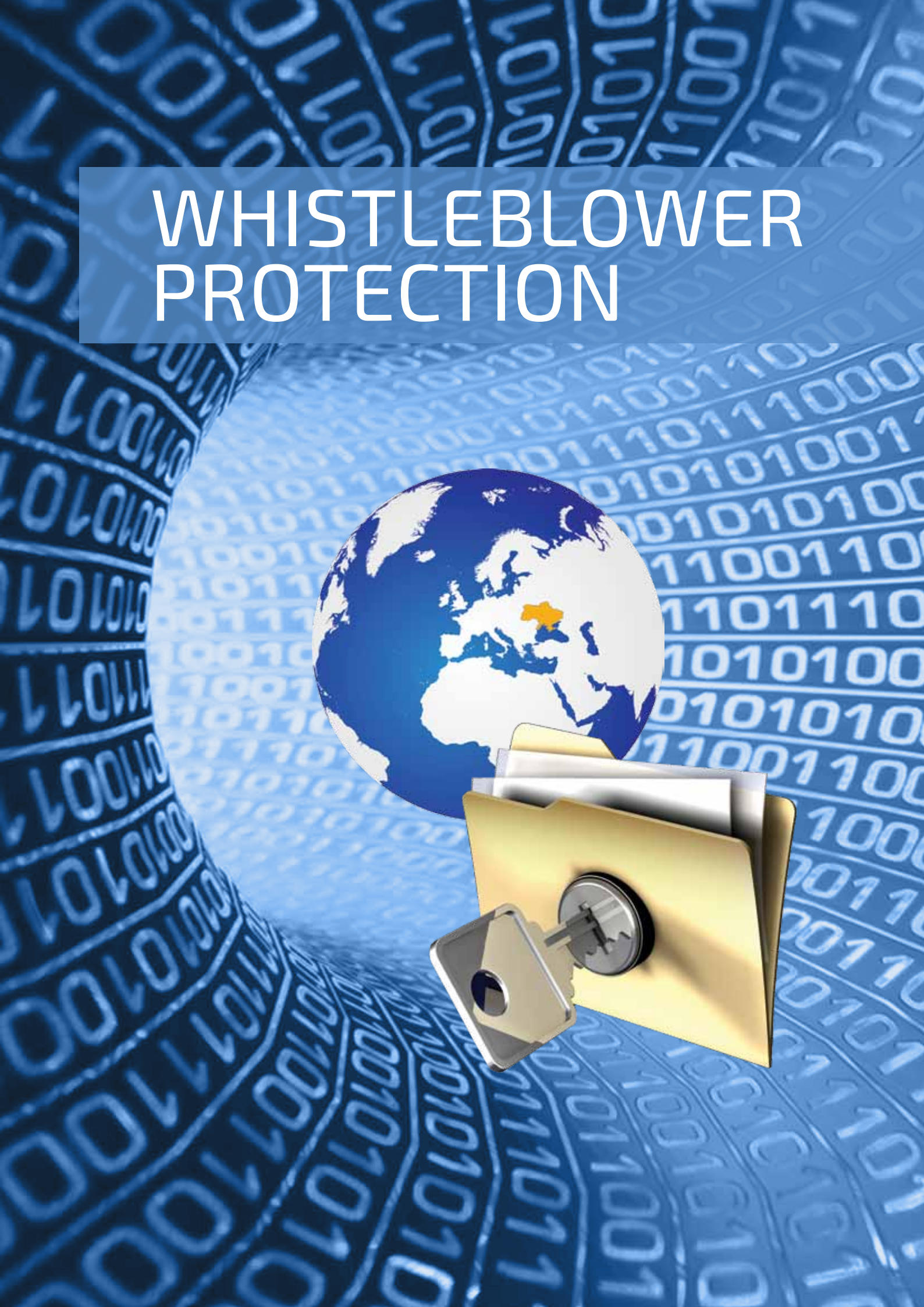
WHISTLEBLOWER PROTECTION



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INTRODUCTION / ABOUT THIS EDITION

Whistleblowers, informers, rats, betrayers — these are different names for persons who disclosed information about corruption, abuse of power, human rights violation and other information about harm or threat to the public interest. The prevalence of a particular name in a particular society depends on its respect for whistleblowers.

Acknowledgement of the need to provide legal safeguards for whistleblower protection, as well as respect instead of neglect, indicate the level of moral maturity of the society.

Ukraine has achieved some progress in this direction, as despite the absence of a separate law on whistleblower protection, the right of such people to adequate protection (e.g., Art. 11 of the Law of Ukraine 'On Access to Public Information', Art. 53 of the Law of Ukraine 'On Prevention of Corruption') was acknowledged.

However, awareness of the fact, that in Ukraine there is no proper legal basis for whistleblower protection, gave the 'Ukrainian League of Lawyers against Corruption' an idea to invite representatives of other NGOs: Blueprint for Free Speech, Media Law Institute, Anticorruption Center and UA Center — to create a coalition 'Initiative 11' in order to develop a bill on whistleblower protection and campaign in its support.

Thus, joint efforts of civil society and people's deputies of Ukraine resulted into the bill No. 4038a 'On Whistleblower Protection and Disclosure of Information about Harm or Threat to the Public Interest', which is based on the best standards of whistleblower protection that exist in the world today.

Since the beginning of the public discussion of the bill, the most popular question from international actors is the request to go through the bill in English, while representatives of Ukrainian NGOs and the academic community are interested in learning more about the concept and best international practices of whistleblower protection.

Therefore, we came up with an idea to create a bilingual edition that will include the English translation of the bill No. 4038a 'On Whistleblower Protection and Disclosure of Information about Harm or Threat to the Public Interest' and the Ukrainian translation of Blueprint Principles for Whistleblower Protection, which accumulate the best practices and guiding principles for whistleblower protection, as well as an article dedicated to the concept of whistleblower protection and why we should prioritize it as a part of the sweeping anti-corruption reforms, article, that reveals the legal concept of the institute of whistleblower protection and explains the necessity of legal protection of whistleblowers in Ukraine.

This publication is a joint project of the International NGO 'Blue Print for Free Speech' and the NGO 'Ukrainian League of Lawyers against Corruption', which was made possible by the National Endowment for Democracy (NED, the USA).

Yours sincerely,
Prof. Olena Shostko,
Chairperson of the NGO 'Ukrainian League of Lawyers for Corruption Combating'

LEGAL PROTECTION OF WHISTLEBLOWERS: INTERNATIONAL EXPERIENCE AND RELEVANCE FOR UKRAINE

The ideology and sense of any constitutional state lie in limiting personal and state power and building a state on the basis of the rule of law. Moreover, state administration in any state is a bureaucratic mechanism, a system, operating on the basis of the subordination principle and complying with the internal regulations, which constitute a basis for relationships between subordinate employees and management personnel. If the task of a constitution is to make all state authorities and their officials obey the constitutional principles and rules, the main principle, according to which the bureaucracy is built on, is a hierarchical pattern, and accordingly, compliance with the management personnel's orders. Under such circumstances employees, in case of receiving an order, which, in their opinion, violates constitutional provisions, very often face a dilemma — whether to execute the order or to try to appeal it, thus running a risk of losing a job and destroying their career.

Under such circumstances, only insignificant number of employees choose to disclose facts of abuse of power, corruption[1], all others prefer executing orders. In fact, a danger for the constitutional order of Ukraine is hidden in the nature of state government. Thus, there arises a question: what can protect the constitutional order from destruction, if we do not have the opportunity to be aware of what is actually happening in the government, before systemic abuse of power leads to usurpation of power and, subsequently, popular resistance and even uprisings.

Watchmen of the constitutional order are represented by the individuals who disclose information about illegal activities, embezzlement of budgetary funds, abuse of power, bribery etc. in government agencies, local self-governments, as they warn about the risks arising within the state apparatus to human and civil rights and freedoms and the constitutional order as a whole. Professor Vaughn calls official whistleblowing to be an antidote for bureaucratic evil[2].

It can be stated that nowadays whistleblowers are widely recognized by the society, which is evidenced by: monuments to whistleblowers Snowden, Assange and Manning in Geneva; a demonstration in support of implementation of whistleblower protection in Brussels; the annual international award International Whistleblowing Prize and reward for courage in the USA.

Nevertheless, disclosing information, disclosers (hereinafter referred to as 'whistleblowers') run a serious risk, in particular, there are cases when information disclosure caused reprisal at work (revocation of bonuses and promotion, redeployment to a lower position, dismissal from work), attempts to bring to civil liability for defa-

[1] *Johnson R.* Whistleblowing: when it works — and why / *Johnson R.* — Colorado, 2002. — P. 25.

[2] *Vaughn R.* The successes and Failures of Whistleblower Laws / *Vaughn R.* — Cheltenham, UK; Northampton, MA. — P. 11.

mation, victimization, intimidation of the whistleblower and persons related to the whistleblower[3], a problem to find a new place of work, and sometimes criminal prosecution of whistleblowers.

Thus, the issue of implementation of whistleblower protection guarantees remains relevant, and more specifically — the issue of legal and institutional guarantees that should be implemented and will be able to create a real, but not just on paper, protection of individuals who disclosed information about abuse of power, corruption or other public interest information[4].

The United States of America is an absolute leader with regard to a number of whistleblowers and, accordingly, the first country in the world, which ratified laws on whistleblower protection[5]. According to the American Professor R. Vaughn, disclosures made within the period from 1966 to 1978 in the USA, created a more positive character of a whistleblower, and also evoked a wide response among the public, which made the Congress to institute begin reforms in the state administration area, in particular, create legal guarantees for whistleblowers[6]. The case of the New York police officer Frank Serpico, who gave testimony with regard to cases of corruption[7], as well as with the well-known Watergate scandal and Pentagon Papers[8] are referred to.

Over the last two decades, more than 30 countries in the world have developed and ratified special laws on protection of such individuals or have incorporated some guarantees of whistleblower protection in the labor, anti-corruption legislation or in codes of ethics for employees[9]. The countries, which ratified special laws on whistleblower protection, include Canada (Public Servants Disclosure Protection Act), Australia (The Commonwealth Public Interest Disclosure Act, 2013), New Zealand (Protection Disclosures Act, 2000), the USA (The Whistleblower Protection Act, 1989, The Intelligence Community Whistleblower Protection Act of 1998, The Sarbanes-Oxley Act of 2002, The Whistleblower Protection Enhancement Act of 2012), Japan (Whistleblower Protection Act (Act No. 122 of 2004)), South Africa (Protection Disclosure Act, 2000), Romania (Romanian Whistleblower's Law, 2004), Great Britain (Public Interest Disclosure Act, 1998).

Thus, nowadays there is experience, tools and procedures for whistleblower protection, which can be called a golden standard or the best practices of protection of whistleblowers. In particular, among the reliable guarantees of whistleblower protection are:

1) ensuring anonymity for individuals, who report a wrongdoing to institutions, organizations;
2) establishment of reliable channels for making a disclosure;
3) creation of a special pre-trial procedure for whistleblower rights protection;
4) ensuring protection from reprisal at the workplace;
5) exemption from liability for making a disclosure;

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3 *Banisar D.* Whistleblowing: International Standards & Developments. — D.C., 2011. — P. 3.

