



# Internal Whistleblowing Systems Assessment Report

Assessment of the compliance of the State Agency  
for Restoration and the Development of Infrastructure  
(SARDI) of Ukraine with ISO37002 and the EU  
Directive 2019/1937

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June 2025

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## Executive Summary

### Background and context

The United Nations Office on Drugs and Crime (UNODC), as guardian of the United Nations Convention against Corruption (UNCAC) and secretariat to the Conference of the States Parties to the Convention, has the mandate to provide support and technical assistance to States parties to effectively implement the Convention. Article 33, UNCAC, requests States Parties to consider incorporating into their domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences of corruption. In recognition of the importance that reporting persons play in combatting corruption, the Conference of States Parties to UNCAC adopted, in December 2023, Resolution 10/8 on “Protection of reporting persons”.

Under this framework, the State Agency for the Restoration and the Development of Infrastructure of Ukraine (SARDI) requested UNODC to assess its internal whistle-blowing system and provide concrete and practical recommendations for the improvement of existing and the establishment of new processes, mechanisms and protective measures relating to whistle-blowers, as applicable, taking into account ISO37002:2021 and the EU Directive 2019/1937.

This report presents findings from the assessment and recommendations. SARDI oversees 22 Regional Restoration Services (RRS). The RRS have the status of separate state non-profit organizations. SARDI approves the Regulations on the Restoration Services in the regions and appoints and dismisses their heads. The RRS accept and follow SARDI’s operational instructions but have limited obligations to comply with them. The scope of assessment for this report includes practices and procedures for:

- Whistle-blowing by employees of an RRS to the internal control of their respective RRS;
- Whistle-blowing by employees of an RRS to SARDI;
- Whistle-blowing by SARDI employees to SARDI.

Other entities managed by SARDI, and whistle-blowing from citizens were out of scope of the assessment.

The SARDI assessment found positive developments for establishing a whistle-blowing management system that can bring SARDI in line with ISO37002:2021 and towards complying with the EU requirements for internal whistle-blowing systems in the Directive 2019/1937. However, these developments are very recent and hence not fully implemented yet.

The unified whistleblowing portal operated by the National Agency on Corruption Prevention (NACP) provides a useful reporting channel that can route reports to local level (RRS) as well as group level (SARDI), as required by the EU Directive. However, from some of the documents it seems there is confusion about what constitutes a regulatory channel external to SARDI.

SARDI aims to create a positive speak-up tone-at-the-top. Some aspects can be coordinated top-down, like measures to control compliance with anti-corruption provisions at RRS level but creating a culture of reporting also requires a more informal coordination to leave enough room at local level

to work with specific needs. The structure of anti-corruption officers and internal control officers at local RRS level can provide such informal coordination.

The SARDI assessment revealed that no operational provisions for the protection of whistle-blowers are in place or are being developed. Only reports about violations of the Law of Ukraine “On Prevention of Corruption” can be regarded as ‘whistle-blowing’. This is too narrow as a basis to create a culture of reporting wrongdoing. There is currently little understanding of the importance of speak-up behaviors other than whistle-blowing reports. There is also little capacity to create insights and develop actions based on reporting numbers. SARDI does not appear to have its speak-up numbers at hand.

The roll-out of a network of anti-corruption officers and internal control officers is a major achievement in establishing an anchor for anti-corruption and whistle-blowing efforts in SARDI. At the same time, building a culture cannot remain isolated in these functions. In future, other organizational functions such as human resources, internal audit, and quality control will need to be involved.

### Summary of findings

On the basis of these findings, the following recommendations are made:

- **RECOMMENDATION 1:** Further develop and implement the current and planned SARDI structure, regulation, and procedures with regard to whistle-blowing, in accordance with the anti-corruption program 2023-2025.
- **RECOMMENDATION 2:** Liaise with NACP to clarify communication that reports through its whistle-blowing portal about SARDI will be handled by SARDI.
- **RECOMMENDATION 3:** Identify and promote whistle-blowing channels of regulatory agencies external to SARDI.
- **RECOMMENDATION 4:** Develop ‘community of practice’ to build a speak-up culture.
- **RECOMMENDATION 5:** Involve organizational expertise to develop operational plans for whistle-blower protection.
- **RECOMMENDATION 6:** Adopt a wider notion of speak-up, of which whistle-blowing is a sub-category, when measuring and mapping awareness and culture of reporting.
- **RECOMMENDATION 7:** Develop insights about speak-up behaviours and reporting culture from discussion within anti-corruption and internal control officer networks, about number of reports and other speak-ups, and seek input from NACP in how to understand their numbers.
- **RECOMMENDATION 8:** Create an additional working group to articulate actions in the anti-corruption program, composed of the next circle of organizational functions to carry the culture of reporting, e.g. internal audit, human resources, quality control.

## 1. Scope of the Assessment

In UNODC, as guardian of the United Nations Convention Against Corruption (UNCAC) and secretariat to the Conference of the States Parties to the Convention, has the mandate to provide support and technical assistance to States parties to effectively implement the Convention.

