

**ROMANIA
MINISTRY OF INTERNAL AFFAIRS**



ANTI-CORRUPTION GENERAL DIRECTORATE

Project : HOME/2012/ISEC/FP/C1/4000003842

***Developing new methods for using and protecting whistleblowers,
informants and collaborators in corruption investigation***

Sarajevo, Bosnia – Herzegovina
18 – 19 June 2015

Anti-corruption General Directorate
ROMANIA
Dr. Otilia FILIP

Duration: 24 months (April 2013 - April 2015)

Co-financing: European Commission through Prevention of and fight against Crime ISEC 2007 -2013 Programme

Budget: 253 921.56 euro

EC financing: 228 351.66 euro

AGD financing: 25 569.90 euro

Objective

Developing the procedural and legal framework of using and protecting the using the informers, collaborators and whistleblowers by elaborating and implementing common methodologies/procedures in the area and “legis ferenda” proposals.

Analysis report elaborated, including best practises models from EU MSs;

Two common methodologies AGD / Public Ministry (one for protecting the whistleblowers and one for informers and collaborators);

Best practices manual elaborated;

Two training courses of 3 days each carried out;

One training regarding the practical aspects in using the handler;

76 persons trained;

International conference organized and project results disseminated.

The legal framework of the use and protection of the whistleblowers in corruption cases in Romania

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- ✓ Law 682/2002 concerning the protection of witnesses;
- ✓ Law 571/2004 regarding the protection of personnel within public authorities, public institutions and other establishments which report infringements;
- ✓ The Criminal Code.

Law 571/2004 regarding the protection of whistleblowers

Art. 4: “The spirit of the law”

- ✓ *The principle of **legality***
- ✓ *The principle of **public interest supremacy***
 - ✓ *The principle of **responsibility***
- ✓ *The principle of **non-abusive sanctioning***
 - ✓ *The principle of **good administration***
 - ✓ *The principle of **good conduct***
 - ✓ *The principle of **balance***
 - ✓ *The principle of **good faith***

Law 571/2004 regarding the protection of whistleblowers

Art. 5: Offences

Period: **01.01.2006** – **01.07.2012**

631 notifications in relation to **732** deeds

Law 571/2004 regarding the protection of whistleblowers

Examples:

Corruption offences	255
Professional incompetence or negligence	157
Preferential or discriminatory practises	66
Breaches of administrative procedures	57

The Criminal Code

Art. 267 Failure to notify the authorities

(1) The public servant who, being aware of criminal deeds perpetrated in connection with his service, fails to immediately notify the criminal pursuit bodies, is punished with 3 months to 3 years imprisonment or fine.

(2) If the deed is reckless, the punishment is 3 months to 1 year imprisonment or fine.

The use and the protection of the whistleblowers in practice

Law 571 / 2004

Public interest whistle blowing means a notification made in good faith of any deed entailing any infringement of the law, of the professional ethics or of the principles of good administration, efficiency, effectiveness, economy and transparency.

Whistleblower means the person making a notification according to previous paragraph and who is employed by one of the public authorities or institutions.

Disciplinary committee means any body tasked with disciplinary investigation responsibilities, stipulated by the law or by the organizational and operating regulations of the public authorities or public institutions.

Reports and use of evidence

- Witness
- Collaborator
- Informant

Motivation of public servants to blow the whistle.

Setting up a new police unit dealing with whistleblowers?

Thank you!

Dr. Otilia FILIP

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otilia.filip@mai.gov.ro