4 Public information is information which is a subject of social interest, and the public's right to know this information outweighs the potential risk of its distribution. In particular, public interest information includes information about threat to the sovereignty of the state, territorial integrity of Ukraine; ensures implementation of constitutional rights, freedoms and obligations; reveals the possibility of human rights violation, deception of the community, harmful ecological and other negative consequences of actions (omissions) of individuals or legal entities etc.

5 *Johnson R.* Whistleblowing: when it works — and why / *Johnson R.* — Colorado, 2002. — P. 20.

6 *Vaughn R.* The successes and Failures of Whistleblower Laws / *Vaughn R.* — Cheltenham, UK; Northampton, MA. — P. 79.

7 *Vaughn R.* The successes and Failures of Whistleblower Laws / *Vaughn R.* — Cheltenham, UK; Northampton, MA. — P. 53–58

8 *Glazer M. P. & Glazer P. M.* Whistleblowers: exposing corruption in government & industry. — Lexington, KY, 2014. — 286 p.

9 *Banisar D.* Whistleblowing: International Standards & Developments. — D.C., 2011. — P. 3

6) establishment of the right to disclose to the media, non-governmental organizations, parliamentary committees or commissions etc.;
7) establishment of social guarantees in case of dismissal;
8) pecuniary reward etc.

Undoubtedly, the degree and mechanisms of implementation of the corresponding standards vary from country to country. However, it remains beyond argument that creation of the real mechanism for whistleblower protection fully depends on the integrity and quality of implementation of the appropriate standards.

In particular, in Prof. Vaughn's opinion, to become an effective instrument of protection, the law on whistleblower protection should give answers to the following questions:

1) What persons are protected?
2) Are persons who assist in a variety of ways in the disclosure included?
3) Are persons who are not employees of the agency or organization that is the target of disclosure protected?
4) What disclosures will be protected?
5) Will it protect only violations of law or of particular laws or will it protect broader categories of misconduct?
6) Must the information come to whistleblowers' attention as part of their employment or can it come to their attention in other ways?
7) Must the disclosures be factual or will a degree of opinion and analysis be included?
8) To whom may disclosures be made?
9) Are internal disclosures protected?
10) Are internal disclosures required?
11) Are disclosures to nongovernmental entities, including the media, protected?
12) How do these standards protect against reprisals?
13) What must be the connection between the protected disclosure and the reprisal?
14) What disclosures are prohibited?
15) Who can be charged with reprisal?
16) What government agencies should protect whistleblowers?[10]

Besides, the law on whistleblower protection should provide establishment of an independent agency that will consider whistleblower complaints and investigate facts of reprisal of whistleblowers caused by the disclosure.

So, to what extent does the Ukrainian legislation create a reliable legal basis for whistleblower protection?

The constitutional and legal basis for creation of legal guarantees for whistleblowers protection is represented in Article 60 of the Constitution of Ukraine, according to which 'no one is obliged to execute obviously criminal orders or regulations'.

Separate provisions with regard to protection of whistleblowers, who disclosed information about acts of corruption, that are stated in the anti-corruption legislation, in particular, in the Law of Ukraine 'On Prevention of Corruption', and Article 11 of the Law of Ukraine 'On Access to Public Information' and Article 29 of the Law of Ukraine 'On Information' provide whistleblower exemption from liability for disclosure of classified information.

However, the above listed provisions are not enough for whistleblower protection, as to a greater extent the provisions have a declarative rather than a procedural nature. Moreover, the Law of Ukraine 'On Prevention of Corruption' concerns only whistleblowers, who disclosed information about acts of corruption. At the same time, whistleblowing is a reliable tool for not only combating corruption in Ukraine, but also for overcoming violation of human rights by law enforcement bodies, ensuring environmental safety and openness of government agencies, freedom of expression and the constitutional order of Ukraine as a whole. Thus, there is a need to protect not only individuals who report corruption wrongdoings. On the other hand, the

[10] *Vaughn R.* The successes and Failures of Whistleblower Laws / *Vaughn R.* — Cheltenham, UK; Northampton, MA. — P. 104–105.

provisions, contained within the information legislation, are not enough, as whistleblower protection is required not only to guarantee openness of government agencies, not only to reveal acts of corruption. In other words, whistleblowing can take place in different areas, so there is also a need to protect persons, who are whistleblowers in very different areas.

In order to achieve real results in protecting whistleblowers, a special comprehensive law, which will create an effective mechanism for protection of not only persons who disclose information about acts of corruption or public information about actions of authorities, but also each and every whistleblower who discloses information about abuse of power, human rights violation, ecologically dangerous emissions into the air, production of drugs or foodstuffs with the use of hazardous substances, acts of corruption etc.

It should be noted, that this is a trend that has dominated the world for the last 15 years. The number of countries, which have already ratified or are working on the development of a separate law on whistleblower protection is growing every year, e. g., Great Britain, Romania, Japan, the Republic of South Africa, Australia, Serbia, Kosovo, Latvia. We are sure that only with the existence of a similar comprehensive law in Ukraine we can speak about creation of a reliable legal mechanism of Ukrainian whistleblower protection.

With the purpose of developing an effective draft law on whistleblower protection, the 'Ukrainian League of Lawyers for Corruption Combating', Blueprint for Free Speech, Centre for Democracy and Rule of Law, Anti-Corruption Action Centre and Center UA united to form the initiative group 'Initiative 11'.

The best Ukrainian and international experts were involved in the development of the draft law, which was extensively discussed by the representatives of public organizations, academic community, businessmen, journalists and received a positive evaluation from more than 30 Ukrainian and international experts.

On October 5, 2016 the Anti-Corruption Committee of the Verkhovna Rada of Ukraine made a decision on compliance of the Draft Law No. 4038a 'On Whistleblower Protection and Disclosure of Information about Harm or Threat to the Public Interest' with the requirements of the anti-corruption legislation and recommended to the Verkhovna Rada of Ukraine to take the draft law as a basis on the results of consideration (on first reading).

We hope that in a year the draft law will become the law in which guarantees, which are contained in the current version of the draft law, will be preserved, as in view of complex political and legal reforms, which will facilitate formation of the constitutional order in Ukraine and overcoming negative consequences of the last years, the Draft Law No. 4038a 'On Whistleblower Protection and Disclosure of Information about Harm or Threat to the Public Interest' will become an important tool, which will have a positive impact on ensuring freedom of expression, open government, and hence, strengthening of the constitutional order of the state.

Oksana Nesterenko,
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BLUEPRINT PRINCIPLES FOR WHISTLEBLOWER PROTECTION

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B. Principles

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3. Broad definition of a 'whistleblower'
4. Range of internal reporting channels
5. Range of regulatory reporting channels
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7. Thresholds for protection
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13. Fair hearing
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19. Extradition
20. Financial rewards
21. Whistleblower involvement
22. Technological anonymity
23. Legislative review

A. INTRODUCTION

Whistleblowing is one of the most effective means of exposing and combating corruption and serious wrongdoing in a society. In order to maximise these benefits, comprehensive laws must be in place to provide whistleblowers with reliable avenues to disclose and mechanisms to protect them from retaliation.

Whistleblower protection is one of the most dynamic issues within the fields of anti-corruption and human rights. Since many countries throughout the world are considering new or improved whistleblower protection laws, it is essential for these laws to include complete protection frameworks for employees and citizens who report misconduct.

Presented here are 23 fundamental principles that should be included in any whistleblower protection law. These principles are designed to help ensure that:

- Information in the public interest reaches the public domain;
- Whistleblowers are protected from all forms of retaliation, including civil and criminal liability;
- Disclosures lead to corrective action and policy reforms; and
- Offenders are brought to justice.

These principles are based on research by international and regional organisations, academic institutions, civil society organisations, and experts in the areas of freedom of speech and human rights. They are shaped by practical experience in all regions and guided by an evidence-based analytical approach.

The aim is to achieve the best possible outcome to ensure the protection of whistleblowers for the ultimate goal of ensuring that information of public interest reaches in the public domain.

Blueprint for Free Speech is an internationally focused, not-for-profit organisation concentrating on research into freedom of speech, transparency, anti-corruption and technology. Our areas of research include public interest disclosure (whistleblowing), freedom of speech, defamation, censorship, right to publish, shield laws, media law, internet freedom, intellectual property and freedom of information.

B. PRINCIPLES

1. *Broad coverage of organisations*

Principle

There must be comprehensive **coverage of organisations** in the public sector, the private sector and the so-called 'third-sector' which includes not-for-profit organisations, charities, associations, volunteer groups and community groups. There must be few or no 'carve-outs' where sectors or industries are not covered, such as exemptions for intelligence agencies or the military.

2. *Broad definition of reportable wrongdoing*

Principle

A law must contain a broad definition of **reportable wrongdoing** that harms or threatens the public interest (including corruption, criminal misconduct, dangers to public health and safety, fraud, financial misconduct and other legal, regulatory and ethical breaches).

3. *Broad definition of a 'whistleblower*

Principle

A law must contain a **broad definition of a "whistleblower"** whose disclosure is to be protected. This should include employees, contractors, volunteers, future or past employees, interns and other insiders. The protections must also apply to a person who assists others with a disclosure, and any person wrongly identified as a whistleblower.

4. *Range of internal reporting channels*

Principle

A law must provide for a full **range of internal (organisational) reporting channels.** This must include encouraging whistleblower policies that put in place mechanisms within organisations such as dedicated channels, review processes and an internal disclosure officer in each organisation. This would also be strengthened by compulsory requirements for having and communicating internal disclosure procedures and by having regular external reviews of the timely progress of these disclosures.

5. *Range of regulatory reporting channels*

Principle

A law must provide for a full **range of regulatory reporting channels** including both independent avenues (such as an ombudsman), and channels that are internal to an organisation or department.

6. *Range of external (third-party / media) reporting channels*

Principle

A law must ensure that protection **extends to disclosures made publicly or to third parties (external disclosures)** including disclosures to the media, NGOs, labour unions, members of parliament, in circumstances that are clearly explained. There must also be protections for external disclosures in case of immediate threats, such as those to the environment, public health and safety, or where serious criminal acts have been committed.

7. *Thresholds for protection*

Principle

A law must include workable **thresholds for protection,** such as an honest and reasonable belief of wrongdoing, including protection for "honest mistakes". However, there should be no protection for knowingly or recklessly making false disclosures of information.

8. *Provision and protections for anonymous reporting*

Principle

Protections for whistleblowers must **extend to disclosures made anonymously** by ensuring that a discloser (a) has the opportunity to report anonymously and (b) is protected if later identified. This should include practical requirements such as dedicated and secure letter drop boxes, telephone lines and electronic anonymity. The identity of a whistleblower should not be revealed without their express consent.

9. *Compulsory requirement for internal disclosure procedures*

Principle

A law must include comprehensive requirements for organisations (all government institutions; private companies over a certain size) to have **internal disclosure procedures.**

These should include requirements to establish reporting channels, to have internal investigation procedures, and to have procedures for supporting and protecting internal whistleblowers from point of disclosure. They should also include education programs promoting the existence of these procedures.

10. *Broad retaliation protections*

Principle

A law must include protections that apply to a wide range of **retaliatory actions** and detrimental outcomes. These must include but not be limited to protection from dismissal, direct reprisals, adverse employment action, involuntary transfer, reduction of duties, vexatious prosecution, abuse of internal disciplinary proceedings and harassment. They should also extend to granting relief from legal liability.

