

Act CLXV of 2013
on Complaints and Public Interest Disclosures¹

The National Assembly, committed to increasing public confidence in the functioning of public bodies, recognising the importance of complaints and public interest disclosures in improving the functioning of the state, having regard to the international obligations of Hungary undertaken in connection with action against corruption, as well as the recommendations of international organisations, recognising the efforts made by whistleblowers in order to promote public interests, and ensuring the measures needed for the fullest protection of whistleblowers, has adopted the following act:

1. Complaints and public interest disclosures

Section 1

(1) Public bodies and local government bodies shall assess complaints and public interest disclosures pursuant to this act.

(2) A complaint is a request for putting an end to a violation of individual rights or interests the assessment of which does not fall under the scope of any other proceedings, including in particular judicial or administrative proceedings. A complaint may also contain a proposal.

(3) A public interest disclosure draws attention to a circumstance the remedying or discontinuation of which is in the interest of the community or the whole society. A public interest disclosure may also contain a proposal.

(4) Anybody may submit a complaint or a public interest disclosure to the body entitled to proceed in matters relating to the complaint and public interest disclosure (hereinafter referred to as the “body entitled to proceed”). If a public interest disclosure is made orally, the body entitled to proceed shall put it in writing and give its copy to the whistleblower.

(5) If a complaint or a public interest disclosure is submitted to a body other than the body entitled to proceed, it shall be referred to the body entitled to proceed within eight days of its receipt. The complainant or the whistleblower shall be simultaneously notified about the referral. If a public interest disclosure contains a proposal for new legislation or the amendment of an existing piece of legislation, it shall also be forwarded to the relevant person or body having legislative power.

Section 2

(1) Unless otherwise provided for by law, complaints and public interest disclosures shall be assessed within thirty days after their receipt by the body entitled to proceed.

(2)² If the investigation underlying the assessment is expected to last longer than thirty days, the complainant or the whistleblower shall be informed thereof, specifying simultaneously the expected date by which the complaint or the public interest disclosure will be assessed, as well as the reasons for the prolonged investigation.

(3) If the substance of the complaint or the public interest disclosure makes it necessary, the body entitled to proceed shall hear the complainant or the whistleblower.

(4)³ Upon assessment of complaints or public interest disclosures, the body entitled to proceed shall immediately inform the complainant or the whistleblower about its actions taken or its inaction, with the exception of classified data or data constituting trade, economic or other secrets pursuant to the law, specifying the reasons for its actions taken or its inaction.

(5) Such information is not required to be given in writing if the complainant or the whistleblower has already been informed orally about the assessment of the complaint or the public interest disclosure and the complainant or the whistleblower has acknowledged that information.

(6)–(7)⁴

Section 2/A⁵

- (1) A repeated complaint or public interest disclosure made by the same complainant or whistleblower the substance of which is the same as that of the previous one is not necessarily to be investigated.
- (2) In addition to the cases referred to in paragraph (1), the investigation of a complaint may also be omitted if the complainant submits the complaint after six months of becoming aware of the activity or omission that he or she complains about. Complaints submitted more than one year after the occurrence of the activity or omission complained about shall be rejected without examination to their merits.
- (3) The competent authority shall refrain from examining a complaint or a public interest disclosure made by an unidentifiable person.
- (4) The competent authority may refrain from the application of paragraph (3) and may examine the complaint or public interest disclosure in those cases where the complaint or public interest disclosure is based on a serious violation of rights or interests.