One of the recurring challenges mentioned by the States parties to the Convention, is the reluctance of people to report alleged wrongdoing or crime and the difficulty to effectively protect the reporting persons. Indeed, UNCAC Article 33 – “Protection of reporting persons” – requires each State Party to consider adopting at the national level, measures to provide protection against any unjustified treatment for any person who reports any facts concerning offences established in accordance with the Convention. A robust whistle-blowing system is crucial for effective fight against corruption and the cornerstone for the promotion of good governance as envisaged by SDG 16 targets and indicators. Resolution 10/8 on “Protection of reporting persons”, adopted by the Conference of States Parties during its 10<sup>th</sup> session in December 2023, highlights the important role that reporting plays in enhancing efforts undertaken by the States parties to more efficiently and effectively prevent and combat corruption and thus effectively implement the Convention and reaffirms the importance of all reporting persons to enable States parties to detect, investigate and prosecute cases of corruption. The resolution also recognizes whistle-blowers as a category of reporting persons who report in the context of their professional activity and work-related environment and requests UNODC to continue and expand its provision of technical assistance and capacity-building to States parties, upon request, to support their capacity to protect reporting persons.

In Ukraine, UNODC has been supporting the National Anti-Corruption Bureau of Ukraine (NABU) to strengthen its internal whistle-blower protection and reporting mechanisms, among other through the recent assessment of compliance of the agency with ISO37002:2021 and the EU Directive 2019/1937 on the protection of persons who report breaches of Union law. Following this support, the State Agency for the Restoration and Development of Infrastructure of Ukraine (SARDI) requested UNODC to undertake similar work.

SARDI<sup>1</sup> is a central executive body, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Vice Prime Minister for Reconstruction of Ukraine – Minister of Community and Territorial Development. SARDI oversees 22 Regional Restoration Services (RRS). The RRS have the status of separate state non-profit organizations. SARDI approves the Regulations on the Restoration Services in the regions and appoints and dismisses their heads. The RRS accept and follow SARDI’s operational instructions but have limited obligations to comply with them.

Additionally, SARDI also manages 13 state-owned enterprises and 1 budgetary institution that ensures the fulfillment of certain state orders, implementation of state targeted programs for budgetary funds and funds of international financial organizations. The heads of these organizations are also appointed and dismissed by SARDI. Further, SARDI is also the supreme governing body of the State Joint Stock Company “Automobile Roads of Ukraine”, which is governed by special corporate legislation.

A structural unit in SARDI is the Corruption Prevention and Detection Sector<sup>2</sup>, which handles whistle-blowing reports and provides protection to whistle-blowers. The Sector handles whistle-blowing reports from SARDI employees, as well as from employees of Regional Services. Each Regional

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<sup>1</sup> Resolution of the Cabinet of Ministers of Ukraine of September 10, 2014, No. 439 “On Approval of the Regulation on the State Agency for the Restoration and Development of Infrastructure of Ukraine”

<sup>2</sup> The Sector powers are defined by a separate Regulation approved in accordance with the requirements of the Model Regulation on the Authorized Unit (Authorized Person) for the Prevention and Detection of Corruption On Approval of the Model Regulation of 27.05.2021 No. 277/21

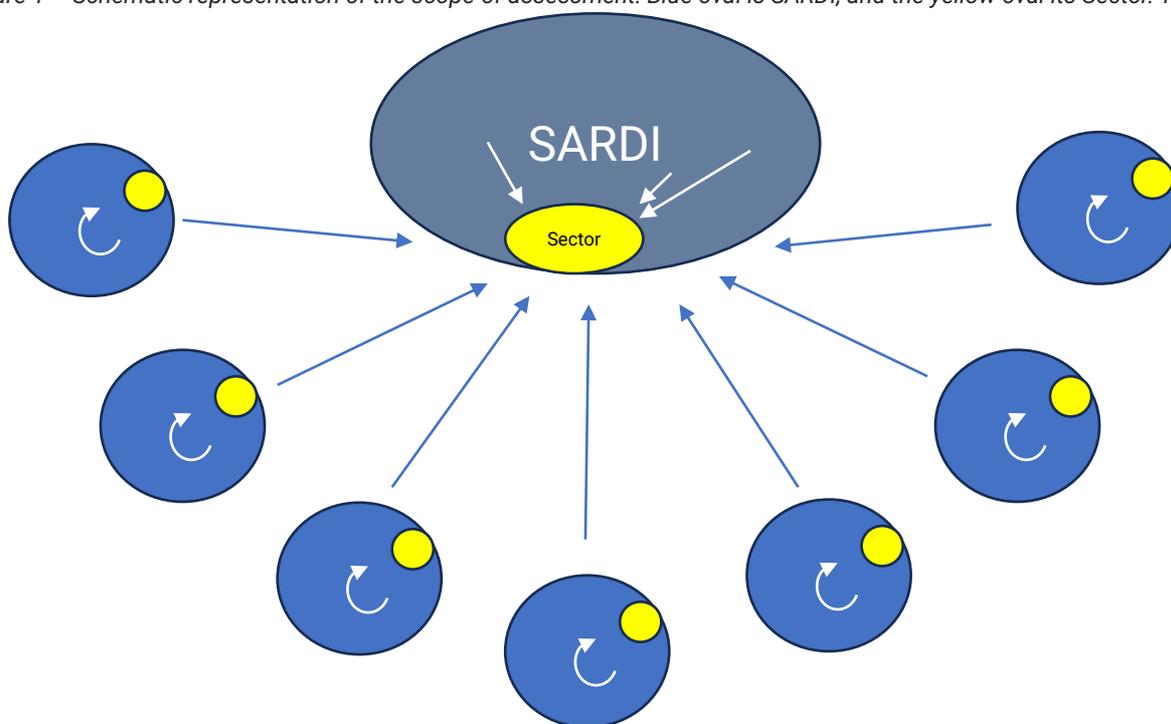
Service must have an internal control officer who functions as a recipient for the whistleblowing reports from the Regional Service employees.

