

Transparency International Lithuania

# Whistleblower Protection Assessment

COUNTRY REPORT/LITHUANIA/2009

## Introduction

TI Lithuania started the project “*Enhancing Whistleblowers Protection in Lithuania*” in February, 2009. The project is regarded as a unique opportunity to advance whistleblower (hereafter - WB) protection on national level and a part of a wider campaign undertaken in several European countries.

### **This project aims to:**

- Analyze the current reporting and WB protection framework and practices in a country, thus understanding the environment for whistleblowing, the nature of reports and institutional capacities to address them;
- Based on research of best national laws, jurisprudence and implementation practices develop proposals addressing whistleblower protection and encouragement in Lithuania, ultimately taking a form of a draft law;
- Advocate for the adoption of the law and other relevant documents;
- Continuously raise awareness of whistleblowing issues; also prepare a training package for public officials and private sector (SME) representatives.

This report is aimed at presenting the current situation in Lithuania regarding WB protection. It will cover the existing legal base, individual and organizational experiences in practice, as well as extent of WB protection coverage, with a special emphasis on recommendations proposed by TI Lithuania. These objectives support the following structure of the report:

### **Part A:** Overview of Whistleblower Protection Rules and Protection in Practice

1. Legal Provisions
2. Whistleblowing in Practice
3. Organizational Culture
4. Cultural Context

### **PART B:** Extent of Whistleblowing Protection Rules and Their Application in Practice (14 assessment categories)

### **PART C:** Key Results and Recommendations

References

Annexes

For the purposes of the overall project and also this report, the following methodology was employed:

- *Desk research:*

A comparative analysis of foreign national and sectoral laws and practices, aimed to derive best guidelines for Lithuania and rationale for adoption of certain provisions, was conducted.

Academic articles and work of a number of organizations regarding diverse questions, ex. reporting lines, issue of remuneration, formulation of wrongdoing, etc., studied.

Also, recent sociological and legal studies referring to a context of the WB protection problem in Lithuania were analyzed (ex. UN CAC report, Global Integrity Country Report, Lithuanian Map of Corruption, TI Lithuania business ethics study, etc.).

- *Legal review:*

Existing legal base, i.e. laws containing provisions relevant to whistleblowing analyzed, in order to ensure that a proposed draft law does not overlap with existing laws or, on the other hand, includes all necessary provisions.

- *Organizational rules and practices:*

Public sector was approached in a form of two questionnaires: first one deals with internal reporting capacities and was sent out to the Parliament, the Government, their subsidiary entities, as well as Ministries and their subsidiary agencies (*total number of responses received is 106*). The second one deals with whistleblower hotlines and was sent to selected public institutions that operate such services for both their employees and the general public (the list of all the institutions contacted and the two questionnaires are provided in the annexes).

The responses of ministries were analyzed in the section on organizational culture.

Also, Codes of Ethics of major private businesses were studied.

- *Case studies:*

Although there are no 'true' WB cases, since there is no legal regulation on WB, a couple of renowned cases which could have qualified as WB cases (if the law existed) were studied.

- *Interviews:*

A number of meetings were held with the deputy chairwoman of the Anti-corruption commission of the Parliament, the Speaker of the Parliament, and other representatives of public institutions that work on corruption related issues, including the Office of the President. Also, representatives of the private sector, in particular those with experience of well-developed/ functioning WB systems, were approached.

TI Lithuania also had talks with international experts from the UK, Norway, Germany, the USA, Canada, South Africa, Australia, etc. on various WB regulation related issues.

## **PART A: Overview of Whistleblower Protection Rules and Protection in Practice**

### **1. Legal provisions**

First of all, it needs to be stated that Lithuania does not have a free standing comprehensive national law on WB protection. Therefore, this section deals with an existing legal base, analyzing and evaluating it with a focus on norms which would implicitly relate to WB protection or are important for drawing distinction between whistleblowers and other different categories of subjects under law.

Lithuania is a party to major international and regional anti-corruption treaties, i.e. the United Nations Convention against Corruption (UNCAC) and two Conventions adopted by the Council of Europe: Civil Law Convention on Corruption (CoE Civil Convention) and Criminal Law Convention on Corruption. Thus, it has undertaken certain responsibilities concerning WB protection (based on Article 33 of UNCAC and Article 9 of CoE Civil Convention).

However, the absence of adequate rules for the protection of whistleblowers was highlighted in the 2006 report, which was ordered by the UNDP Lithuanian Office in the framework of the project “Ratification of the United Nations Convention against Corruption in Lithuania” and prepared by Mr. Goran Klemenčič. The aim of this report was to review the Lithuanian legislative and institutional framework in light of its compliance with the UNCAC. With the reference to protection of whistleblowers as included in Article 33 of the UNCAC, it was stated that “the lack of specific legislation in this field could be considered a weakness of the current system”.

The poor state of WB related norms was also confirmed by the Global Integrity Report 2008 on Lithuania. The score is very low for WB measures in place, i.e. only 17 out of 100.<sup>1</sup> In fact, it is the lowest score among all the indicators. In comparison, the score for the anti-corruption law is 100, meaning that at least in paper the law is evaluated as being completely adequate. Such a wide regulatory gap between a general issue of corruption and a more specific question of WB protection is surprising, taking into account the Governmental Programme 2009 – 2012, adopted by the Government's Resolution 189 on February 25, 2009, where WB is treated as one of the underlying anti-corruption initiatives.<sup>2</sup> Thus, there is a stated will, but not yet means.

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<sup>1</sup> Global Integrity Report 2008: Lithuania. Available online: <http://report.globalintegrity.org/Lithuania/2008/scorecard>

<sup>2</sup> There is a special mention in article 118 of the Programme: „concerning the preparation of draft legal acts, to ensure legal protection of whistleblowers who report potentially criminal activity of their employers and other persons of influence“.

So, returning to a previous statement, currently there are no laws in Lithuania explicitly covering the issue of whistleblower protection. One can not find relevant provisions in neither of the below mentioned legal acts: *the Law on Corruption Prevention, the Law on Public Service, the Labor Code, the Code of Criminal Procedure, the Criminal Code, the Law on Provision of Information to the Public* (except for indirect norms regarding the right of journalists to preserve the secret of the source of information and not to disclose it), *the Law on Environmental Protection, the Law on the Protection of Environmental Air, the Law on the Protection of the Marine Environment, the Law on Consumer Protection*, etc. In other words, whistleblowers are protected neither in public sector, nor in (contractual) labor relations.

The only legal act covering persons that would factually fall under the category of whistleblowers (reporting persons) is not concerned with the protection of these persons (at least, not a direct protection), but rather with their financial stimulation. The legal act in question is *the Government Resolution No. 75 "On Remuneration for Valuable Information about the Crime, which has Property Damage"*, adopted on the 21st January, 2003 (hereafter – The Act on Remuneration).

