

## ► POLICY BRIEF

# RECOMMENDATIONS REGARDING THE ORGANIZATION OF NAPC WORK WITH WHISTLEBLOWERS

## INTRODUCTION

**THE BEGINNING OF 2020 WAS MARKED BY TWO IMPORTANT EVENTS FOR WHISTLEBLOWERS:**

- ▶ Entry into force of amendments to the Law of Ukraine “On Prevention of Corruption”, which significantly strengthened the NAPC’s mandate in the field of protection of whistleblowers and made it a key public authority in implementation of state policy and realization of the institutional mechanism in the field of protection of corruption whistleblowers in Ukraine.
- ▶ Restart of the NAPC and the presence of political will of the new management to establish systematic work in the field of protection of whistleblowers.

At the same time, the practice of establishing and operating special institutions for the protection of whistleblowers in different countries shows that the level of efficiency and effectiveness of these institutions depends not only on political will and relevant legislation in this area, but also largely on how the work of the relevant institution was organized, how communication, coordination and cooperation with other stakeholders have been established, or whether the institution has received the necessary resources to fulfill its powers.

## THE PURPOSE OF THE BRIEF

**PROVIDING RECOMMENDATIONS ON THE ORGANIZATION OF THE NAPC’S WORK IN THE FIELD OF PROTECTION OF WHISTLEBLOWERS.**

\*\*\* In this brief, the legal construction “possible facts of corruption offences” means: “possible facts of corruption or corruption-related offences, other violations of the Law of Ukraine “On Prevention of Corruption”.

# NAPC: areas of activity



1. It is a key public authority in Ukraine that has jurisdiction to **protect the rights of whistleblowers**, and is responsible for defining and realization public policies concerning their protection (and not only verifies reports on possible corruption offences received from whistleblowers).

2. It acts as an internal channel **for NAPC employees to inform** about possible facts of corruption offences.

**IN ORDER TO ORGANIZE THE WORK OF THE NAPC WITH WHISTLEBLOWERS, EACH OF THESE AREAS NEEDS TO BE IMPROVED IN PARTICULAR WAY.**

## COURSE 1: RECOMMENDATIONS

**Create a separate office for work with whistleblowers and provide it with the necessary material and human resources** (with appropriate competencies).

**Clearly distribute responsibilities for employees of this department in the following areas:** conducting inspections of whistleblowers' messages, training, regulatory and legal support, coordination with specialized anti-corruption bodies and other public authorities, legal support for corruption whistleblowers, analytical and statistical work.

**Introduce software that will guarantee anonymity** and reverse connection with corruption whistleblowers who turn to the NAPC as to the regular channel.

**Focus on the following tasks:**

### **TASK I. TRAINING AND EDUCATIONAL AND METHODOICAL SUPPORT**

**Trainings for NAPC staff members who will check internal reports from employees of this body about possible facts of corruption offences regarding:**

- ▶ Effective methods, procedures for verifying whistleblower reports concerning possible corruption offences and violations of whistleblowers' rights.

**Trainings for authorized persons on prevention and detection of corruption regarding:**

- ▶ Effective methods, procedures for verifying whistleblower reports concerning possible corruption offences and violations of whistleblowers' rights.
- ▶ Methodologies for conducting trainings for employees of State bodies concerning the rules, procedures for reporting about possible facts of corruption offences, guarantees of protection of whistleblowers' rights.
- ▶ Creating a favorable environment in the organization for whistleblowers.

**Trainings for employees of State bodies regarding:**

- ▶ Policies, rules, procedures for reporting on possible facts of corruption offences, guarantees of protection of whistleblowers' rights.
- ▶ Culture of respect for whistleblowers.

### **Educational and methodical materials:**

- ▶ Handbook for whistleblowers.
- ▶ Methodical manual on conducting trainings for whistleblowers.
- ▶ Methodical recommendations for authorized persons concerning checking of the reports of whistleblowers about possible facts of corruption offences and reports on violations of whistleblowers' rights.
- ▶ Methodical recommendations for authorized persons on measures to protect the rights of whistleblowers.
- ▶ Writing a commentary to the provisions of the Law of Ukraine «On Prevention of Corruption» regarding whistleblowers.

### **Organization of educational activities:**

- ▶ Social advertising concerning the formation of a culture of respect for whistleblowers in society.
- ▶ Organization of public events, including round tables to discuss law enforcement practices concerning corruption whistleblowers.

### **TASK II. REGULATORY AND LEGAL SUPPORT.**

- ▶ Preparation of a draft and approval of legal and regulatory instrument concerning the procedures for verification of whistleblower reports on possible facts of corruption or corruption-related offences, other violations of the Law of Ukraine "On Prevention of Corruption".
- ▶ Preparation of a draft and approval of legal and regulatory instrument concerning the order and procedures for inspection/investigation of whistleblowers' complaints concerning violations of their rights and taking measures to protect them.
- ▶ Preparation of a draft and approval of legal and regulatory instrument on processing anonymous and confidential reports on possible facts of corruption or corruption-related offences, other violations of the Law of Ukraine "On Prevention of Corruption".
- ▶ Preparation of a draft and approval of provisions on internal channels and a procedure of information disclosure for State bodies (relevant provisions should provide what facts and what information should be reported by employees and in which cases, to whom employees should notify relevant information, what rights are guaranteed to whistleblowers, a clear time frame for each stage of consideration of the message received from the whistleblower, the deadline for the investigation, the time to make a decision concerning the message, the time to eliminate the identified violations, etc.).
- ▶ Development of changes to the existing legislation regarding corruption whistleblowers on the basis of the submitted information from the analytical and statistical department.

### **TASK III. ESTABLISHMENT OF SYSTEMATIC WORK ON CHECKS OF WHISTLEBLOWERS' REPORTS ON POSSIBLE FACTS OF CORRUPTION VIOLATIONS.**

- ▶ Development of an algorithm for conducting relevant inspections.
- ▶ Establishing cooperation with regional anti-corruption CSOs to verification of the reports from whistleblowers.
- ▶ Establishing cooperation with specialized anti-corruption bodies and other public authorities concerning the verification of the reports from whistleblowers and protection of their rights.

#### **TASK IV. ORGANIZATION OF LEGAL SUPPORT TO WHISTLEBLOWERS:**

- ▶ Determining the staff who will be responsible for providing legal advice to whistleblowers.
- ▶ Representing the whistleblower's interests in the court.
- ▶ Coordination of activities with the Center for Free Legal Aid.

#### **TASK V. ANALYTICAL AND STATISTICAL WORK**

- ▶ Collection and generalization of statistical information concerning the reports received from whistleblowers; demarcation of messages from whistleblowers and applicants.
- ▶ Generalization of law enforcement practice concerning whistleblowers and identification of gaps in it; submission of information to the legal and regulatory department on the need to amend existing legislation to eliminate these gaps.

## **COURSE 2: RECOMMENDATIONS**

**Create a separate department** whose powers will include: verification of reports from NAPC employees about possible facts of corruption offences and reports concerning the violations of their rights; taking measures to protect their rights.

**Introduce software that guarantees anonymity** and reverse connection with NAPC staff, who will report on possible corruption offences committed within the institution.