The scope of assessment for this report includes practices and procedures for:

- Whistle-blowing by employees of an RRS to the internal control of their RRS;
- Whistle-blowing by employees of an RRS to SARDI;
- Whistle-blowing by SARDI employees to SARDI.

The scope is presented in figure 1.

Figure 1 – Schematic representation of the scope of assessment: Blue oval is SARDI, and the yellow oval its Sector. The 22



RRS are represented by 7 smaller circles. The yellow circles are the internal control of an RRS. The white arrows indicate whistleblowing directions.

## 2. Method of the Assessment

The assessment was conducted through a sequence of actions, including:

1. **Speak-Up Self-Assessment (SUSA)**<sup>3</sup> – A SARDI staff member with knowledge of how whistle-blowing reports are handled used the SUSA-tool, supported by an embedded UNODC expert, to provide an estimate of how SARDI was perceiving its own whistleblowing management system and speak-up culture. The SUSA-tool is a free online tool that allows integrity professionals to self-assess their internal whistle-blowing system against two benchmarks: the ISO 37002:2021 and the requirements from the Directive (EU) 2019/1937.
2. **Documents** – the SUSA results allowed to create focus and provide insight for SARDI on the various dimensions of a whistle-blowing management system as described in ISO37002:2021. On the basis of the SUSA results, documents were requested from SARDI. These included documents about SARDI’s structure, anti-corruption program, internal protocols, audit provisions with regard to RRS, etc.
3. **Individual virtual meetings** – Individuals with specific mandates were invited for virtual meetings<sup>4</sup> to discuss practices and processes of SARDI. These were:
  - i. Mr. Yuriy Sverba, *Deputy Head of SARDI*;
  - ii. Mr. Oleksandr Kurylets, *Development Office*;
  - iii. Ms. Olga Perminova, *Internal Control*;
  - iv. Mr. Andriy Rak, *Internal Audit*;
  - v. Ms. Bohdana Yaremchuk, *Human Resources*.
4. **Virtual RRS meetings** – Individuals from different RRSs were also invited for virtual meetings in order to gain a better understanding of how reporting is handled at the regional level. These were represented by:
  - i. **Chernihiv Restoration Service:**
    - i. Mr. Roman Smiyanenko, *Head*; and,
    - ii. Ms. Iryna Tochana, *Anti-Corruption Officer*.
  - ii. **Vinnitsya Restoration Service:**
    - i. Mr. Ihor Zhebelev, *Head*; and,
    - ii. Mr. Vadim Petlovaniy, *Anti-Corruption Officer*.
5. **Supplementary documents** – Further documents were requested by UNODC and provided in a timely manner by SARDI counterparts following individual meetings.

The document review took place during February and March 2025, while the virtual meetings were held during March and April 2025.

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<sup>3</sup> SUSA was developed at EDHEC Business School by Prof. Dr. Wim Vandekerckhove, as part of the BRIGHT project, funded by the European Commission (EACEA – project 101143234). More info on the BRIGHT project and SUSA can be found using the following link: <https://www.edhec.edu/en/research-and-faculty/departments/management-and-humanities/bright-project>

<sup>4</sup> These virtual meetings took place in the week of 4 November 2024.

## 3. Assessment Findings

### 3.1 EU Directive 2019/1937

The European Union Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law ('the Directive'), stipulates a number of requirements internal whistle-blowing channels must meet. These relate to a specific function to handle whistle-blowing reports, requirements for reporting channels, protection measures for whistleblowers, and data management requirements.

#### 3.1.1 Handling Function

Article 9.1(c) of the Directive requires organizations to allocate an impartial person to follow-up reports and communicate with whistle-blowers. Art. 9.1(d) and 9.1(e) require organizations to adequately follow-up on reports.

SARDI Order H-123 of 2024<sup>5</sup> mandates its 'Sector for Prevention and Detection of Corruption' to ensure reporting channels are functioning, to carry out the triage of whistle-blowing reports, to initiate and coordinate internal investigations, to provide feedback and advice to whistle-blowers, including from within SARDI or RRS employees. This 'Sector' is formally structured to consist of 3 people (1 head and 2 chief specialists) and reports directly to the Head of SARDI.<sup>6</sup> However, at the time of assessment, it was operating with only one person, who served as the acting head and also temporarily performed the duties of the head of the Internal Control Department. This situation significantly limits the Sector's capacity to perform its functions effectively.

SARDI employees are prohibited from disclosing identifiable data on the whistle-blower or their close relatives to alleged wrongdoers or those irrelevant to the follow-up of the report. The Head of SARDI is responsible for the enforcement of this confidentiality.<sup>7</sup> The SARDI procedure<sup>8</sup> for registration and triage of reports contains stipulations to safeguard the confidentiality of reports through its Electronic Document Management System (EDMS).

A further procedural document<sup>9</sup> mandates the Sector to audit the implementation of SARDI's anti-corruption program by the various RRS, including the functioning of an anti-corruption officer and an internal control officer at the RRS level.