11. *Comprehensive remedies for retaliation*

Principle

A law must have comprehensive and accessible **civil and/or employment remedies** for a whistleblower who suffers detrimental action. These should include compensation rights, general damages, punitive damages, injunctive relief and other pre-trial relief including protected status (declaratory) as a 'whistleblower'. Each remedy should carry a realistic burden on employers or any other person committing reprisal to demonstrate the detrimental action was not related to disclosure. Where whistleblowers or their families are in physical danger, they should be entitled to personal protection measures appropriate to ensure their safety.

12. *Sanctions for retaliation*

Principle

A law must have reasonable **civil, criminal, and/or disciplinary sanctions** against those responsible for retaliation.

13. *Fair hearing*

Principle

A law must ensure that a **whistleblower is entitled to a fair hearing** where they are claiming for any loss suffered as a result of reprisal taken against them. This includes the right to appeal to a higher authority/court, the right to have financial assistance where they so require and steps be taken to ensure that any imbalance between the parties is redressed and acknowledged. A fair trial means

full access to a court/tribunal without impediment, and one that is both expedient and inexpensive.

14. *Oversight authority*

Principle

A law must create appropriate **oversight** by an independent whistleblower investigation / complaints authority or tribunal. Their functions might include among other things the receipt of disclosures, ensuring compliance with the law, maintenance of data about whis-tleblowing cases, reporting to the parliament, commencing investigations of their own motion or coordinating with other agencies to investigate wrongdoing.

15. *Transparent use of legislation*

Principle:

A law must include requirements for **transparency and accountability** on use of the legislation such as annual public reporting, publication of data on the number of cases, and information on how many were resolved in what time frame. Public reporting data should capture not only the financial costs around reported corruption, but it should also have measurements for other kinds of non-financial wrongdoing revealed by whis-tleblowing.

16. *Waiver of liability*

Principle:

The law must provide that a whistleblower is **immune from all disciplinary, civil and criminal liability** in connection with the disclosure, which might otherwise arise from their conduct. A whistleblower must also have the right to refuse to participate or refuse to comply with an order to participate in any activity they know or suspect to constitute wrongdoing.

17. *Whistleblowing and gag orders*

Principle

The law should provide that the right to make a **public interest disclosure shall supersede all other obligations** and that no contract of any kind, including a contract of employment, a contract for services or a contract of any legal settlement can limit or exclude the right to make or discuss a public interest disclosure. No other law or legal instrument can be used to silence a whistleblower's disclosure.

18. *National security and intelligence whistleblowing*

Principle

The law should allow for **all citizens to make a public interest disclosure,** irrespective of whether or not the citizen making the disclosure works in the national security, military, law enforcement or intelligence gathering sectors. Whilst provision may be made for the secrecy of certain information including the identity of agents or particularly sensitive information, a whistleblower must be able to make:

- an internal disclosure in any circumstances, with appropriate channels in place (including anonymous channels) for such a disclosure to be made;
- a disclosure to a regulator or the parliament in circumstances where the whistleblower deems it necessary, accounting for the nature of the information and the conduct; and
- a disclosure to a third party or to the media where the circumstances necessitate such a course of action. Necessity might include among other matters endemic wrongdoing or corruption, serious illegal conduct, immediate danger to public health, safety or the environment, or where the whistleblower believes that internal disclosure could lead to the destruction of evidence or a threat to personal safety.

19. *Extradition*

Principle

A law should provide that a court may order that a **whistleblower is not to be extradited** to another country if the extradition is sought on a basis connected to the disclosure. Such a court order must take precedence. In considering such an application, a court must give consideration to:

- the degree of connection between the disclosure and the conduct or circumstances that gives rise to the request for extradition; and
- whether extradition is necessary in all of the circumstances, taking into account the public interest in protecting whistleblowers, and on-going public confidence in these protections.

20. *Financial rewards*

Principle

In addition to compensation for retaliation, the law might include (together rather than instead of) **pecuniary reward mechanisms** to reward whistleblowers that come forward in the public interest. The percentage is to be determined based on the local context. An alternative or additional incentive would be to pay a percentage of recoverable monies or fines paid in such an action into a legal assistance fund to support future whistleblowing cases.

21. *Whistleblower involvement*

Principle

A law should ensure that a whistleblower who has provided information in the public interest should be **kept informed of the status of their disclosure,** any investigation arising from the material and the result of that investigation. They should also be able to provide further evidence or clarification where it might be necessary — and have the opportunity to comment on the results of any report or finding.

22. *Technological anonymity*

Principle

A law should create infrastructure such that a whistleblower can make a disclosure, and monitor a disclosure through a secure online facility that **does not reveal their identity.**

This law must explicitly punish anyone attempting to tamper with this structure, inclusive of intercepting communications to and from it.

23. *Legislative Review*

Principle

Whistleblower protection laws should be **reviewed at least every four years** through an open process involving all relevant stakeholders including whistleblowers, interest groups, academics, civil society, the commercial sector and any other interested party.

THE LAW OF UKRAINE "ON WHISTLEBLOWER PROTECTION AND DISCLOSURE OF INFORMATION ABOUT HARM AND THREAT TO THE PUBLIC INTEREST"

The law defines organizational and legal grounds for disclosures of information about harm or threat to the public interests, and the rights to, guarantee of, and mechanisms of, whistleblower protection.

Chapter I. GENERAL PROVISIONS

Article 1. *Definitions of Terms*

1. In the Law these terms have the following meanings:

1) a whistleblower — is an individual who, having a reasonable belief that the information is reliable, has disclosed, reported or made an attempt proved by real actions to report a wrongdoing that harms or threatens the public interest, if such information has become known to him/her in connection with his/her employment, professional, economic, social or scientific activity, while doing military service or professional training, or through his/her participation in the procedures provided by the law that are obligatory for the beginning of such an activity, military service or professional training.

2) information about harm or threat to the public interest — is information about:

- human rights violations;
- criminal offences, including those pending prosecution;
- accidents, disasters, natural hazards and other emergencies that have occurred or the danger of which really arose;

- food products and household items or threat of their quality loss, which represent potential risks to human life and health;
- corruption-related administrative wrongdoings;
- disciplinary wrongdoings, other administrative wrongdoings or any other action or omission of government agencies, holders of public authority or their employees, legal entities, their officers or officials and employees, private individuals who inflicted damage to the constitutional system of Ukraine, life, human health and human safety, the environment, peace and security of humanity, or who created or caused a real threat of such damage;

3) holders of public authority — are government agencies, public bodies, agencies of the Autonomous Republic of Crimea, municipalities, local self-governments and other institutions that perform power management functions and whose decisions are binding;

4) family members:

a) persons who have mutual rights and obligations (except persons whose mutual rights and obligations are not connected with family relations), share a household, but refrain from entering into marriage or living together, are connected by domestic life and have mutual rights and obligations (except family relations), including persons who live together but are not married;

b) Regardless of the terms referred to in subparagraph "a" of this paragraph the spouse, children (including adult children), parents, grandparents, brothers and sisters, adoptive parents, adopted children, guardians, caretakers, or persons under their guardianship.

Article 2. *The Main Objectives and Scope of the Law*

1. The objectives of the Law include ensuring transparency, openness and accountability of government agencies, timely detection and prevention of any action or omission that represents harm or threat to the public interest, including corruption and other wrongdoings, effective enforcement of whistleblower rights and effective whistleblower protection, affirmation of freedom of media and the protection of freedom of speech.

2. This Law applies to whistleblowers of information about criminal offences and wrongdoings which are not regulated by the Law of Ukraine "On Provision of Security to Persons Involved in Criminal Proceedings."

The rights and guarantees of whistleblower protection under Articles 11–14, 16 of this Law apply to journalists and other persons who contributed to, facilitated or assisted in the disclosure of information about harm or threat to the public interest, in particular, by providing the whistleblower with shelter, or technical, financial and informational support in his disclosure of the corresponding information.

The right to information under Article 17 of the Law also extends to journalists who participate in public interest disclosures.

3. The rights and guarantees of whistleblower protection provided by the Law do not apply to persons who:

- disclosed or made an attempt to disclose classified information in the public interest, information about harm or threat to the public interest in violation of the provisions of Article 9 of the Law, and also persons who contributed to, facilitated or assisted in such a disclosure;
- informed, disclosed or made an attempt to inform or disclose public interest information to government officials of foreign countries and their representatives.

Chapter II. DISCLOSURE OF INFORMATION

Article 3. *Disclosure Facilitation*

1. The state should facilitate and encourage disclosures in the public interest.

2. Holders of public authority, legal entities of public and private law and individual entrepreneurs should create conditions for the disclosures in the public of information about harm or threat to the public interest through:

1) The implementation of encouragement mechanisms and imparting a culture of disclosing information about harm or threat to the public interest among their employees and individuals working for their benefit, doing military service or having professional training;
2) Providing their employees and individuals working for their benefit, doing military service or having professional training with medical care and consultations as to public interest disclosures and whistleblower protection.

3. Holders of public authority and other legal entities referred to in part 2 under Article 5 of the Law should also ensure the creation of conditions for reporting wrongdoings that harm or threaten the public interest through:

1) the adoption and establishment of internal procedures and mechanisms to ensure reporting of wrongdoings that harm or threaten the public interest, disclosure of information about harm or threat to the public interest and an adequate response to it; verification inspection and investigation of the information obtained through disclosure.
2) keeping a separate record of disclosures about harm or threat to the public interest, results of examination and investigation of the information disclosed by whistleblowers, its verification and investigation.

Article 4. *Reporting Channels for Disclosures in the Public Interest*

1. In order to obtain from whistleblowers information on wrongdoings that harm or threaten the public interest, special internal and external information disclosure

channels should be created, provided and operate — in particular, special telephone lines, official websites, electronic or other means of communication.

It is the responsibility of a whistleblower to make a decision as to which channel of disclosure to use to report a wrongdoing or information about harm or threatens to the public interest, except in cases of classified information disclosures in accordance with Article 9 of the Law.

Article 5. *Internal Reporting Channels and Procedures for Disclosures of Information about Harm or Threat to the Public Interest*

1. Internal reporting channels for disclosures in the public interest are whistleblower means of reporting wrongdoings or information about harm or threat to the public interest, which is disclosed by the whistleblower to the head or an authorized delegate of the department (person) of an agency, an authorized body or a legal entity, for which he/she is working, where he/she is doing military service, is having professional training or studying or for the benefit of which he/she is working.

2. Internal Reporting Channels for Disclosures in the Public Interest of Information about harm or threat to the Public Interest must be established by:

1) Holders of public authority;
2) State utility companies, their subsidiaries and establishments, other legal entities, subjects of economic activity, or corporations, in the share capital of which 50 or more per cent belong to the state or a local self-government;
3) legal entities which exercise delegated authority from holders of public authority in compliance with the Law or contract to them to provide administrative, educational, social or other public services;
4) economic entities that have a monopoly on the market, are empowered with special or exclusive rights, or represent natural monopolies;
5) banks, credit unions, leasing companies, trust companies, insurance companies, pension saving institutions, investment funds and companies and other legal entities, the sole business activity of which is provision of financial services, and in cases directly specified by the Law, — other services (operations) connected with provision of financial services;
6) legal entities, where the average number of employees for the reporting (fiscal) year exceeds fifty persons, and the gross domestic product from the sale of goods (work, services) of which for the period exceeds seventy million hryvnyas;
7) legal entities that participate in public procurement procedures.

