



**2018/0106(COD)**

14.9.2018

# **AMENDMENTS**

## **86 - 221**

**Draft opinion**  
**Dennis de Jong**  
(PE623.761v01-00)

Protection of persons reporting on breaches of Union law

Proposal for a directive  
(COM(2018)0218 – C8-0159/2018 – 2018/0106(COD))

AM\_Com\_LegOpinion

**Amendment 86**  
**Marco Valli**

**Proposal for a directive**  
**Citation 1**

*Text proposed by the Commission*

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207 **and 325(4)** thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

*Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207, **325(4) and article 352**, thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

Or. en

**Amendment 87**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) Persons who work for an organisation or are in contact with it in the context of their work-related activities are often the first to know about threats or harm to the public interest which arise in this context. By ‘blowing the whistle’ they play a key role in ***exposing and preventing*** breaches of the law ***and in safeguarding the welfare of society***. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation.

*Amendment*

(1) Persons who work for an organisation or are in contact with it in the context of their work-related activities are often the first to know about threats or harm to the public interest which arise in this context. By ‘blowing the whistle’ they play a key role in ***preventing, detecting and disclosing irregularities, fraud, corruption and other wrongdoing or*** breaches of the law ***both in the public and the private sectors***. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation ***or of being accused of unlawful acquisition, use or disclosure of trade secrets as defined in Directive (EU) 2016/943 of the European Parliament and of the Council***.

## Amendment 88

**Benedek Jávor**

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Recital 1

*Text proposed by the Commission*

(1) Persons who work for an organisation or are in contact with it in the context of their work-related activities are often the first to know about threats or harm to the public interest which arise in this context. By ‘blowing the whistle’ they play a key role in exposing and preventing breaches of the law and in safeguarding the welfare of society. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation.

*Amendment*

(1) Persons who work for an organisation or are in contact with it in the context of their work-related activities are often the first to know about threats or harm to the public interest which arise in this context. ***The purpose of this Directive is to create a climate of trust that enables whistleblowers to report observed or suspected breaches of law, wrongdoing, misconduct and threats to the public interest.*** By ‘blowing the whistle’ they play a key role in exposing and preventing breaches of the law and in safeguarding the welfare of society. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation.

Or. en

## Amendment 89

**Marco Valli**

### Proposal for a directive

#### Recital 3

*Text proposed by the Commission*

(3) ***In certain policy areas***, breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified ***in those areas***, and

*Amendment*

(3) Breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified, and whistleblowers are in a privileged position

whistleblowers are in a privileged position to disclose breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and introducing effective reporting channels.

to disclose breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and introducing effective reporting channels.

Or. en

**Amendment 90**  
**Marco Valli**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) Accordingly, common minimum standards ensuring effective whistleblower protection should apply in those acts and policy areas where i) there is a need to strengthen enforcement; ii) under-reporting by whistleblowers is a key factor affecting enforcement, and iii) breaches of Union law cause serious harm to the public interest.

*Amendment*

(5) Accordingly, common minimum standards ensuring effective whistleblower protection ***with a global and comprehensive approach***, should apply in those acts and ***with particular emphasis on*** policy areas where i) there is a need to strengthen enforcement; ii) under-reporting by whistleblowers is a key factor affecting enforcement, and iii) breaches of Union law cause serious harm to the public interest.

Or. en

**Amendment 91**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) Accordingly, common minimum standards ensuring effective whistleblower protection should apply in those acts and policy areas where i) there is a need to

*Amendment*

(5) Accordingly, common minimum standards ensuring effective whistleblower protection should apply in those acts and policy areas where i) there is a need to

strengthen enforcement; ii) under-reporting by whistleblowers is a key factor affecting enforcement, and iii) breaches of Union law *cause serious harm to* the public interest.

strengthen enforcement; ii) under-reporting by whistleblowers is a key factor affecting enforcement, and iii) breaches of Union law *undermine* the public interest.

Or. en

**Amendment 92**  
**Luke Ming Flanagan**

**Proposal for a directive**  
**Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

*(7a) It should be noted, however, that prior to the banking collapse in Ireland, a whistleblower from one particular bank reported personally to the then Regulator<sup>1</sup>, whose office was in the Central Bank, his serious concerns re major breeches of Financial Regulations; if acted on at the time, he claims this could have exposed what was happening right across the Irish banking sector; instead, there was no action taken and he was subsequently squeezed out of the industry;*

*1*

*<https://www.irishtimes.com/business/financial-services/jonathan-sugarman-ireland-has-destroyed-the-lives-of-whistleblowers-1.3047366>*

Or. en

**Amendment 93**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) In the same vein, whistleblowers' reports can be key to detecting and preventing, reducing or eliminating risks to public health and to consumer protection resulting from breaches of Union rules which might otherwise remain hidden. In particular, consumer protection is also strongly linked to cases where unsafe products can cause considerable harm to consumers. Whistleblower protection should therefore be introduced in relation to relevant Union rules adopted pursuant to Articles 114, 168 and 169 TFEU.

*Amendment*

(13) In the same vein, whistleblowers' reports can be key to detecting and preventing, reducing or eliminating risks to public health and to consumer protection resulting from breaches of Union rules which might otherwise remain hidden. In particular, consumer protection is also strongly linked to cases where unsafe products can cause considerable harm to consumers, *e.g. odometer fraud*. Whistleblower protection should therefore be introduced in relation to relevant Union rules adopted pursuant to Articles 114, 168 and 169 TFEU.

Or. en

**Amendment 94**  
**Marco Valli**

**Proposal for a directive**  
**Recital 16**

*Text proposed by the Commission*

(16) The protection of the financial interests of the Union, which relates to the fight against fraud, corruption and any other illegal activity affecting the use of Union expenditures, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union also encompasses implementation of the Union budget related to expenditures made on the basis of the Treaty establishing the European Atomic Energy Community. Lack of effective enforcement in the area of the financial interests of the Union, including fraud and corruption at national level, causes a decrease of the Union revenues and a misuse of EU funds, which

*Amendment*

(16) The protection of the financial interests of the Union, which relates to the fight against fraud, corruption, *the violation of legal obligations, the abuse of power* and any other illegal activity affecting the use of Union expenditures, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union also encompasses implementation of the Union budget related to expenditures made on the basis of the Treaty establishing the European Atomic Energy Community. Lack of effective enforcement in the area of the financial interests of the Union, including fraud and corruption at national level, causes a decrease of the

can distort public investments and growth and undermine citizens' trust in EU action. Whistleblower protection is necessary to facilitate the detection, prevention and deterrence of relevant fraud and illegal activities.

Union revenues and a misuse of EU funds, which can distort public investments and growth and undermine citizens' trust in EU action. Whistleblower protection is necessary to facilitate the detection, prevention and deterrence of relevant fraud and illegal activities.

Or. en

**Amendment 95**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

(19) Each time a new Union act for which whistleblower protection is relevant and can contribute to more effective enforcement is adopted, consideration should be given to whether to amend the Annex to the present Directive in order to place it under its scope.

*Amendment*

(19) Each time a new Union act for which whistleblower protection is relevant and **which** can contribute to more effective enforcement is adopted, consideration should be given to whether to amend the Annex to the present Directive in order to place it under its scope.

Or. en

**Amendment 96**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

(19) Each time a new Union act for which whistleblower protection is relevant and can contribute to more effective enforcement is adopted, **consideration** should be **given to whether to amend** the Annex to the present Directive in order to place it under its scope.

*Amendment*

(19) Each time a new Union act for which whistleblower protection is relevant and can contribute to more effective enforcement is adopted, **it** should be **added to** the Annex to the present Directive in order to place it under its scope.



**Amendment 97**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 20**

*Text proposed by the Commission*

(20) This Directive *should be without prejudice* to the protection afforded to employees when reporting on breaches of Union employment law. In particular, in the area of occupational safety and health, Article **11 of** Framework Directive 89/391/EEC already requires Member States to ensure that workers or workers' representatives shall not be placed at a disadvantage because of their requests or proposals to employers to take appropriate measures to mitigate hazards for workers and/or to remove sources of danger. Workers and their representatives are entitled to raise issues with the competent national authorities if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health.

*Amendment*

(20) This Directive *is a complement* to the protection afforded to employees when reporting on breaches of Union employment law. In particular, in the area of occupational safety and health, Article **11 of** Framework Directive 89/391/EEC already requires Member States to ensure that workers or workers' representatives shall not be placed at a disadvantage because of their requests or proposals to employers to take appropriate measures to mitigate hazards for workers and/or to remove sources of danger. Workers and their representatives are entitled to raise issues with the competent national authorities if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health.

Or. en

**Amendment 98**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 22**

*Text proposed by the Commission*

(22) Persons who report information about threats or harm to the public interest *obtained in the context of their work-*

*Amendment*

(22) Persons who report information, *particularly* about threats or harm to the public interest, make use of

*related activities* make use of their right to freedom of expression. The right to freedom of expression, enshrined in Article 11 of the Charter of Fundamental Rights of the European Union ('the Charter') and in Article 10 of the European Convention on Human Rights (ECHR), encompasses media freedom and pluralism.

their right to freedom of expression. The right to freedom of expression, enshrined in Article 11 of the Charter of Fundamental Rights of the European Union ('the Charter') and in Article 10 of the European Convention on Human Rights (ECHR), encompasses *freedom of information as well as* media freedom and pluralism.

