

INCD-ECOIND

**INTEGRITY
WHISTLEBLOWER GUIDE**

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1. INTRODUCTION

On 23 October 2019, Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law was adopted and published in the Official Journal of the European Union, L Series, No. 305 of 2019.

As an EU Member State, Romania transposed the Directive by adopting Law No. 361/2022 on the protection of whistleblowers in the public interest, published in the Official Gazette, Part I, No. 1218 of 2022. This national regulation applies to public authorities, public institutions, other legal entities under public law, regardless of the number of employees, as well as legal entities under private law with at least 50 employees, which are required to identify or establish internal reporting channels and to set internal reporting procedures and subsequent follow-up actions.

INCD ECOIND adopts the provisions of national legislation on whistleblowing in the public interest as an instrument that can effectively contribute to preventing and combating corruption, as well as maintaining integrity standards. Through this instrument, individuals both inside and outside the institute can express their concerns or fears, raise alarms, or even report immoral, abusive, or illegal practices. In accordance with the legislation in force, whistleblowers in the public interest / integrity whistleblowers benefit from an enhanced level of protection, with guarantees ensuring respect for freedom of expression and the right to information.

2. PURPOSE OF THE GUIDE

The purpose of this guide is to protect individuals who, in a professional context, report or report, in good faith, acts that involve violations of the law.

3. GUIDING PRINCIPLES

a. The principle of legality – INCD ECOIND has the obligation to respect fundamental rights and freedoms by ensuring full compliance, among others, with freedom of expression and information, the right to personal data protection, the freedom to conduct a commercial activity, the right to a high level of consumer protection, human health and environmental protection, as well as the right to an effective remedy and the right to defense.

b. The principle of responsibility – the public interest whistleblower has the obligation to present data or information regarding the reported actions

c. The principle of impartiality – the examination and resolution of reports shall be carried out without subjectivity, regardless of the beliefs or interests of the persons responsible for resolving them.

d. The principle of good administration – INCD ECOIND must carry out its activity in the pursuit of the general interest, with a high level of professionalism, ensuring efficiency and effectiveness in the use of resources.

e. The principle of balance – no person may invoke the provisions of the law in order to diminish an administrative or disciplinary sanction for a more serious act committed by them that is unrelated to the report.

f. The principle of good faith – protection is granted to the person who had reasonable grounds to believe that the information concerning the reported breaches was true at the time of reporting and that such information fell within the scope of Law No. 361/2022.

4. FIELD OF APPLICATION

The provisions of this guide apply to the following categories of persons who make reports and who have obtained information regarding violations of the law in a professional context, as follows:

- a. employees of INCD ECOIND
- b. persons whose employment relationships have not yet begun and who report through internal or external reporting channels or who publicly disclose information regarding violations of the law obtained during competitions for filling vacant positions or other pre-contractual negotiations or in the event that the employment relationship has ended
- c. suppliers of INCD ECOIND
- d. contractors/sub-contractors of INCD ECOIND
- e. persons who make reports and who obtained information regarding violations of the law in a professional context;
- f. persons who report or publicly disclose information regarding violations of the law anonymously.

5. REFERENCE DOCUMENTS

5.1 European legislation

- Directive (EU) 2019/1937 on the protection of persons reporting on breaches of Union law.

5.2. National legislation

- Law no. 361/2022 updated on the protection of whistleblowers in the public interest;
- H.g. no. 1269/2021 on the approval of the National Anti-Corruption Strategy 2021-2025;
- Law no. 365/2004 updated for the ratification of the United Nations Convention against Corruption;
- Law no. 78/2000 updated for the prevention, detection and sanctioning of acts of corruption

- o Government Ordinance no. 119/1999 updated on internal/managerial control and preventive financial control
- o Order of the General Secretariat of the Government no. 600/2018 for the approval of the internal managerial control of public entities;
- o Law no. 53/2003 updated on the Labor Code;
- Law no. 544/2001 updated on free access to information of public interest;
- o Law no. 278/2009 updated on the Civil Code;
- o Law no. 134/2010 updated on the Civil Procedure Code;
- o Government Decree no. 261/1999 on the establishment of the National Institute for Research and Development for Industrial Ecology – ECOIND Bucharest;
- o Government Decree no. 961/2005 on the approval of the Regulation on the Organization and Functioning of the National Institute for Research and Development for Industrial Ecology – ECOIND Bucharest;

5.3. Internal regulations

- o Internal regulations of INCD-ECOIND;
- o Code of ethics and integrity of INCD ECOIND