The procedural documents seen during the assessment provide a sufficient mandate to comply with the EU requirements with regard to handling whistle-blower reports. However, during the assessment it became clear that these SARDI regulations and procedures were not fully implemented. The Sector

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<sup>5</sup> Cf. section V.3 of the Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting Possible Facts of Corruption or Corruption-Related Offences and Other Violations of the Law of Ukraine "On Prevention of Corruption" at the State Agency for the Restoration and Development of Infrastructure of Ukraine. H-123, 5 April 2024

<sup>6</sup> Cf. section V.4.18 of Regulations on the Sector for Prevention and Detection of Corruption of the State Agency for Infrastructure Restoration and Development of Ukraine

<sup>7</sup> Sections VI.2 and VI.3 of the Procedure for Organisation of Work with Reports of Possible Facts of Corruption or Corruption-Related Offences, Other Violations of the Law of Ukraine "On Prevention of Corruption" in the State Agency for the Restoration and Development of Infrastructure of Ukraine (H-128 of 10 April 2024)

<sup>8</sup> Procedure for Organisation of Work with Reports of Possible Facts of Corruption or Corruption-Related Offences, Other Violations of the Law of Ukraine "On Prevention of Corruption" in the State Agency for the Restoration and Development of Infrastructure of Ukraine (H-128 of 10 April 2024)

<sup>9</sup> Cf. Order H-44 of 5 February 2025, approving the Procedure for Organizing control measures for compliance with anti-corruption legislation at enterprises, institutions and organizations owned by the company to the management of the State Agency for the Restoration and Development of Infrastructure of Ukraine

was operated by one person combining the roles of interim-head and chief internal control. In the two RRS that were contacted, the internal control function was still vacant.

### 3.1.2 Reporting Channels

The Directive requires organizations to operate channels to make reports in a secure manner, safeguarding the confidentiality of identity. These channels must allow reporting in writing, orally, or both. The EU wants every legal entity of at least 50 workers to develop a capacity for handling whistle-blowing reports.<sup>10</sup> In line with this, organizations that comprise several local entities must also develop such a capacity at local level and not only offer whistle-blowing channels at group level. That does not mean there can be no group level centralization at all, but whistle-blowers need to have a choice to make a report at local or group levels.

The RRS are separate legal entities with considerable autonomy from SARDI. It is therefore useful to consider SARDI as group level and the RRS as local level. SARDI operates a telephone channel as well as an online reporting portal available 24/7. There is a further requirement for RRS to organize internal whistle-blowing channels<sup>11</sup>. Hence, this set up makes it possible to comply with the EU requirements on internal whistle-blowing channels for organizations with subsidiaries. However, materials used for training or awareness raising in SARDI and in RRS were not provided for this assessment.

The EU Directive further stipulates that whistle-blowers have an unconditional option report to an external competent authority.<sup>12</sup> The assessment was provided with a memo<sup>13</sup> that lists five options for reporting to a competent authority external to SARDI: Prosecutor's Office, National Police, NABU, State Bureau of Investigation, and NACP.

It was not clear in this assessment whether or how this memo has been communicated. The memo itself mentions the competent authorities, but not how to access their reporting channels. Moreover, the NACP operates a whistle-blowing channel through its portal that cannot be regarded as external reporting to a competent authority under the EU Directive. The NACP channel routes whistle-blowing reports to the organization to which the report relates. The implication is that a whistle-blowing report from an RRS employee, done through the NACP channel, would be forwarded to the internal control of that RRS. This does not constitute 'external reporting to a competent authority' under the EU Directive. To add to the confusion, the NACP channel is elsewhere referred to as the Unified Whistleblower Reporting Portal<sup>14</sup>.

### 3.1.3 Protection

The Directive requires EU Member States to provide protection for whistle-blowers against a wide range of detriments.

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<sup>10</sup> EC Expert Group on the Whistleblower Directive letter of 29 June 2021

<sup>11</sup> This is included in section II.4.5 of the Procedure for Organizing control measures for compliance with anti-corruption legislation at enterprises, institutions and organizations owned by the company to the management of the State Agency for the Restoration and Development of Infrastructure of Ukraine (H-44 of 5 February 2025)

<sup>12</sup> Art. 7.3 and Art. 9.1(g) of the EU Directive 2019/1937

<sup>13</sup> The memo speaks of 'regular reporting channels', see Annex 4 of H-123, 5 April 2024, referring to section III.2.6 of Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting Possible Facts of Corruption or Corruption-Related Offences and Other Violations of the Law of Ukraine "On Prevention of Corruption" at the State Agency for the Restoration and Development of Infrastructure of Ukraine

<sup>14</sup> Procedure organising the work with reports of possible facts of corruption or corruption related offences and other violations of the Law of Ukraine "On the Prevention of Corruption in the State Agency for the Reconstruction and Development of Infrastructure of Ukraine (H-128 of 10 April 2024)

The legislation in Ukraine provides for protection in two tiers. Anyone reporting personally observed information of possible corruption or corruption-related offences qualifies for labor protections. Those whistle-blowers on the basis of whose reports a criminal proceeding is started, also qualify to receive security protection measures.

The labor protection foreseen in the Law of Ukraine 'On the Prevention of Corruption' covers the forms of retaliation listed in Art.19 of the Directive. However, the Ukrainian legislation foresees this protection only for a narrow material scope of reported wrongdoing, i.e. corruption and corruption-related offences. SARDI maintains this narrow material scope for protection of reporting employees. SARDI's internal regulations and protocols provide a clear mandate for whistle-blower protection. It is the Sector that takes measures to protect whistle-blowers and designates a civil servant whose job description specifies responsibility for exercising protection powers. The protection of whistle-blower rights is also one of the principles for organizing the handling of whistle-blowing reports in SARDI.