Or. en

#### **Amendment 99**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 24**

*Text proposed by the Commission*

(24) Persons need specific legal protection where they acquire *the* information *they* report *through their work-related activities and therefore run the* risk of work-related retaliation (for instance, for breaching the duty of confidentiality or *loyalty*). The underlying reason for providing them with protection is their position of *economic* vulnerability vis-à-vis the person on whom they de facto depend for work. *When there is no such work-related power imbalance (for instance in the case of ordinary complainants or citizen bystanders) there is no need for protection against retaliation.*

*Amendment*

(24) Persons need specific legal protection where they acquire information *and their decision to* report *it results in a* risk of work-related *or other* retaliation (for instance, for breaching the duty of confidentiality or *EU legislation on trade secrets*). The underlying reason for providing them with protection is their position of vulnerability vis-à-vis the person on whom they *are reporting or on whom they* de facto depend for work.

Or. en

#### **Amendment 100**

**Luke Ming Flanagan**

#### **Proposal for a directive**

## Recital 24

*Text proposed by the Commission*

(24) Persons need specific legal protection where they acquire the information they report through their work-related activities and therefore run the risk of work-related retaliation (for instance, for breaching the duty of confidentiality or loyalty). The underlying reason for providing them with protection is their position of economic vulnerability vis-à-vis the person on whom they de facto depend for work. When there is no such work-related power imbalance (for instance in the case of ordinary complainants or citizen bystanders) there is no need for protection against retaliation.

*Amendment*

(24) Persons need specific legal protection where they acquire the information they report through their work-related activities and therefore run the risk of work-related retaliation (for instance, for breaching the duty of confidentiality or loyalty - ***these must not be accepted as reason for retaliation in any form***). The underlying reason for providing them with protection is their position of economic vulnerability vis-à-vis the person on whom they de facto depend for work. When there is no such work-related power imbalance (for instance in the case of ordinary complainants or citizen bystanders) there is no need for protection against retaliation.

Or. en

## Amendment 101 Luke Ming Flanagan

### Proposal for a directive Recital 25

*Text proposed by the Commission*

(25) Effective enforcement of Union law requires that protection is granted to the broadest possible range of categories of persons, who, irrespective of whether they are EU citizens or third-country nationals, by virtue of work-related activities (irrespective of the nature of these activities, whether they are paid or not), have privileged access to information about breaches that would be in the public's interest to report and who may suffer retaliation if they report them. Member States should ensure that the need for protection is determined by reference to all the relevant circumstances and not merely

*Amendment*

(25) Effective enforcement of Union law requires that protection is granted to the broadest possible range of categories of persons, who, irrespective of whether they are EU citizens or third-country nationals, by virtue of work-related activities (irrespective of the nature of these activities, whether they are paid or not), have privileged access to information about breaches that would be in the public's interest to report and who may suffer retaliation if they report them. ***This protection should be likewise extended to those reporting on activities of EU institutions or their agents/agencies, when***

by reference to the nature of the relationship, so as to cover the whole range of persons connected in a broad sense to the organisation where the breach has occurred.

*those activities take place outside the EU.* Member States should ensure that the need for protection is determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship, so as to cover the whole range of persons connected in a broad sense to the organisation where the breach has occurred.

Or. en

## **Amendment 102**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 25**

##### *Text proposed by the Commission*

(25) Effective enforcement of Union law requires that protection is granted to the broadest possible range of categories of persons, who, irrespective of whether they are EU citizens or third-country nationals, *by virtue of work-related activities (irrespective of the nature of these activities, whether they are paid or not), have privileged* access to information about breaches that would be in the public's interest to report and who may suffer retaliation if they report them. Member States should ensure that the need for protection is determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship, so as to cover *the whole range of* persons connected *in a broad sense* to the *organisation where the breach has occurred*.

##### *Amendment*

(25) Effective enforcement of Union law requires that protection is granted to the broadest possible range of categories of persons, who, irrespective of whether they are EU citizens or third-country nationals, *have* access to information about breaches that would be in the public's interest to report and who may suffer retaliation if they report them. Member States should ensure that the need for protection is determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship, so as to cover *all* persons connected to the *report*.

Or. en

**Amendment 103**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) Protection should, firstly, apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union<sup>52</sup>, i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration. Protection should thus also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply.

---

<sup>52</sup> Judgments of 3 July 1986, Lawrie-Blum, Case 66/85; 14 October 2010, Union Syndicale Solidaires Isère, Case C-428/09; 9 July 2015, Balkaya, Case C-229/14; 4 December 2014, FNV Kunsten, Case C-413/13; and 17 November 2016, Ruhrlandklinik, Case C-216/15.

*Amendment*

(26) Protection should, firstly, apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union<sup>52</sup>, i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration. Protection should thus also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, *interns*, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply.

---

<sup>52</sup> Judgments of 3 July 1986, Lawrie-Blum, Case 66/85; 14 October 2010, Union Syndicale Solidaires Isère, Case C-428/09; 9 July 2015, Balkaya, Case C-229/14; 4 December 2014, FNV Kunsten, Case C-413/13; and 17 November 2016, Ruhrlandklinik, Case C-216/15.

Or. en

**Amendment 104**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 28**

*Text proposed by the Commission*

(28) Effective whistleblower protection implies protecting also further categories of persons who, whilst not relying on their work-related activities economically, may nevertheless suffer retaliation for exposing breaches. Retaliation against volunteers and unpaid trainees may take the form of no longer making use of their services, or of giving a negative reference for future employment or otherwise damaging their reputation.

*Amendment*

(28) Effective whistleblower protection implies protecting also further categories of persons who, whilst not relying on their work-related activities economically, may nevertheless suffer retaliation for exposing breaches. Retaliation against volunteers and unpaid trainees may take the form of no longer making use of their services, or of giving a negative reference for future employment or otherwise damaging their reputation. ***Retaliation against investigators or reporters could take the form of strategic litigation suits, for example regarding libel or defamation.***

Or. en

**Amendment 105**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 30**

*Text proposed by the Commission*

(30) Effective prevention of breaches of Union law requires that protection is also granted to persons who provide information about potential breaches, which have not yet materialised, but are likely to be committed. For the same reasons, protection is warranted also for persons who do not provide positive evidence but raise reasonable concerns or suspicions. At the same time, protection should not apply to the reporting of ***information which is already in the public domain or of*** unsubstantiated rumours and hearsay.

*Amendment*

(30) Effective prevention of breaches of Union law requires that protection is also granted to persons who provide information about potential breaches, which have not yet materialised, but are likely to be committed. For the same reasons, protection is warranted also for persons who do not provide positive evidence but raise reasonable concerns or suspicions. At the same time, protection should not apply to the reporting of unsubstantiated rumours and hearsay. ***Protection should be given to individuals working at institutions within the Union, but also to individuals working in European entities located outside Union territory. It should also apply to officials as well as other employees and interns***

*working at the institutions, agencies and bodies of the Union.*

Or. en

## **Amendment 106**

**Marco Valli**

### **Proposal for a directive**

#### **Recital 30**

##### *Text proposed by the Commission*

(30) Effective prevention of breaches of Union law requires that protection is also granted to persons who provide information about potential breaches, which have not yet materialised, but are likely to be committed. For the same reasons, protection is warranted also for persons who do not provide positive evidence but raise reasonable concerns or suspicions. *At the same time, protection should not apply to the reporting of information which is already in the public domain or of unsubstantiated rumours and hearsay.*

##### *Amendment*

(30) Effective prevention of breaches of Union law requires that protection is also granted to persons who provide information about potential breaches, which have not yet materialised, but are likely to be committed. For the same reasons, protection is warranted also for persons who do not provide positive evidence but raise reasonable concerns or suspicions.

Or. en

## **Amendment 107**

**Marco Valli**

### **Proposal for a directive**

#### **Recital 31**

##### *Text proposed by the Commission*

(31) Retaliation expresses the *close* (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective

##### *Amendment*

(31) Retaliation expresses the (cause and effect) relationship that must exist between the report and the adverse treatment suffered, directly or indirectly, by the reporting person, so that this person can enjoy legal protection. Effective protection

protection of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment.

of reporting persons as a means of enhancing the enforcement of Union law requires a broad definition of retaliation, encompassing any act or omission occurring in the work-related context which causes them detriment.

Or. en

**Amendment 108**  
**Luke Ming Flanagan**

**Proposal for a directive**  
**Recital 33**

*Text proposed by the Commission*

(33) Whistleblowers are, in particular, important sources for investigative journalists. Providing effective protection to whistleblowers from retaliation increases the legal certainty of (potential) whistleblowers and thereby encourages and facilitates whistleblowing also to the media. In this respect, protection of whistleblowers as journalistic sources is crucial for safeguarding the ‘watchdog’ role of investigative journalism in democratic societies.