According to the provisions of the said act, persons who provided the relevant authorities with valuable information on financial crimes or crimes against economic order can be awarded with onetime payment. Unfortunately, the Act on Remuneration has some significant deficiencies and, probably due to standing ethical norms, does not work in practice. The main problems of the Act on Remuneration are listed below:

- 1) It is only applicable in cases of crimes. If a crime is not proved (it can only be done by passing a judgment of conviction or by reconciliation between the State and the offender, when the latter confesses to commission of the criminal act) or if an act is detrimental and illegal, but does not qualify as a crime, a person reporting can not expect to have any remuneration, despite the fact that the State might have had actual financial gain from the recovery of assets or other valuables;
- 2) It is only applicable regarding certain criminal acts, i.e. financial crimes and/or crimes against a standing economic order. It means that the scope of the Act on Remuneration does not even cover corruption related activities (except for very rare cases when there is a full concurrence of criminal acts, for instance, abuse of office and any financial crime/crime against the economic order);
- 3) It is only applicable to crimes, but not to misdemeanors (i.e. it applies only in cases, when an act is punishable with a custodial sentence);
- 4) It is only applicable when a provision of valuable information leads to actual compensation of material damage caused by the commission of a crime or when

assets are recovered to the State budget, budgets of municipalities or State monetary funds. If for some reason it is impossible to recover the assets from the offender (for instance, because he/she managed to conceal the profit made out of illegal activities), receiving a payment becomes impossible. This also implies that reporting illegal activities in the stage of preparation for commission of a crime (when there is no actual damage) is not actually encouraged;

5) Establishes only the upper limit for the payment (“the size of the payment might reach up to 10% of the damage compensated or assets/valuables recovered” and be “no more than 100.000 litas (29.000 Euros)”), but does not guarantee that the payment will not only be symbolic, ex. 1 litas (29 Euro cents);

6) Does not establish any guarantee that a person will at all receive a remuneration, since the decision is made not by the institution receiving information or a body conducting an investigation (because they only have an advisory function), but by the special commission composed of representatives from various institutions;

7) Does not establish criteria to estimate the value of the information (except the fact that this information leads to the recovery of the assets). Taking into account that there might be other sources of information, too, not even the fact that the case is essentially based on the information provided by a person is sufficient to clearly establish its value;

8) Does not provide protection to persons submitting information from negative consequences at work or in their professional occupation.

There is a proposed amendment to the Resolution, but the major change it would introduce, if adopted, would be including corruption-related criminal acts in its regulatory scope. Apart from that, the mechanism of remuneration would not change, thus there is no substantial ground to believe that anything would change in practice, either.

It is worth mentioning several other legal acts related to protection of witnesses participating in criminal proceedings and protection of members of entities of operational activities, as well as legal acts embedding rules for protection of sources of journalists.

*The Law on Protection of Participants in Criminal Proceedings and Operational Activities, and Protection of Officers of Law Enforcement Institutions from the Impact of a Criminal Act* establishes rules, which might be applicable to whistleblowers. However, in this case they would already fall under a different category of protected persons. The aim of this law is to protect lives, health and property of **participants of criminal proceedings, secret participants of operational activities and officers of law enforcement institutions**, as well as ensure thorough and impartial

investigation of all the circumstances of the case. In other words, the scope of this law relates to whistleblower protection only indirectly (as to protection of parallel categories of persons, to whom whistleblowers can rarely be attached, thus receiving an ensuing status).

Under the article 15 of the *Operational activities law*, covert participants in operational activities shall be the employees of entities of operational activities whose affiliation with an entity of operational activities shall be classified, and also adult persons who covertly co-operate with entities of operational activities and with whom the employees of the entities of operational activities have entered into an agreement (verbally or in writing) on covert co-operation. According to this article the characteristics of such agreements should be established by the main institutions of entities of operational activities.

The State protects covert participants in operational activities. The data which establish the identity of covert participants in operational activities and detailed information about the quantitative and personal composition of these participants comprise a state secret. In the event of a danger arising to the life, health and property of participants in operational activities or the members of their families, entities of operational activities take the necessary measures in order to ensure the security of these persons (in compliance with existing laws and other legal acts).

However, it must be acknowledged that the covert participants in operational activities (informers, secret collaborators and agents) differ from whistleblowers in one essential feature - they cooperate with the operational entities (law enforcement, judicial and security authorities) on the basis of *prior* agreement. Whistleblowers, however, are people who report about certain deeds on their own initiative, thus they are attributable to the other category of persons.

Under the Article 78 of the *Criminal Procedure Code*, **witness** is a person, of whom there is evidence that he is aware of any significant circumstances which can help to resolve the case and is officially called by the court, prosecutor or investigator formally as a witness in criminal proceedings. This description means that whistleblowers may be a subject of the witness status, but this happens only when they: 1) notify solely about the criminal offence, 2) pre-trial investigation or court proceedings are started due to this report, 3) the court or pre-trial investigator decides that such person is worth to be called as a witnesses and officially calls him as such.

Thus, whistleblowers can not expect to bear witness protection measures if they: 1) reported about not criminal-material activities (malfeasance, administrative offences, violations of ethics, etc.), 2) the reported activity is not recognized as having the necessary features of the criminal act (even if they had a reason to believe that such features existed), 3) the court or the pre-trial investigator

does not decide that the information possessed by such person is relevant to the suit and therefore it is appropriate to call the person as a witness.

Article 8 of the *Law on Provision of Information to the Public* establishes, that “the producer, disseminator of public information and the owner of the producer and (or) disseminator of information and journalist shall have the right to protect **the source of information** and not to disclose the source of information, except for cases when, upon the decision of the court, it is necessary to disclose the source of information due to vitally important or other interests of society which are of utmost importance, also, in attempt to ensure that the constitutional rights and freedoms of persons would be protected and that justice would be administered.” Despite correlation between this provision and the protection of disseminators of public information, it should be noted that the protection is rendered not to persons who provide information, but to journalists. Journalists have a right to disclose the identity of such a person even if he/she made a promise to not do so. Thus, not keeping a word given to the “source” can be treated as a breach of professional ethics at most.

It is important to also mention the fact that the Constitutional Court acknowledged that the right to not disclose the source, which was absolute in the previous edition of the law, contradicted with the Constitution, thus the actual law is changed accordingly.

Thus, summarizing the existing legal regulation, it may be noted that, currently, rights and rightful interests of potential whistleblowers are most likely (and with greatest effectiveness) to be protected by regular law, i.e. Labour Code and Law on Public Service.

For example, Article 35 of the *Labor Code* states general provision that: "While exercising their rights and fulfilling their duties employers, employees and their representatives are bound to comply with laws, observe the rules of communal life and act adhere to the principles of reasonableness, justice and honesty. Abuse of one's rights shall be prohibited." It is also worthy mentioning other relevant provisions of the Code:

- Labour rights shall be protected by laws except in cases when the rights are exercised in violation of their purpose, public interests, peaceful work, good customs or principles of public morals.
- A legitimate reason to terminate employment relations shall not be participation in the proceedings against the employer charged with violations of laws, other regulatory acts or the collective agreement, as well as application to administrative bodies.

- An employer may terminate a non-term employment contract with an employee only for valid reasons by giving him notice thereof in accordance with the procedure established in the Code (only the circumstances, which are related to the qualification, professional skills or conduct of an employee, shall be recognised as valid. An employment contract may also be terminated on economic, technological grounds or due to the restructuring of the workplace, as well as for other similar valid reasons). The dismissal of an employee from work without any fault on the part of the employee concerned shall be allowed if the employee cannot, with his consent, be transferred to another work.

- Pursuant to the provisions of the Code, an employer shall be entitled to terminate a fixed-term employment contract before the expiry thereof only in extraordinary cases where the employee cannot, with his consent, be transferred to another work, or upon the payment of the average wage to the employee for the remaining period of the employment contract.

- A person whose right has been violated may claim recovery of damages unless otherwise established by labour laws.

- Labour rights shall be protected by the court or any other dispute resolution body in accordance with the procedure established by laws and in one of the following ways:

- 1) by recognising the said rights;
- 2) by restoring the situation that existed before the violation of the right and preventing performance of the acts which violate the right;
- 3) by terminating or modifying the legal relation;
- 4) by making the person guilty of violation of labour rights repair the property or moral damage inflicted or, in the cases prescribed by law, also exacting from the above person penalty or default payment;
- 5) in other ways established by laws.