6. DEFINITIONS

- o **Whistleblower** – a person who reports or publicly discloses information regarding violations of the law, obtained in a professional context;;
- o **Professional context** – current or previous professional activities of any kind, whether paid or unpaid, carried out within INCD ECOIND, on the basis of which individuals may obtain information regarding breaches of the law and may suffer retaliation if they report them;
- o **Public disclosure** – making available, in any manner, in the public space, information relating to breaches of the law;
- o **Information regarding breaches of the law** – information, including reasonable suspicions, concerning actual or potential breaches of the law that have occurred or are likely to occur within INCD ECOIND, as well as information regarding attempts to conceal such breaches;
- o **Breaches of the law** – acts consisting of an action or omission constituting non-compliance with legal provisions in areas such as: public procurement, financial services, products and markets, prevention of money laundering and terrorism financing, product safety and conformity, transport safety, environmental protection, food and feed safety, animal health and welfare, public health, consumer protection, protection of privacy and personal data, and security of networks and information systems; breaches affecting the EU's financial interests; breaches related to the internal market; acts representing disciplinary offences, administrative infringements, criminal offences, or acts contrary to the purpose or objective of the law;
- o **Employee** – a person engaged in an employment or service relationship, under general or special legal provisions, performing work in exchange for remuneration;
- o **Designated person** – the responsible person within INCD ECOIND, appointed by decision of the General Director, with duties regarding the receipt, registration,

examination, follow-up actions, and resolution of reports, acting with impartiality and independence in exercising these duties;

- **Person concerned by the report** – a natural or legal person mentioned in the report or in the public disclosure as the person allegedly responsible for the breach of the law or associated with such person;
- **Report** – oral or written communication of information regarding any act that constitutes a breach of the law;
- **External reporting** – oral or written communication of information regarding breaches of the law through external reporting channels;
- **Internal reporting** – oral or written communication of information regarding breaches of the law through internal reporting channels;
- **Retaliation** – any direct or indirect action or omission occurring in a professional context, motivated by internal or external reporting or public disclosure, which causes or may cause harm to the public interest whistleblower.

7. RIGHTS AND PROTECTIVE MEASURES OF WHISTLERS IN THE PUBLIC INTEREST

The public interest whistleblower who publicly discloses information regarding breaches of the law, in accordance with Article 19 of Law No. 361/2022, benefits from protection if one of the following conditions is met:

- a. They first reported internally and externally, or directly externally, according to Chapters III and IV, but consider that no appropriate measures were taken within the period provided under Article 17(6);
- b. They have reasonable grounds to believe that:
 - the breach may constitute an imminent or obvious danger to the public interest or a risk of irreparable harm;
 - in the case of external reporting, there is a risk of retaliation or a lower likelihood that the breach will be effectively remedied, considering the specific circumstances of the report.

The public interest whistleblower who makes a report or publicly discloses information regarding breaches of the law does not violate legal provisions or contractual clauses concerning the disclosure of information and is not liable for such reporting or public disclosure, provided they acted in accordance with Law No. 361/2022 and this procedure, and had reasonable grounds to believe that the report or disclosure was necessary to reveal a breach of the law.

The public interest whistleblower who obtains or accesses data and information of which they become aware by virtue of their job duties or employment relationship is not liable if such access or acquisition is intended for reporting or publicly disclosing a breach of the law, and if the report or disclosure was carried out under the conditions of Law No. 361/2022.

At the request of a public interest whistleblower who is subject to disciplinary investigation as a result of internal reporting, external reporting, or public disclosure, the disciplinary committee is required to invite the press and a representative of the employees.

The announcement must be made public on the institute's website at least 3 working days before the meeting, under penalty of nullity of the report and the disciplinary sanction applied.

In accordance with Article 23(4) of Law No. 361/2022, the Bar Association of the district where the whistleblower carries out their activity provides free legal assistance throughout the disciplinary procedure, for up to one year from the date of reporting.

The public interest whistleblower may challenge retaliation measures through a petition submitted to the competent court, depending on the nature of the dispute, within whose territorial jurisdiction the whistleblower resides.

The identity of the person concerned is protected while follow-up actions to the report or public disclosure are ongoing, except when, as a result of resolving the report or disclosure, it is determined that the person is guilty of the legal breaches that were the subject of the report or disclosure.

The National Integrity Agency ensures counselling and information regarding protective measures, rights, procedures, and applicable remedies, and provides whistleblowers with assistance regarding their protection against retaliation before any authority.

8. REPORTING METHODS

- a. Internal reporting
- b. External reporting
- c. Public disclosure

Reporting breaches of the law is carried out primarily through internal reporting channels. However, the public interest whistleblower may choose between the internal reporting channel and the external reporting channel. When choosing the reporting channel, the whistleblower may consider aspects such as the risk of retaliation in the case of internal reporting, or the impossibility of effectively remedying the breach through internal reporting channels.