*Amendment*

(33) Whistleblowers are, in particular, important sources for investigative journalists. Providing effective protection to whistleblowers from retaliation increases the legal certainty of (potential) whistleblowers and thereby encourages and facilitates whistleblowing also to the media. In this respect, protection of whistleblowers as journalistic sources is crucial for safeguarding the ‘watchdog’ role of investigative journalism in democratic societies. ***In this context also, investigative journalists who use whistleblower sources must themselves be given the same protection as their whistleblower sources;***

Or. en

**Amendment 109**  
**Marco Valli**

**Proposal for a directive**  
**Recital 34**

*Text proposed by the Commission*

*Amendment*



(34) It is for the Member States to identify the authorities competent to receive and give appropriate follow up to the reports on breaches falling within the scope of this Directive. These may be regulatory or supervisory bodies in the areas concerned, law enforcement agencies, anti-corruption bodies and ombudsmen. The authorities designated as competent shall have the necessary capacities and powers to assess the accuracy of the allegations made in the report and to address the breaches reported, including by launching an investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate.

(34) It is for the Member States to identify the authorities competent to receive and give appropriate follow up to the reports on breaches falling within the scope of this Directive ***which also guarantee the highest possible level of independence and impartiality***. These may be regulatory or supervisory bodies in the areas concerned, law enforcement agencies, anti-corruption bodies and ombudsmen. The authorities designated as competent shall have the necessary capacities and powers to assess the accuracy of the allegations made in the report and to address the breaches reported, including by launching an investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate.

Or. en

#### **Amendment 110**

**Marco Valli**

#### **Proposal for a directive**

#### **Recital 40**

*Text proposed by the Commission*

(40) It should be clear that, in the case of private legal entities which do not provide for internal reporting channels, reporting persons should be ***able*** to report directly externally to the competent authorities and such persons should enjoy the protection against retaliation provided by this Directive.

*Amendment*

(40) It should be clear that, in the case of private legal entities which do not provide for internal reporting channels, reporting persons should be ***guaranteed the right*** to report directly externally to the competent authorities and such persons should enjoy the protection against retaliation provided by this Directive.

Or. en

#### **Amendment 111**

**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 40**

*Text proposed by the Commission*

(40) *It should be clear that*, in the case of private legal entities ***which do not provide for*** internal reporting channels, reporting persons ***should*** be able to report directly externally to the competent authorities and such persons should enjoy the protection against retaliation provided by this Directive.

*Amendment*

(40) In the case of private legal entities ***without appropriate*** internal reporting channels, reporting persons ***must*** be able to report directly externally to the competent authorities and such persons should enjoy the protection against retaliation provided by this Directive.

Or. en

**Amendment 112**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 42**

*Text proposed by the Commission*

(42) Provided the confidentiality of the identity of the reporting person is ensured, it is up to each individual private and public legal entity to define the kind of reporting channels to set up, such as in person, by post, by physical complaint box(es), by telephone hotline or through an online platform (intranet or internet). However, reporting channels should not be limited to those amongst the tools, such as in-person reporting and complaint box(es), which do not guarantee confidentiality of the identity of the reporting person.

*Amendment*

(42) Provided the ***anonymity or*** confidentiality of the identity of the reporting person is ensured, it is up to each individual private and public legal entity to define the kind of reporting channels to set up, such as in person, by post, by physical complaint box(es), by telephone hotline or through an online platform (intranet or internet). However, reporting channels should not be limited to those amongst the tools, such as in-person reporting and complaint box(es), which do not guarantee ***anonymity nor*** confidentiality of the identity of the reporting person.

Or. en

**Amendment 113**  
**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 43**

*Text proposed by the Commission*

(43) Third parties may also be authorised to receive reports on behalf of private and public entities, provided they offer appropriate guarantees of respect for independence, confidentiality, data protection and secrecy. These can be external reporting platform providers, external counsel or auditors or trade union representatives.

*Amendment*

(43) Third parties may also be authorised to receive reports on behalf of private and public entities, provided they offer appropriate guarantees of respect for independence, confidentiality, ***the possibility for anonymity*** data protection and secrecy. These can be external reporting platform providers, external counsel or auditors or trade union representatives.

Or. en

**Amendment 114**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 44**

*Text proposed by the Commission*

(44) Internal reporting procedures should enable private legal entities to receive and investigate in full confidentiality reports by the employees of the entity and of its subsidiaries or affiliates (the group), but also, to any extent possible, by any of the group's agents and suppliers and by any person who acquires information through his/her work-related activities with the entity and the group.

*Amendment*

(44) Internal reporting procedures should enable private legal entities to receive and investigate in full confidentiality ***and with respect of anonymity if appropriate*** reports by the employees of the entity and of its subsidiaries or affiliates (the group), but also, to any extent possible, by any of the group's agents and suppliers and by any person who acquires information through his/her work-related activities with the entity and the group.

Or. en

**Amendment 115**  
**Marco Valli**

**Proposal for a directive**  
**Recital 45**

*Text proposed by the Commission*

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case, their function should ensure absence of conflict of interest and independence. In smaller entities, this function could be a dual function held by a company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

*Amendment*

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case, their function should ensure absence of conflict of interest and independence. ***For these subjects, a civil liability regime should be provided in case of wilful misconduct or gross negligence.*** In smaller entities, this function could be a dual function held by a company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

Or. en

**Amendment 116**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 47**

*Text proposed by the Commission*

(47) Persons who are considering reporting breaches of Union law should be able to make an informed decision on whether, how and when to report. Private and public entities having in place internal reporting procedures shall provide information on these procedures as well as on procedures to report externally to

*Amendment*

(47) Persons who are considering reporting breaches of Union law should be able to make an informed decision on whether, how and when to report. Private and public entities having in place internal reporting procedures shall provide information on these procedures as well as on procedures to report externally to

relevant competent authorities. Such information must be easily understandable and easily accessible, including, to any extent possible, also to other persons, beyond employees, who come in contact with the entity through their work-related activities, such as service-providers, distributors, suppliers and business partners. For instance, such information may be posted at a visible location accessible to all these persons and to the web of the entity and may also be included in courses and trainings on ethics and integrity.

relevant competent authorities. *They should also provide information on rights guaranteed to whistleblowers, particularly their right to disclosure guaranteed by this Directive, and their right to turn to civil society organisations involved in whistleblower protection to this end, in particular those who provide strategic and legal advice to whistleblowers* .Such information must be easily understandable and easily accessible, including, to any extent possible, also to other persons, beyond employees, who come in contact with the entity through their work-related activities, such as service-providers, distributors, suppliers and business partners. For instance, such information may be posted at a visible location accessible to all these persons and to the web of the entity and may also be included in courses and trainings on ethics and integrity.

Or. en

#### **Amendment 117**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 48**

###### *Text proposed by the Commission*

(48) Effective detection and prevention of breaches of Union law requires ensuring that potential whistleblowers can easily and in full confidentiality bring the information they possess to the attention of the relevant competent authorities which are able to investigate and to remedy the problem, where possible.

###### *Amendment*

(48) Effective detection and prevention of breaches of Union law requires ensuring that potential whistleblowers can easily and in full confidentiality *and anonymity* bring the information they possess to the attention of the relevant competent authorities which are able to investigate and to remedy the problem, where possible.

Or. en

## **Amendment 118**

**Benedek Jávör**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 48 a (new)**

*Text proposed by the Commission*

*Amendment*

***(48a) In all cases, the reporting person should be informed of the investigation's progress and should be able to access the draft report at least once so as to be able to revise it, comment on it and correct it if necessary, albeit with no obligation to do so. These comments must be incorporated and taken into account in the monitoring of the investigation. The reporting person should be informed of the investigation's outcome and should be able to revise and comment on the final report of the investigation. These comments must be included in the final report.***

Or. en

## **Amendment 119**

**Luke Ming Flanagan**

### **Proposal for a directive**

#### **Recital 49**

*Text proposed by the Commission*

*Amendment*

(49) Lack of confidence in the ***usefulness*** of reporting is one of the main factors discouraging potential whistleblowers. This warrants imposing a clear obligation on competent authorities to diligently follow-up on the reports received, and, within a reasonable timeframe, give feedback to the reporting persons about the action envisaged or taken

(49) ***Along with the very real and very reasonable fear of retaliation***, lack of confidence in the ***effectiveness*** of reporting is one of the main factors discouraging potential whistleblowers. This warrants imposing a clear obligation on competent authorities to diligently follow-up on the reports received, and, within a reasonable timeframe, give feedback to the reporting

as follow-up (for instance, closure based on lack of sufficient evidence or other grounds, launch of an investigation and possibly its findings and/or measures taken to address the issue raised; referral to another authority competent to give follow-up) to the extent that such information would not prejudice the investigation or the rights of the concerned persons.

persons about the action envisaged or taken as follow-up (for instance, closure based on lack of sufficient evidence or other grounds, launch of an investigation and possibly its findings and/or measures taken to address the issue raised; referral to another authority competent to give follow-up) to the extent that such information would not prejudice the investigation or the rights of the concerned persons.

Or. en

## **Amendment 120**

**Marco Valli**

### **Proposal for a directive**

#### **Recital 57**

##### *Text proposed by the Commission*

(57) Member States should ensure the adequate record-keeping of all reports of infringement and that every report is retrievable within the competent authority and that information received through reports could be used as evidence in enforcement actions where appropriate.