Article 6. *Regular Reporting Channels for Disclosures of Information about Harm or Threat to the Public Interest*

1. Regular reporting channels for disclosures of information about harm or threat to the public interest — are means of reporting wrongdoings that harm or threaten the

public interest, which are disclosed by the whistleblower to the Ukrainian Parliament Commissioner for Human Rights or to a government body or agency which is competent to examine and take decisions on matters of corresponding relevant disclosures.

2. Regular reporting channels for disclosures in the public interest must be established by the Ukrainian Parliament Commissioner for Human Rights, the National Agency on Corruption Prevention, procuratorial authorities, public prosecution bodies, pre-trial investigation bodies, agencies authorized persons of which have the right to draw up protocols on administrative wrongdoings, agencies responsible for the monitoring oversight of compliance with relevant legislation, the High Council of Justice, the Higher Qualification Board of Judges, Qualification and Disciplinary Commission of Public Proersecutors, other agencies authorized to consider matters and take decisions on subjecting officials, employees and officers to disciplinary action, whose jurisdiction covers the territory of at least one region, city or city district.

Article 7. *External Reporting Channels for Disclosures in the Public Interest of Disclosure of Information about Harm or Danger to the Public Interest*

1. External reporting channels for disclosures in the public interest — are means of reporting wrongdoings that harm or threaten the public interest by any individuals or legal entities, including the media, public organizations, journalists, trade unions etc.

Article 8. *Transparency of Information about Collaboration with Whistleblowers, Respect for, and Enforcement of, their Rights, and their Protection*

1. The annual report of the Ukrainian Parliament Commissioner for Human Rights on Ukrainian citizens' human rights respect, enforcement and protection should include an account of the state of compliance with laws on whistleblower rights respect, enforcement and protection.

2. The report on the state of compliance with laws on whistleblower rights respect enforcement and protection must contain the following data:

1) the number of whistleblower complaints received whistleblower by the Ukrainian Parliament Commissioner for Human Rights;
2) a detailed description of whistleblower complaints, namely, data on the type of public interest disclosure, the name and location of the agency, the legal entity or public association the wrongdoing of activity of which the relevant information was disclosed, the amount of stolen or illegally spent money mentioned in disclosures.
3) the average length of time allocated for examination of a whistleblower application and the results of this examination, verification and/or investigation of public interest disclosures.
4) the number of cases of ensuring whistleblowers rights and protection enforcement which are being heard at the time of the report preparation and the term of their examination. In particular, the number of cases examined which

are heard for less than 60 days, from 60 days to 6 months, from 6 months to 12 months, from 12 months to 2 years, over 2 years.

5) measures applied for whistleblower protection.
6) the number of prosecutors' petitions for closing of proceedings regarding whistleblowing and the results of their examination.
7) expenditures on consideration of whistle-blower applications;
8) the amount of compensation/monetary reward received by whistleblowers;
9) number and results of every type of inspection of information on public interest disclosure conditions and whistleblower rights and protection enforcement;
10) number and results of examination of issued requirements (precepts) of on prevention or elimination of breaches of disclosure of information laws violation, on public interest disclosures, whistle-blower rights, collaboration with them and their protection;
11) number and results of examination of recommendations concerning adoption or amendment of legal acts on public interest disclosures and whistle- blower rights protection, with which the Ukrainian Parliament Commissioner for Human Rights addressed the Ukrainian Parliament, the President of Ukraine, the Cabinet of Ministers of Ukraine, other government agencies, local self-governments, their officials;
12) number of expert reports in cases of whistle-blower rights violation;
13) number of protocols on administrative offenses or wrongdoings regarding violations of whistle-blower rights and protection, the results of their examination;
14) the number and the results of examination of recommendations, complaints and other applications of individuals natural persons and legal entities on whistleblower rights and protection;
15) the results of monitoring of new practices, tendencies and technologies of making a public interest disclosure and enforcement of whistle-blower protection monitoring;
16) generalized data about on international collaboration in the realm of public interest disclosures and whistle-blower protection;
17) information about free legal assistance and monetary compensation to persons who were terminated or dismissed from work as a result of making a public interest disclosure;
18) information about the status of implementation of parliamentary hearings and recommendations on the situation regarding public interest disclosures and whistleblower protection;
19) conclusions as to the effectiveness of the mechanism of whistle-blower protection and disclosures in the public interest, the state of compliance with corresponding laws and relevant recommendations.

3. Annually no later than December 31 holders of public authority should publish information required to prepare a report on the observance of compliance with laws on ensuring whistleblower rights and protection enforcement for the reporting period on their official websites and submit it to the Ukrainian Parliament Commissioner for Human Rights. The information should include data on:

1) number of whistleblower complaints, who complained to them during the reporting year;
2) number of facts of public interest disclosures, their checks and investigations for the reporting year, the average length of time required for examination, inspection and/or investigation of the disclosed information consideration, its verification and/or investigation;
3) measures resulting from such check inspection and investigation, legal acts responding to facts disclosed by whistleblowers during the reporting year;
4) the number of their officers and officials and employees prosecuted for infringement of whistleblower labor rights during the reporting year (separately by type of liability, indicating types of penalties (fines) incurred by these persons);
5) number of cases of termination of exemption from responsibility and liability of their officials and employees officers and officials' who allowed whistleblower rights violation and grounds for it, and reasons for such termination;
6) measures applied for whistleblower protection;
7) expenditures on examination of whistle-blower applications;
8) other information specified by the Ukrainian Parliament Commissioner for Human Rights.

4. The Report on the situation of state of compliance with laws on ensuring whistle-blower rights and protection enforcement should be published on the official website of the Ukrainian Parliament Commissioner for Human Rights before his/her delivery of an annual report on Ukrainian citizens' human rights enforcement and protection before the Ukrainian Parliament and within 10 working days since the adoption by the Ukrainian Parliament of a resolution on the basis of the annual report.

Article 9. *Requirements to Disclosures of Classified Information about harm or threat to the public interest*

1. Except cases under referred to in paragraphs 2 and 3 of this Article for the disclosure of classified public interest information (with the exception of cases when the information formally retains the "classified" status of Information with Limited Access when legitimate reasons for it ceased to apply), the whistleblower may use external reporting channels provided he/she has information for disclosure if there is a reasonable belief that:

1) a regulatory or internal public interest disclosure would not lead to effective results within the time limit set for its inspection or investigation (inspection or investigation of the disclosed information was denied; inspection or investigation of information is formally initiated, but is not being carried out; detected violations did not lead to prosecution or opening initiation of a criminal proceeding against the guilty persons, restoration of the violated rights and freedoms of individuals, damage reparation for the damage sustained; no measures to stop activity or inactivity / omission, resulting from information disclosure, have been taken, no litigation of its consequences

followed; no measures of prevention of harm or threat resulting from the disclosed information have been taken;

2) internal reporting channels will not prove effective as reported wrongdoings that harm or threaten the public interest, which in accordance with the Law of Ukraine "On information" is referred to / is subject to as public interest domain in accordance with the Law of Ukraine "On information" the realm/ issue/ area of public interest and the public's right to know the information outweighs the potential harm that will result from its distribution;

3) a whistleblower or a person related to the whistleblower is dismissed from work, subjected to disciplinary action, reprisal or other negative means of influence or discrimination as a result of the public interest disclosure.

4) there are no internal channels or regular reporting channels for making a public interest disclosure, through which relevant information may be disclosed.

2. Disclosure of information about harm or threat to the public interest, which constitutes a state secret (except cases when the information formally retains the "state secret" status when legitimate reasons for it ceased to apply), occurs through internal reporting channels of the relevant information disclosure.

Regulatory disclosure of relevant information by a whistleblower may only occur in the following cases:

1) Previous internal and regulatory information disclosure did not lead to effective results within the time limit set for its verification and investigation;

2) internal reporting channels will not prove effective as the reported wrongdoings that harm or threaten the public interest are referred to as public interest domain in accordance with the Law of Ukraine "On information" and the public's right to know the information outweighs the potential harm that will result from its distribution;

3) a whistleblower or a person related to the whistleblower is dismissed from work, subjected to disciplinary action, or other negative means of reprisal or discrimination as a result of the public interest disclosure;

4) there are no internal channels or regular reporting channels for making a public interest disclosure through which relevant information may be disclosed.

3. Disclosure in the public interest which constitutes a state secret (except cases when the information formally retains the state secret status when legitimate reasons for it ceased to apply), occurs through external reporting channels only if:

1) Previous internal and regulatory information disclosure did not lead to effective results within the time limit set for its verification and investigation;

2) internal reporting channels will not prove effective as the reported wrongdoings that harm or threaten the public interest are referred to as public interest domain in accordance with the Law of Ukraine "On information" and the public's right to know the information outweighs the potential harm that will result from its distribution;

3) there are no internal or regular reporting channels for making a public interest disclosure, through which relevant information may be disclosed.

4. Regulations for disclosures of classified information in the public interest under this Article apply to journalists and other persons who contributed to, facilitated or assisted in the whistle-blower's disclosure of the relevant information.

Article 10. *Procedure for Inspection of Information about Harm or Threat to the Public Interest*

1. Public interest information disclosed through regular or internal reporting channels is subject to prior inspection within a time limit of no more than ten working days.

Upon the results of preliminary investigation an authorized public official responsible for it takes one of the following decisions:

1) to appoint an internal (official) inspection or investigation of the disclosed information in case of substantiation of the facts set out in the disclosed information or the necessity for further assessment of their reliability;
2) to refer the materials to the pre-trial investigation agency in case of identifying signs of criminal wrongdoing, or other agencies empowered to respond to wrongdoings in cases of signs of a criminal offense identification;
3) to close the proceeding if the facts contained in the disclosed information were not substantiated.

A whistle-blower is provided with a detailed written account of the results of the previous inspection of the disclosed public interest information within three days from the date of the corresponding inspection completion.

If the disclosed public interest information does not fall within the competence of the agency or the legal entity which received it, the whistle-blower is notified about it about it within three days and is provided with an explanation about the competence of the agencies or legal entities empowered to inspect or investigate relevant information.

In cases when the received information about harm or threat to the public interest reveals activity or omission of the head of the corresponding agency or a legal entity which received it, such information is referred to the Ukrainian Parliament Commissioner for Human Rights without prior inspection and within three days. The Ukrainian Parliament Commissioner for Human Rights then establishes a procedure of its further consideration.

2. The internal inspection or investigation of the public interest disclosures is conducted within a period of no more than thirty days after the previous inspection completion. If it is impossible to verify the relevant information within the specified term, either the head of the corresponding agency or a legal entity, or his deputy extends the time limit for its inspection or investigation up to sixty days with subsequent notification of the whistle-blower.

Internal inspection or investigation cannot be entrusted to any person, whose activity, omission inactivity or family members related information was disclosed.

Upon the results of preliminary inspection a public official responsible for it takes one of the following decisions:

1) to refer the materials to a pre-trial investigation agency in case of identifying signs of a criminal wrongdoing, or other agencies empowered to respond to detected wrongdoings;
2) within the competence to bring to justice persons guilty of violating the law, the information about whom was disclosed; to eliminate detected violations, reasons and conditions that contributed to or facilitated their commission, as well as to implement measures to restore the rights and legitimate interests, to compensate material and moral damage caused to natural persons and individuals and legal entities for the damage resulting from committed violations.