Section 3

- (1) If a complaint or a public interest disclosure proves to be well-founded, the following shall be ensured:
 - a) the lawful situation or the situation which meets the public interest is restored, and all actions otherwise necessary are taken;
 - b) the reasons behind revealed deficiencies are eliminated;
 - c) the caused injury is remedied; and
 - d) a prosecution is initiated, where appropriate.
- (2) Except in cases referred to in paragraph (4), complainants and whistleblowers shall not suffer any disadvantage for making a complaint or a public interest disclosure.
- (3) Except in cases referred to in paragraph (4), the personal data of the complainant or the whistleblower shall not be handed over to any recipient other than the body competent to carry out proceedings on the basis of the respective complaint or public interest disclosure, provided that such body is entitled to process such data pursuant to the law, or the complainant or the whistleblower has given explicit consent to the forwarding of his or her data. Without such explicit consent, the personal data of the complainant or the whistleblower shall not be made public.
- (3a)⁶ If it becomes obvious for the body entitled to proceed that the complainant or the whistleblower has communicated untrue information of crucial importance in bad faith, it may conclude the investigation that substantiate the assessment of the complaint or the public interest disclosure without taking any actions.
- (4) In cases where it has become clear that the complainant or the whistleblower communicated untrue information of crucial importance in bad faith, and
 - a) it gives rise to an indication that a crime or an infraction was committed, the personal data of the complainant or the whistleblower shall be handed over to the body or person entitled to carry out proceedings;
 - b) there is good reason to consider it likely that the complainant or the whistleblower caused unlawful damage or other harm to the rights of others, his or her personal data shall be handed over to the body or person entitled to initiate or carry out proceedings, upon the request thereof.

2. Protected electronic system for public interest disclosures

Section 4

- (1) Public interest disclosures may also be submitted through a protected electronic system for public interest disclosures (hereinafter referred to as “electronic system”). The Commissioner for Fundamental Rights shall provide for the operation of the electronic system serving for filing and registering public interest disclosures.

(2) The personal data processed in the electronic system shall only be processed for the purposes of investigating the relevant public interest disclosure and keeping contact with the whistleblower.

(3) Unless otherwise provided for by this subtitle, the transfer of personal data processed in the electronic system shall be governed by Section 3(3) and (4).

(4) The identification data stored in the electronic system shall include the name and address of the whistleblower.

Section 5

(1)⁷ The electronic system shall assign a unique identification number to each public interest disclosure received if the data referred to in Section 4(4) is made available by the whistleblower.

(2) The Commissioner for Fundamental Rights shall disclose on the Internet a brief summary of the substance, excluding personal and specific institutional data, and the status of each public interest disclosure submitted through the electronic system, on the basis of using their unique identification number. When a case has been closed, the name of the body involved in the public interest disclosure and, if different, the name of the body entitled to proceed shall also be made available.

(3) The electronic system shall be designed so as to enable contact with the whistleblower on the basis of the unique identification number and the password entered by the whistleblower.

(4) The electronic system shall be designed so as to enable the whistleblower to print and record in electronic form the entire content of the public interest disclosure.

Section 6

(1) Whistleblowers making a public interest disclosure to the Commissioner for Fundamental Rights through the electronic system may request that their personal data are only made available to the Commissioner for Fundamental Rights and the Office of the Commissioner for Fundamental Rights.

(2) In case referred to in paragraph (1), the Commissioner for Fundamental Rights shall prepare an excerpt about the public interest disclosure in order to ensure that it does not contain any data that may enable the identification of the whistleblower.

Section 7

Public interest disclosures received through the electronic system or their excerpt in cases referred to in Section 6(1) shall be forwarded to the body entitled to proceed.

Section 8

The body entitled to proceed shall administer public interest disclosures in the same manner as defined in subtitle 1, except that

*a)*⁸ the body entitled to proceed shall record the information made about its actions in the electronic system, including also the information about refraining from the investigation of the public interest disclosure pursuant to Section 2/A;

b) in case referred to in Section 6(1)

ba) the whistleblower shall not be heard and orally informed;

bb) the investigation of the public interest disclosure shall not be omitted on the grounds that the whistleblower cannot be identified by the body entitled to proceed;

bc) contact with the whistleblower shall only be kept through the electronic system;

bd) the body entitled to proceed may contact the whistleblower through the Office of the Commissioner for Fundamental Rights and may initiate contact with the whistleblower without revealing the identity of the whistleblower.

Section 9⁹

If the public interest disclosure concerns a natural person, in the course of exercising that natural person's right to information on his or her personal data, the personal data of the whistleblower shall not be made available to the person seeking information.

Section 10

The data recorded in the electronic system about public interest disclosures, the investigations carried out on the basis thereof and the actions taken shall be retained for a period of five years after the end of the last investigative act or measure and shall be deleted when that time has elapsed.

3. Protection of whistleblowers

Section 11

With the exception of the actions referred to in Section 3(4), any action taken as a result of a public interest disclosure which may cause disadvantage to the whistleblower shall be unlawful even if it would otherwise be lawful.