##### *Amendment*

(57) Member States should ensure the adequate record-keeping of all reports of infringement and that every report is retrievable within the competent authority and that information received through reports could be used as evidence in enforcement actions where appropriate, ***respecting, where possible, the privacy of the reporter.***

Or. en

## **Amendment 121**

**Tomáš Zdechovský**

### **Proposal for a directive**

#### **Recital 58**

##### *Text proposed by the Commission*

(58) Protection of personal data of the reporting and concerned person is crucial in order to avoid unfair treatment or

##### *Amendment*

(58) Protection of personal data of the reporting and concerned person is crucial in order to avoid unfair treatment or

reputational damages due to disclosure of personal data, in particular data revealing the identity of a person concerned. Hence, in line with the requirements of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter also referred to as 'GDPR'), competent authorities should establish adequate data protection procedures specifically geared to the protection of the reporting person, the concerned person and any third person referred to in the report that should include a secure system within the competent authority with restricted access rights for authorised staff only.

reputational damages due to disclosure of personal data, in particular data revealing the identity of a person concerned. Hence, in line with the requirements of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter also referred to as 'GDPR'), competent authorities **and relevant bodies, offices or agencies of the Union** should establish adequate data protection procedures specifically geared to the protection of the reporting person, the concerned person and any third person referred to in the report that should include a secure system within the competent authority with restricted access rights for authorised staff only.

Or. en

## **Amendment 122**

**Benedek Jávor**

on behalf of the Verts/ALE Group

## **Proposal for a directive**

### **Recital 58**

*Text proposed by the Commission*

(58) Protection of personal data of the reporting and concerned person is crucial in order to avoid unfair treatment or reputational damages due to disclosure of personal data, in particular data revealing the identity of a person concerned. Hence, in line with the requirements of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter also referred to as 'GDPR'), competent authorities should establish adequate data protection procedures specifically geared to the

*Amendment*

(58) Protection of personal data of the reporting and concerned person, **as well as of the report itself** is crucial in order to avoid unfair treatment or reputational damages due to disclosure of personal data, in particular data revealing the identity of a person concerned. Hence, in line with the requirements of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter also referred to as 'GDPR'), competent authorities should establish adequate data protection procedures



protection of the reporting person, the concerned person and any third person referred to in the report that should include a secure system within the competent authority with restricted access rights for authorised staff only.

specifically geared to the protection of the reporting person, the concerned person and any third person referred to in the report that should include a secure system within the competent authority with restricted access rights for authorised staff only.

Or. en

#### **Amendment 123**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 59**

###### *Text proposed by the Commission*

(59) The regular review of the procedures of competent authorities and the exchange of good practices between them should guarantee that those procedures are adequate and thus serving their purpose.

###### *Amendment*

(59) The regular review of the procedures of competent authorities and the exchange of good practices between them **and competent civil society organisations** should guarantee that those procedures are adequate and thus serving their purpose.

Or. en

#### **Amendment 124**

**Luke Ming Flanagan**

#### **Proposal for a directive**

##### **Recital 60**

###### *Text proposed by the Commission*

(60) To enjoy protection, the reporting persons should reasonably believe, in light of the circumstances and the information available to them at the time of the reporting, that the matters reported by them are true. This reasonable belief **should** be presumed unless and until proven otherwise. This is an essential safeguard

###### *Amendment*

(60) To enjoy protection, the reporting persons should reasonably believe, in light of the circumstances and the information available to them at the time of the reporting, that the matters reported by them are true. This reasonable belief **shall** be presumed unless and until proven otherwise. This is an essential safeguard

against malicious and frivolous or abusive reports, ensuring that those who deliberately and knowingly report wrong or misleading information do not enjoy protection. At the same time, it ensures that protection is not lost where the reporting person made an inaccurate report in honest error. In a similar vein, reporting persons should be entitled to protection under this Directive if they have reasonable grounds to believe that the information reported falls within its scope.

against malicious and frivolous or abusive reports, ensuring that those who deliberately and knowingly report wrong or misleading information do not enjoy protection. At the same time, it ensures that protection is not lost where the reporting person made an inaccurate report in honest error. In a similar vein, reporting persons should be entitled to protection under this Directive if they have reasonable grounds to believe that the information reported falls within its scope.

Or. en

## **Amendment 125**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 61**

*Text proposed by the Commission*

(61) ***The requirement of a tiered use of reporting channels, as a general rule, is necessary to ensure that the information gets to the persons who can contribute to the early and effective resolution of risks to the public interest as well as to prevent unjustified reputational damage from public disclosure. At the same time, some exceptions to its application are necessary, allowing the reporting person to choose the most appropriate channel depending on the individual circumstances of the case. Moreover, it is*** necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the

*Amendment*

(61) It is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights<sup>57</sup>.

criteria developed in the case-law of the European Court of Human Rights<sup>57</sup>.

---

<sup>57</sup> One of the criteria for determining whether retaliation against whistleblowers making public disclosures interferes with freedom of expression in a way which is not necessary in a democratic society, is whether the persons who made the disclosure had at their disposal alternative channels for making the disclosure; see, for instance, *Guja v. Moldova* [GC], no 14277/04, ECHR 2008.

---

<sup>57</sup> One of the criteria for determining whether retaliation against whistleblowers making public disclosures interferes with freedom of expression in a way which is not necessary in a democratic society, is whether the persons who made the disclosure had at their disposal alternative channels for making the disclosure; see, for instance, *Guja v. Moldova* [GC], no 14277/04, ECHR 2008.

Or. en

## **Amendment 126**

**Benedek Jávör**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 62**

*Text proposed by the Commission*

***(62) As a rule, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities which are not under an obligation to establish such channels by virtue of this Directive or applicable national law) or that their use is not mandatory (which may be the case for persons who are not in an employment relationship), or that they were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry).***

*Amendment*

***deleted***

Or. en

**Amendment 127**  
**Luke Ming Flanagan**

**Proposal for a directive**  
**Recital 62**

*Text proposed by the Commission*

(62) As a rule, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities which are not under an obligation to establish such channels by virtue of this Directive or applicable national law) or that their use is not mandatory (which may be the case for persons who are not in an employment relationship), or that they were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry).

*Amendment*

(62) As a rule, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities which are not under an obligation to establish such channels by virtue of this Directive or applicable national law) or that their use is not mandatory (which may be the case for persons who are not in an employment relationship), or that they were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry), ***or that the reporting persons fear that the use of such channels exposes them to the risk of retaliation (see next paragraph);***

Or. en

**Amendment 128**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 62**

*Text proposed by the Commission*

(62) ***As a rule***, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities

*Amendment*

(62) Reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities which are not

which are not under an obligation to establish such channels by virtue of this Directive or applicable national law) or that their use is not mandatory (which may be the case for persons who are not in an employment relationship), or that they were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry).

under an obligation to establish such channels by virtue of this Directive or applicable national law) or that their use is not mandatory (which may be the case for persons who are not in an employment relationship), or that they were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry), ***or where there is a substantiated belief that the use of internal channels might hinder the reporting;***

Or. en

#### **Amendment 129**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Recital 63**

*Text proposed by the Commission*

*Amendment*

***(63) In other cases, internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; that their confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be concealed or destroyed; that the effectiveness of investigative actions by competent authorities might be jeopardised or that urgent action is required (for instance because of an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment. In all such cases, persons reporting***

***deleted***

*externally to the competent authorities and, where relevant, to bodies, offices or agencies of the Union shall be protected. Moreover, protection is also to be granted in cases where Union legislation allows for the reporting person to report directly to the competent national authorities or bodies, offices or agencies of the Union, for example in the context of fraud against the Union budget, prevention and detection of money laundering and terrorist financing or in the area of financial services.*

Or. en

**Amendment 130**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 63**

*Text proposed by the Commission*

(63) In other cases, internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; that their confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be concealed or destroyed; that the effectiveness of investigative actions by competent authorities might be jeopardised or that urgent action is required (for instance because of an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment. In all such cases, persons reporting externally to the competent authorities and, where relevant, to bodies, offices or agencies of the Union shall be

*Amendment*

(63) In other cases, internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; ***where they believe the internal channels lack independence***; that their confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be concealed or destroyed; that the effectiveness of investigative actions by competent authorities might be jeopardised or that urgent action is required (for instance because of an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment. In all such cases, persons reporting externally to the competent authorities and, where relevant, to bodies,

protected. Moreover, protection is also to be granted in cases where Union legislation allows for the reporting person to report directly to the competent national authorities or bodies, offices or agencies of the Union, for example in the context of fraud against the Union budget, prevention and detection of money laundering and terrorist financing or in the area of financial services.

offices or agencies of the Union shall be protected. Moreover, protection is also to be granted in cases where Union legislation allows for the reporting person to report directly to the competent national authorities or bodies, offices or agencies of the Union, for example in the context of fraud against the Union budget, prevention and detection of money laundering and terrorist financing or in the area of financial services.

