

INTERNAL REGULATION no. 8/2020

DIRECTIVE ON THE INTERNAL SYSTEM OF VERIFICATION OF NOTIFICATIONS OF ANTI-SOCIAL ACTIVITIES

OF THE SLOVAK ACCREDITATION AGENCY FOR HIGHER EDUCATION

Directive on the internal system of verification of notifications of anti-social activities of the Slovak Accreditation Agency for Higher Education

On 30 July 2020, the Executive Board of the Slovak Accreditation Agency for Higher Education (hereinafter referred to as the "Executive Board") pursuant to Article 9(1)(i) of the Statute of the Slovak Accreditation Agency for Higher Education (hereinafter referred to as "SAAVŠ" or "the Agency") approved this Internal Regulation of the Agency a Directive on the internal system for the verification of notifications of anti-social activities of the SAAVŠ (hereinafter referred to as the "Directive"), drafted in accordance with § 10 par. 8 of Act no. 54/2019 Coll. on the protection of whistleblowers of anti-social activities and on the amendment of certain acts (hereinafter referred to as the "Act").

Article 1 Subject matter

1. This Directive regulates the internal system of verification of reports of anti-social activity of the Slovak Accreditation Agency for Higher Education pursuant to § 10 par. 8 of Act no. 54/2019 Coll. on the protection of whistleblowers of anti-social activities and on the amendment of certain acts (hereinafter referred to as the "Act"). The Directive also lays down a procedure for the filing, verification and registration of reports, the confidentiality of the identity of the whistleblower, the communication of the whistleblower with the result of the verification of his or her report, the processing of personal data contained in the notification of anti-social activity and the related powers of the data protection officer.

Article 2 Definitions of basic terms

For the purposes of this Directive:

- a) **Whistleblower** – is a natural person who makes a report in good faith, a close person of the whistleblower who is in a civil service or employment relationship with the same employer or with an employer established by the whistleblower's employer is also considered to be a whistleblower.
- b) **Notification** - an indication of facts of which the employee has become aware in connection with the performance of his employment, position or function and which relate to anti-social activity.
- c) **Qualified notification** - a communication which may contribute or has contributed to the clarification of serious anti-social activity or to the identification or conviction of its perpetrator,
- d) **Employment relationship** - employment relationship, similar employment relationship, civil service relationship or service relationship.
- e) **Acting in good faith** — the conduct of a natural person who, in view of the circumstances known to him and the knowledge he possesses at the time of notification, reasonably believes that the facts alleged are true; in doubt, the conduct shall be deemed to be in good faith until proven otherwise.

f) Anti – social activity

- the offence of prejudice to the financial interests of the European Union under Sections 261 to 263 of the Criminal Code, the offence of machinations in public procurement and public auction under Sections 266 to 268 of the Criminal Code, offences of public officials under Sections 326 to 327a of the Criminal Code or offences of corruption under Sections 328 to 336b of the Criminal Code;
- an offence for which the Criminal Code provides for a term of imprisonment with a maximum penalty exceeding three years;
- an administrative offence for which a fine may be imposed with a ceiling determined by the calculation;
- an administrative offence for which a fine of at least EUR 30 000 may be imposed;

g) **Employer** – Slovak Accreditation Agency for Higher Education Institutions (hereinafter referred to as "SAAVŠ"),

h) **Responsible person** – the person who performs the tasks of the employer pursuant to § 10 of the Act. The responsible person is bound only by the instructions of the statutory body of the employer and, if he is not his employee, he is bound by a contract concluded with the employer within the meaning of § 10 par. 1 of the Act.

i) **Cooperation** - cooperation in the examination of the notification, provision of documents, other documents, statements, explanations, information and data necessary for their verification.

Article 3

Submission, receipt and registration of notifications

1. Notification may be made in the following ways:
 - a) In electronic form via the electronic form on the SAAVŠ website, section Whistleblowing of anti-social activities or to the address of the responsible person: whistleblowing@saavs.sk
 - b) Orally in the record at the office of the data protection officer.
2. The notice shall be legible and comprehensible in content. It must make it clear what anti-social activity he is referring to
3. Make a notification by electronic form and in an electronic message by e-mail pursuant to paragraph 3. Article 1 and (2) pursuant to Paragraph 10(2) of that article, 4 law possible around the clock.
4. The data protection officer shall keep a register of notifications for at least three years from the date of service to the extent provided for in Section 11(1) of the Act to the extent of:
 - a) date of receipt of the notification,
 - b) name, surname and residence of the notifier
 - c) subject of the notification,
 - d) the result of the examination of the notification,
 - e) date of completion of the verification of the notification
5. The data protection officer in the Agency's registry system shall keep notifications separate from those of other records.

6. If another organizational unit or employee of the Agency finds that he has received a notification pursuant to Act No. 54/2019 Coll., he shall immediately deliver the record through the Agency's registry system to the data protection officer.