Section 12

(1) With the exception of the case referred to in Section 3(4), a whistleblower shall qualify to be at risk if the disadvantages threatening him or her as a result of the public interest disclosure that he or she made are likely to seriously endanger his or her life circumstances, except in case referred to in Section 3(4).

(2) A whistleblower who is a natural person shall be entitled to aids provided to ensure his or her protection, as defined in the relevant law, if he or she is likely to be at risk.

(3) The state shall provide the aids defined in Act LXXX of 2003 on Legal Aid to whistleblowers, under the conditions defined in the same act.

4. Whistleblowing systems maintained by employers

Section 13

Employers and the owners thereof operating in the form of a company (hereinafter jointly referred to as "employer organisation") may define rules of conduct applicable to their employees under the conditions defined in Section 9(2) of Act I of 2012 on the Labour Code in order to protect a public interest or overriding private interest, which rules together with a description of the related procedures must be published by employers to make it available to anyone.

Section 14¹⁰

(1) In order to provide their lawful and prudent operation, employer organisations may set up whistleblowing systems for reporting violations of law and the rules of conduct referred to in Section 13 (hereinafter referred to as "whistleblowing system"), through which whistleblower reports may be submitted by the employees of the employers or other persons having a contractual relationship with the employer organisations or persons having acceptable legitimate interest for submitting the whistleblower report or the remedying or discontinuation of the activity subject to the whistleblower report (hereinafter referred to as "whistleblower").

(2) Employer organisations shall publish detailed information about the operation of their whistleblowing systems and their procedures relating to whistleblowing in Hungarian on their websites.

(3) In the whistleblowing system, the employer organisation may process the personal data, including also sensitive data and criminal personal data, of

a) the whistleblower, and

b) that person

ba) whose activity or omission gave rise to the submission of a whistleblower report, or

bb) who has relevant information concerning the substance of the whistleblower report [(ba) and bb) hereinafter jointly referred to as “person concerned with the whistleblower report”]

that is essential to the investigation of the whistleblower report only for the purposes of investigating the whistleblower report and remedying or discontinuing the reported conduct, and may transfer the data only to the lawyer for the protection of whistleblowers or those external organisations which cooperate in the investigation of the whistleblower report.

(4) Personal data processed within the whistleblowing system which does not fall under the scope of paragraph (3) shall be deleted immediately from the whistleblowing system.

(5) The processing of personal data within the whistleblowing system shall be governed by Section 3(3) and, with respect to the data of whistleblowers, Section 3(4).

(6) When making a whistleblower report, the whistleblower shall declare that the whistleblower report is made in good faith about circumstances that he or she is either aware of or has a sufficient reason to believe that they are real. When making a whistleblower report, a whistleblower who is a legal person shall disclose its registered seat and the name of the legal representative of the person submitting the whistleblower report. Whistleblowers shall be reminded of the consequences of whistleblowing in bad faith, the rules governing the investigation of whistleblower reports, and the fact that the identity of the whistleblower – if he or she gives the data necessary to verify it – shall be treated confidentially in all stages of the investigation.

Section 15

(1)¹¹ The data processed within the whistleblowing system shall be transferred to another state or international organisation only if the addressee of the transfer undertakes a legal commitment with regard to the whistleblower report to comply with the provisions of this act.

(2)¹² Whistleblowing systems shall be designed so as to ensure that the non-anonymous whistleblower can be identified by nobody but those who investigate the whistleblower report.

Until the investigation is closed or formal prosecution is initiated as a result of the investigation, those who investigate the whistleblower report shall keep confidential all information about the substance of the whistleblower report and the persons concerned therewith and, with the exception of informing the person concerned with the whistleblower report, shall not share such information with any other organisational unit or employee of the employer organisation.

(3)¹³ When opening an investigation, the person concerned with the whistleblower report shall be informed in detail about the whistleblower report, as well as his or her right to protection of his or her personal data and the rules governing the processing of his or her data. In accordance with the requirement of fair proceedings, the person concerned with the whistleblower report shall be given an opportunity to state his or her views on the whistleblower report also through his or her legal representative and to provide supporting evidence. In exceptional and justified cases, the person concerned with the whistleblower report may be informed later if the immediate information would jeopardise the investigation of the whistleblower report.