Or. en

**Amendment 131**  
**Luke Ming Flanagan**

**Proposal for a directive**  
**Recital 63**

*Text proposed by the Commission*

(63) In **other** cases, internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; that their confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be concealed or destroyed; that the effectiveness of investigative actions by competent authorities might be jeopardised or that urgent action is required (for instance because of an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment. In all such cases, persons reporting externally to the competent authorities and, where relevant, to bodies, offices or agencies of the Union shall be protected. Moreover, protection is also to be granted in cases where Union legislation

*Amendment*

(63) In **some** cases internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; that their confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be concealed or destroyed; that the effectiveness of investigative actions by competent authorities might be jeopardised or that urgent action is required (for instance because of an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment. In all such cases, persons reporting externally to the competent authorities and, where relevant, to bodies, offices or agencies of the Union shall be protected. Moreover, protection is also to be granted in cases where Union legislation

allows for the reporting person to report directly to the competent national authorities or bodies, offices or agencies of the Union, for example in the context of fraud against the Union budget, prevention and detection of money laundering and terrorist financing or in the area of financial services.

allows for the reporting person to report directly to the competent national authorities or bodies, offices or agencies of the Union, for example in the context of fraud against the Union budget, prevention and detection of money laundering and terrorist financing or in the area of financial services.

Or. en

## **Amendment 132**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 65**

*Text proposed by the Commission*

(65) Reporting persons should be protected against any form of retaliation, whether direct or indirect, taken by their employer or customer/recipient of services and by persons working for or acting on behalf of the latter, including co-workers and managers in the same organisation or in other organisations with which the reporting person is in contact in the context of his/her work-related activities, where retaliation is recommended or tolerated by the concerned person. Protection should be provided against retaliatory measures taken vis-à-vis the reporting person him/herself but also those that may be taken vis-à-vis the legal entity he/she represents, such as denial of provision of services, blacklisting or business boycotting. Indirect retaliation also includes actions taken against relatives of the reporting person who are also in a work-related connection with the latter's employer or customer/recipient of services and workers' representatives who have provided support to the reporting person.

*Amendment*

(65) Reporting persons should be protected against any form of retaliation, whether direct or indirect, taken by their employer or customer/recipient of services and by persons working for or acting on behalf of the latter, including co-workers and managers in the same organisation or in other organisations with which the reporting person is in contact in the context of his/her work-related activities, where retaliation is recommended or tolerated by the concerned person. Protection should be provided against retaliatory measures taken vis-à-vis the reporting person him/herself but also those that may be taken vis-à-vis the legal entity he/she represents, such as denial of provision of services, blacklisting or business boycotting. ***Protection against retaliation should also be granted to natural or legal persons closely linked to the reporting person, irrespective of the nature of the activities, and whether they are paid or not.*** Indirect retaliation also includes actions taken against relatives of the reporting person who are also in a work-related connection with the latter's



employer or customer/recipient of services and workers' representatives who have provided support to the reporting person.

Or. en

**Amendment 133**  
**Luke Ming Flanagan**

**Proposal for a directive**  
**Recital 66**

*Text proposed by the Commission*

(66) Where retaliation occurs undeterred and unpunished, it has a chilling effect on potential whistleblowers. A clear prohibition of retaliation in law has an important dissuasive effect, **further** strengthened by provisions for personal liability and penalties for the perpetrators of retaliation.

*Amendment*

(66) Where retaliation occurs undeterred and unpunished, it has a chilling effect on potential whistleblowers. A clear prohibition of retaliation in law has an important dissuasive effect, **and must be** strengthened by provisions for personal liability and penalties for the perpetrators of retaliation, **and for those in management positions who facilitate and/or ignore such retaliation;**

Or. en

**Amendment 134**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 67**

*Text proposed by the Commission*

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public. Individual, impartial and confidential

*Amendment*

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public **and support the work of CSOs providing this**

advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel may best be used and which alternative procedures are available in case the information is not covered by the applicable rules ('signposting'). Access to such advice can help ensure that reports are made through the appropriate channels, in a responsible manner and that breaches and wrongdoings are detected in a timely manner or even prevented.

*information*. Individual, impartial and confidential advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel may best be used and which alternative procedures are available in case the information is not covered by the applicable rules ('signposting'). Access to such advice can help ensure that reports are made through the appropriate channels, in a responsible manner and that breaches and wrongdoings are detected in a timely manner or even prevented.

Or. en

**Amendment 135**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 67**

*Text proposed by the Commission*

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public. Individual, impartial and confidential advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel may best be used and which alternative procedures are available in case the information is not covered by the applicable rules ('signposting'). Access to such advice can help ensure that reports are made through the appropriate channels, in a responsible manner and that breaches

*Amendment*

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States ***and relevant bodies, offices or agencies of the Union*** should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public. Individual, impartial and confidential advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel may best be used and which alternative procedures are available in case the information is not covered by the applicable rules ('signposting'). Access to such advice can help ensure that reports are made through the appropriate channels, in

and wrongdoings are detected in a timely manner or even prevented.

a responsible manner and that breaches and wrongdoings are detected in a timely manner or even prevented.

Or. en

**Amendment 136**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Recital 67**

*Text proposed by the Commission*

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public. Individual, impartial and confidential advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel may best be used and which alternative procedures are available in case the information is not covered by the applicable rules ('signposting'). Access to such advice can help ensure that reports are made through the appropriate channels, in a responsible manner and that breaches and wrongdoings are detected in a timely manner or even prevented.

*Amendment*

(67) Potential whistleblowers who are not sure about how to report or whether they will be protected in the end may be discouraged from reporting. Member States should ensure that relevant information is provided in a user-friendly way and is easily accessible to the general public. Individual, impartial and confidential advice, free of charge, should be available on, for example, whether the information in question is covered by the applicable rules on whistleblower protection, which reporting channel may best be used and which alternative procedures are available in case the information is not covered by the applicable rules ('signposting'). Access to such advice ***anonymously*** can help ensure that reports are made through the appropriate channels, in a responsible manner and that breaches and wrongdoings are detected in a timely manner or even prevented.

Or. en

**Amendment 137**  
**Luke Ming Flanagan**

**Proposal for a directive**  
**Recital 70**

*Text proposed by the Commission*

(70) Retaliatory measures are likely to be presented as being justified on grounds other than the reporting and it can be very difficult for reporting persons to prove the link between the two, whilst the perpetrators of retaliation may have greater power and resources to document the action taken and the reasoning. Therefore, once the reporting person demonstrates prima facie that he/she made a report or disclosure in line with this Directive and suffered a detriment, the burden of proof ***should*** shift to the person who took the detrimental action, who ***should*** then demonstrate that their the action taken was not linked in any way to the reporting or the disclosure.

*Amendment*

(70) Retaliatory measures are likely to be presented as being justified on grounds other than the reporting and it can be very difficult for reporting persons to prove the link between the two, whilst the perpetrators of retaliation may have greater power and resources to document the action taken and the reasoning. Therefore, once the reporting person demonstrates prima facie that he/she made a report or disclosure in line with this Directive and suffered a detriment, the burden of proof ***shall*** shift to the person who took the detrimental action, who ***must*** then demonstrate that their the action taken was not linked in any way to the reporting or the disclosure.

Or. en

**Amendment 138**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 74**

*Text proposed by the Commission*

(74) Action taken against reporting persons outside the work-related context, through proceedings, for instance, related to defamation, breach of copyright, trade secrets, confidentiality and personal data protection, can also pose a serious deterrent to whistleblowing. Directive (EU) 2016/943 of the European Parliament and of the Council<sup>58</sup> exempts reporting persons from the civil redress measures, procedures and remedies it provides for, in case the alleged acquisition, use or disclosure of the trade secret ***was carried out for revealing*** misconduct, wrongdoing or illegal activity,

*Amendment*

(74) Action taken against reporting persons outside the work-related context, through proceedings, for instance, related to defamation, breach of copyright, trade secrets, confidentiality and personal data protection, can also pose a serious deterrent to whistleblowing. ***The protection of whistleblowers provided for in this Directive shall prevail over*** Directive (EU) 2016/943 of the European Parliament and of the Council<sup>58</sup> exempts reporting persons from the civil redress measures, procedures and remedies it provides for ***that***, in case the alleged acquisition, use or disclosure of

provided that the respondent acted for the purpose of protecting the general public interest. Also in other proceedings, reporting persons should be able to rely on having made a report or disclosure in accordance with this Directive as a defence. In such cases, the person initiating the proceedings should carry the burden to prove any intent on the part of the reporting person to violate the law.

---

<sup>58</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

the trade secret *can reasonably be assumed to serve as proof of actual* misconduct, wrongdoing or illegal activity, provided that the respondent acted for the purpose of protecting the general public interest. Also in other proceedings, reporting persons should be able to rely on having made a report or disclosure in accordance with this Directive as a defence. In such cases, the person initiating the proceedings should carry the burden to prove any intent on the part of the reporting person to violate the law.

---

<sup>58</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

Or. en

## **Amendment 139**

### **Marco Valli**

#### **Proposal for a directive**

#### **Recital 78**

##### *Text proposed by the Commission*

(78) Penalties are necessary to ensure the effectiveness of the rules on whistleblower protection. Penalties against those who take retaliatory or other adverse actions against reporting persons can discourage further such actions. ***Penalties against persons who make a report or disclosure demonstrated to be knowingly false are necessary to deter further malicious reporting and preserve the credibility of the system. The proportionality of such penalties should***

##### *Amendment*

(78) Penalties are necessary to ensure the effectiveness of the rules on whistleblower protection. Penalties against those who take retaliatory or other adverse actions against reporting persons can discourage further such actions.