The *Law on Public Service* also provides certain guarantees, for instance: a temporary transfer of a career public servant to another position shall be possible only upon his written consent, except for the cases of a state of war, a state of emergency or extraordinary situations; grounds for dismissal from office are explicitly stated in the Law and, at least formally, there are no legal possibilities to dismiss a public servant without providing an established ground (of course, there is always an option to overburden an employee with work and then dismiss it for poor performance; in this case, however, a public servant can ask the court to compare the workload of all the employees in the institution and assess if the dismissal was grounded); salaries are established following strict schemes, not prone to interpretations.

It is also important to mention, that the *Draft Law on Protection of Persons Reporting Offences of a Corrupt Nature* was proposed and registered with the Parliament in 2004, but there have been no changes regarding this initiative since then. In fact, the draft law has some significant deficiencies, therefore pressuring for its adoption would not be reasonable:

- The scope of application of the law would be very limited, since whistleblowers would only be persons reporting violations related to corruption;
- The draft law establishes that protection would be guaranteed only if a report was submitted to a special institution assigned by the Government. It means that even reporting about the improper conduct in the organisation internally, the person will not be guaranteed special protection, not to mention cases of reporting to special competent external authority, for example, Chief Official Ethics Commission;
- The guarantees mentioned in the project are generic, already implicitly or explicitly stated in the Labour Code or the Law on Public Service, thus its provisions are merely declarative, not providing whistleblowers with new rights or guarantees;
- The draft law suggests establishing a new institution and this is not so popular with the society, thus would probably not be supported by the politicians.

The Anti-Corruption working group established in April, 2009 by the Prime Minister Order No. 133 is assigned with working on the issue of WB protection and will be advancing a new draft law on WB protection.

All in all, there is no specific legal framework for WB protection and only scattered norms could qualify as providing some sort of regulation (general in nature). The major problem is that, apart from increasing invitations from the authorities to, for instance, report corrupt practice, they are not followed by protection mechanisms. Thus, people find themselves in an ambiguous position: on the one hand, they are encouraged to voice their concerns; on the other hand, they are not yet offered any substantial guarantees for potential harassment, reprisals, etc.

## **2. Whistleblowing in Practice**

Assessing if WB is common in practice is very difficult. Of course, the main reason for it is the fact that WB is not legally defined in Lithuania, thus the notion is not only open to interpretations and speculations, but does not appear in any official statistics or case records. Therefore it is extremely difficult to raise questions on numbers (frequency of WB and a number of persons reporting), type

of violations reported, outcomes, etc. Efforts to identify the relevant sources for this information resulted in the following list:

- Regulations and practices in public institutions regarding persons reporting internal violations (internal WB): for this purpose, a questionnaire was sent to a number of public institutions and the results are commented on in the next section;
- Regulations and practices in private companies regarding persons reporting internal violations (internal WB): codes of ethics of private companies were studied, looking if conditions for WB were in place. The results are summarized in the next section;
- External WB possibilities via “hotlines”: questionnaires were sent to public institutions operating such lines in order to understand their operational capacities, receive information on cases, as well as recent statistics;
- Media: cases that received the most coverage and in the eye of the public are treated as WB cases.

Although this type of research may not cover all the incidence of WB, in the current state of affairs it was seen as the most workable approach. As the first two sources will be analyzed in a separate section on organizational culture, the last two are covered below.

When talking about “hotlines” it needs to be said that the results of TI Lithuania study lead to one very important conclusion: organizations operating these lines and the society in general do not make any distinction as to different types of lines, i.e. hotlines, help lines, consultancy lines, information lines, anti-corruption lines are seen as pretty much the same thing, except for lines intended for specific reports or topics, ex. child abuse. The confusion is quite worrying keeping in mind that the same line can be used both by the employees of the institution operating it and the general public; for purpose of reporting offences, as well as consultations; for anonymous reporting and open whistleblowing; etc. Since international best practices indicate the necessity to draw distinction between WB lines and helplines, which are supposed to be safe havens for worried employees,<sup>3</sup> Lithuanian practice might not be so commendable.

On the other hand, the increasing usage of these lines shows a growing awareness of the people. From 28 institutions that responded to the questionnaire (55% of response rate) on external reporting, 19 institutions provided statistics on the number of external reports made, which for 2008 totaled approximately 44.989<sup>4</sup>. Although a number of reports proving to be well-founded differ from

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<sup>3</sup> PAS 1998:2008. Whistleblowing arrangements: Code of practice. British Standards, 2008.

<sup>4</sup> However, it must not be forgotten that the numbers are provided by institutions, which have different criteria, thus can include all types of reports (coming from all sources, regarding any type of misconduct, submitted in any form) or, on the contrary, have distinct statistics for what could be defined as whistleblowing. Therefore, the conclusions are tentative.

institution to institution, it ranges from very few reports to some 60% of reports leading to establishment of infringement. The average number is around 37% of reports proving to be well-founded, which is a serious signal to institutions that reporting can and does provide them with serious substantial information. Therefore, encouraging whistleblowing should be in their best interest.

When it comes to cases covered in the media, there are few that were very much talked about. The first one is popularly known as “the case of envelopes”. Mrs. Dalia Budrevičienė, who worked for a private company “Krekenavos agrofirma”, was fired in 2006 for reporting about unaccounted payment of wages to the employees. The practice was to officially declare minimal wages and pay the rest of the amount “in envelopes”, i.e. untaxed. Mrs. Budrevičienė „blew the whistle“ publicly and soon was fired from the company. According to her, threatening and harassment followed when she decided to file her complaint with a court. The case is still ongoing, already in the appeal stage, since the company disagrees to pay the amounts awarded by the court and Mrs. Budrevičienė, in turn, is claiming moral damages for the loss of health, employment opportunities, etc. In 2006 this woman was awarded with the title of "Human Rights Champion of the Year". However, since there is no WB protection law, it is difficult to say if she could qualify as a whistleblower.

Another case which also received a lot of media coverage was related to a huge claim “Lithuanian Petrol” laid with courts regarding the alleged debt of the State. The company upheld that the State owed 28 million Litas (more than 8 million Euros), because it had financial commitments concerning the said company. The court case was initiated by the company, but the process took a different turn. Ms. Marija Giraitytė, a retired employee of the National Audit Office of Lithuania, was one of the principal witnesses in the proceedings, providing detailed information on corrupt and illegal practices, mismanagement and embezzlement in the company. Mainly her testimony and going public with the information that she discovered while in her office guaranteed that the company’s claim was dismissed by the court in 2007. Thus, this example could well serve as a WB case in Lithuania.

Other cases that caught the attention of the media, as well as TI Lithuania, were several disasters, namely, the collapse of a bridge and a library/youth day centre, that could be prevented if people, who were aware of deficiencies in construction or maintenance, reported about them (in the case of the bridge) or were taken seriously by the public officials when raising concerns (in the case of the library/youth day centre). These cases were an example of how voicing the irregularities at work or receiving adequate attention from institutions could have benefited the public and prevented serious disasters.

Apart from the above mentioned ones, the media is regularly covering cases related to corrupt practices, but qualifying them as whistleblowing and, more importantly, following the processes is extremely difficult due to the lack of specific regulation.

### 3. Organizational Culture

#### *Public sector:*

From 106 questionnaires answered by public institutions, results of Ministries are compared below. Overall results are summarized and analyzed according to certain criteria.

Table: Whistleblowing Systems in Ministries.

