



**THE COMMISSIONER FOR FUNDAMENTAL RIGHTS
THE NATIONAL HUMAN RIGHTS INSTITUTION OF THE UNITED NATIONS
HUNGARY**

**INFORMATIVE SUMMARY OF DRAFT LEGISLATION NO. T/11657 ON COMPLAINTS AND
ANNOUNCEMENTS OF GENERAL INTEREST**

Beyond the clarification of the legal situation threatening legal certainty, the objective of the new whistleblowing legislation is to foster announcements of general interest and to provide effective protection for whistleblowers. *The draft legislation is expected to be accepted by the Parliament in the autumn session. The effective date of the new legislation is 1 January 2014.* It has been an important aspect that the new legislation should be built upon the already existing rules. However, it has proved to be necessary to create new legal institutions, principally for the reason that Act CLXIII of 2009 on the Protection of Fair Procedures was repealed. Previously the Parliament intended to introduce an office for the protection of general interest; however the President sent the Act back to the Parliament for reconsideration, and it was not adopted again.

A central element of the new legislation is the involvement of the Commissioner for Fundamental Rights who protects the citizens' fundamental rights and enjoys the greatest public trust. As of 1 January 2014, the Commissioner for Fundamental Rights may inquire how state organs handle announcements of general interest. A novelty of the draft legislation is that it fosters the anti-corruption measures of the private sphere as well, which may work out their procedure themselves for handling the announcements and/or make a service agreement with lawyers mediating announcements.

As a consequence of the new legislation, Act CXI of 2011 on the Commissioner for Fundamental Rights will also be amended. It will be the duty of the Commissioner for Fundamental Rights to launch inquiries into the practice of the state organs regarding the announcements of general interest. His/her institutional independence and special status enables the Commissioner for Fundamental Rights to comprehensively inquire into the practice of the state organs regarding the announcements of general interest. In addition, the Commissioner may, by all means, also inquire into individual announcements of general interest.

For whistleblowers, the electronic system to be established ensures the most convenient communication form which, at the same time, also provides the greatest security. The Commissioner for Fundamental Rights, as one of the institutions with the greatest public trust, has been authorized to establish and operate an electronic system handling and registering announcements of general interest. For his/her inquiries, the Commissioner, by all means, may also request data and documents from the state organs.

Naturally, the Commissioner for Fundamental Rights does not have the required capacity for inquiring into all the announcements of general interest received by the electronic system. His/her duty is rather to forward the announcements to the competent organ. The Commissioner ensures the administrative organs' access to the electric system, via which contact can be maintained with the whistleblower. In order to protect whistleblowers, they may request that their personal data be accessible only to the Commissioner for Fundamental Rights. In this case, the announcement will be forwarded in an anonymous form. The only exception to this is if the conduct of the whistleblower is of bad faith and thereby he or she has committed a crime.

The whistleblower may turn to the Commissioner for Fundamental Rights if the competent authority deems his/her petition unfounded or he/she does not agree with the outcome of the inquiry of the competent authority or the authority has not inquired comprehensively the announcement of the whistleblower.

The new system means extra burden for the Commissioner for Fundamental Rights. The operation of the electronic system receiving the announcements and ensuring the anonymity of whistleblowers has to be in compliance with the existing information technology system of the Office of the Commissioner. In order to ensure compliance, it is necessary to know in advance the view of the National Authority for Data Protection and Freedom of Information. In addition, neither the State Reform Operative Program nor the central budget has guaranteed so far the increased financial means for the extra burden and for the wages and extra benefits of the required additional 10 staff members.

In order to inform the public and the Parliament, the annual report of the Commissioner for Fundamental Rights will include an independent chapter on the inquiries into the announcements of general interest.

Prepared by Mr. Zoltan Elek. (20/07/2013)