

Ordinance on the Protection of Persons Reporting Irregularities (2021:949)

Chapter 1 Introductory provisions

Contents of the Ordinance

Section 1

This Ordinance contains provisions concerning public authorities that are competent to receive, follow up and leave feedback on reports concerning irregularities through external reporting channels and reporting and follow-up procedures, in accordance with the Act on the Protection of Persons Reporting Irregularities (2021:890).

The Ordinance also contains provisions on supervision of operators' fulfilment of their obligation to maintain internal reporting channels and reporting and follow-up procedures in accordance with the same Act.

This Ordinance is issued pursuant to Chapter 8, Article 7 of the Instrument of Government.

Public authorities in the area of defence and security

Section 2

'Public authorities in the area of defence and security' under Chapter 1, Section 3, first paragraph of the Act on the Protection of Persons Reporting Irregularities (2021:890) in whose activities reporting of information concerning national security is exempt from the Act's scope of application refers to:

- the Swedish Fortifications Agency,
- the Swedish Armed Forces,
- the Defence Materiel Administration,
- the specific Defence Radio Establishment,
- the Foreign Intelligence Court,
- the Inspectorate of Strategic Products,
- the Swedish Foreign Intelligence Inspectorate,
- the Swedish Security Service,
- the Swedish Defence Research Agency, and
- the Swedish Defence Conscription and Assessment Agency.

/Chapter enters into force 17 July 2022/.

Chapter 2 External reporting channels and reporting and follow-up procedures

Relationship between these provisions and other regulations

Section 1

If another act or ordinance that implements or complements an EU legal act under Part II of the Annex to Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law contains

provisions on having in place external reporting channels and reporting and follow-up procedures that deviate from the provisions in this Chapter, those provisions apply.

If such other regulations lack corresponding provisions, however, the provisions in this Chapter supplement the other regulations.

Competent authorities and their areas of responsibility

Section 2

The public authorities specified in the Annex to this Ordinance are competent to receive, follow up and provide feedback on reports of irregularities through external reporting channels and reporting and follow-up procedures.

The Annex also states the areas of responsibility in which these public authorities are competent to handle reports of irregularities. The areas of responsibility only comprise irregularities referred to in Chapter 1, Section 2, second paragraph, points 1–3 of the Act on the Protection of Persons Reporting Irregularities (2021:890).

Special competent authority

Section 3

A special competent authority specified in the Annex to this Ordinance also processes certain details concerning information and statistics under Sections 9 and 10, in addition to what is specified in Section 2. Moreover, this authority has the right to receive, upon request, any information needed to process a follow-up case in accordance with Section 13.

Obligation to appoint competent persons or departments

Section 4

A competent authority must appoint persons or departments to be competent to do the following on behalf of the authority:

1. provide information on the reporting procedure to the authority;
2. receive reports and have contact with reporting persons in accordance with Chapter 1, Section 8, point 2 of the Act on the Protection of Persons Reporting Irregularities;
3. follow up what has been reported; and
4. provide feedback on the follow-up to reporting persons.

Section 5

Those who are appointed as competent in accordance with Section 4 must be independent and autonomous in relation to other parts of the authority, and competent persons must have relevant training to be able to process reports.

Design of channels and procedures

Section 6

A competent authority must make the external reporting channels accessible to reporting persons in accordance with Chapter 1, Section 8, point 2 of the Act on the Protection of Persons Reporting Irregularities (2021:890).

Section 7

A competent authority must design its external reporting channels and reporting and follow-up procedures so that reporting persons:

1. can report both in writing and orally and, if requested, in a physical meeting within a reasonable time;
2. receive confirmation that the report has been received within seven days of receipt, unless the reporting person has declined confirmation, or the authority has reason to assume that a confirmation would reveal the person's identity;
3. receive, to a reasonable extent, feedback on the measures taken to follow up the report and on the reasons for these within three months of receipt or, if there are special grounds, within six months and then also receive information concerning the reasons for extending this period;
4. receive information concerning the final result of the follow-up of the report, if it was not possible to conclude the follow-up case within the period under point 3; and
5. where relevant, are informed that information that might identify the reporting person is to be disclosed and the reasons for disclosure, unless informing them would obstruct or impede the aim of the follow-up or measures.