*ensure that they do not have a dissuasive effect on potential whistleblowers.*

Or. en

#### **Amendment 140**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 78**

*Text proposed by the Commission*

(78) Penalties are necessary to ensure the effectiveness of the rules on whistleblower protection. Penalties against those who take retaliatory or other adverse actions against reporting persons can discourage further such actions. ***Penalties against persons who make a report or disclosure demonstrated to be knowingly false are necessary to deter further malicious reporting and preserve the credibility of the system. The proportionality of such penalties should ensure that they do not have a dissuasive effect on potential whistleblowers.***

*Amendment*

(78) Penalties are necessary to ensure the effectiveness of the rules on whistleblower protection. Penalties against those who take retaliatory or other adverse actions against reporting persons can discourage further such actions.

Or. en

#### **Amendment 141**

**Marco Valli**

#### **Proposal for a directive**

##### **Recital 80**

*Text proposed by the Commission*

(80) This Directive introduces minimum standards and Member States should have the power to introduce or maintain more favourable provisions to the reporting person, provided that such provisions do

*Amendment*

(80) This Directive introduces minimum standards and Member States should have the power to introduce or maintain more favourable provisions to the reporting person, provided that such provisions do

not interfere with the measures for the protection of concerned persons.

not interfere with the measures for the protection of concerned persons.

***Moreover, the Member States can set up a reward system that can offer a fair compensation in the event that the report involves the prevention of considerable pecuniary damage or a recovery of significant sums by the European Union.***

Or. en

#### **Amendment 142**

**Marco Valli**

#### **Proposal for a directive**

#### **Recital 82**

*Text proposed by the Commission*

(82) The material scope of this Directive is based on the identification of areas where the introduction of whistleblower protection appears justified and necessary on the basis of currently available evidence. ***Such material scope may be extended to further areas or Union acts, if this proves necessary as a means of strengthening their enforcement in the light of evidence that may come to the fore in the future or on the basis of the evaluation of the way in which this Directive has operated.***

*Amendment*

(82) The material scope of this Directive is based on the identification of areas where the introduction of whistleblower protection appears justified and necessary on the basis of currently available evidence ***and it shall*** be extended to ***all*** areas or Union acts, on the basis of the ***art. 352 of TFUE.***

Or. en

#### **Amendment 143**

**Marco Valli**

#### **Proposal for a directive**

#### **Recital 84**

*Text proposed by the Commission*

*Amendment*

(84) The objective of this Directive, namely to strengthen enforcement *in certain policy areas and acts* where breaches of Union law can cause serious harm to the public interest through effective whistleblower protection, cannot be sufficiently achieved by the Member States acting alone or in an uncoordinated manner, but can rather be better achieved by Union action providing minimum standards of harmonisation on whistleblower protection. Moreover, only Union action can provide coherence and align the existing Union rules on whistleblower protection. Therefore, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

(84) The objective of this Directive, namely to strengthen enforcement where breaches of Union law can cause serious harm to the public interest through effective whistleblower protection, cannot be sufficiently achieved by the Member States acting alone or in an uncoordinated manner, but can rather be better achieved by Union action providing minimum standards of harmonisation on whistleblower protection. Moreover, only Union action can provide coherence and align the existing Union rules on whistleblower protection. Therefore, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

Or. en

#### **Amendment 144**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – introductory part**

##### *Text proposed by the Commission*

1. With a view to enhancing the enforcement of Union law and policies in specific areas, this Directive lays down common minimum standards for the protection of persons reporting on *the following* unlawful activities *or* abuse of law:

##### *Amendment*

1. With a view to enhancing the enforcement of Union law and policies in specific areas, this Directive lays down common minimum standards for the protection of persons reporting on unlawful activities, abuse of law *or threats to the public interest, including:*

Or. en



**Amendment 145**  
**Marco Valli**

**Proposal for a directive**  
**Article 1 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. With a view to enhancing the enforcement of Union law and policies *in specific areas*, this Directive lays down common minimum standards for the protection of persons reporting on the following unlawful activities or abuse of law:

*Amendment*

1. With a view to enhancing the enforcement of Union law and policies, this Directive lays down common minimum standards for the protection of persons reporting on the following unlawful activities or abuse of law:

Or. en

**Amendment 146**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 1 – paragraph 1 – point a – introductory part**

*Text proposed by the Commission*

(a) breaches falling within the scope of the Union acts *set out in the Annex (Part I and Part II) as regards* the following areas:

*Amendment*

(a) breaches falling within the scope of the Union acts, *including but not limited to* the following areas:

Or. en

**Amendment 147**  
**Tomáš Zdechovský**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point a – point ii**

*Text proposed by the Commission*

(ii) financial services, prevention of money laundering *and* terrorist financing;

*Amendment*

(ii) financial services, prevention of *tax evasion*, money laundering, terrorist

financing *and financing of organized crime*;

Or. en

#### **Amendment 148**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point a – point ii**

*Text proposed by the Commission*

(ii) financial services, prevention of money laundering and terrorist financing;

*Amendment*

(ii) financial services, prevention of money laundering and terrorist financing, *corruption and organised crime*

Or. en

#### **Amendment 149**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point a – point v**

*Text proposed by the Commission*

(v) protection of the environment;

*Amendment*

(v) protection of the environment, *sustainable development, waste management, sea, air and noise pollution, protection and management of water and soils, protecting the natural world and biodiversity as well as combating climate change and wildlife crime*;

Or. en

#### **Amendment 150**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 1 – point a – point viii**

*Text proposed by the Commission*

*Amendment*

(viii) public health;

(viii) public health *or public safety*;

Or. en

**Amendment 151**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 1 – point a – point x a (new)**

*Text proposed by the Commission*

*Amendment*

(xa) *employment and working conditions*;

Or. en

**Amendment 152**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 1 – point a – point x b (new)**

*Text proposed by the Commission*

*Amendment*

(xb) *tax fraud, tax evasion and tax optimisation*

Or. en

**Amendment 153**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 1 – point a – point x c (new)**

*Text proposed by the Commission*

*Amendment*

*(xc) violations of human rights or of  
the rights enshrined in the European  
Charter of Fundamental Rights;*

Or. en

**Amendment 154**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 1 – point a – point x d (new)**

*Text proposed by the Commission*

*Amendment*

*(xd) company law;*

Or. en

**Amendment 155**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 1 – point a – point x e (new)**

*Text proposed by the Commission*

*Amendment*

*(xe) asylum and migration law*

Or. en

**Amendment 156**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

## Article 1 – paragraph 1 – point b

*Text proposed by the Commission*

(b) breaches of Articles 101, 102, 106, 107 and 108 TFEU and breaches falling within the scope of Council Regulation (EC) No 1/2003 and Council Regulation (EU) No 2015/1589;

*Amendment*

(b) ***competition law, especially*** breaches of Articles 101, 102, 106, 107 and 108 TFEU and breaches falling within the scope of Council Regulation (EC) No 1/2003 and Council Regulation (EU) No 2015/1589;

Or. en

## Amendment 157

**Benedek Jávor**

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 1 – paragraph 1 – point d

*Text proposed by the Commission*

(d) breaches relating to the internal market, as referred to in Article 26(2) TFEU, as regards acts which breach the rules of corporate tax or arrangements whose purpose is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law.

*Amendment*

(d) breaches relating to the internal market, as referred to in Article 26(2) TFEU, ***particularly*** as regards acts which breach the rules of corporate tax or arrangements whose purpose is to obtain a tax advantage that defeats the object or purpose of the applicable corporate tax law.

Or. en

## Amendment 158

**Marco Valli**

### Proposal for a directive

#### Article 1 – paragraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(da) all the remaining sectors in which the public interest is harmed or there is a breach of EU law.***

## **Amendment 159**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 2**

##### *Text proposed by the Commission*

2. Where specific rules on the reporting of breaches are provided for in sector-specific Union acts listed in Part 2 of the Annex, those rules shall apply. The provisions of this Directive shall be applicable for all matters relating to the protection of reporting persons not regulated in those sector-specific Union acts.

##### *Amendment*

2. Where specific rules on the reporting of breaches are provided for in sector-specific Union acts listed in Part 2 of the Annex, those rules shall apply. The provisions of this Directive shall be applicable for all matters relating to the protection of reporting persons not regulated in those sector-specific Union acts. ***This paragraph shall apply only in cases where the protection foreseen in sector-specific acts is higher than the one guaranteed by this directive.***

Or. en

## **Amendment 160**

**Marco Valli**

### **Proposal for a directive**

#### **Article 2 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(a) persons having the status of worker, with the meaning of Article 45 TFEU;

##### *Amendment*

(a) persons having the status of ***worker, or former*** worker, with the meaning of Article 45 TFEU;

Or. en

## **Amendment 161**

**Marco Valli**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) This Directive shall also apply to European Union staff members, as defined within the EU Staff Regulation;*

Or. en

**Amendment 162**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 2 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) any person fitting the descriptions in a-d presenting new information on a breach.*

Or. en

**Amendment 163**  
**Marco Valli**

**Proposal for a directive**  
**Article 2 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. This Directive shall also apply to reporting persons whose work-based relationship is yet to begin in cases where information concerning a breach has been acquired during the recruitment process or other pre-contractual negotiation.