To receive reports regarding any act that constitutes a breach of the law, INCD ECOIND establishes internal reporting channels accessible only to the designated person: a dedicated email address (avertizordeintegritate@ecoind.ro) and an office space allowing the designated person to receive reports in conditions ensuring the confidentiality of reporting and the assessment of all public interest whistleblowing.

The public interest whistleblower who reports breaches of the law may choose between the internal reporting channel (avertizordeintegritate@ecoind.ro) and the external reporting channel, considering aspects such as the risk of retaliation in internal reporting and the impossibility of effectively remedying the breach through internal channels.

8.1. Submitting an Internal Report

Public interest whistleblowing may be made in writing, on paper (physically handed to the designated person) or electronically (avertizordeintegritate@ecoind.ro), using the internal reporting channels.

The public interest report shall include at least the following: the whistleblower's name and surname, contact details, the professional context in which the information was obtained, the person concerned (if known), a description of the act likely to constitute a breach of the law within INCD ECOIND, and, where applicable, evidence supporting the report, date, and signature.

Reports that do not include the whistleblower's name, surname, contact details, or signature shall be examined and resolved to the extent that they contain indications of breaches of the law.

Reports received by the designated person through the internal reporting channels are entered into an electronic register containing the reporting date, the whistleblower's name and surname, contact details, the subject of the report, and the resolution method.

The designated person shall send the whistleblower a confirmation of receipt within a maximum of 7 calendar days from receiving the report.

The designated person may request additional information from the whistleblower, with a response deadline of 15 days, if the report does not contain: the professional context, the person concerned, the description of the possible breach, any supporting evidence, the date, or any information needed to examine and resolve the report.

The processing of personal data is carried out in compliance with Regulation (EU) 2016/679 on the protection of natural persons regarding personal data processing and the free movement of such data, repealing Directive 95/46/EC.

INCD ECOIND, through the designated person, must maintain statistics regarding reports of breaches of the law.

INCD ECOIND keeps records of received reports for 5 years while respecting confidentiality requirements in accordance with Law No. 361/2022.

The content of the public interest reports is examined by the designated person who may undertake follow-up actions through external reporting channels, depending on the nature of the acts, as follows:

- a. Informing the institution's management and notifying the disciplinary committee;
- b. Notifying the National Integrity Agency regarding acts within its competence according to Law No. 176/2010, as amended;
- c. Notifying criminal investigation bodies when the report refers to the commission of criminal offences.

The designated person informs the whistleblower about the status of the follow-up actions within a maximum of 3 months from the confirmation of receipt or, if no confirmation was sent, from the expiry of the 7-day deadline, and subsequently whenever there are developments, except when such information could jeopardize the follow-up actions.

The designated person informs the General Director of INCD ECOIND regarding follow-up actions taken, except when the director is the subject of the report.

An internal report may be dismissed in the following situations:

- a. when the report does not include the professional context, the person concerned, the description of the possible breach, supporting evidence, or the date, and the designated person requested completion within 15 days, which was not fulfilled;
- b. when the report is anonymous and does not contain sufficient information about breaches of the law to allow analysis and resolution, and the designated person requested completion within 15 days, which was not fulfilled.

If a person submits multiple reports on the same subject, they are consolidated, and the whistleblower receives a single notification. If a new report is received afterward that presents no additional information justifying a different follow-up action, it is dismissed.

The designated person may decide to close the procedure if, after examining the report, the breach is clearly minor and does not require additional follow-up actions other than closing the procedure.

8.2. Submitting an External Report

The competent authorities to receive reports on breaches of the law are:

- a. public authorities and institutions which, under special legal provisions, receive and resolve reports regarding breaches of the law within their area of competence;
- b. the National Integrity Agency;
- c. other public authorities and institutions to which the National Integrity Agency forwards reports for competent resolution.

8.3. Public Disclosure

Reporting breaches of the law through public disclosure may be addressed to the press, professional, trade union, or employer organizations, non-governmental organizations, parliamentary committees, or through making information available in any way in the public space.

9. PROTECTIVE MEASURES, SUPPORT MEASURES AND REMEDIAL MEASURES

9.1. Conditions

To benefit from protective measures, the public interest whistleblower must cumulatively meet the following conditions:

- a. a. be one of the persons who submit reports and who obtained information about breaches of the law in a professional context;
 - b. have had reasonable grounds to believe that the information regarding the reported breaches was true at the time of reporting;
 - c. have submitted an internal report, an external report, or a public disclosure.
- Additionally, to benefit from remedial measures, the public interest whistleblower must cumulatively meet the conditions above, as well as the condition that the retaliation suffered is a consequence of the report made.