Information that competent authorities must provide

Section 8

A competent authority's website must provide clear and easily accessible information concerning:

1. the areas of responsibility within which the authority is competent;
2. how reporting is done via the external reporting channels and, where relevant, that telephone calls may be recorded;
3. secrecy and processing of personal data;
4. the conditions for enjoying protection, exemption from liability and the prohibition of obstructive measures and retaliation and for eligibility for damages under Chapters 2–4 of the Act on the Protection of Persons Reporting Irregularities (2021:890);
5. advice and support that the authority can provide to those considering reporting and information about other actors that also offer this; and
6. the right to report information and the right to procure information, and, in activities where it is applicable, the prohibitions of seeking to identify sources and of retaliation.

Section 9

The special competent authority must provide clear and easily accessible information about other competent authorities' areas of responsibility and contact details for those authorities.

Statistics

Section 10

A competent authority must provide information every year to the special competent authority concerning:

1. the number of reports that the authority has received over the past calendar year;
2. the number of follow-up cases and other further measures based on a follow-up

case, and their results; and

3. the estimated financial harm, where established, and the amounts collected as a consequence of follow-up cases and further measures concerning the reported irregularities.

Every year, the special competent authority must compile the information provided by competent authorities under the first paragraph and report the information to the European Commission.

The special competent authority may issue more detailed regulations concerning when the information under the first paragraph is to be provided to the authority.

Procedures for ensuring that reports are only processed by competent persons

Section 11

A competent authority must have in place procedures for processing a report received by means other than an external reporting channel or by someone who is not competent to process such reports. The procedures must ensure that the report is immediately forwarded, in an unmodified state, to someone who is competent to process it on behalf of the authority.

Transfer of reports

Section 12

If a report is received through an external reporting channel by a public authority lacking competence to process reports within the area the report concerns, the authority must transfer the report to the authority that is competent.

The report will be considered as received by the other authority through an external reporting channel on the same date that it was received by the authority that initially received the report. The authority to which the report has been transferred notifies the reporting person of the transfer.

Obligations to provide information

Section 13

An authority must, upon request, provide any information that the special competent authority needs to process a follow-up case.

Section 14

A competent authority that, during the processing of a follow-up case, determines that there are grounds to initiate supervision based on what has emerged in the case must provide the responsible supervisory authority or responsible supervisory function within the competent authority with any information that is necessary to initiate supervision.

Section 15

A competent authority that, during the processing of a follow-up case, suspects that

an offence has been committed must provide the Swedish Police Authority with any information that is necessary to investigate the suspected offence.

Review of channels and procedures by authorities

Section 16

A competent authority must review its external reporting channels and procedures at least once every three years.

Chapter 3 Supervision of operators' obligation to have internal reporting channels and reporting and follow-up procedures in place

Section 1

The Swedish Work Environment Authority must ensure that operators fulfil their obligations to have in place internal reporting channels and reporting and follow-up procedures under the Act on the Protection of Persons Reporting Irregularities (2021:890).

However, the Swedish Work Environment Authority does not exercise supervision under the first paragraph if an operator is obliged to have internal reporting channels and reporting and follow-up procedures in place under another act or ordinance and another authority is responsible for conducting supervision of the obligation under that act or ordinance.

Transitional provisions

2021:949

Chapter 2 of this Ordinance enters into force on 17 July 2022, and the remainder of the Ordinance on 17 December 2021.

Annex

List of competent authorities and their areas of responsibility

Authority

Swedish Competition Authority

Area of responsibility

Irregularities in the area of public procurement and otherwise falling under the authority's supervisory responsibility.

