

**LAW No. 04/L-043
ON PROTECTION OF INFORMANTS**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo;

Approves:

LAW ON PROTECTION OF INFORMANTS

**Article 1
Scope of Law and Purpose**

The purpose of this law is creation of the legal basis for encouragement of the officials to present the unlawful actions.

**Article 2
Definitions**

1. Terms used in this law shall have the following meaning:

1.1. **Whistle blower** - any person, who, as a citizen or an employee reports in good faith the respective authority within public institution at central or local level, institutions, public enterprises or private for any reasonable doubts about any unlawful actions;

1.2. **Public institutions at central and local level** - are:

1.2.1. Highest institutions of the Republic of Kosovo (Assembly of Kosovo, President of Kosovo and Constitutional Court of Kosovo);

1.2.2. Judicial and prosecutorial authorities (Kosovo Judicial Council, Kosovo Prosecutorial Council, Courts, Prosecutions);

1.2.3. Highest state administration authorities (Government as a whole, Prime Minister, Deputy Prime Ministers and Ministers);

1.2.4. Highest state administration bodies (Office of Prime Minister and the Ministries);

1.2.5. Central state administrative bodies (subordinate bodies of the state administration performing non-ministerial tasks or other administrative tasks);

1.2.6. Local state administration bodies (municipal bodies of the state administration);

1.2.7. Independent state administration bodies (legal entities established to perform activities of state administration which require in the public interest a high degree of independence);

1.2.8. Independent institutions provided for in Chapter XII of the Constitution of Republic of Kosovo and

1.2.9. Other public institutions established by law;

1.3. **Institution** - a public institution or private educational institution, health institution etc, established by law;

1.4. **Public and private enterprises** - the public and private enterprises established according to the Law on Business Associations and the Law on Business Organizations;

1.5. **Official Person dealing with reported wrongdoings** - a person, who may be authorized with a special employer's decision, within the public institution at a central and local level, institution, public enterprise or private, to act upon whistle blowers' information.

1.6. **Unlawful action** - any action or inaction of a person by which are violated the legal provisions in force, presented in a form of a criminal offence or violence.

1.7. **Information in the public interest** - any information concerning violation of the laws, rules of professional ethics and principles of good administration provided in good faith in order to preserve the interest of the state or general public interest.

Article 3 Basic Principles

1. The rights of the whistle blower who reports/discloses in good faith unlawful actions of officials or responsible persons within public institutions at central or local level or within institutions, public or private enterprises are guaranteed.

2. Whistle blower disclosing unlawful actions should act in good faith and should reasonably believe that the facts and information given in the disclosure are true.

3. Whistle blower who discloses unlawful actions in good faith shall not be subject of punitive or disciplinary measures, dismissal or suspension from work and shall not be exposed to any form of discrimination.

4. Whistle blower employee who was subject to discriminatory measures, including dismissal from work, is entitled to address the competent court, which, if proven that the whistle blower employee has been dismissed because of the disclosure of information, shall reinstate him/her and shall order the public institution at central or local level, institution, public or private enterprise to provide him with a compensation for the suffered damage.

5. Whistle blower's anonymity is guaranteed.

6. If in case of disclosure of information about the commission of serious criminal offence, there is a potential risk for the security and integrity of the whistle blower and his/her close family members and to a larger scale to his/her property, whistle blower's protection is to be provided in accordance with the Special Law for Protection of Witnesses through the methods stipulated by this law.

7. While observing the principles of legality and good administration public institutions shall carry out the necessary checks pertaining to whistle blowers' disclosure of information about the commission of unlawful actions.

8. Regardless of the form and content of the whistle blowers' disclosure of unlawful action it shall be considered as an official complaint. Response to the whistle blower's disclosure shall be prepared by applying accordingly the procedures pertaining to the responses given to the parties, who file official submissions/ complaints to public administration bodies.

Article 4
Responsibilities of public institutions at central and local level, institutions, public or private enterprises

1. Public institutions at central or local level, institutions, public or private enterprises are responsible to:

- 1.1. create conditions for an independent and unhindered work of the person who reported potential unlawful actions;
- 1.2. create provisions pertaining to the protection of integrity, the rights and interests of whistle blowers who are reporting unlawful actions;
- 1.3. receive reports/disclosures about potential unlawful actions and implement the procedure in accordance with this Law;
- 1.4. preserve material and personal evidences by which is proved the unlawful action.

Article 5
Disclosure and decision upon unlawful action

1. Whistle blowers who doubt for unlawful actions should report the information.
2. Employer or one of the supervisors, should, towards the whistle blower who has reported the unlawful actions, ensure his/her protection anonymity, integrity, from any other form of mistreatment.
3. Protection provided for by paragraph 2 of this Article is excluded when whistle blower in bad faith and willingly reports /discloses untrue information.

Article 6
Delivery of information

1. Whistle blower shall submit information about the unlawful actions to the official person dealing with reported wrongdoings or to any other supervisor.
2. Information must be understandable and should contain personal data of the person against whom the report is filed and the evidences they possess.
3. Unlawful actions may be reported/disclosed in the following ways:
 - 3.1. in writing;
 - 3.2. through postal services or through the e-mail; and
 - 3.3. orally.
4. When the report/disclosure is presented orally, the official person compiles the report/disclosure and the same one shall be signed by the whistle blower and the official.

Article 7

Admission and Registration of Reports on Unlawful Actions

1. Each supervisor or official shall record the admitted report/disclosure of unlawful actions. The recording should contain the following:

- 1.1. admission date;
- 1.2. name and last name;
- 1.3. the address;
- 1.4. institution of the reporting person; and
- 1.5. a short summary of the report/disclosure;

Article 8 Verification and processing of reports/disclosures

After receiving a report/disclosure for unlawful actions, supervisor or the official person notifies the respective institution to deal with the issue in compliance with the laws in force.

Article 9 Reporting unlawful actions

1. Official person or supervisor, on wrongdoings, is obliged to inform in writing the whistle blower on procedures that were taken regarding the report.
2. Official person or supervisor shall inform the manager of the institutions about the results of the implemented procedures and about all conclusions.

Article 10 Document Archiving

The head of the institution takes measures for archiving all reports/disclosures of the wrongdoings in the institution headed by him/her. The materials will be stored for at least five (5) years.

Article 11 Entry into force

This law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

**Law No. 04/L-043
31 August 2011**

Promulgated by Decree No.DL-031-2011, dated 31.08.2011, President of the Republic of Kosovo Atifete Jahjaga.