	Rules of conduct of employees in place	Anti-corruption programme in place	Conditions to make an internal report (WB) in place	Is internal reporting (WB) encouraged?	Is there protection against any adverse actions?
Ministry of Agriculture	Yes	No	No	"There were no reports as yet"	Yes
Ministry of Culture*					
Ministry of Economy	Yes	Yes	Yes	No	Yes
Ministry of Education and Science	Yes	Yes	Yes	Yes	Yes
Ministry of Energy	Ministry of Energy has only been established since February 2009. Therefore, neither internal regulations, nor practices are in place yet.				
Ministry of Environment	Yes	Yes	Yes	"Can not be encouraged, since employees want to remain anonymous"	Yes
Ministry of Finance	Yes	Yes	Yes	Yes	Yes
Ministry of Foreign Affairs	Yes	Yes	Yes	"Since all the employees have permissions to work with classified information, they are obliged to report all the irregularities"	Yes
Ministry of Health					

	Yes	Yes	Yes	No	No
Ministry of the Interior	Yes	Yes	Yes	Conditions and information provided, but no specific encouragement	Yes
Ministry of Justice	Yes	Yes	Yes	Not by regulatory means, but in practice - yes	Yes
Ministry of National Defence	Yes	Yes	Yes	Conditions and information provided, but no specific encouragement	Yes
Ministry of Social Security and Labour	Yes	Yes	Only a duty to report cases of corruption, but no mechanism	No	No regulation
Ministry of Transport and Communications	Yes	Yes	Yes	No	Yes

\* - no data yet received.

One interesting discovery, which also makes a person wonder if internal WB systems are indeed effective, was the fact that quite a few Ministries noted there were no cases of their employee reporting.

Many reasons could be thought of trying to explain such a phenomenon: employees do not have any concerns (which is, the least to say, unlikely); they are afraid or intimidated to raise their concerns (which is where the WB protection should come in); they raise their concerns following a standing practice which is not an official one, thus cases are not registered, etc.; it is the policy of an organization that WB is not possible (in one case, a rather surprising response was received to a questionnaire, stating that WB system does not exist, because in a particular institutions acts or omissions worth reporting simply can not happen); employees are not aware of WB possibilities; institutions are not aware of a necessity to provide its employees with possibilities to report; employees use external channels for WB, ex. Special Investigation Services hotline; etc. One more explanation could be found in the data provided by State Tax Inspectorate (in November 2009): around 94% of reports filed with the Inspectorate are received from former employees. Thus, a certain reluctance to use internal reporting systems or report in general could be explained by lack of trust in the system.

On the other hand, majority institutions confirmed that protection for WB is in place, in a form of protection guaranteed for all the employees by the Law on Public Service, Labour Code, other laws and internal rules and regulations of a particular institution. Thus, the results are rather positive, showing that there should be no resistance regarding a new WB protection law, as formal conditions for reporting and guarantees for employees are in place in many institutions already.

*Private sector:*

In a study on business ethics carried out in spring-summer of 2008, interviews with 20 out of top 100 companies in Lithuania, according to the “Verslo žinios”<sup>5</sup> annual company list, were held. TI Lithuania inquired how the companies instruct their employees on ways to solve ethical problems. Only a small number spoke of the Code of Ethics as an integral part of their business identity. Many viewed the Codes with scepticism, not being sure how much they were actually followed. More than one-fifth of companies said they did not have a Code of Ethics. From in-depth interviews conducted with A-level executives on possibilities of whistleblowing, some general tendencies could be highlighted:

- Ethical problems are mainly dealt with following a general order, i.e. like any other problems rising in the company;
- Usually, human resources section is in charge or a particular employee can be assigned, and dealing with concerns of ethical nature can be part of his/her employment function. Also, the head of the company can be a person in charge of these questions.

Only two companies out of the list have explicit and publicized norms on employee whistleblowing and these are Yazaki Wiring Technologies Lithuania and Siemens. It is easy to notice that both are branches of international businesses, thus can resort to rules and expertise developed by their parent company. The codes of ethics of the above mentioned companies not only provide for WB system, but also guide an employee in formulating and raising their concern, as well as guarantee them adequate protection.

TI Lithuania is also aware of other companies which have well-defined and functioning WB systems, ex. Ernst & Young Lithuania, Price Waterhouse Coopers, KPMG, etc. From the interview held with a representative of the E&Y, it became clear that employees are well aware of WB possibilities, the environment in the company is friendly and encouraging, and the company perceives whistleblowing as an indispensable tool for risk management. However, it is again a Lithuania-based international company, although the motive of seeing WB as part of risk

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<sup>5</sup> The most popular business journal in Lithuania. Access online: [www.verslozinios.lt](http://www.verslozinios.lt)

management is a very important one for any type of organization, and not only from the private sector.

In conclusion, organizational culture in Lithuania regarding whistleblowing is not well developed. Only a small number of private companies speak of Code of Ethics as an integral part of their business identity. The corporate whistleblowing protection culture in Lithuania appears to be limited. Lithuania-based internationally-owned companies seem to possess the best level of understanding and standards of whistleblowing, as they often rely on rules and expertise developed by their parent company.

#### **4. Cultural Context: What is the Public Attitude towards the Act of Whistleblowing?**

This section of the Report is aimed at describing a cultural context in Lithuania with regards to a WB protection and provides some insight as to potential changes, perspectives of advancing new regulations and possibilities of promotion of WB protection.

It goes without saying that Lithuania as a former member of the Soviet block has a strong distaste for informing practices closely interrelated with KGB and “Big Brother” environment as a whole. Legacy of distrust created during the previous years can lead to whistleblowers being mistaken – even if in play – with snitches, “plants”, toadies, collaborators, “reliable people”<sup>6</sup>, etc. It can not be forgotten, that the network of informants in Socialist Lithuania was big (according to some estimates, around 6000 people<sup>7</sup>) and its detrimental effect was felt nationwide.<sup>8</sup>

In 1999 *the Law on Registering, Confession, Entry into Records and Protection of Persons who Have Admitted to Secret Collaboration with Special Services of the Former USSR*<sup>9</sup> was adopted, providing protection to persons who have confessed to collaboration with Soviet special services and also establishing a special interdepartmental commission (so-called Lustration Commission) for a collection of data and review of cases.

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<sup>6</sup> Lina Okuličiūtė. Reliable People in Net of the KGB in the Lithuanian SSR. Available online: <http://www.genocid.lt/centras/lt/539/a/>

<sup>7</sup> Nikki Swartz, Lithuania Posts Secret KGB Files Online, *Information Management Journal*, Nov/Dec 2007. Available online: [http://findarticles.com/p/articles/mi\\_qa3937/is\\_200711/ai\\_n21137900/](http://findarticles.com/p/articles/mi_qa3937/is_200711/ai_n21137900/)

<sup>8</sup> Juozas Starkauskas, Ginkluotas sovietinis partinis aktyvas ir kiti sukarinti dariniai (eng. Armed Soviet and Party Activists and Other Paramilitary Units), *Genocidas ir rezistencija*, 1999, Nr. 1(5). Available online: <http://www.genocid.lt/Leidyba/5/juozas1.htm>

<sup>9</sup> The Internet database of the Seimas (Parliament): [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=123807](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=123807)

This law and the work of the Commission sparked and still keep many controversial debates alive, which fall outside the scope of this Report. However, coupled with an effect several “KGB” cases had, they support the argument that informing practices might be looked at suspiciously in Lithuania.