2. This Directive shall also apply to reporting persons whose work-based relationship is yet to begin in cases where information concerning a breach has been acquired during the recruitment process or other pre-contractual negotiation, *or even to reporting persons whose employment relationship is terminated..*

Or. en

**Amendment 164**

**Marco Valli**

**Proposal for a directive**

**Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. This Directive shall also apply to legal and natural person associated with a reporting person if such person makes probable that he or she suffered a detriment due to his or her connection to a reporting person.**

Or. en

**Amendment 165**

**Marco Valli**

**Proposal for a directive**

**Article 2 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2b. This Directive shall also apply to legal and natural person who makes probable that he or she suffered a detriment due to the fact that he or she was believed to be a reporting person or an associated person.**

Or. en

**Amendment 166**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 3 – paragraph 1 – point 1**

*Text proposed by the Commission*

*Amendment*



(1) ‘breaches’ means actual or potential unlawful activities or abuse of law relating to the Union acts **and** areas falling within the scope referred to in Article 1 **and in the Annex**;

(1) ‘breaches’ means actual or potential unlawful activities, **omissions** or abuse of law relating to the Union acts, **notably in** areas falling within the scope referred to in Article 1;

Or. en

#### **Amendment 167**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point 5**

*Text proposed by the Commission*

(5) ‘report’ means the provision of information relating to a breach which has occurred or is likely to occur **in the organisation at which the reporting person works or has worked or in another organisation with which he or she is or was in contact through his or her work**;

*Amendment*

(5) ‘report’ means the provision of information relating to a breach which has occurred or is likely to occur **and/or in the event of a serious, imminent threat or where there is a risk of irreversible damage to human life, the environment and/or public health**

Or. en

#### **Amendment 168**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Article 3 – paragraph 1 – point 9**

*Text proposed by the Commission*

(9) ‘reporting person’ means a natural or legal person who reports or discloses information on breaches **acquired in the context of his or her work-related activities**;

*Amendment*

(9) ‘reporting person’ means a natural or legal person who reports or discloses information on breaches, **or who contributes, assists or aids to reveal or make public information on breaches**;

Or. en

## Amendment 169

Marco Valli

### Proposal for a directive

#### Article 3 – paragraph 1 – point 12

##### *Text proposed by the Commission*

(12) ‘retaliation’ means any threatened or actual act or omission prompted by the internal or external reporting which occurs in a work-related context and causes or may cause unjustified detriment to the reporting person;

##### *Amendment*

(12) ‘retaliation’ means any threatened or actual act or omission prompted by the internal or external reporting which occurs in a work-related context, ***or even after the termination of the employment relationship*** and causes or may cause unjustified detriment to the reporting person;

Or. en

## Amendment 170

Benedek Jávor

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 3 – paragraph 1 – point 12

##### *Text proposed by the Commission*

(12) ‘retaliation’ means any threatened or actual ***act or*** omission prompted by the internal ***or*** external reporting which ***occurs in a work-related context and*** causes or may cause unjustified detriment to the reporting person;

##### *Amendment*

(12) ‘retaliation’ means any threatened or actual ***actor*** omission prompted by the internal, external reporting ***or disclosure and*** which causes or may cause unjustified detriment to the reporting person, ***suspected reporting person or their family members, relatives and facilitators;***

Or. en

## Amendment 171

Marco Valli

### Proposal for a directive

## Article 4 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that legal entities in the private and in the public sector establish internal channels and procedures for reporting and following up on reports, following consultations with social partners, if appropriate.

*Amendment*

1. Member States shall ensure that legal entities in the private and in the public sector establish internal channels and procedures for reporting and following up on reports, **and protecting reporting persons**, following consultations with social partners, if appropriate.

Or. en

## Amendment 172

Dennis de Jong

### Proposal for a directive

#### Article 4 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that legal entities in the private and in the public sector establish internal channels and procedures for reporting and following up on reports, following consultations with social partners, if appropriate.

*Amendment*

1. Member States shall ensure that legal entities in the private and in the public sector establish internal channels and procedures for reporting and following up on reports, **and protecting reporting persons**, following consultations with social partners, if appropriate.

Or. en

## Amendment 173

Benedek Jávor

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 4 – paragraph 2

*Text proposed by the Commission*

2. Such channels and procedures shall allow for reporting by employees of the entity. They **may** allow for reporting by other persons who are in contact with the

*Amendment*

2. Such channels and procedures shall allow for reporting by employees of the entity. They **shall** allow for reporting by other persons who are in contact with the

entity in the context of their work-related activities, referred to in Article 2(1)(b),(c) and (d), ***but the use of internal channels for reporting shall not be mandatory for these categories of persons.***

entity in the context of their work-related activities, referred to in Article 2(1)(b),(c) and (d).

Or. en

**Amendment 174**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 4 – paragraph 3 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) private legal entities of any size whose conducted activities are likely to constitute a danger to the environment or to public health***

Or. en

**Amendment 175**

**Marco Valli**

**Proposal for a directive**

**Article 4 – paragraph 6 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) European Union institutions, agencies and bodies;***

Or. en

**Amendment 176**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 4 – paragraph 6 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) European Union institutions,  
agencies and bodies.*

Or. en

**Amendment 177**

**Tomáš Zdechovský**

**Proposal for a directive**

**Article 5 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) channels for receiving the reports which are designed, set up and operated in a manner that ensures the confidentiality of the identity of the reporting person and prevents access to non-authorised staff members;

(a) ***independent*** channels for receiving the reports which are designed, set up and operated in a manner that ensures the confidentiality of the identity of the reporting person and prevents access to non-authorised staff members;

Or. en

**Amendment 178**

**Tomáš Zdechovský**

**Proposal for a directive**

**Article 5 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the designation of a person or department competent for following up on the reports;

(b) the designation of a ***specifically trained*** person or department competent for following up on the reports;

Or. en

**Amendment 179**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 5 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) diligent follow up to the report by the designated person or department;

*Amendment*

(c) diligent follow up to the report by the designated person or department ***and appropriate and timely action if needed;***

Or. en

**Amendment 180**

**Marco Valli**

**Proposal for a directive**

**Article 5 – paragraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) the prompt acknowledgement of receipt of written reports to the postal or electronic address indicated by the reporting person***

Or. en

**Amendment 181**

**Dennis de Jong**

**Proposal for a directive**

**Article 5 – paragraph 1 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) (f) the prompt acknowledgement of receipt of written reports to the postal or electronic address indicated by the reporting person***

Or. en

## **Amendment 182**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 5 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) written reports in electronic or paper format and/or oral report through telephone lines, whether recorded or unrecorded;

*Amendment*

(a) written reports in electronic or paper format and/or oral report through telephone lines, whether recorded or unrecorded; ***in case the phone conversation is recorded, the prior consent of the reporting person is necessary;***

Or. en

## **Amendment 183**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 5 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) physical meetings with the person or department designated to receive reports.

*Amendment*

(b) physical meetings with the person or department designated to receive reports ***accompanied, if the reporting person requests it, by a union representative, by a representative of civil society or his/her legal representative.***

Or. en

## **Amendment 184**

**Benedek Jávor**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 5 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a. Member States shall ensure the protection of report to an employer other than his or her direct employer where there are multiple organisations or employers involved and the worker reasonably believes the information relates solely or mainly to the conduct of that person or organisation, or is a matter for which that person or organisation has legal responsibility. Any such disclosure shall be treated as internal reporting.**

Or. en

**Amendment 185**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 6 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) establish independent and autonomous external reporting channels, which are both secure and ensure confidentiality, for receiving and handling information provided by the reporting person;

*Amendment*

(a) establish independent and autonomous external reporting channels, which are both secure and ensure confidentiality, for receiving and handling information provided by the reporting person **and allow for anonymous reporting**;

Or. en

**Amendment 186**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 6 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*



(b) give feedback to the reporting person about the follow-up of the report within a reasonable timeframe not exceeding *three* months *or six months in duly justified cases*;

(b) *acknowledge receipt of the report within 5 working days*, give feedback to the reporting person about the follow-up of the report within a reasonable timeframe not exceeding *two* months;

Or. en

#### **Amendment 187**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Article 6 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall ensure that any authority which has received a report but does not have the competence to address the breach reported transmits it to the competent authority and that the reporting person is informed.

*Amendment*

4. Member States shall ensure that any authority which has received a report but does not have the competence to address the breach reported transmits it to the competent authority and that the reporting person is informed. *Member States shall ensure that competent authorities receiving reports they do not have competence to address have clear procedures for handling all disclosed information securely with due regard to confidentiality or anonymity.*

Or. en

#### **Amendment 188**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Article 7 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) they guarantee free and independent advice and legal support for reporting persons and intermediaries.*

**Amendment 189**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 7 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) physical meeting with dedicated staff members of the competent authority.

*Amendment*

(c) physical meeting with dedicated staff members of the competent authority ***accompanied, if the reporting person requests it, by a union representative by a representative of civil society or his/her legal representative.***

Or. en

**Amendment 190**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 7 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall establish procedures to ensure that, where a report being initially addressed to a person who has not been designated as responsible handler for reports that person is refrained from disclosing any information that might identify the reporting or the concerned person.