Article 4

Verification of the notification

1. The verification of the notification shall be carried out by the data protection officer based on the content of the notification. The data protection officer shall detect the actual state of affairs and compliance with generally binding legal regulations or regulations of the Agency.
2. In the event that:
 - a) the notification does not fulfil the nature of anti-social activity,
 - b) if the notification is not a bona fide act
 - c) where the content of the notification does not provide sufficient information for the initiation of the screening or
 - d) where the repeated notification by the same notifier is made repeatedly on the same subject matter, if the notifier does not state new facts therein;the data protection officer shall notify the notifier of the failure to comply with the content of the notification, unless it is an anonymous notification.
3. Where the particulars are complied with, the data protection officer shall examine the notification no later than 90 days after receipt.
4. In order to verify the facts of the notification, the data protection officer shall have the right to request, where necessary, the necessary cooperation:
 - a) from the notifier of the notification, and
 - b) from SAAHE, its employees and cooperating personsand to require the production of all necessary particulars and documents attesting to the facts set out in the notification.
5. Where an investigation of a notification has been necessary, the time limit for processing the notification shall be extended by a further 30 days, both the fact and the reasons therefore, being communicated in writing by the data protection officer to the person who made the notification, unless it is an anonymous complaint. The total screening period shall not exceed a total of 120 days.
6. According to the nature of the notification, a Commission examination of the notification shall be carried out at the request of the data protection officer. The composition of the Commission for the Investigation of Facts Relating to Communications of Anti-Social Activities shall be approved by the Chairman of the Executive Board. A member of the Commission shall not be a person:
 - a) against whom the notification is directed,
 - b) which has participated in the activity which is the subject of the notification, or
 - c) the bias of which may be in doubt as to its relation to the person who made the notification, to the person against whom the notification is directed or to the subject matter of the notification.
7. Where a notification is directed against a specific person (staff member, member of the working group, member of the Agency's bodies, etc.), the data protection officer shall, without undue delay, inform the designated person of the content of the notification and allow him or her to comment on it, as well as to submit the documents, documents or other information necessary for a reliable examination of the matter.
8. The data protection officer and the other persons involved and the cooperation required shall be kept confidential about the process of reviewing the notification, the facts arising from the verification and the necessary cooperation.

Article 5

Grant of protection

1. The submission of a notification shall not constitute an incentive or a reason to draw consequences which would cause any harm to the whistleblower.
2. The Agency may take a legal act or issue a decision in an employment relationship against a protected whistleblower for which it has not given its consent only with the prior consent of the Office for the Protection of Whistleblowers ('the Office').
3. Where a notifier considers that an act of employment has been taken against him in connection with the lodging of a notification with which he does not agree, he may apply to the Office, within 15 days of the date on which he became aware of the act of employment, for the suspension of that act of employment.
4. A whistleblower may apply for protection when reporting serious anti-social activity under the provisions of Sections 3 and 4 of the Act, together with the notification or during criminal or administrative proceedings. The application for protection shall be made in writing or orally directly to the prosecutor or administrative authority.

Article 6

Confidentiality of the person of the whistleblower

1. The Agency (the data protection officer and persons involved in the Commission investigation of a notification) shall be obliged to maintain the confidentiality of the identity of the notifier when and after the verification of the notification. In examining a notification, a copy or, if possible, a copy thereof shall be used, without giving particulars which would identify the notifier.
2. Everyone to whom the identity of the whistleblower is known shall be obliged to maintain the confidentiality thereof.
3. Where the subject matter of the notification does not allow it to be investigated without giving any indication of the person of the notifier, the person responsible shall immediately notify the notifier thereof.

Article 7

Notification of the outcome of the examination of the notification

1. The result of the verification of the notification in the form of a written record shall be sent by the data protection officer to the notifier no later than 10 days after its verification or rejection.
2. Where the outcome of the examination of the report indicates that a criminal offence has been committed, the person responsible shall be obliged to notify the law enforcement authorities and the whistleblower thereof.
3. Where the outcome of the examination of the notification indicates that an administrative offence has been committed, the person responsible shall notify the administrative authority and the notifier thereof.

Article 8
Processing of personal data specified in the notification

1. For the purpose of keeping records of notifications, the Agency is entitled to process the personal data specified in the notification and the record of verification of the notification within the period pursuant to § 11 of the Act to the extent of:
 - a) the title, name, surname, e-mail and residence address of the notifier,
 - b) data on the person(s) against whom the notification is directed,
 - c) details of persons who have been invited to examine the notification,
 - d) details of persons who participated in the examination of the notification.
2. When processing personal data obtained during the examination of a notification, the Agency shall follow specific rules.

Article 9
Final provisions

1. The Directive is binding on all employees, members of working groups, members of SAAVŠ bodies and cooperating persons.
2. Whistleblowing shall not be considered a breach of a contractual obligation of secrecy or a breach of the obligation of secrecy under special regulations if it is an obligation arising out of the exercise of an employment, profession, position or function and is not an obligation of secrecy.
3. This Provision shall be without prejudice to the obligation to report or prevent a criminal offence.
4. This Directive shall enter into force and effect on the date of its approval by the Executive Board.

In Piešťany on 30 of July 2020

prof. Ing. Robert Redhammer, PhD.
Chair of the Executive Board