On the other hand, it has to be mentioned that the environment for WB is not very favorable due to the prevalent phenomenon of corruption, as well. According to recent studies and opinion polls, resorting to bribery, nepotism and other forms of corruption is not decreasing. The Lithuanian Map of Corruption 2008<sup>10</sup>, the study organized by Transparency International Lithuania, shows that majority of Lithuanians believes the level of corruption has remained the same or increased during the last 5 years. Thus, the general belief is that there have been none or little positive change. Also, logically thinking, if corrupt behavior is so common and widespread, when it could be said that not so many people feel moral incentives to report and, more so, also fear to be subjects of report themselves.

Nevertheless, quite contrary to expectations after receiving results on incidence of corrupt practices, the anti-corruption potential of the society has increased. Around 20% of all of the respondents said that encouraging the population to take part in anti-corruption initiatives and inciting people to report cases of, for example, bribery is a way to reduce corruption. In the same vein the will to participate in activities aimed at reducing corruption and increasing transparency is growing noticeably.

Most importantly, the Lithuanian Map of Corruption 2008 asked the respondents how they see the persons who report cases of corruption. Around 80% of all the people interviewed agree that whistleblowers are brave and active people. Negative opinions are rather few (Figure 1). Therefore, a really significant and promising shift in attitudes of the society can be seen, which means that current initiatives to address a WB protection issue have started in an already changing environment. Not only can it be used to advance adequate legal mechanisms, but also strengthen public campaigns and redirect them accordingly. Despite the fact, that the Soviet legacy is continued to be often used by politicians, public and private sector, and general public representatives as an excuse to compare “whistleblowers” with snitches and justify the reluctance to take political action, the results of the study showed a positive perception of whistleblowers.

In addition to this, the Government is also advancing anti-corruption initiatives, which are mainly addressed in the Anti-corruption working group. This group comprises representatives from public

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<sup>10</sup> Available online: [http://www.transparency.lt/new/images/lt\\_map\\_of\\_corruption\\_2008\\_en.pdf](http://www.transparency.lt/new/images/lt_map_of_corruption_2008_en.pdf)

institutions, as well as a representative of TI Lithuania. It is competent to discuss and propose amendments to draft laws, also receive suggestions submitted by anyone from the general public. One of the major issues on the agenda of the said working group is WB protection. Since this issue is gaining importance on the state level, it can have a very strong impact on the overall cultural perception of whistleblowers. Plus, the increasing involvement of the media in covering cases of corruption helps to raise awareness of the society and incite civic action.

However, it can not be forgotten that Lithuania is a small country, in other words, “country of neighbors”. Therefore, there is still a standing reluctance to report activities of your colleagues or superiors and it is not only an issue of hierarchy or a possible loss of job. Being involved with your co-workers on a more intimate level very often prevents potential whistleblowing actions or makes them preferential. It is, of course, not so much the case in bigger organizations or organizations with foreign capital, where western working culture is dominant.

Besides, it should be noted that efforts of representatives of NGO sector and journalists to emphasize the greater good – be it public interest, public or individual health and safety, environmental protection, etc. – also slowly open ground for the public support to WB protection regulations.

In consequence, there are several factors, discussed above, that might impede favorable attitude towards WB. Nevertheless, there is a growing understanding that WB is a positive and civic action and a stimulus to engage in such activities is increasing.

## **PART B: Extent of Whistleblowing Protection Rules and Their Application in Practice**

TI Lithuania has been nominated to lead the drafting of the WB protection law in the above mentioned Government working group on anti-corruption matters. Since the section 1 on Legal provisions of the previous part of this Report covered the existing legal base and its potential use for WB protection, this section will only briefly mention it and also introduce provisions suggested for the draft law, elaborated by TI Lithuania.

### **- Subject matter/definition of wrongdoing**

No laws or regulations provide a definition of wrongdoing which would be a direct ground for WB. On the other hand, many laws deal with acts and omissions which are prohibited, improper, unlawful, illegitimate, non ethical, etc. This includes both hard (ex. Criminal Code, Code of Administrative Offences, etc.) and soft measures (ex. corporate codes of ethics).

A draft of the Law on Whistleblower Protection refers to wrongdoing as unlawful conduct. Although a possibility to include unethical acts is also discussed, it would be very difficult to implement such a provision in practice and avoid abuse of such a measure. Lithuania is a country with civil law tradition, thus courts, first of all, are charged with applying the law and not developing it. Thus, if unethical acts are not described in laws, then application of such a provision becomes hardly possible.

Unlawful act could be defined as an act or omission that violates laws and takes a form of noncompliance with duties, malpractice, or exceeding one's competence or powers.

### **- Scope of personnel coverage**

Generally speaking, the existing laws, especially the Labour Code and the Law on Public Service, cover all categories of employees or persons working under various contracts. They can all, after reporting, be considered whistleblowers.

The Draft Law on Whistleblower Protection proposes the following definition for whistleblower: it is a present or former employee or other person, who has disclosed information about suspected unlawful or unethical conduct of an employer, his/her superiors or other persons subordinate or accountable to the employer, except for cases when certain conduct violates rights or legally protected interests of a whistleblower himself/herself.

Employee is described as a natural person, employed under employment contract (including employment by a contract on the supply of services) or a natural person, who performs duties in the public service, or a professional soldier.

Furthermore, 'other person' is a natural person (not an employee), who has a granted access to organisational data or information (an intern, a trainee, also a person working as a volunteer or on other grounds). The latter criterion is very important to be able to encompass all potential whistleblowers, and still link them to an employer.

Accordingly, an employer is defined in the following way: it is an enterprise, establishment, association or any other organisational structure irrespective of the form of ownership, legal form, type and nature of activities, or a natural person, who possesses legal capacity in labour relations, connected with an employee or other person by labour, public service, internship, traineeship or analogous relations.

- **Internal disclosure channels**

From the results of a questionnaire sent to public institutions asking them about the possibilities of internal reporting, no unanimous conclusions could be drawn. Institutions indicate various channels for disclosure, ex. particular person/personnel are appointed to receive reports; heads of departments are in charge of this function; top executives are to be directly contacted; etc. Also, many Ministries have a hotline intended for both internal and external use. Employees can call and report their concerns anonymously or can choose to only benefit from confidential treatment. Some institutions also indicated, that written notification can be submitted anonymously by putting them in a special mailbox at the workplace. However, this raises many doubts if anonymity could really be upheld.

- **External disclosure channels**

There is no statistics as to the number of working WB lines in a country. Identifying them is quite a cumbersome task, as their purpose can be mixed, their usage limited, and information about them purposefully disseminated to only a targeted audience. However, TI Lithuania tried to identify the most prominent and popular ones and sent the questionnaire on possibilities of external reporting to 51 institution operating a WB line. Among the hotlines widely known to the public are those operated by: Special Investigation Service, State Tax Inspectorate, Financial Crime Investigation Service, State Labour Inspectorate, State Social Insurance Fund Board, State Consumer Right Protection Authority, etc.

- **Additional disclosure channels**

Reporting to non-governmental organizations is not yet formalized. There is a University affiliated Law Clinics, but it is intended for those that seek legal help, more precisely, provide unpaid legal consultancies for the needy. It, however, does not collect statistics on reports of WB nature.

Media is also perceived as a possible channel for disclosure, but is not looked at very favorably due to potential bias and taste for scandals. However, if a person mistrusts reporting systems offered by public institution, he/she rather turns to the media.

- **Confidentiality**

First of all, it needs to be stated that in many instances when gathering information TI Lithuania encountered with a problem of distinction between anonymity and confidentiality, in particular in the public sector. Indeed, the confidentiality is mainly guaranteed and the identity of a whistleblower can be protected. On the other hand, some responses indicated that there are no practical possibilities to conceal the identity of a whistleblower if an organization is small. In addition to this, some admitted that anonymous reports are not even followed up.