3. Materials of preliminary internal (official) inspections or investigations of disclosures in the public interest are retained by a corresponding agency or legal entity for five years from the date of receipt of such information.

4. Information about criminal offences wrongdoings received by bodies of pre-trial investigation, is considered inspected in accordance with the procedure stipulated by the Code of Criminal Procedure of Ukraine.

Information about administrative wrongdoings offences received by the agencies, authorized persons of which are empowered to draw up protocols on corresponding administrative wrongdoings, is considered inspected in accordance with procedures provided by the Law.

5. Anonymous public interest disclosures are considered in accordance with procedures provided by the Law.

Chapter III. RIGHTS AND GUARANTEES OF WHISTLE-BLOWER PROTECTION

Article 11. *Whistleblower Exemption from Legal Liability*

1. A whistleblower, who is under provisional enhanced protection is not subject to criminal liability, despite any breach of his/her official, labor or other similar responsibilities or obligations for making the disclosure or for a confirmed substantiated by real actions attempt to report a wrongdoing that harms or threatens the public interest.

2. A public interest disclosure in accordance with provisions under Article 9 of the Law, cannot constitute a breach of confidentiality clauses, provided in civil or another contract. Any contract may be set aside in full or in part, if it is found to prohibit disclosure of relevant public interest information. A discloser will not be held liable for damage or loss resulting from the disclosure of information about harm or threat to the public interest that was a direct consequence of the disclosure of relevant information.

Article 12. *Whistleblower Protection from illegal Deployment, Disciplinary Liability, and Reprisal or Discrimination*

1. A whistleblower or a person related to the whistleblower cannot be dismissed or compelled to leave their job, subject to disciplinary proceeding or reprisal by the head or employer (assignment to a lower-paid position, reduction of salary, deterioration of working conditions, refusal to provide a holiday, personal financial liability etc.) or threat of such measures of influence due to a disclosure or a confirmed substantiated by real actions attempt to make a public interest disclosure.

2. A whistleblower or a person related to the whistleblower cannot be denied conclusion or extension of an agreement, employment contract, administrative and other services due to the disclosure or a substantiated by real actions attempt to make a public interest disclosure. It is prohibited to create obstacles for the whistleblower's employment, professional, economic, social, scientific or other fields of activity, military service or professional training or to apply any other measures against them due to the disclosure or a substantiated by real actions attempt to make a public interest disclosure.

3. A whistleblower or a person related to the whistleblower whose rights are violated contrary to the provisions of parts 1 and / or 2 of this Article, is guaranteed restoration of his/her violated rights.

A whistleblower or a person related to the whistleblower who was dismissed from work due to the disclosure or a substantiated by real actions attempt to make a public interest disclosure is guaranteed the right to be reinstated to his/her (job) position and the right to pecuniary compensation in the amount of his /her average salary for the time of forced absence from work, but no more than for one a year. If the request of a whistleblower or a person related to the whistleblower for reinstatement is reviewed for more than one year through no fault on his/her part, he/she is paid an average salary for the entire period of forced absence from work.

A whistleblower or a person related to the whistleblower is assigned to a lower-paid position due to the disclosure or a substantiated by real actions attempt to make a public interest disclosure he/she should be immediately reinstated to his position and paid the difference in earnings for a lower-paid job period, but no longer than one year. If the request of a whistleblower or a person related to the whistleblower for reinstatement is examined for more than one year through no fault on his/her part, he/she is paid an average salary for the entire period of forced absence from work. If the whistleblower's or his/her family member's request for reinstatement is reviewed for more than one year through no fault on his/her part, he is paid an average salary for the entire period of forced absence.

In cases when there are sufficient grounds for reinstatement of the employee who was dismissed due to his/her or his/her family member's disclosure or a substantiated by real actions attempt to make a public interest disclosure in accordance with the Law and he/she refuses reinstatement, he/she is paid a pecuniary compensation in the amount of his/her average earnings for the period of six months, in cases of impossibility of reinstatement — in the amount of his/her average earnings for the period of two years.

In cases of payment of a pecuniary compensation to a whistleblower or a person related to the whistleblower, a corresponding government agency, the authority of the Autonomous Republic of Crimea, a local self-government, a legal entity of public or private law, a natural person-entrepreneur reimburses relevant expenses to the special fund of the State Budget of Ukraine.

Article 13. *Whistleblower Right to Confidentiality and Anonymity of Disclosures of information about Harm or Threat to in the Public Interest*

1. Information about the identity of the a whistleblower, except in cases specified by the law, is not disclosed without his/her consent to third parties who are not involved in the consideration, inspection and / or investigation of the disclosed public interest disclosure, or to persons whose acts or omissions it reveals concerns. Illegal disclosure of the whistleblower's identity entails liability provided by the Law.

2. In cases prescribed by the Law, a public interest disclosure can be made anonymously (without revealing the identity of the whistleblower).

Article 14. Whistleblower's Right to Compensation

1. Damage caused to a whistleblower by unlawful decisions, action or omission of an official or an employee of a government agency, the authority of the Autonomous Republic of Crimea or a local self-government in the exercise of their authority due to disclosure or a substantiated by real actions attempt to make a public interest disclosure is compensated by the state, the Autonomous Republic of Crimea or a local self-government independent of the guilt of this person in accordance with the Law.

2. Damage caused to a whistleblower by action or omission of a worker of a legal entity of public law (except a state authority, the authority of the Autonomous Republic of Crimea, local self-governments) or private law, or a person working for such a legal entity in the exercise of his/her/their professional (official) duty, is compensated by the corresponding legal entity.

3. Damage caused to a whistleblower by unlawful decisions, or action or inaction omission of a worker of an individual entrepreneur or a person working for the benefit of such individual entrepreneur in the exercise of their his/her professional (official) duty, is compensated by the corresponding individual entrepreneur.

Article 15. *Financial Incentives for Whistleblowers*

1. If as a result of the disclosure of information about harm or threat to thein the public interest under this Law funds are reimbursed to the state budget, a whistleblower obtains receives a pecuniary reward in the amount the consideration of 10 per cent of the refunded amount.

2. In order to receive a pecuniary reward provided for in part 1 of this Article a whistleblower, who has a right to it, files a request to the Ukrainian Parliament Com-

missioner for Human Rights, who within thirty days organizes an inspection of the whistleblower's right to pecuniary reward and the fact of reimbursement of the funds to the budget as a result of the disclosure of information about harm or threat to in the public interest and upon the results of the inspection makes a decides positively or negatively on payment of the appropriate corresponding reward or refusal to pay it.

The procedure for examination of a whistleblower's request for a pecuniary reward and the inspection procedure for such a request are established by the Ukrainian Parliament Commissioner for Human Rights.

Article 16. The Right to Security

1. If there is a real danger of loss of life, health, home and property of a whistleblower or a person related to the whistleblower, who are under preliminary protection in connection with the disclosure of information about harm or threat to the public interest, law enforcement agencies can apply legal, organizational, technical and other protection measures against unlawful violence provided by the Law of Ukraine "On Security of Persons Participating in Criminal Proceedings and Whistleblowers."

Article 17. *Whistleblower Right to Information*

1. A whistleblower has the right to information about the status and results of examination, inspection and / or investigation into the disclosure of information about harm or threat to the public interest and prosecuted persons.

2. Access to information under part 1 of this Article is granted to the whistleblower on his/her request by a legal entity, an official or employee responsible for examination, inspection and / or investigation into of the disclosure of information about harm or threat to in the public interest, no less often than every thirty days, and also on the outcome of the information examination, inspection and / or investigation regardless of the presence of a whistleblower request for it. In cases of violation of the procedural time limit a corresponding agency or a legal entity, its authorized officials or employees who allowed this violation to happen, pays a penalty in the amount of one minimal monthly salary prescribed by the Law at 1 January of the corresponding year, for each day of delay.

Article 18. *Usage of the Disclosed Information about Harm or Threat to the Public Interest as Evidence*

1. In proceedings on administrative violations, in disciplinary proceedings and in civil, economic or administrative litigations as well as during examination of a civil claim brought under the criminal procedure, consideration is given to audio and video recordings (also as evidence), that certify facts and circumstances provided for in paragraph 2 of Article 1 of this Law, which were imparted by a whistleblower in the process of making a public interest disclosure or in the process of inspection or investigation of the disclosed information.

Chapter IV. INSTITUTIONAL PROVISION ENFORCEMENT OF PUBLIC INTEREST DISCLOSURES OF INFORMATION AND WHISTLEBLOWER PROTECTION

Article 19. *Agencies Responsible for Enforcement of Public Interest Disclosures and Whistleblower Protection, Exercising Oversight of Compliance with Relevant Legislation*

1. The Cabinet of Ministers of Ukraine ensure the state policy of encouragement of disclosures in the public interest and whistleblower protection, provide establishment of institutional guarantees of whistleblower rights protection and reliable internal and regular reporting channels for communicating disclosures in the information about harm or threat to the public interest within in the framework of the executive branch, and oversees its compliance with relevant legislation.

2. Holders of public authority and legal entities referred to in part 2 under Article 5 of the Law, ensure formation of specialized structural units, or appointment or identification assignment of the responsible officials, whose powers include organization of internal reporting channels of disclosure, receipt and organization of inspection of information disclosed through them, cooperation with whistleblowers, protection and enforcement of their rights under the Law, provision of employees of the corresponding agency or a legal entity or persons who work for their benefit, with methodological assistance support and advice consultations on disclosures in the public interest and whistleblower protection, and conducting internal trainings on these issues. A standard regulation about the corresponding unit or person is approved by the Ukrainian Parliament Commissioner for Human Rights.

The Ukrainian Parliament Commissioner for Human Rights approves appointment, termination, dismissal and disciplinary liability of the related officials, managers and deputy managers of the mentioned units.

3. The subjects referred to in Part 2 under Article 6 of this Law ensure the operation of regular reporting channels for disclosures in the public interest in accordance with their competence, appropriate due consideration, inspection and/or investigation of information disclosed through such channels, cooperate with whistleblowers, guarantee enforcement of their rights and protection, provided by law, and protection.

4. Parliamentary oversight over whistleblower rights enforcement, including the right to disclosure in the public interest and protection is exercised by the Ukrainian Parliament Commissioner for Human Rights.

5. The National Agency for Prevention of Corruption is responsible for continuously monitoring and controlling oversight of the implementation of legislation on protection of whistleblowers, who report corruption or corruption- related wrongdoings and other breaches of the Law of Ukraine "On Prevention of Corruption" by another person, conducts an annual analysis and review of state policy in this area, cooperates with whistleblowers and takes measures for their legal and other types of protection,

and prosecution of persons responsible for violation of their rights on the grounds of such disclosures.