However, section V.4 of the Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting, stipulates 'good faith' as a condition for protection. This can create confusion, as it suggests the motive of the whistle-blower is important. In contrast, the EU Directive and the ISO37002:2021 explicitly use 'reasonable belief'.

The assessment further revealed that no operational actions have been initiated to implement to provision of whistleblower protection.

#### 3.1.4 Data management

The Directive stipulates data management requirements considering the duty of confidentiality (Art. 16.1) and operating secure channels that maintain the confidentiality of identity and prevent access thereto by non-authorized staff members (Art. 9.1(a)).

SARDI's protocol<sup>15</sup> for doing triage of the whistle-blowing reports stipulates that information, including personal data, must be processed in compliance with the requirements of the Ukrainian legislation on personal data protection. It was out of scope of this assessment to check whether Ukrainian data privacy regulation is in line with EU-GDPR.

### 3.2 ISO37002:2021

The ISO 37002:2021 standard gives guidelines for establishing, implementing and maintaining an effective whistleblowing management system based on the principles of trust, impartiality and protection. The SARDI assessment used ISO37002:2021 in a broad and general sense, understanding ISO37002:2021 as an international consensus on what best practice looks like for handling whistleblowing reports, in order to support SARDI to:

- fostering a culture of reporting alleged corruption or corruption-related offenses and other violations of the Law<sup>16</sup>, and

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<sup>15</sup> Section V.5 of the Procedure for Organisation of Work with Reports of Possible Facts of Corruption or Corruption-Related Offences, Other Violations of the Law of Ukraine "On Prevention of Corruption" in the State Agency for the Restoration and Development of Infrastructure of Ukraine (H-128 of 10 April 2024)

<sup>16</sup> Cf Point 12.8, a stated principle in SARDI's anti-corruption program, Anti-corruption program of the State Agency for Restoration and Infrastructure Development of Ukraine for 2023–2025 (H-307 of 19 July 2023, amended by H-19 of 20 January 2025)

- ensuring effective work with whistle-blowers and proper review of reports on alleged corruption or corruption-related offenses, as well as other violations of the Law.<sup>17</sup>

The approach taken in ISO 37002:2021 is that of a management system. The implication is that handling whistle-blowing reports is conceived of as a process within a plan-do-check-act cycle, enabled by leadership and support features, appropriate to the organization’s context, and capable of continuous improvement. Figure 2 visualizes this.

Both at the regional and central SARDI levels, there appears to be minimal understanding of what whistle-blowing entails and how ISO37002:2021 applies. This gap may undermine the effectiveness of what SARDI tries to develop.

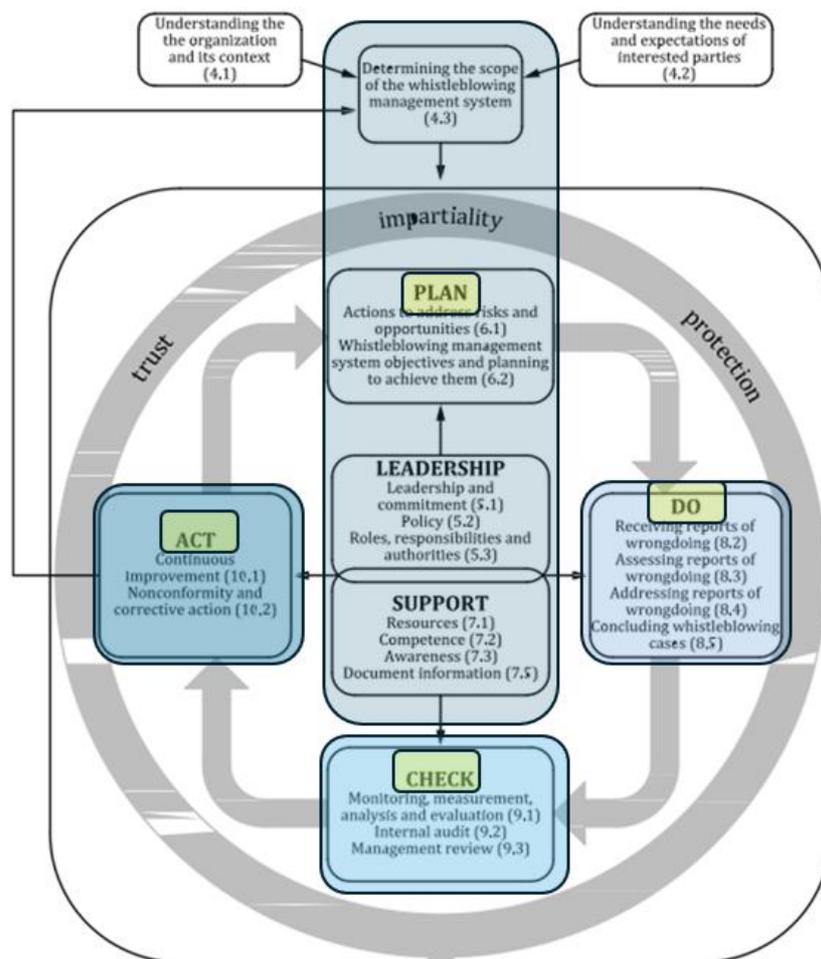


Figure 2 – The ISO37002:2021 standard as a Plan-Do-Check-Act cycle.