- **Restrictions**

There are certain laws dealing with protection of classified information and state, commercial and professional secrets, mainly Law on State Secrets and Official Secrets and the Criminal Code. There is also a Commission for Secrets Protection Co-ordinations, which tries to ensure protection of the information comprising a secret and assesses the validity of the acquisition of such information. Thus, there are certain limitations as to disclosing some sort of information.

The Law on State Secrets and Official Secrets establishes that:

„A person shall be held liable for an unauthorised holding of classified information, the compromise, loss, seizure or other unauthorised acquisition of classified information or for other breaches of the requirements set for the protection of classified information in accordance with the procedure laid down by legal acts.“

The Criminal Code has certain related provisions, too:

Article 125. *Disclosure of a State Secret:*

“A person who discloses the information constituting a state secret of the Republic of Lithuania, where this information was entrusted to him or he gained access thereto through his service, work or in the course of performance of public functions, but in the absence of characteristics of espionage, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by imprisonment for a term of up to three years.”

Article 211. *Disclosure of a Commercial Secret:*

“A person who discloses the information considered to be a commercial secret which was entrusted to him or which he accessed through his service or work, where this act incurs major property damage to the victim, shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by a fine or by restriction of liberty or by arrest or by imprisonment for a term of up to two years.”

*Article 297. Disclosure of an Official Secret:*

“A person who discloses the information constituting an official secret which was entrusted to him or which he accessed through his service or work, in the absence of characteristics of espionage or assistance to a foreign state in carrying out activities hostile to the Republic of Lithuania, shall be considered to have committed a misdemeanour and shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by a fine or by restriction of liberty.”

Thus, disclosing classified information or information qualified as a secret can clash with a greater interest of the state and society. However, the legislator should really take this point under consideration, as whistleblowing is presumed to be for the benefit of the state and society, as well.

- **Protection against reprisal/retaliation and Offered remedies**

Protection of and remedies for employees and public servants have already been covered in the previous sections on Legal provisions and Organizational culture. Traditional guarantees of non-dismissal are, however, not sufficient. Whistleblowers can be subjected to a variety of reprisals and some could not even be regulated under current laws. Some reprisals, of course, should be remedied by changing cultural norms and environment. Nevertheless, more elaborate protection needs to be adopted by laws.

The Whistleblower Protection Law should definitely foresee more specific provisions for protection, but be actionable and realistic within a given context.

- **Right to refuse**

The right to refuse participation in illegal activities is a general right everyone possesses.

- **Legal liability**

In the Chapter XXII on “Crimes and misdemeanours against a person’s dignity and honour” of the Criminal Code, the liability for libel (Article 154) and insult (Article 155) is established.

Also, the Code provides for liability for falsely denouncing or reporting about a non-existent crime (Article 236) and falsely reporting or spreading the news about a danger threatening the

community or a major disaster, where this causes public confusion or incurs major property damage or results in the call-out of special services (Article 285).

The Draft Law suggests excluding liability in cases when a person acted in good faith, but the link with the previously mentioned articles needs to be well-defined and worked on, to prevent guaranteeing impunity for reports made in good faith but causing great damage.

- **WB participation**

Public institutions indicated that a person, who reported his/her concern and did not wish to remain anonymous, was always informed about the actions taken regarding his/her report. It was mainly done in written. Anonymous whistleblowers in most instances are not contacted back.

- **Time scale**

There is no time-scale established for the act of WB. If a wrongdoing which is the matter of report qualifies as a crime, then rules on limitations apply.

- **Independent review**

There is no independent review system regarding WB.

## **PART C: Key Results and Recommendations**

- There is no specific regulation, i.e. a free-standing WB protection law in Lithuania. Analysis of current legislation shows that only regular labour law or provisions on protection of other types of persons can be extended to protect whistleblowers. However, passing of a whistleblower protection law is envisioned for in the Governmental programme, thus the political will is changing positively.
- While cultural and social factors are continued to be used as an argument against a smooth adoption and functioning of whistleblower protection mechanisms, TI Lithuania sociological research revealed a growing public resolve to take part in anti-corruption initiatives, as well as a positive view of whistleblowers.
- Analysis of institutional practices showed that public sector by and large has reporting and formalized protection systems in place. However, the number of internal reporting cases is rather low. Meanwhile, external reporting venues are broadly used but their regulation remains sketchy and obscure. As for the corporate sector, only a small number of private companies appear to have formalized conditions for whistleblowing.

### **Recommendations**

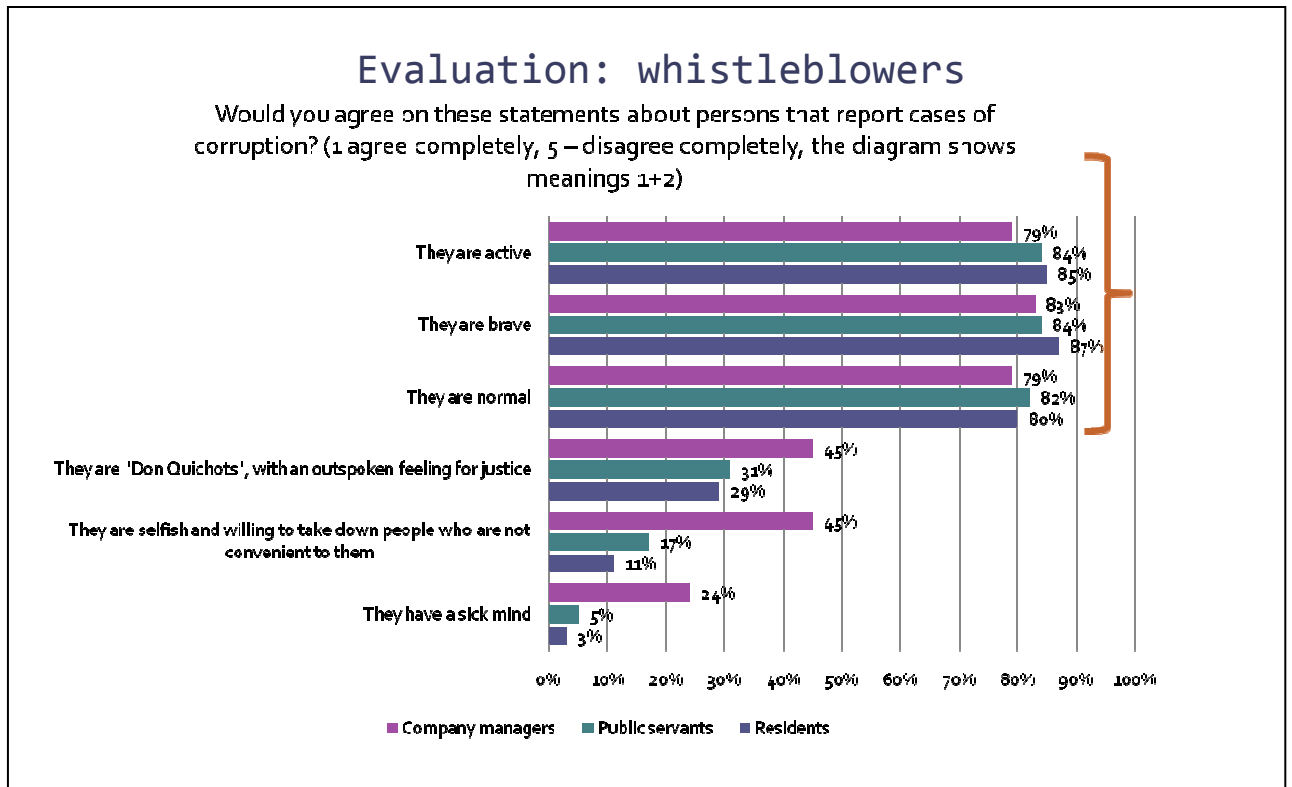
There are several areas where actions need to be taken in order to advance and promote WB protection:

- 1) Education, awareness raising (general public, as well as public institutions and businesses), public campaigns;
- 2) Adoption of the Law on Whistleblower Protection;
- 3) Ensuring effective implementation of currently existing internal and external reporting mechanisms;
- 4) Promoting greater public understanding of reporting practices and available channels.