Section 16

(1)¹⁴ The employer organisation shall investigate the whistleblower report in accordance with the procedures established by it, and it shall inform the whistleblower about the outcome of the investigation, as well as the actions taken.

(1a)¹⁵ A lawyer for the protection of whistleblowers may be entrusted to receive or investigate whistleblower reports within the framework of a contract, while a lawyer for the protection of whistleblowers or other external organisations may be entrusted to cooperate in investigating whistleblower reports.

- (1b)¹⁶ The investigation of the whistleblower report may be omitted if
- a) the whistleblower submitted it without revealing his or her identity,
 - b) it is a repeated whistleblower report made by the same whistleblower and its substance is the same as that of the previous one,
 - c) it was made by the whistleblower after six months of becoming aware of the activity or omission that he or she complains about;
 - d) the prejudice to public interest or overriding private interest is not proportionate to the limitation of the rights of the person concerned with the whistleblower report resulting from the investigation of the whistleblower report.
- (2)¹⁷ Whistleblower reports shall be investigated as soon as possible under the given circumstances but not later than 30 days after their receipt, which time limit shall only be subject to derogation in cases where it is highly justified, except where the whistleblower report was made anonymously or by an unidentifiable whistleblower, provided that the whistleblower is simultaneously informed. The investigation shall not last longer than three months.
- (3) If the investigation of the conduct reported by the whistleblower warrants the initiation of criminal proceedings, arrangements shall be taken to ensure that the case is reported to the police.
- (4) If the investigation reveals that the conduct reported by the whistleblower is not a crime but it constitutes a breach of the rules of conduct defined by the employer organisation, the employer may impose employer sanctions on the employee concerned in accordance with the rules governing the employment relationship.
- (5) If the investigation reveals that the whistleblower report is unfounded or that no further action is necessary, the data relating to the whistleblower report shall be deleted within 60 days after the conclusion of the investigation.
- (6)¹⁸ If any action is taken on the basis of the investigation, including actions due to legal proceedings or disciplinary action launched against the whistleblower, the data relating to the whistleblower report may be processed in the employer's whistleblowing system until the final conclusion of the proceedings launched on the basis of the whistleblower report.

5. Lawyer for the protection of whistleblowers

Section 17

- (1)¹⁹ A legal person that is not considered to be a public body or a local government body (hereinafter referred to as "the principal") may conclude an agency contract with a lawyer for the protection of whistleblowers, to carry out activities relating to the receipt and management of whistleblower reports concerning the activities of that legal person. For the purposes of the activities of the lawyer for the protection of whistleblowers, all indications shall be considered a whistleblower report which draw the attention to a circumstance the remedying or discontinuation of which is in the legal or lawful business interest of the principal or serve to put an end to an infringement that occurred in relation to the activities of the principal or to a threat to public security, public health or the environment.
- (2) The agency contract referred to in paragraph (1) shall not be concluded with a legal person with whom the lawyer for the protection of whistleblowers has any other agency or employment relationship or other legal relationship involving work obligations, or had such a legal relationship in the five-year period preceding the conclusion of the agency contract. If the whistleblower report relates to an act or omission by an executive officer of the principal, the lawyer for the protection of whistleblowers shall immediately inform the whistleblower's supervisory board, auditor, supreme decision making body or the entity exercising ownership rights about the whistleblower report.
- (3) The lawyer for the protection of whistleblowers shall not request or accept any remuneration or other benefit associated with these activities from any entity other than the principal.

(4)²⁰ The lawyer engaged for the protection of whistleblowers shall notify the regional bar association in writing about the conclusion of the agency contract within 15 days. The name, address, telephone number, e-mail address and website link of the lawyer for the protection of whistleblowers shall be published on the website of the regional bar association.

Section 18

(1) Under the agency contract referred to in Section 17(1), the lawyer for the protection of whistleblowers

a)²¹ shall receive whistleblower reports relating to the activities of the principal;

b) shall provide legal advice to the whistleblower on whistleblowing;

c) shall keep contact with the whistleblower, and may request information or clarification from him or her for the investigation of whistleblower reports, where necessary;

d) may, according to the instructions of the principal, contribute to the investigations carried out on the basis of whistleblower reports;

e)²² may, upon request, inform the whistleblower in writing about the events relating to his or her whistleblower report, in particular the outcome of the investigation launched on the basis of the whistleblower report, the actions taken by the principal or the rejection of investigation.