Article 20. *The Ukrainian Parliament Commissioner for Human Rights Oversight of Whistleblower Rights Enforcement and Protection*

1. The Ukrainian Parliament Commissioner for Human Rights who exercises oversight over whistleblower rights enforcement and protection has the following powers:

1) to receive recommendations, suggestions, complaints and other appeals by individuals and legal entities on whistleblower rights and protection enforcement and make decisions based on the results of their examination;
2) in accordance with the procedure established by the Ukrainian Parliament Commissioner for Human Rights on the basis of the received complaints or on his/her own initiative and in accordance with the Law on Access to Facilities to carry out on-site and off-site, scheduled or unscheduled inspections of conditions for making a information disclosure, in government agencies, local self-governments, the authorities of the Autonomous Republic of Crimea, legal entities, including the establishment and operation of reporting channels for disclosures in the public interest, their compliance with whistleblower rights and protection enforcement in government agencies, local self-governments, government agencies of the Autonomous Republic of Crimea, legal entities;
3) on request to receive and have access to any information (documents) on the conditions and facts of disclosures in the public interest, enforcement of whistleblower rights and protection, which are necessary for the oversight, including access to personal data and classified information;
4) to monitor compliance with relevant legislation and conduct analysis of the situation regarding disclosures in the public interest, observance and enforcement of whistleblower rights and protection;
5) to adopt regulations on public interest disclosures, enforcement of whistleblower rights and protection, cooperation with whistleblowers and their protection;
6) to issue binding instructions on restoration of rights of a whistleblower or a person related to the whistleblower, requirements acts on elimination of violations of legislation on whistleblower protection and disclosures in the public interest;
7) on request from individuals and legal entities to give recommendations for practical implementation of legislation on disclosures in the public interest, enforcement of whistleblower rights and protection, cooperation with whistleblowers, whistleblower rights, protection and cooperation, to explain rights and obligations of those concerned;
8) to cooperate with government agencies, local self-governments, agencies of the Autonomous Republic of Crimea, legal entities, their departments or responsible persons who under this Law establish regular or internal reporting channels for disclosures in the public interest, receipt and examination of such

information, to enforce whistleblower rights and protection; to publish information about such structural units and responsible persons;

9) to submit recommendations to the Ukrainian Parliament, the President of Ukraine, the Cabinet of Ministers of Ukraine, other government agencies, local self- governments, agencies of the Autonomous Republic of Crimea, their officials on the adoption or amendment of regulations on disclosures in the public interest and whistleblower protection;
10) provide legal expertise in cases of whistleblower rights violation;
11) draw up protocols on administrative liability and forward them to the court in cases provided by the Law;
12) inform the public about legislation on disclosures in the public interest and whistleblower protection, its practical application, rights and obligations of those concerned;
13) monitor new practicies, tendencies and information technologies for making a disclosure and whistleblower protection;
14) organize and facilitate cooperation with foreign agencies connected with disclosures in the public interest and whistleblower protection;
15) take part in the work of international organizations on whistleblower protection issues;
16) provide pecuniary compensation from the Special Fund of the State Budget of Ukraine to persons who were dismissed due to making public interest disclosures and from the special Fund of the State Budget of Ukraine;
17) other powers provided by this or other Laws. 2. To implement the powers provided for in part 1 under this Article the Ukrainian Parliament Commissioner for Human Rights appoints an individual representative, and forms a separate structural unit within the structure framework of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights.

The representative of the Ukrainian Parliament Commissioner for Human Rights and the Secretariat of The Ukrainian Parliament Commissioner for Human Rights are responsible for monitoring oversight of whistleblower rights and protection enforcement, and while exercising their powers are considered to be government officials acting on behalf of the State and under its protection. no one, except authorized government officials, in cases specified provided by the Law has a right to interfere in their legitimate activity.

Article 21. *Parliamentary Hearings on the Situation regarding Disclosures in the Public Interest and Whistleblower Protection Related Issues*

1. The Ukrainian Parliament holds annual parliamentary hearings on the situation regarding disclosures in the public interest and whistleblower protection related issues.

2. The Ukrainian Parliament Commissioner for Human Rights, his representative in matters of enforcement of whistleblower rights and protection, members of the National Anti-Corruption Agency, other state government agencies, the agencies of

the Autonomous Republic of Crimea, bodies of State power, local self-governments, legal entities, political parties, public associations, scientific institutions, members of the public, the author (initiator) of the electronic petition, whistleblowers, who expressed a desire wish to participate in parliamentary hearings and submitted a corresponding application no later than five days before the event to the Committee which prepares the hearings, are invited to participate in parliamentary hearings on the situation regarding disclosures of information in the public interest and whistleblower protection related issues.

3. During the parliamentary hearings on the situation regarding disclosures in the public interest and whistleblower protection related issues provide discussions and reports by the Ukrainian Parliament Commissioner for Human Rights, authorized representatives of the Cabinet of Ministers of Ukraine, and the National Anti-corruption Agency, activists, whistleblowers and other stakeholders/ interested parties are heard, questions are answered and discussions are held.

4. Parliamentary hearings on the situation regarding disclosures of information about harm or threat to in the public interest and whistleblower protection related issues are stenographed in accordance with established procedure. A transcript of the hearings is released on the official website of the Ukrainian Parliament and is published as a supplement to the verbatim record of the plenary meetings of the Ukrainian Parliament.

The parliamentary hearings are conducted openly and publicly, including in the presence of representatives of the media and journalists. The Ukrainian Parliament provides audio- and videorecording as well as live broadcasting of the corresponding audio- and video information from the parliamentary hearings on the official website of the Ukrainian Parliament.

5. Upon the results of the parliamentary hearings on the situation regarding disclosures in the public interest and whistleblower protection related issues the Ukrainian Parliament at the plenary session adopts a resolution which ratifies relevant recommendations, including those on the possible improvement of the legislation on disclosures in the public interest and state policy in this sphere, on taking practical steps to encourage public interest disclosures and enforcement of whistleblower protection.

Article 22. *Whistleblower Protection Mechanisms*

1. On the application of a whistleblower discloser or a person related to the discloser, or on the request of the National Anti-Corruption Agency, the Ukrainian Parliament Commissioner for Human Rights within ten working days shall decide on identification or refusal to identify a discloser or a person related to the discloser as a whistleblower or a person under preliminary protection correspondingly.

A discloser or a person related to the whistleblower is identified as a whistleblower or a person under preliminary protection in case of confirmation of the fact of his public interest disclosure or a real attempt of such a disclosure.

2. On the application of a person who facilitated or contributed to the disclosure in the public interest or a request of the National Agency for Prevention of Corruption the Ukrainian Parliament Commissioner for Human Rights within twenty working days shall decide on the identification or refusal to identify such a person as a whistleblower under preliminary protection.

A person who facilitated or assisted in a public interest disclosure is identified by the Ukrainian Parliament Commissioner for Human Rights as a whistleblower under preliminary protection in case of confirmation of the disclosure in the public interest or an actual attempt to make such a disclosure as well as confirmation of the fact of whistleblower facilitation or assistance in such a disclosure or attempt.

3. On the application of a whistleblower the Ukrainian Parliament Commissioner for Human Rights or the National Agency for Prevention of Corruption within the limits of its competence and a fifteen-day term makes an inspection to confirm the fact of a whistleblower's or a person related to the whistleblower's unlawful dismissal, administrative disciplinary liability, reprisal or other negative means of influence or discriminationory measures due to the disclosure in the public interest.

On the results of inspection in cases provided by the Law, legislative acts of response to breaches of the legislation on whistleblower protection and disclosures in the public interest are issued.

Article 23. *Legislative Acts of Response to Breaches of the Legislation on Whistleblower Protection and Disclosures in the Public Interest*

1. In case of violation of rights of a whistleblower or a person under preliminary protection, rights violation contrary to provisions in Part 1 or 2 under Article 12 of the Law, the Ukrainian Parliament Commissioner for Human Rights issues a misdemeanor warrant for restoration of the rights of a whistleblower or a person related to the whistleblower, to the person, who allowed the corresponding violation, an ordinance to restore the rights of a whistleblower or a person related to the whistleblower, including reinstatement in the workplace.

2. In case of detecting a identification of a violation of legislation on whistleblower protection and disclosures in the public interest different from the one referred to in part 1 under this Article, the Ukrainian Parliament Commissioner for Human Rights demands from the head of the corresponding government agency, the authority of the Autonomous Republic of Crimea, local self-government, legal entity of public or private law or an individual entrepreneur to eliminate the corresponding violation.

3. An ordinance of restoration of whistleblower rights or the Ukrainian Parliament Commissioner for Human Rights' demands are binding and subject to immediate execution no later than 10 days after their issue.

A person to whom the relevant legal act of response was addressed informs the Ukrainian Parliament Commissioner for Human Rights on the results of the relevant ordinance implementation within the term provided by the Law.

4. In cases of a breaches of the Law "On Prevention of Corruption" on state protection of persons who provide assistance in prevention and fighting corruption, The National Agency for Prevention of Corruption in accordance with the procedure provided by the Law of Ukraine "On Prevention of Corruption", issues an ordinance on elimination of the corresponding breaches of legislation, including those regarding whistleblowers or persons under preliminary protection protection, official investigation, criminal liability.

Article 24. *Financial Support for the Ukrainian Parliament Commissioner for Human Rights*

1. Financial support for the Ukrainian Parliament Commissioner for Human Rights oversight of whistleblower rights and protection enforcement is provided for from the State budget or international technical assistance funds. Financial support for the Ukrainian Parliament Commissioner for Human Rights from any other sources is prohibited except cases specified in international treaties and ratified by the Ukrainian Parliament or international technical assistance projects.

The State budget contains a separate entry of allocations for the Ukrainian Parliament Commissioner for Human Rights oversight of whistleblower rights and protection enforcement on the level that provides proper exercise of the specified powers.

2. Revenues of 10 per cent of the budgetary refunds as a result of disclosure in the public interest in accordance with the Law, as well as the penalty incurred under this Law for violation of terms of providing a whistleblower with information about the status and results of examination, inspection and / or investigation of the public interest disclosure and prosecuted persons are transferred to the Special Fund of the State Budget of Ukraine and forwarded for payment of pecuniary compensations to persons dismissed from work due to the disclosure in the public interest, as well as pecuniary rewards to whistleblowers due to whose disclosure money has been returned to the budget.

3. The Ukrainian Parliament Commissioner for Human Rights is the main administrator of the Special Fund of the State Budget of Ukraine provided in part 2 under this Article.

Article 25. *Control over Expenditures on Whistleblower Protection*

1. Control over the Ukrainian Parliament Commissioner's for Human Rights allocation of budgetary funds under Article 24 of this Law is exercised by the Accounting Chamber through audit once a year.

2. Public control over the Ukrainian Parliament Commissioner's for Human Rights allocation of budgetary funds under Article 24 of this Law is exercised by the Supervisory Board on financing whistleblower protection, which is established under the office of the Ukrainian Parliament Commissioner for Human Rights.

3. The Supervisory Board on financing whistleblower protection consists of nine persons who are elected through open internet preference voting of citizens, who live in Ukraine in accordance with the procedure established by the Ukrainian Parliament Commissioner for Human Rights.

Members of the Supervisory Board on financing whistleblower protection can be persons with impeccable business reputation, excellent moral and professional qualities, high social prestige, and no less than five years of experience in law, journalism, scientific, social or human rights protection activities.

Members of the Supervisory Board cannot be one of the following:

1) persons declared by the court as lacking legal capacity or with limited legal capacity;
2) persons with a criminal record, an unexpunged or unserved in accordance with the procedure provided by the Law sentence.
3) persons considered as those subjected to administrative liability for corruption-related offences;
4) persons who were in the leadership of a political party for one year before the elections regardless of the term.
5) persons authorized to perform functions of state or local self-government in accordance with the Law of Ukraine "On Prevention of Corruption."