## References

- Global Integrity Report 2008: Lithuania. Available online:  
<http://report.globalintegrity.org/Lithuania/2008/scorecard>
- PAS 1998:2008. Whistleblowing arrangements: Code of practice. British Standards, 2008.
- Lina Okuličiūtė. Reliable People in Net of the KGB in the Lithuanian SSR. Available online:  
<http://www.genocid.lt/centras/lt/539/a/>
- Swartz, Nikki. Lithuania Posts Secret KGB Files Online. Information Management Journal, Nov/Dec 2007. Access online:  
[http://findarticles.com/p/articles/mi\\_qa3937/is\\_200711/ai\\_n21137900/](http://findarticles.com/p/articles/mi_qa3937/is_200711/ai_n21137900/)
- Juozas Starkauskas, Ginkluotas sovietinis partinis aktyvas ir kiti sukarinti dariniai (eng. Armed Soviet and Party Activists and Other Paramilitary Units), Genocidas ir rezistencija, 1999, Nr. 1(5). <http://www.genocid.lt/Leidyba/5/juozas1.htm>
- TI Lithuanian Map of Corruption 2008:  
[http://www.transparency.lt/new/images/lt\\_map\\_of\\_corruption\\_2008\\_en.pdf](http://www.transparency.lt/new/images/lt_map_of_corruption_2008_en.pdf)
- TI Lithuania business ethics study
- UN Convention against Corruption: report on Lithuania
- Government Programme 2008-2012, Government's Resolution 189, February 25, 2009
- List of Laws:
  - o the Law on Corruption Prevention
  - o the Law on Public Service
  - o the Labour Code
  - o the Code of Criminal Procedure
  - o the Criminal Code
  - o the Law on Provision of Information to the Public
  - o the Law on Environmental Protection
  - o the Law on the Protection of Environmental Air
  - o the Law on the Protection of the Marine Environment
  - o the Law on Consumer Protection
  - o the Government Resolution No. 75 "On Remuneration for Valuable Information about the Crime, which has Property Damage"
  - o the Law on Protection of Participants in Criminal Proceedings and Operational Activities, and Protection of Officers of Law Enforcement Institutions from the Impact of a Criminal Act
  - o the Law on Operational Activities
  - o the Law on State Secrets and Official Secrets
  - o Draft Law on Protection of Persons Reporting Offences of a Corrupt Nature

Figure 1



Source: "Lithuanian Map of Corruption 2008"

**Annex 1: Questionnaire on Internal Reporting (List of Institutions included)**

**Questionnaire “Protection of Whistleblowers: Internal Reporting”**

Dear Sir/Madam,

Transparency International Lithuania is conducting a study, the aim of which is to evaluate if public institutions provided their employees with proper conditions to submit an internal report on known or suspected violations and/or raise other concerns about various issues at workplace. Public officials are the chosen target group of this research. The results will be used in preparing a draft law on whistleblower protection.

Thank you for your assistance!

Mark the chosen answer.

1. Does your institution have rules of conduct (or a similar document) setting the standard of a conduct of employees at the workplace?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
_____		

2. Does your institution have an anti-corruption program regarding anticorruption behavior at the workplace?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
_____		

3. Are there conditions to make an internal report on known or suspected unethical, improper or (possibly) illegal activities, which may have a negative impact on other employees, authority itself (including its reputation), or the public?

1. Yes	2. No	3. I do not know
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4. Other (please, explain)

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4. Does your institution inform employees on possibilities to make an external report outside the institution (e.g. Special Investigation Service hotline, Financial Crimes Office helpline and the like)?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
<hr/>		

5. Does your institution encourage internal reporting on known or suspected unethical, improper or (possibly) illegal activities, which may have a negative impact on other employees, authority itself (including its reputation), or the public?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
<hr/>		

6. If your institution has a well defined (or established in practice) internal system to deal with internal reporting:

6.1. Who is responsible for receiving such reports?

- A. A particular person/personnel is appointed;
  - B. Heads of departments are generally appointed;
  - C. Top executives are directly in charge.
  - D. Other (please, explain)
- 

6.2. Is there a time limit to react to an above mentioned report?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
<hr/>		

6.3. Is there an established course of action, which is taken after such a report is received?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
_____		

Describe briefly this course of action.

\_\_\_\_\_

\_\_\_\_\_

6.4. Is the employee informed about the actions taken concerning his/her report? If yes, then how?

1. Yes. How?	2. No	3. I do not know
_____		
4. Other (please, explain)		
_____		

6.5. Is it possible for the employee to remain anonymous?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
_____		

6.6. How is the anonymity of the employee guaranteed? Describe briefly.

\_\_\_\_\_

\_\_\_\_\_

6.7. Is the confidentiality of the report and the person guaranteed?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
_____		

6.8. How is the confidentiality of the report and the person guaranteed? Describe briefly.

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7. Does your institution ensure that there will be no adverse action (such as a loss of a job, decrease of earnings, obstacles in making a career, discrimination or negative reaction of colleagues, etc.) against whistleblowers as a consequence of their report?

1. Yes	2. No	3. I do not know
4. Other (please, explain)		
<hr/>		

8. What actions could be taken against those who engage in adversarial/repressive activities directed at whistleblowers?

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The name of your institution

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Thank you for the answers!

**Institutions:**

- Seimas of the Republic of Lithuania
- Government of the Republic of Lithuania
- Ministry of Environment
- Ministry of Finance
- Ministry of National Defence
- Ministry of Culture
- Ministry of Social Security and Labour
- Ministry of Transport and Communications
- Ministry of Health
- Ministry of Education and Science
- Ministry of Justice

Ministry of Foreign Affairs  
Ministry of Economy  
Ministry of the Interior  
Ministry of Agriculture  
Ministry of Energy  
+ their subordinate agencies

Administrations of all the Counties (10)

Bank of Lithuania  
The Radio and Television Commission of Lithuania  
Competition Council of the Republic of Lithuania  
Special Investigation Service of the Republic of Lithuania  
National Audit Office of Lithuania State Security Department of the Republic of Lithuania  
The Securities Commission of the Republic of Lithuania  
The Central Electoral Commission of the Republic of Lithuania  
The Office of Equal Opportunities Ombudsman  
National Health Board  
Children's Right Ombudsman Institution of the Republic of Lithuania  
National Control Commission for Prices and Energy  
Department of Cultural Heritage  
Commission of the Lithuanian Language The Office of Inspector of Journalist Ethics

Commission of Journalists and Publishers Ethics  
Joint-stock company turto bankas  
Information Society Development Committee under the Government  
Committee for Prevention of crisis  
Department of Physical Education and Sports under the Government Lithuanian Archives  
Department  
The Lithuanian Chamber of Auditors  
Insurance Supervisory Commission of the Republic of Lithuania  
Weaponry Fund of the Republic of Lithuania  
The State Food and Veterinary Service Lithuanian State Science and Studies Foundation  
Commission on Tax Disputes  
Drug Control Department under the Government  
The Communications Regulatory Authority  
Department of Statistics  
State Nuclear Power Safety Inspectorate  
State Data Protection Inspectorate  
State Gaming Control Commission  
State tobacco and alcohol control service  
Public Procurement Office

## **Annex 2: Questionnaire on External Reporting (List of Institutions included)**

### **Questionnaire “Protection of Whistleblowers: Help lines/Hotlines”**

Dear Sir/ Madam,

Understanding the importance of encouraging and protecting persons reporting (probable) violations at workplace, Transparency International Lithuania is conducting a study on perspectives of establishing such protection in Lithuanian legal system, as well as possibilities of its implementation. The aim of a current initiative is to evaluate how your institution enables employees of other institutions or companies to report known or suspected violations and raise other important concerns.