9.2. Exemption from Liability

The public interest whistleblower who submits a report or publicly discloses information regarding breaches of the law does not violate legal provisions or contractual clauses concerning the disclosure of information and is not liable for such reporting or public disclosure, provided that the report or disclosure was made under the conditions of this law and that they had reasonable grounds to believe that the report or disclosure was necessary to reveal a breach of the law.

The public interest whistleblower who obtains or accesses data and information known to them through their job duties or employment relationship is not liable if such access or acquisition is intended for reporting or publicly disclosing a breach of the law and the report or public disclosure was carried out under the conditions of the law and this guide.

The liability of public interest whistleblowers for acts or omissions unrelated to the reporting or public disclosure, or which are not necessary to reveal a breach of the law, is governed by general legal provisions.

In judicial proceedings concerning violations such as infringement of image rights, copyright infringement, breach of professional secrecy, breach of data protection rules, disclosure of trade secrets, or claims for damages, the liability of persons who submit reports cannot be engaged if the reports or public disclosures were made in accordance with the law and this guide.

9.3. Prohibition of Retaliation

Any form of retaliation against public interest whistleblowers, threats of retaliation, or attempts at retaliation is prohibited, especially those involving:

- a. any suspension, modification, or early termination of the individual employment contract or service relationship;
- b. dismissal;
- c. salary reduction or change of work schedule;
- d. demotion or obstruction of promotion and professional development, including through negative performance evaluations or negative recommendations regarding professional activity;
- e. application of any other disciplinary sanction, coercion, intimidation, harassment;

- f. discrimination, creation of any disadvantage, or subjecting the whistleblower to unfair treatment;
- g. causing damage, including to the whistleblower's reputation, especially on social media platforms, financial losses including loss of business opportunities or loss of income;
- h. inclusion in a negative list or database, based on a sectorial or industry-level formal or informal agreement, which may prevent the person from obtaining employment in that sector or industry in the future;
- i. unilateral extrajudicial termination of a contract for goods or services without meeting the legal conditions for such termination;
- j. cancellation of a license or permit;
- k. requiring the whistleblower to undergo a psychiatric or medical evaluation.

10. RESPONSIBILITIES

10.1. General Director

- appoints a person responsible for receiving, managing, and resolving public interest reports;
- orders the establishment of internal reporting channels for information regarding breaches of the law, the reporting procedure, and the conduct of follow-up actions;
- informs all employees, by posting on the institute's website and on display at the INCD ECOIND headquarters, of the designated person and the available reporting methods;

10.2. Designated Person

- manages the internal reporting channels and provides the necessary information to the department responsible for IT infrastructure for updating the institute's website;
- receives, registers, and analyses/examines internal reports regarding breaches of the law;
- carries out follow-up actions necessary for resolving the internal report;
- sends the public interest whistleblower an acknowledgment of receipt within no more than 7 calendar days from receiving the report;
- informs the public interest whistleblower of the status of follow-up actions within no more than 3 months from the acknowledgment of receipt or, if the acknowledgment was not sent, from the expiry of the 7-day period from receipt, and subsequently whenever developments occur, except when such information may jeopardize the follow-up actions;
- informs the General Director regarding the manner of resolving the report under the provisions of Law No. 361/2022;
- informs the public interest whistleblower regarding the manner of resolving the report;
- prepares statistical analyses and reports concerning the public interest warnings received;

- maintains the confidentiality of the whistleblower's identity and any information that could directly or indirectly identify them, except where the whistleblower has given explicit consent.

11. ANNEXES

- Public Interest Reporting Form

Date.....

Signature

Public Interest Reporting Form

Type of Report:

Internal Channel

1. Last Name		
2. First Name		
3. Date of Birth		
4. Correspondence Address		
5. Email		
6. Phone Number		
7. Preferred Method of Correspondence		
8. Do you wish to be informed regarding the registration of the report (according to Law 361/2022, Art. 17 para. 1)?	YES	NO
<i>* Information is mandatory for reports that are not anonymous.</i>		

I. Content of the Report

1. Name of the structure/department that is the subject of the report	
2. Persons concerned (if known)	
3. Persons who can confirm the events/facts reported (if any)	
4. Professional context in which the information was obtained	

5. Is the breach ongoing?	YES	NO
6. Detailed description of the act		
7. Legal provisions breached (if known)		
8. Documents that may be checked during follow-up actions		
9. Evidence attached in support of the report		

II. Signature

Date:	Signature ⁱⁱ :

ⁱ Reporting may be submitted in writing, on paper, or in electronic format.

ⁱⁱ The document may be signed electronically and/or handwritten, as applicable.