Article 26. *The Unified Register of Whistleblower Cases*

1. In order to inform the citizens of Ukraine on whistleblower cases inspection, examination tracking, monitoring of compliance with the law and analysis of disclosures in the public interest, compliance with and enforcement of whistleblower rights and protection the Ukrainian Parliament Commissioner for Human rights ensures establishment and operation of the Unified Register of Whistleblower Cases where all the materials on cases of violation of rights and protection of whistleblowers and persons under preliminary protection is stored. The Commissioner must publicize all the information about the status of whistleblower rights and protection violation cases examination on the official website, except the data that recover the identity of a whistleblower.

The regulation on the establishment of the Unified Register of Whistleblower Cases is ratified by the Ukrainian Parliament Commissioner for Human rights.

2. Whistleblowers are provided with access to all the materials in the Unified Register of Whistleblower Cases on their rights and protection violation cases. A whistleblower can get access to the Unified Register of Whistleblower Cases using a personal electronic key.

3. Information in the Unified Register of Whistleblower Cases is stored for 7 years from the initiation date of the case. Two months before the removal of the case from the Unified Register of Whistleblower Cases the Ukrainian Parliament Commissioner for Human rights notifies the whistleblower, who has an opportunity to have access to all the materials on his case on request.

Chapter V. FINAL PROVISIONS

1. This law shall come into force three months after the date of its official publication.

2. Until the legislation of Ukraine is brought into line with this Law legislative acts of Ukraine are applied in the part which does not contradict this Law.

3. To amend the following legislative acts of Ukraine:

1) Law of Ukraine "On Prevention of Corruption" (The Records of the Ukrainian Parliament, 2014, No. 49, Article 2056):

a) articles 12:

- to add "and also in other cases provided by the Law" to paragraph 8 of part 1; to add "and also in other cases provided by the Law" to the first paragraph of
- part 2 after "other breaches of this Law";

b) in Article 53:

- Part 2 and 3 should be revised to read as follows:

"1. A person who assists in prevention or fighting corruption (a whistleblower) is an individual who having a strong belief that the information is reliable disclosed or made a substantiated by real actions attempt to disclose information about breach of this Law by another person.

3. Guarantees and mechanisms of protection of whistleblowers who report wrongdoings that harm or threaten the public interest, including corruption, corruption related or other violations of this Law are provided by the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

- To add "legal entities" to part 4 after "local self-government";
- Part 6 should be revised to read as follows:

"6. The National Agency for Prevention of Corruption continuously analyses, monitors and controls implementation of legislation on protection of whistleblowers who report cases of corruption, corruption related wrongdoings, other violations of this Law, collaborates with whistleblowers, applies measures for their legal protection, prosecutes persons who violate their rights, improves the state policy in this area".

2) Article 15 of the Law of Ukraine "On Prevention of Corruption Offences Influence on the Results of Official Sport Competitions" (The Records of the Ukrainian Parliament, 2015, No. 51, Art. 472) should be revised to read as follows:

"Article 15. Protection of Rights of Persons Assisting in Prevention of Corrupt Influence on the Results of Official Sport Competitions 1. Guarantees and mechanisms of protection of disclosers of public interest information, including facts of corrupt influence on the results of an official sport competition are provided by the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest".

3) in the Labor Code of Ukraine (The Records of the Parliament of USSR, 1971, appendix No. 50. Art. 375)

a) to supplement part 2 under Article 13 with paragraph 13 reading as follows:

"workers' guarantees, rights and opportunities to make disclosures in the public interest, whistleblower rights and protection from reprisal, discrimination due to

their disclosure of such information under the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

b) in article 253:

replace "with reporting violation of the Law of Ukraine "On Prevention of Corruption" by another person" in part 2 with "with his/her or a related person's disclosure in the public interest or a substantiated by real actions attempt of such a disclosure in accordance with the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

- part 4 should be revised to read as follows:

"If there are grounds for reinstatement of the employee who was dismissed due to his/her or his family member's disclosure in the public interest or substantiated by real actions attempt of such a disclosure in accordance with the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest"; and his/her refusal from reinstatement, the agency responsible for examination of the labor dispute takes a decision to provide a pecuniary compensation in the amount of six average earnings, and in case of impossibility of reinstatement — in the amount of two-year average earnings".

4) In the Code of Ukraine on Administrative Offences (The Records of the Parliament of USSR, 1984, appendix No. 51, Art. 1122):

a) Article 172^{8}:

- to add a new part reading as follows:

"Unlawful disclosure of the identity of a whistleblower — incurs a fine on officials and employees ranging from two hundred and fifty to four hundred tax-exempt minimum incomes of citizens with the revocation of the right to hold certain offices or pursue certain activities for a period of one year";

- the note should be revised to read as follows:

"Note.

1. Criminal offenders in part 1 under this Article are persons referred to in paragraph 1 of part 1 under Article 3 of the Law of Ukraine "On Prevention of Corruption" as well as persons referred to in part 2 under Article 17 of the Law of Ukraine "On Prevention of Corruption Offences Influence on the Results of Official Sport Competitions".

2. Whistleblowers under this Article are persons referred to in paragraph 1 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

b) to supplement Article 188^{40} with new parts and a note reading as follows:

"The act provided for in part 1 under this Article committed against a legitimate demand of the Ukrainian Parliament Commissioner for Human Rights to eliminate violation of legislation on whistleblower protection and disclosures in the public interest, — incurs a fine on officials, citizens — business actors ranging from three hundred to five hundred tax-exempt minimum incomes of citizens. The act provided for in part 1 under this Article, committed against the Ukrainian Parliament Commissioner for Human Rights regulation on restoration of rights of a whistleblower of a person related to the whistleblower, — incurs a fine ranging from one thousand to two thousand and five hundred tax-exempt minimum incomes of citizens.

Note

1. In this Article whistleblowers are persons, referred to in paragraph 1 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest".

2. In this Article persons related to the whistleblower are individuals referred to in paragraph 4 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

c) to supplement Article 251 with a new part and a note reading as follows:

"Audio- and video records that certify facts and circumstances provided for in paragraph 3 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest", which were disclosed by a whistleblower in the process of making a disclosure in the public interest or in the process of inspection or investigation of the disclosed information also qualify as evidence in cases on administrative offences.

Note

In this Article whistleblowers are persons, referred to in paragraph 1 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

d) after Article 279-4 to supplement with Article 279-5 reading as follows:

"Article 279-5. Specificities of Administrative Wrongdoing Case Examination in the Realm of Whistleblower Rights Protection Proceeding for administrative wrongdoing, provided for in part 2 or 3 under Article 188[40] of this Code takes place in the obligatory presence of the persons subject to administrative liability except cases when these persons submit an application for case examination in their absence or their secondary absence from the court session without good reason";

5) to supplement Article 34 of the Code of Economic Procedure of Ukraine (The Records of the Ukrainian Parliament, 1992, No. 6, Art. 56) with a new part and a note reading as follows:

"The Economic Court also accepts as relevant evidence audio-, video records, certifying facts and circumstances provided for in paragraph 2 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" that were disclosed by a whistleblower in the process of making a disclosure in the public interest or in the process of inspection or investigation of the disclosed information.

Note. In this Article whistleblowers are persons, referred to in paragraph 1 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

6) in the Criminal Code of Ukraine (The Records of the Ukrainian Parliament (VVBBRP), 2001, No. 25–26, Art. 131):

a) supplement with Article 49[1] reading as follows:

"Article 49[1]. Exemption from Criminal Liability due to the Disclosure in the Public Interest.

A person who commited an offence that lies in the disclosure of classified information is exempt from criminal liability if that person is identified as a whistleblower under preliminary protection, and the corresponding offence is committed through disclosure in the public interest in compliance with the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" or a substantiated by real actions attempt of such disclosure";

b) to revise Article 172 to read as follows:

"Article 172. Gross Violation of Labour Law.

1. Gross violation of labor rights of a worker (including illegal dismissal or alteration of essential working conditions, violation of the constitutional right to rest), com-

mitted for personal reasons, or in connection with his/her or a related person's activity as a whistleblower in accordance with the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" or due to facilitation or assistance in this activity — incurs a fine ranging from two thousand to three thousand tax-exempt minimum incomes of citizens or with the revocation of the right to hold certain offices or pursue certain activities for a period up to three years, or correctional labor for one to two years.

2. The same acts if committed repeatedly or against a minor, a pregnant woman, a single parent, a father or mother or a person in loco parentis who is raising a child under 14 or a disabled child — incurs a fine ranging from three thousand to five thousand tax-exempt minimum incomes of citizens or with the revocation of the right to hold certain offices or pursue certain activities for a period of three to five years, or correctional labor for one to two years, or an arrest up to six months.

3. The acts provided by part 1 or 2 under this Article if they resulted into a victim's significant property damage — incur a fine ranging from five thousand to seven thousand tax-exempt minimum incomes of citizens or imprisonment for two to three years.

Note

1. Property damage is deemed significant if it is twenty or more times the tax- exempt minimum income of citizens.

2. Family members in this Article are individuals referred to in paragraph 4 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest".

7) in the Code of Civil Procedure of Ukraine (The Records of the Ukrainian Parliament, 2004, No. 40–42, Art. 492):

- To supplement Article 59 with a new part and a note reading as follows:

"3. The court also accepts as relevant evidence audio-, video records, certifying facts and circumstances provided in paragraph 2 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" that were handed over by a whistleblower in the process of reporting a wrongdoing that harms or threatens the public interest or in the process of inspection or investigation of the disclosed information.

Note

In this Article whistleblowers are persons, referred to paragraph 1 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

- In paragraph 3 of part 1 under Article 60 to replace:

"his/her or his/her family member's disclosure of the violation of the Law of Ukraine "On Prevention of Corruption" by another person" with "his/her or his/her family member's disclosure or a substantiated by real actions attempt to report a wrongdoing that harms or threatens the public interest in accordance with the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest", or in connection with his/her facilitation or assistance in such a disclosure";

8) to supplement Article 70 of the Code of Administrative Procedure of Ukraine (The Records of the Ukrainian Parliament, 2005, No. 35, / 35–36, 37 /, Art. 446) with a new part and a note reading as follows:

"5. The court also accepts as relevant evidence audio-, video records, certifying facts and circumstances provided for in paragraph 2 of part 1 under Article 1 of the Law of

Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" that were handed over by a whistleblower in the process of reporting a wrongdoing that harms or threatens the public interest or in the process of inspection or investigation of the disclosed information.

Note

In this Article whistleblowers are persons, referred to paragraph 1 of part 1 under Article 1 of the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest".