The target group of the study is state authorities, which via their help/hot lines or otherwise (ex. mail/e-mail, web report, etc.) receive information from people who encounter/witness (potentially) illegal, unethical, inappropriate actions in both public and private sectors.

The information obtained will be used in preparing the draft law on whistleblower protection.

Thank You for Your cooperation.

Mark the chosen answer. **You can choose several options.**

1. How does your institution receive reports on known or suspected unethical, improper or illegal activities?

- A. By phone (Please, indicate how the line is referred to \_\_\_\_\_);
  - B. By Internet message;
  - C. By mail / e-mail;
  - D. Other (please, explain)
- 

REMARK: For questionnaire purposes, the term „helpline“ will be used hereafter, which will include:

- Every term related to telephone line („Hot line“, „Confidence line“ and others);
- Other ways of reporting (ex. written notifications by mail/ e-mail, Internet messages, other).

2. Does your institution have rules (or a similar document) setting the operational standard of a helpline?

1. Yes (if possible, please, attach a copy of such a document )	2. No	3. I do not know
4. Other (please, explain) _____		

3. What is the purpose of your helpline?

- A. Reception of reports (notifications);
- B. Consulting;
- C. Further investigation of information, contained in the report;
- D. Other (please, explain)

4. When is it possible to use your helpline (ex. upon finding out/suspecting that unethical, improper or (possibly) illegal activities or failure to comply with the rules took/are taking place)? Please specify.

\_\_\_\_\_

\_\_\_\_\_

5. Who can use your helpline?

- A. General public;
- B. Public officials;
- C. Employees of your institution;
- D. Specifically defined group of people only (please, explain below);
- E. Other (please, explain)

6. A person can submit a report regarding:

- A. (possible) violation of his/her own interest;
  - B. (possible) violation of other persons interest (including legal persons);
  - C. Other (please, explain)
- 

7. The subject of the report may be the violation, (potentially) carried out / in progress:

- A. In the person's workplace
  - B. In the environment, related to the person's work
  - C. In the environment not related to the person's work
  - D. Other (please, explain)
- 

8. In which language can the report be submitted?

- A. Lithuanian only;
- B. In other languages as well:

What languages? Please, explain: \_\_\_\_\_

- a. it is formalized (set by rules, employees with particular language skills are on duty);
  - b. it is not formalized (possibly some employees will be able to speak a particular language, but it is not set by rules).
- 

9. Helpline is available (working hours): \_\_\_\_\_

10. Who is operating the helpline?

- A. A particular person/personnel is appointed (What person? How many? Please, explain below);
  - B. Division of Public Relations (How many persons?);
  - C. Division of General Affairs/Administration (How many persons?);
  - D. Other (please, explain)
-

11. What are the requirements set for personnel operating the helpline (please, specify any answer chosen)?

- A. Particular education/background;
- B. Special training course;
- C. Certain knowledge and skills;
- D. Other (please, explain)

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12. Are all reports registered?

- A. Yes;
- B. No. Please, describe briefly what criteria are being followed:

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13. Is there a time limit set to react to such a report?

1. Yes. What is it? _____	2. No	3. I do not know
4. Other (please, explain) _____		

14. Is there an established course of action, which is taken after such a report is received?

1. Yes	2. No	3. I do not know
4. Other (please, explain) _____		

Describe briefly this course of action:

---



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15. Is a person informed about the actions taken, concerning his/her report?

1. Yes. How? _____	2. No	3. I do not know
4. Other (please, explain) _____		

16. Is it possible for the person reporting to remain anonymous?

1. Yes	2. No	3. I do not know
4. Other (please, explain) _____		

17. How is the anonymity of the person guaranteed? Describe briefly.

\_\_\_\_\_

\_\_\_\_\_

18. Is the confidentiality of the report and the person guaranteed?

1. Yes	2. No	3. I do not know
4. Other (please, explain) _____		

19. How is the confidentiality of the report and the person guaranteed? Describe briefly.

\_\_\_\_\_

\_\_\_\_\_

20. Are the reports of the people reporting recorded (i.e. audio recording)?

A. Yes. Why? What is the capacity for storage of such information?

\_\_\_\_\_

\_\_\_\_\_

B. No. Why?

\_\_\_\_\_

\_\_\_\_\_

**Statistics** (please, write down information at your institution's disposal):

- How many reports your institution receives annually?
- How many internal reports (from employees, other related persons, ex. trainees, authors and others) your institution receives annually?
- How many external reports your institution receives annually?
- How many reports your institution receives on the violations carried out in: a) the person's workplace; b) the environment, related to the person's work; c) the environment not related to the person's work; d) other (please, explain)
- How many reports lead to further (investigative) actions?
- How many of the reports submitted prove to be well-founded (how many cases of infringements were established)?

The name of your institution

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Thank you for your answers!

**Institutions:**

Seimas of the Republic of Lithuania  
Government of the Republic of Lithuania  
Ministry of Environment  
Ministry of Finance  
Ministry of National Defence  
Ministry of Culture  
Ministry of Social Security and Labour  
Ministry of Transport and Communications  
Ministry of Health  
Ministry of Education and Science  
Ministry of Justice  
Ministry of Foreign Affairs  
Ministry of Economy  
Ministry of the Interior  
Ministry of Agriculture  
Ministry of Energy

Competition Council of the Republic of Lithuania  
Special Investigation Service of the Republic of Lithuania  
National Audit Office of Lithuania

State Security Department of the Republic of Lithuania  
The Securities Commission of the Republic of Lithuania  
The Central Electoral Commission of the Republic of Lithuania  
The Office of Equal Opportunities Ombudsman  
Children's Right Ombudsman Institution of the Republic of Lithuania  
National Control Commission for Prices and Energy  
The Office of Inspector of Journalist Ethics  
Commission of Journalists and Publishers Ethics  
Lithuanian Archives Department  
Insurance Supervisory Commission of the Republic of Lithuania  
Commission on Tax Disputes  
State Data Protection Inspectorate  
State Food and Veterinary Service  
The Environment Protection Agency  
State Territorial Planning and Construction Inspectorate  
Customs Department  
State Tax Inspectorate  
The Lithuanian Maritime Safety Administration  
State Road Transport Inspectorate  
Radiation Protection Centre  
State Consumer Right Protection Authority  
Lithuanian Business Support Agency  
Financial Crime Investigation Service  
Police Department  
Fire and Rescue Department  
State Border Guard Service  
National Paying Agency  
State Medicines Control Agency  
Department of Cultural Heritage  
Lithuanian Metrology Inspectorate  
State Labour Inspectorate  
State Social Insurance Fund Board of the Republic of Lithuania