Swedish Estate Agents Inspectorate,
Swedish Financial Supervisory
Authority, Stockholm, Västra Götaland
and Skåne county administrative

Irregularities in the area of

boards, Swedish Inspectorate of Auditors and Swedish Gambling Authority.

financial services, products and markets and prevention of money laundering and financing of terrorism, and otherwise falling under the authority's supervisory responsibility.

Swedish Work Environment Authority, National Board of Housing, Building and Planning, National Electrical Safety Board, Public Health Agency of Sweden, Inspectorate of Strategic Products, Swedish Chemicals Agency, Swedish Consumer Agency, Swedish Food Agency, Medical Products Agency, the county administrative boards, Swedish Civil Contingencies Agency, Swedish Environmental Protection Agency, Swedish Post and Telecom Authority, Swedish Energy Agency, Swedish Board of Agriculture, Swedish Board for Accreditation and Conformity Assessment, Swedish Transport Agency.

Irregularities in the area of product safety and product compliance and otherwise falling under the authority's supervisory responsibility and, with respect to the county administrative boards, falling under the authority's responsibility for supervisory guidance.

Swedish Transport Agency

Irregularities in the area of transport safety and otherwise falling under the authority's supervisory responsibility.

Swedish Agency for Marine and Water Management, Swedish Chemicals Agency, Swedish Food Agency, the county administrative boards, Swedish Environmental Protection Agency, Swedish Forest Agency, Swedish Board of Agriculture.

Irregularities in the area of environmental protection and otherwise falling under the authority's supervisory responsibility and, with respect to the county administrative boards, falling under the authority's responsibility for supervisory guidance.

Swedish Food Agency, Swedish Radiation Safety Authority.

Irregularities in the area of radiation protection and nuclear safety and otherwise falling under the authority's supervisory responsibility. food and fodder safety, animal health and wellbeing and otherwise falling under the authority's supervisory responsibility.

Swedish Food Agency and Swedish Board of Agriculture

Public Health Agency of Sweden, Health and Social Care Inspectorate, Swedish Consumer Agency, Medical Products Agency.

Irregularities in the area of public health and otherwise falling under the authority's supervisory responsibility.

Swedish Financial Supervisory Authority, Swedish Consumer Agency.

Irregularities in the area of consumer protection and falling under the authority's supervisory responsibility.

Swedish Financial Supervisory Authority, Health and Social Care Inspectorate, Swedish Authority for Privacy Protection, Swedish Food Agency, Swedish Post and Telecom Authority, Swedish Energy Agency and the Swedish Transport Agency.

Irregularities in the area of protection of privacy and personal data, and security in network and information systems and otherwise falling under the authority's supervisory responsibility.

Swedish Economic Crime Authority

Irregularities in the area of the EU's financial interests under Article 2(1)(b) of Directive (EU) of the European Parliament and of the Council (2019/1937), with respect to combating fraud.

Swedish Tax Agency

Irregularities in the area of the EU's financial interests under Article 2(1)(b) of Directive (EU) of the European Parliament and of the Council (2019/1937), with respect to taxation.

Government Offices

Irregularities in the area of the EU's financial interests under Article 2(1)(b) of Directive (EU) of the European Parliament and of the Council (2019/1937), with respect to state aid.

Swedish Competition Authority

Irregularities in the area of the internal market under Article 2(1)(c) of Directive (EU) of the European Parliament and of the Council

Government Offices	(2019/1937), with respect to competitiveness. Irregularities in the area of the internal market under Article 2(1)(c) of Directive (EU) of the European Parliament and of the Council (2019/1937), with respect to state aid.
Swedish Tax Agency	Irregularities in the area of the internal market under Article 2(1)(c) of Directive (EU) of the European Parliament and of the Council (2019/1937), with respect to corporate taxation.
Swedish Work Environment Authority	Irregularities not falling under any other competent authority's areas of responsibility.
Special competent authority Swedish Work Environment Authority	