9) in the Code of Civil Procedure of Ukraine (The Records of the Ukrainian Parliament , 2013, No. 9–13, Art. 88):

a) to supplement Article 60 with a new part reading as follows:

"3. The applicant who is identified as a whistleblower under the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" in addition to the rights provided under this Article has the right to receive information about the course of the pre-trial investigation initiated on the basis of his complaint or disclosure in accordance with the procedure provided by the Law";

b) to supplement part 2 in Article 286 with a new paragraph reading as follows:

"In case when grounds for exemption from criminal liability under Article 491 of the Criminal Code of Ukraine are detected during pre-trial investigation, the request for exemption from criminal liability can also be drawn up and sent to the court by the Ukrainian Parliament Commissioner for Human Rights. In order to prepare such an request the Prosecutor shall provide the Ukrainian Parliament Commissioner for Human Rights with the information provided under Article 287 of the Code, except the information provided in paragraph 8 of part 1 under the Article, that the Ukrainian Parliament Commissioner for Human Rights personally receives from the victim."

c) to supplement part 1 under Article 288 with a paragraph reading as follows:

"the request of the Ukrainian Parliament Commissioner for Human Rights for exemption from criminal liability is examined in accordance with the procedure provided under Article 288 of the Code";

d) to supplement Article 589 after part 2 with a new part reading as follows:

"3. A person whose extradition is sought and who in accordance with Ukrainian Laws is a discloser in the public interest, and the relevant request is directly connected with the disclosure, cannot be extradited to a state where he/she may be exposed to negative consequences of such a disclosure";

Due to this to consider part 3 as part 4.

10) in the Law of Ukraine "On Security of Persons Participating in Criminal Proceedings" (The Records of the Ukrainian Parliament, 1994, No. 11, Art. 51; 2003, No. 16, Art. 124; 2005, No. 11, Art. 198; 2009, No. 36–37, Art. 511; 2013, No. 21, Art. 208; 2014, No. 12, Art. 183, No. 47, Art. 2051; 2015, No. 2–3, Art. 12, No. 40–41, Art. 379; 2016, No. 4, Art. 44, No. 6, Art. 55):

a) to supplement the title of the Law with "and Whistleblowers";

b) in Article 1:

to add "and Disclosers of the Public Interest Information" to the title of the Article;

to add "and also Disclosers of the Public Interest Information" after "in criminal proceedings";

c) to supplement Article 2 with paragraph"i" reading as follows:

"i) other whistleblowers, except those referred to in paragraph "a" of this Article, who disclosed information in the public interest in accordance with the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest" and are under preliminary protection, persons related to whistleblowers as well as journalists and other persons who have facilitated or assisted in the disclosure in the public interest";

d) in Article 3:

- part 2 should be revised to read as follows:

"2. The decision on application of security measures is taken by the investigator, the public prosecutor, the court, in the proceedings of which there are cases of criminal offences, or in the investigation or judicial proceedings of which participated or are participating persons referred to in paragraphs «a» — «є» under Article 2 of the Law, as well as by the agency (unit), that performs operative and investigation activities as to persons who facilitated or assisited in the detection, prevention or suppression of crime.

The decision on application of security measures can be taken by the investigating judge in cases provided under Article 206 of the Code of Criminal Procedure of Ukraine.

The decision on application of security measures to persons referred to in paragraph "i" under Article 2 of this Law is taken by the Ukrainian Parliament Commissioner for Human Rights";

- To supplement part 3 with the paragraph reading as follows:

"Security measures to persons referred to in paragraph "i" under Article 2 of this Law are applied by the corresponding body of the National Police";

e) Article 4 should be revised to read as follows:

"Article 4. Legal Framework for Security of Persons Participating in Criminal Proceedings and Disclosers of Public Interest Information Legal framework for security of persons participating in criminal proceedings is based on the Constitution of Ukraine, this Law, the Criminal Code of Ukraine and the Code of Criminal Procedure of Ukraine, the Law of Ukraine on "Operative Investigation Activity", other laws. Legal framework for security of persons referred to in paragraph "i" under Article 2 of this Law is based on the Constitution of Ukraine, this Law, the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest", other laws";

f) in Article 5:

to supplement paragraph "c" in part 1 after "prosecutor, court" with "the Ukrainian Parliament Commissioner for Human Rights";

- to supplement part 2 with a new paragraph reading as follows:

"g) to submit a request to cancel measures applied to persons mentioned in paragraph "i" of Article 2 under this Law to the Ukrainian Parliament Commissioner for Human Rights.";

h) the title, parts 1 and 2 under Article 17 should be revised to read as follows:

"Article 17. Implications of Refusal from Protection by a Person Participating in a Criminal Proceeding or a Discloser of Public Interest Information

1. In case of refusal from protection of a person participating in a criminal proceeding or a person referred to in paragraph "i" under Article 2 of this Law, security measures under Articles 9, 11–16 of this Law are not applied

2. If there is a threat of serious consequences, measures to ensure personal security, security of home and property may be applied, technical tools of control and tapping telephone and other conversations may be used with a prosecutor's authorization or a court decision towards these persons except persons referred to in paragraph "i" under Article 2 of this Law";

i) paragraphs 1 and 2 of part 2 under Article 20 should be revised to read as follows:

"2. The reason for applying measures to ensure security of the participants in criminal proceedings, their families and relatives, or persons referred to in paragraph "i" under Article 2 of this Law may be:

a) a request of a participant in a criminal proceeding, his family member or a close relative or a person referred to in paragraph "i" under Article 2 of this Law";

j) paragraphs 1 and 2 of part 2 under Article 21 should be revised to read as follows:

"2. The reason for cancelling measures to ensure security of participants in criminal proceedings, their families and relatives, or persons referred to in paragraph "i" under Article 2 of this Law may be:

a) a request of a participant in a criminal proceeding, his family member or a close relative or a person referred to in paragraph "i" under Article 2 of this Law for whose protection security measures were applied"

k) in Article 22:

- in part 2:

in paragraph 1 to replace "Article 2 of this Law" with words and letters: "paragraphs "a" — "h" under Article 2 of this Law, and the Ukrainian Parliament Commissioner for Human Rights a — on threat to security of a person, referred to in paragraph "i" under Article 2 of this Law";

to supplement paragraph 2 after "judge, court" with "the Ukrainian Parliament Commissioner for Human Rights";

to supplement paragraph 2 of part 3 after "investigating judge" with "or the Ukrainian Parliament Commissioner for Human Rights";

- to supplement part 5 with a new paragraph reading as follows:

"If there are grounds for cancelling measures to ensure security of persons referred to in paragraph "i" under Article 2 of this Law, the Ukrainian Parliament Commissioner for Human Rights issues a reasoned resolution to cancel them, and notifies the corresponding person under protection in the written form. This resolution may be appealed in accordance with the procedure provided by the Law";

l) to supplement part 1 under Article 28 with a new paragraph reading as follows:

"2. Oversight of security of persons referred to in paragraph "i" under Article 2 of this Law is the responsibility of the Ukrainian Parliament Commissioner for Human Rights";

11) in the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights" (The Records of the Ukrainian Parliament, 1998, No. 20, Art. 99):

a) to supplement part 1 under Article 11 with "except cases when appointment of representatives is obligatory";

b) to add the following sentence to part 1 under Article 12:

"Specifics of financing the Ukrainian Parliament Commissioner for Human Rights oversight of whistleblower rights and protection ensurance are provided by the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

c) to supplement Article 15 with a new part reading as follows:

"Acts of response issued by the Ukrainian Parliament Commissioner for Human Rights during his/her oversight of compliance with whistleblower rights and protection ensurance, grounds for them and the procedure for their examination are provided by the Law of Ukraine "On Protection of Whistleblowers and Disclosures in the Public Interest";

12) To revise Article 11 of the Law of Ukraine "On Access to Public Information" (The Records of the Ukrainian Parliament, 2011, No. 32, Art. 314) to read as follows:

"Article 11. Protection of a Person who Discloses Information.

1. A natural person is not subject to legal liability despite the breach of his/her employment, labor or other responsibilities or obligations for the disclosure or a substantiated by real actions attempt to disclose information in the public interest, if he/she has a reasonable belief in its reliability. The procedure for making a disclosure in the public interest is provided by the Law.

3. To the Cabinet of Ministers of Ukraine:

a) within two months of the commencement date of this Law:

- *to submit to the Ukrainian Parliament a draft Law on bringing Ukrainian legislation in compliance with this Law;*
- *to bring Ukrainian legislation in compliance with this Law;*
- *to ensure conditions for executive bodies to bring relevant legislation in compliance with this Law;*

b) to provide financing for the Ukrainian Parliament Commissioner for Human Rights activity on whistleblower rights and protection enforcement in accordance with Article 24 of this Law.

4. To government agencies, authorities of the Autonomous Republic of Crimea, local self-governments, legal entities of public and private law within three months of the commencement date of this Law:

- *to establish reporting channels for disclosures in accordance with the Law;*
- *to establish designated structural units or appoint or assign responsible officials with a mandate to manage the work of internal reporting channels, to receive and examine information disclosed through internal reporting channels, to collaborate with whistleblowers, to ensure their rights and protection in accordance with the Law.*

5. To the Ukrainian Parliament Commissioner for Human Rights; Prosecution Service; bodies of pre-trial investigation; agencies, authorized persons of which have a right to draw up protocols on administrative wrongdoings; agencies responsible for oversight of compliance with relevant laws; agencies empowered to examine cases and make decisions on bringing officials and employees to disciplinary liability, or in cases of ethics code violation within two months of the commencement date of this Law to ensure establishment of regular reporting channels for disclosures in the public interest in accordance with the Law.

6. To the Ukrainian Parliament Commissioner for Human Rights within two months of the commencement date of the Law:

- *to appoint a representative for oversight of whistleblower rights and protection enforcement;*
- *to establish an independent structural unit within the framework of the Ukrainian Parliament Commissioner for Human Rights Secretariat to deal with oversight and enforcement of whistleblower rights and protection;*
- *to establish the Supervisory Board on financing for whistleblower protection;*
- *to adopt legislative acts provided by the Law.*

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ABOUT US

CO "UKRAINIAN LEAGUE OF LAWYERS FOR CORRUPTION COMBATING"

CO "Ukrainian League of Lawyers for Corruption Combating". The main goals of the League are to promote civic education and enlightenment, to develop community initiatives and voluntary associations of experts who have the aim, in particular, preventing and combating corruption and legal aid as well as scientific and patronage activities in Ukraine, civic initiatives and voluntary associations of specialists in the field of anti-corruption, as well as participation in patriotic and anti-corruption education of children and youth.

BLUE PRINT FOR FREE SPEECH

Blueprint for Free Speech (Blueprint) is an Australian based, internationally focused not-for-profit concentrating on research into 'freedoms' law. Our areas of research include public interest disclosure (whistleblowing), freedom of speech, defamation, censorship, right to publish, shield laws, media law, Internet freedom (net neutrality), intellectual property and freedom of information. We have significant expertise in whistleblowing legislation around the world, with a database of analyses of more than 30 countries' whistleblowing laws, protections and gaps.

ACREC

Anti-Corruption Research and Education Centre of KMA is the first Research and Education Interdisciplinary Centre, where corruption is studied as a socio-political phenomenon; preventive methods against supportive to corruption environment and counteracting its effects are taught systematically.

Interdisciplinary Research and Education Centre was founded by Anticorruption Action Centre, Transparency International Ukraine and National University of 'Kyiv-Mohyla Academy' in July 2015.

First of all, the Center was established in order to carry out interdisciplinary research and launch of academic studying in counteracting the corruption.

The main goal of the team of the Centre is introduction of short and long term interdisciplinary practically oriented training programs for good governance and creation of open society in Ukraine.

The first educational program for Masters of Law — course 'Corruption, public policy and society'- started in autumn 2015.

The next task of the Centre is to involve not only students but National Anti-Corruption Bureau detectives, investigators, judges, state servants, and journalists in systematic practical training in aforementioned area.