<sup>17</sup> Cf Point 22, a stated measure for implementing anti-corruption policy principles of the Agency for Restoration, Anti-corruption program of the State Agency for Restoration and Infrastructure Development of Ukraine for 2023–2025 (H-307 of 19 July 2023, amended by H-19 of 20 January 2025)

### 3.2.1 PLAN

SARDI sets out its plan for a whistleblowing management system in a document that was approved in April 2024 - the Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting.<sup>18</sup> This document contains many aspects of what ISO37002:2021 puts forward as the planning, leadership, training and other support aspects of a whistleblowing management system. The creation of roles and mandates for handling whistleblowing reports and protecting whistleblowers are key to ISO37002:2021 and are covered in this 'Regulation'.<sup>19</sup>

The SARDI assessment included a review of the risk mapping<sup>20</sup> and conversations with employees of SARDI and RRS, from which it is clear that the development of practical protocols and the implementation of mandates listed in the 'Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting' is still ongoing.

Currently much attention seems to be given to the front end of the Plan-Do-Check-Act cycle. Roles are created and SARDI as well as RRS are trying to fill those vacancies (e.g. for SARDI within Sector and internal control officer functions in RRS). However, creating a culture of reporting will not be possible without also ensuring the Check-Act part of the quality cycle. On the one hand, the 'Regulation' puts forward a self-assessment framework for the functioning of its whistleblowing management system.<sup>21</sup> It lists 17 criteria that can be taken into regard. These align well with ISO37002:2021<sup>22</sup>, except for seeking feedback from whistle-blowers, and considering the material scope of the reports that come through. A methodological tool to carry out the self-assessment is still being developed.

From the conversations during the SARDI assessment, it was remarkable how consistently narrow the understanding of 'whistle-blowing' was. All SARDI procedures use corruption as specified in the Law of Ukraine "On Prevention of Corruption", as the material delineation of wrongdoing. The implication is that only reports about violations of the Law of Ukraine "On Prevention of Corruption" can be regarded as 'whistle-blowing'. This is too narrow as a basis to create a culture of reporting wrongdoing.

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<sup>18</sup> H-123 of 5 April 2024, the Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting Possible Facts of Corruption or Corruption-Related Offences and Other Violations of the Law of Ukraine "On Prevention of Corruption" at the State Agency for the Restoration and Development of Infrastructure of Ukraine

<sup>19</sup> For example, the whistleblowing management function is section 5.3.2 of ISO37002:2021 and section V.3 of H-123 of Ukraine.

<sup>20</sup> Annex 2 of Anti-corruption program of the State Agency for Restoration and Infrastructure Development of Ukraine for 2023–2025 (H-307 of 19 July 2023, amended by H-19 of 20 January 2025)

<sup>21</sup> Section VII of H-123 (5 April 2024), Regulation on the Functioning of the Mechanisms for Encouraging Whistleblowers and Forming a Culture of Reporting Possible Facts of Corruption or Corruption-Related Offences and Other Violations of the Law of Ukraine "On Prevention of Corruption" at the State Agency for the Restoration and Development of Infrastructure of Ukraine

<sup>22</sup> Section 9.1.1 and 9.1.2 of ISO37002:2021

The ISO37002:2021 standard maintains a broad definition of wrongdoing<sup>23</sup>. The standard prescribes that organizations need to decide the material scope of reports that will be handled within the whistleblowing management system, i.e. what types of wrongdoing can be addressed through the whistleblowing management system. However, ISO37002:2021 also stipulates that 'not all reports made to the whistleblowing management system will be within its scope, and a single report can include information about multiple types of wrongdoing, some within scope and others outside of scope. The organization should identify what other processes, existing or planned, will be used to resolve reported wrongdoing that is not within the scope of the whistleblowing management system (e.g. complaints, grievances) and how this will be coordinated'.<sup>24</sup>

There are no such 'out of scope' provisions available. The implication is that reports of wrongdoing that are not considered as corruption, and thus not considered as whistle-blowing, will not be included in the self-assessment and evaluation of the culture SARDI desires to create. Whilst ISO37002:2021 allows a narrow and rigid delineation of the material scope of a whistle-blowing system, an organization will need to enhance and support broader speak-up behaviors if it also wants reports within the narrow delineation of whistle-blowing.

For example, it appeared that Internal Audit always invited people to voice concerns with them at the start of an audit, and that sometimes people do use this opportunity to report to them. Whilst these are not whistleblowing reports, they are instances of speak-up. Although these should not be handled as whistleblowing reports, they are potential indicators of speak-up and listen-up culture. There was a lack of recognition for this within SARDI and RRS.

### 3.2.2 DO

SARDI has a documented procedure for registration and triage of whistle-blowing reports.<sup>25</sup> This procedure is generally in line with ISO37002:2021<sup>26</sup>. There are two caveats, however.

The first relates to the procedure of accepting and submissions of reports to the portal. Reports are received by the Head of SARDI, or head of Sector if the report is about the Head of SARDI, or the internal control officer if the report concerns employees of Sector.<sup>27</sup> The provision is section II.7 of the procedure opens the possibility for the head of Sector to register information of a report in a selective manner, and communicate information not included in the handling system to the Head of SARDI.

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<sup>23</sup> Section 3.8 of ISO37002:2021 defines wrongdoing as 'action(s) or omission(s) that can cause harm', and further notes that this include: breach of law (national or international), such as fraud, corruption including bribery; breach of the organization's or other relevant code of conduct, breach of organization policies; gross negligence, bullying, harassment, discrimination, unauthorized use of funds or resources, abuse of authority, conflict of interest, gross waste or mismanagement; actions or omissions resulting in damage or risk of harm to human rights, the environment, public health and safety, safe work-practices or the public interest. It further notes that wrongdoing or the resulting harm can have happened in the past, is currently happening or can happen in the future. And also that potential harm can be determined by reference to a single event or series of events.