(2)²³ The lawyer for the protection of whistleblowers shall forward the whistleblower report to the principal, but shall have an obligation of confidentiality with respect to the data enabling the identification of the whistleblower and therefore shall only send an extracted version of each whistleblower report to the principal, which shall not contain any information that would enable the identification of the whistleblower, unless the whistleblower concerned has given a prior waiver of confidentiality in writing.

(3) The lawyer for the protection of whistleblowers shall ensure that the whistleblower reports received in such capacity and their associated files are managed and recorded separately from documents related to other activities.

(4) The agency contract of the lawyer for the protection of whistleblowers shall only be terminated by giving a statement of reasons. The lawful proceedings carried out by the lawyer for the protection of whistleblowers cannot lead to the termination of the agency contract by the principal or to the refusal of the payment of fee due to the lawyer for the protection of whistleblowers by the principal.

6. Final provisions

Section 19

The minister responsible for justice shall be authorised to determine in decree the aids available to whistleblowers qualified to be at risk and the rules governing the disbursement thereof.

Section 20

This act shall enter into force on 1 January 2014.

Section 21–22²⁴

Section 23²⁵

Section 24²⁶

Section 25

In Section 10 of Act CXLIII of 2011 promulgating the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the provision enacting

Section 40(2)(a) of the Act on the Commissioner for Fundamental Rights shall enter into force with the text “referred to in Section 2(6) and relating to the investigation of public interest disclosures” instead of the text “and referred to in Section 2(6)”.

Section 26–27²⁷

¹ This Act was adopted by the National Assembly on its sitting of 14 October 2013. The date of promulgation is 21 October 2013.

² Section 2(2) is a text amended by Section 86(2)a) of Act CX of 2019.

³ Section 2(4) is a text amended by Section 86(2)b) of Act CX of 2019.

⁴ Section 2(6)–(7) was repealed by Section 22 of Act CXXIX of 2015.

⁵ Section 2/A was incorporated by Section 19 of Act CXXIX of 2015.

⁶ Section 3(3a) was incorporated by Section 86(1) of Act CX of 2019.

⁷ Section 5(1) is a text established by Section 20 of Act CXXIX of 2015.

⁸ Section 8a) is a text amended by Section 21 of Act CXXIX of 2015

⁹ Section 9 a text amended by Section 86(2)c) of Act CX of 2019.

¹⁰ Section 14 is a text established by Section 126(1) of Act XXXIV of 2019.

¹¹ Section 15(1) is a text established by Section 126(2) of Act XXXIV of 2019.

¹² Section 15(2) is a text amended by Section 127a) of Act XXXIV of 2019.

¹³ Section 15(3) is a text amended by Section 127b)–c) of Act XXXIV of 2019.

¹⁴ Section 16(1) is a text established by Section 126(3) of Act XXXIV of 2019.

¹⁵ Section 16(1a) was incorporated by Section 126(4) of Act XXXIV of 2019.

¹⁶ Section 16(1b) was incorporated by Section 126(4) of Act XXXIV of 2019.

¹⁷ Section 16(2) is a text established by Section 126(5) of Act XXXIV of 2019.

¹⁸ Section 16(6) of this Act is a text amended by Section 127d)–e) of Act XXXIV of 2019.

¹⁹ Section 17(1) is a text established by Section 126(6) of Act XXXIV of 2019.

²⁰ Section 17(4) is a text amended by Section 127f) of Act XXXIV of 2019.

²¹ Section 18(1)a) is a text amended by Section 127g) of Act XXXIV of 2019.

²² Section 18(1)e) is a text amended by Section 127h) of Act XXXIV of 2019.

²³ Section 18(2) is a text amended by Section 127i) of Act XXXIV of 2019.

²⁴ Section 21–22 was ceased to have effect according to Section 12(2) of Act CXXX of 2010.

²⁵ Section 23 shall not enter into force according to Section 94 of Act CCXLIV of 2013.

²⁶ Section 24 was ceased to have effect according to Section 12(2) of Act CXXX of 2010.

²⁷ Section 26–27 was ceased to have effect according to Section 12(2) of Act CXXX of 2010.