a right of protection if any of the following conditions are met:

- the whistleblower firstly submitted the disclosure of relevant information internally and externally, or only externally, but no action was taken in response to the reporting within the time specified in the Whistleblowing Law, or
- the whistleblower has (b) has reasonable grounds to believe that:

(i) the public interest is threatened by a direct or manifest danger or risk of non-irreversible damage or there is another serious emergency situation.

or

(ii) in the case of an external reporting, there is a risk of retaliation or there is little prospect of the infringement being dealt with effectively because of the particular circumstances of the case, such as where evidence possible to conceal or destroy evidence, or where the authority is likely to be in collusion with the perpetrator of the infringement or is involved in the infringement.