<sup>24</sup> Section 4.3 of ISO37002:2021

<sup>25</sup> H-128 of 10 April 2024, the Procedure for Organisation of Work with Reports of Possible Facts of Corruption or Corruption-Related Offences, Other Violations of the Law of Ukraine "On Prevention of Corruption" in the State Agency for the Restoration and Development of Infrastructure of Ukraine

<sup>26</sup> Cf. steps in the handling of whistleblowing reports – receiving and assessing – in sections 8.1, 8.2, 8.3.1 of ISO37002:2021

<sup>27</sup> Section II of H-128, 0 April 2024, Procedure for Organisation of Work with Reports of Possible Facts of Corruption or Corruption-Related Offences, Other Violations of the Law of Ukraine "On Prevention of Corruption" in the State Agency for the Restoration and Development of Infrastructure of Ukraine

In this current set-up, it is not clear how it can be avoided that a Sector employee tasked with registering after preliminary identification would for example, alter or not include information about themselves or others. In other words, collusion remains possible at registration stage.

The second caveat relates to protection of whistleblowers. This is mentioned in the triage procedure a number of times in general wording. Specific provisions for protective measures were not seen during the SARDI assessment.<sup>28</sup> During conversations as part of the SARDI assessment, it became clear that nothing operational exists with regard to protection of whistle-blowers.

### 3.2.3 CHECK

SARDI plans to develop a self-assessment framework for the functioning of its whistleblowing management system. It currently lists 17 criteria<sup>29</sup> that can be taken into regard to that, as noted earlier in this report (see section 4.1) align with ISO37002:2021<sup>30</sup>, except for seeking feedback from whistle-blowers and considering the material scope of the reports that come through.

One evaluation criterion is the number of reports made through the whistle-blowing reporting channels. The online reporting channel, operated through NACP, provides these numbers publicly. This is a very useful way of signaling that reports are indeed made and may work as a further encouragement to others to report wrongdoing.

However, in conversations as part of the SARDI assessment, the numbers for SARDI on the NACP site were questioned. SARDI interviewees were not confident these numbers were correct. The NACP numbers for SARDI were higher than what SARDI thought their numbers were. This might indicate a disconnect between NACP reports sent to SARDI and how SARDI registers these in their internal system. This suggests that there might be a lack of clarity around what and how these numbers are counted, and what SARDI can do with these numbers to further build their culture of reporting.

### 3.2.4 ACT

A quality management system requires an evaluation to be acted upon in order to complete a cycle of continuous improvement. SARDI already has a structure and template for that. Its anti-corruption program<sup>31</sup> uses a risk mapping carried out by a working group and takes place in cycles with a steady frequency. It currently does not take into account measures of the speak-up culture because these are not developed yet. Also, the working group currently does not include people from units that directly work with risks in practice, such as the Internal Audit Unit.

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<sup>28</sup> Possible operational steps are mentioned in ISO37002:2021, more precisely sections 8.3.2, 8.4.2, 8.4.3, 8.4.4, 8.4.5

<sup>29</sup> H-44 of 5 February 2025, the Procedure for Organizing control measures for compliance with anti-corruption legislation at enterprises, institutions and organizations owned by the company to the management of the State Agency for the Restoration and Development of Infrastructure of Ukraine

<sup>30</sup> Sections 9.11, 9.1.2 and 9.1.3 of ISO37002:2021

<sup>31</sup> Anti-corruption program of the State Agency for Restoration and Infrastructure Development of Ukraine for 2023–2025 (H-307 of 19 July 2023, amended by H-19 of 20 January 2025)

## 4 Recommendations

Following the assessment findings, this section provides recommendations to SARDI for improving the alignment of its internal whistleblowing system with ISO 37002:2021 and the Directive (EU) 2019/1937.

Overall, the SARDI assessment found positive developments for establishing a whistleblowing management system that can bring SARDI in line with ISO37002:2021 and towards complying with the EU requirements for internal whistleblowing systems in the Directive 2019/1937.

**RECOMMENDATION 1: Further develop and implement the current and planned SARDI structure, regulation and procedures with regard to whistle-blowing, in accordance with the anti-corruption program 2023-2025.**

The structure of SARDI and its semi-autonomous Regional Restoration Services requires specific attention for creating a culture of reporting wrongdoing. The NACP's unified whistleblowing portal provides a useful reporting channel that can route reports to local level (RRS) as well as group level (SARDI), as required by the EU Directive. However, from some of the documents it seems there is confusion about what constitutes a regulatory channel external to SARDI. In its current set-up, the NACP reporting portal is not a whistle-blowing channel external to SARDI. It is recommended to liaise with NACP to clarify communication around this, and to identify and promote regulatory whistleblowing channels external to SARDI.

