

## NEWSLETTER

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### Law on Protection of Whistleblowers ( Off. Gazette of RS, no. 128/2014)



National Assembly of the Republic of Serbia has passed the Law on the Protection of Whistleblowers (Off. Gazette of RS, no. 128/2014, hereinafter: “**the Law**”), which entered into force on December 4, 2014, and became applicable as of from June 5, 2015.

This Law regulates whistleblowing, the whistleblowing procedure, the rights of whistleblowers, obligations of the government and other public bodies and organizations, as well as legal entities and individuals regarding whistleblowing, and other issues of importance for whistleblowing and protection of whistleblowers.

Whistleblowing is defined as revealing information on breach of regulation, human rights violation, unlawful exercise of public powers, life, public health, safety, environmental

endangerment, as well as in order of preventing significant damage, while the subject of protection is an individual who reveals information regarding work engagement, employment procedure, public services provision, business cooperation and ownership rights in a company.

The Law differs three basic types of whistleblowing:

- Internal whistleblowing which is defined as revealing information to the employer;
- External whistleblowing which includes revealing information to a competent authority and
- Whistleblowing the public which includes revealing information through public media, the Internet, at public meetings or in any other manner that makes the information available to the public.

The Law furthermore defines the procedure and the basic responsibilities of the employer, depending on the type of whistleblowing, also limiting the public whistleblowing to certain cases where the whistleblower is not obliged to contact the employer or the competent authority prior to notifying the public, including the cases of direct life, public health, safety, environment endangerment, significant damage or immediate risk of evidence being destroyed.

The whistleblower is entitled to compensation of damages, in accordance on the law on contracts and torts, but also to judicial protection, i.e. the right of filing a lawsuit to the competent court, in a subjective term of six months, or objective term of three years. The Law also includes a number of specific provisions regarding the court proceedings such as application of inquisitorial principle, specific rules on the burden of proof, court composition as well as the possibility of imposing temporary measure *ex officio*.

Finally, the Law prescribes that the employer is obliged to deliver to all employees (which refers to not only individual engaged based on a labor contract but as well as all other engaged individuals based on a management, or service contract or any other contract that does not include employment) a written notice of their rights under this Law.

Apart from the obligation of informing all employees, all employers that have more than 10 employees, are also obliged to render a general act regulating the procedure of internal whistleblowing, in the course of six months upon enactment of the Law i.e. no later than December 4, 2015.

Otherwise, if the employer does not inform the employees or does not render the general act on whistleblowing, the Law imposes a fine in the amount of RSD 50,000.00 to 500,000.00 for a legal entity, fine in the amount RSD 10,000.00 to 50,000.00 for the responsible person in the legal entity and fine in the amount of RSD 20,000.00 to 200,000.00 for entrepreneurs.