**RECOMMENDATION 2: Liaise with NACP to clarify communication that reports through its whistleblowing portal about SARDI will be handled by SARDI.**

**RECOMMENDATION 3: Identify and promote whistle-blowing channels of regulatory agencies external to SARDI.**

Further with regard to the SARDI-RRS structure, it must be noted that efforts to create a positive tone-at-the-top at SARDI, are not necessarily perceived as tone-at-the-top within the RRS. The structure of anti-corruption officers and internal control officers at local RRS level can complement SARDI's aim to create a positive speak-up tone-at-the-RRS-top. Some aspects can be coordinated top-down, like measures to control compliance with anti-corruption provisions at RRS level but creating a culture of reporting requires a more informal coordination to leave enough room at local level to work with specific needs. It is recommended to develop the networks of anti-corruption officers and internal control officers as 'communities of practice': regular meetings for practitioners to discuss with each other and learn from each other's experiences in dealing with practice-related issues.

**RECOMMENDATION 4: Develop 'community of practice' to build a speak-up culture.**

The SARDI assessment revealed that no operational provisions for protection of whistle-blowers are in place or are being developed. It is recommended that this takes a start by listing existing work-related measures that could be taken to prevent detrimental treatment of whistleblowers, to compensate for detrimental treatment suffered by whistle-blowers, who would authorize these, and what their limitations are. Merely promising protection is an empty promise if there is no clear plan

of what can be done and to what extent it can be done. It can be useful to involve human resources expertise in developing this organizational capacity.

**RECOMMENDATION 5: Involve organizational expertise to develop operational plans for whistle-blower protection.**

All SARDI procedures use corruption as specified in the Law of Ukraine “On Prevention of Corruption”, as the material delineation of wrongdoing. The implication is that only reports about violations of the Law of Ukraine “On Prevention of Corruption” can be regarded as ‘whistleblowing’. This is too narrow as a basis to create a culture of reporting wrongdoing. It is recommended that a wider category of ‘speak-up’ is used in efforts to create a culture of reporting. Whistleblowing, as currently used, can be a sub-category of ‘speak-up’, as presented in figure 3.



Figure 3. Whistleblowing as a sub-category of speak-up

A broader notion will facilitate building a culture of reporting, because it allows them to see, support, and work with concerns people have about wrongdoing that does not constitute a breach of law. A broader notion such as speak-up allows scientifically validate scales such as psychological safety<sup>32</sup> or discussability<sup>33</sup> to be used for measuring people’s awareness and trust in leadership and whistleblowing channels.

A broader notion of speak-up will allow more roles and functions to understand their role in supporting a culture of reporting. In the SARDI assessment it appeared internal audits did come across speak-up in their role, and managed quite well to respond with listen-up. Whilst this speak-up did not constitute instances of whistleblowing, they are part of the same culture. Speak-up behavior does not imply whistleblowing, but there will be no whistleblowing reports without prior speak-up behaviors. Case-study examples of organizations that have used wider notions include an engineering company creating ‘Question’ channels in addition to their whistleblowing line, and a hospital triangulating all speak-up instances with performance data.<sup>34</sup>

**RECOMMENDATION 6: Adopt a wider notion of speak-up, of which whistle-blowing is a sub-category, when measuring and mapping awareness and culture of reporting.**

<sup>32</sup> See Edmondson, A. (1999). Psychological safety and learning behavior in work teams. *Administrative Science Quarterly*, 44(2), 350-383. Free access <https://www.jstor.org/stable/2666999>

<sup>33</sup> See Kaptein, M. (2008). Developing and testing a measure for the ethical culture of organizations: The corporate ethical virtues model. *Journal of Organizational Behavior*, 29(7), 923-947. Free access <https://www.jstor.org/stable/30163357>

<sup>34</sup> For these cases and further research on the connection between speak-up culture and whistleblowing channels, see Kenny, K., Vandekerckhove, W. & Fotaki, M. (2019). *The Whistleblowing Guide: Speak-up Arrangements, Challenges and Best Practices*. Wiley <https://www.wiley.com/en-us/The+Whistleblowing+Guide%3A+Speak-up+Arrangements%2C+Challenges+and+Best+Practices-p-9781119360759>

The final two recommendations relate to the 'act' part of the quality management cycle. SARDI and RRS are showing immense efforts to strengthen their integrity with the anti-corruption program and whistle-blowing system. Of course, building culture takes time and requires continuous improvement. What can strengthen this continuous improvement is to discuss within the communities-of-practice (i.e., Recommendation 4) the numbers of whistle-blowing and speak-up at different levels and through different channels (including informal). A liaison with NACP can be helpful to clarify how numbers are arrived at, and seeking their input on what lessons can be learned from these numbers.

**RECOMMENDATION 7: Develop insights about speak-up behaviors and reporting culture from discussion within anti-corruption and internal control officer networks, about number of reports and other speak-ups, and seek input from NACP in how to understand their numbers.**

The roll-out of a network of anti-corruption officers and internal control officers is commendable. It is a major achievement to establish this structure that can provide the anchoring of an anti-corruption and whistleblowing culture. At the same time, building a culture cannot remain isolated in these functions. Once these roles are fully created and vacancies are filled at RRS and SARDI levels, it is necessary to bring in other organizational functions (or units) to help build and carry the culture. A concrete way to start with this is by forming an additional working group in preparation of a new anti-corruption program, which reflects on the speak-up behaviors they currently see, what role they can have in building a speak-up culture, and in particular how their function could benefit from whistleblower reports. Key functions or units within SARDI and RRS to include in such a working group include human resources, internal audit, and quality control. The outcome of this working group can be actionable items in the anti-corruption program.

**RECOMMENDATION 8: Create an additional working group to articulate actions in the anti-corruption program, composed of the next circle of organizational functions to carry the culture of reporting, e.g. internal audit, human resources, quality control.**