*Amendment*

4. Member States ***and EU Bodies*** shall establish procedures to ensure that, where a report being initially addressed to a person who has not been designated as responsible handler for reports that person is refrained from disclosing any information that might identify the reporting or the concerned person

Or. en

**Amendment 191**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 8 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that competent authorities have staff members dedicated to handling reports. Dedicated staff members shall receive specific training for the purposes of handling reports.

*Amendment*

1. Member States shall ensure that competent authorities have ***an adequate number of competent*** staff members dedicated to handling reports. Dedicated staff members shall receive specific training for the purposes of handling reports.

Or. en

**Amendment 192**  
**Marco Valli**

**Proposal for a directive**  
**Article 9 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) ***the confidentiality regime applicable to reports, including a detailed description of the circumstances under which the confidential data of a reporting person may be disclosed.***

*Amendment*

***deleted***

Or. en

**Amendment 193**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 13 – paragraph 1**

*Text proposed by the Commission*

1. A reporting person shall qualify for protection under this Directive provided he or she has reasonable grounds to believe that the information reported was true at

*Amendment*

1. A reporting person shall qualify for protection under this Directive provided he or she has reasonable grounds to believe that the information reported was true at

the time of reporting and that this information falls within the scope of this Directive.

the time of reporting and that this information falls within the scope of this Directive, ***regardless of the reporting channel chosen.***

Or. en

**Amendment 194**  
**Marco Valli**

**Proposal for a directive**  
**Article 13 – paragraph 1**

*Text proposed by the Commission*

1. A reporting person shall qualify for protection under this Directive provided he or she has reasonable grounds to believe that the information reported was true at the time of reporting ***and that this information falls within the scope of this Directive.***

*Amendment*

1. A reporting person shall qualify for protection under this Directive provided he or she has reasonable grounds to believe that the information reported was true at the time of reporting.

Or. en

**Amendment 195**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 13 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. A person ***reporting externally*** shall qualify for protection under this Directive ***where one of the following conditions is fulfilled :***

*Amendment*

2. A person ***who anonymously disclosed information that falls within the scope of this directive and whose identity was revealed*** shall ***also*** qualify for protection under this directive.

Or. en

**Amendment 196**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 13 – paragraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

(a) *he or she first reported internally but no appropriate action was taken in response to the report within the reasonable timeframe referred in Article 5;* *deleted*

Or. en

**Amendment 197**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 13 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) *internal reporting channels were not available for the reporting person or the reporting person could not reasonably be expected to be aware of the availability of such channels;* *deleted*

Or. en

**Amendment 198**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 13 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) *the use of internal reporting channels was not mandatory for the* *deleted*

*reporting person, in accordance with  
Article 4(2);*

Or. en

**Amendment 199**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 13 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

*(d) he or she could not reasonably be  
expected to use internal reporting  
channels in light of the subject-matter of  
the report;* *deleted*

Or. en

**Amendment 200**

**Marco Valli**

**Proposal for a directive**

**Article 13 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) he or she could not reasonably be  
expected to use internal reporting channels  
in light of the subject-matter of the report;

(d) he or she could not reasonably be  
expected to use internal reporting channels  
in light of the subject-matter of the report  
*and the seriousness of the violation;*

Or. en

**Amendment 201**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 13 – paragraph 2 – point e**

*Text proposed by the Commission*

*Amendment*

*(e) he or she had reasonable grounds to believe that the use of internal reporting channels could jeopardise the effectiveness of investigative actions by competent authorities;*

*deleted*

Or. en

#### **Amendment 202**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 13 – paragraph 2 – point f**

*Text proposed by the Commission*

*Amendment*

*(f) he or she was entitled to report directly through the external reporting channels to a competent authority by virtue of Union law.*

*deleted*

Or. en

#### **Amendment 203**

**Dennis de Jong**

#### **Proposal for a directive**

#### **Article 13 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. A person reporting to relevant bodies, offices or agencies of the Union on breaches falling within the scope of this Directive shall qualify for protection as laid down in this Directive under the same conditions as a person who reported *externally* in accordance with the conditions set out in paragraph 2.

3. A person reporting to relevant bodies, offices or agencies of the Union on breaches falling within the scope of this Directive shall qualify for protection as laid down in this Directive under the same conditions as a person who reported in accordance with the conditions set out in paragraph *1*.

**Amendment 204**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 13 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. A person publicly disclosing information on breaches falling within the scope of this Directive shall qualify for protection under this Directive where:**

***deleted***

**(a) he or she first reported internally and/or externally in accordance with Chapters II and III and paragraph 2 of this Article, but no appropriate action was taken in response to the report within the timeframe referred to in Articles 6(2)(b) and 9(1)(b); or**

**(b) he or she could not reasonably be expected to use internal and/or external reporting channels due to imminent or manifest danger for the public interest, or to the particular circumstances of the case, or where there is a risk of irreversible damage.**

**Amendment 205**

**Marco Valli**

**Proposal for a directive**

**Article 13 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a. A person making a report or a disclosure anonymously and who subsequently has been identified shall qualify for protection as laid down in this**



*Directive under the same conditions as a person who identified themselves when making a report or a disclosure.*

Or. en

**Amendment 206**  
**Marco Valli**

**Proposal for a directive**  
**Article 14 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 14a**

***Duty of maintaining the confidentiality of the identity of reporting persons***

- 1. The identity of a reporting person may not be disclosed without the individual's explicit consent. This includes information that may be used to discover the identity of the reporting person.***
- 2. Any person who learns about the data referred to in paragraph 1 of this Article shall be required to protect such data.***
- 3. Circumstances under which the confidential data of a reporting person may be disclosed are limited to cases where the disclosure of data is a necessary and proportionate obligation required under Union or national law in the context of investigations or subsequent judicial proceedings or to safeguard the freedoms of others including the right of defence of the concerned person, and in each case subject to appropriate safeguards under such laws.***
- 4. In the cases referred to in paragraph 3, the person designated to receive and follow-upon reports shall be required to notify the reporting person***

*before disclosing his or her confidential data.*

**5. The internal and external reporting channels are designed, set up and operated in a manner that ensures the confidentiality of the identity of the reporting person, and prevents access to non-authorised staff members.**

Or. en

## **Amendment 207**

**Dennis de Jong**

### **Proposal for a directive Article 15 – paragraph 2**

*Text proposed by the Commission*

2. Comprehensive and independent information and advice shall be easily accessible to the public, free of charge, on procedures and remedies available on protection against retaliation.

*Amendment*

2. Comprehensive and independent information and advice shall be easily accessible to the public, free of charge, on procedures and remedies available on protection against retaliation. ***This role should be independent and could be performed by civil society organisations and/or trade unions.***

Or. en

## **Amendment 208**

**Marco Valli**

### **Proposal for a directive Article 15 – paragraph 5**

*Text proposed by the Commission*

5. In ***judicial*** proceedings relating to a detriment suffered by the reporting person, and subject to him or her ***providing reasonable grounds to believe*** that the detriment was in retaliation for having made the report or disclosure, ***it shall be***

*Amendment*

5. In proceedings relating to a detriment suffered by the reporting person, and subject to him or her ***establishing that he or she made a report or disclosure and suffered a detriment it shall be presumed***

*for the person who has taken the retaliatory measure to prove that the detriment was not a consequence of the report but was exclusively based on duly justified grounds.*

that the detriment was ***made*** in retaliation for having made the report or disclosure.

Or. en

#### **Amendment 209**

**Marco Valli**

#### **Proposal for a directive**

#### **Article 15 – paragraph 6**

*Text proposed by the Commission*

6. Reporting persons shall have access to remedial measures against retaliation as appropriate, ***including*** interim relief pending the resolution of legal proceedings, ***in accordance with the national framework.***

*Amendment*

6. Reporting persons shall have access to remedial measures against retaliation ***covering all direct, indirect, and future consequences of any detriment, including,*** as appropriate,  
(a) ***making any provision to act taken in breach of Article 14 void;***  
(b) ***the reinstatement of the reporting person with equal salary, status, duties and working conditions;***  
(c) ***the transfer of the reporting person to a new department or supervisor;***  
(d) ***compensation for pain and suffering;***  
(e) interim relief pending the resolution of legal proceedings.

Or. en

#### **Amendment 210**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 15 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

7. In addition to the exemption from measures, procedures and remedies provided for in Directive (EU) 2016/943, in judicial proceedings, including for defamation, breach of copyright, breach of secrecy or for compensation requests based on private, public, or on collective labour law, reporting persons shall have the right to rely on having made a report or disclosure in accordance with this Directive to seek dismissal.

7. In addition to the exemption from measures, procedures and remedies provided for in Directive (EU) 2016/943, in judicial proceedings, including for defamation, breach of copyright, breach of secrecy or for compensation requests based on private, public, or on collective labour law, reporting persons shall have the right to rely on having made a report or disclosure in accordance with this Directive to seek dismissal. ***The reporting persons shall benefit from the best protective measures in Member States where the entity in question, or the group of which it is a subsidiary, are located wherever relevant.***

Or. en

#### **Amendment 211**

**Benedek Jávor**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Article 16 a (new)**

*Text proposed by the Commission*

*Amendment*

##### ***Article 16a***

##### ***Rights of Persons Implicated***

***Member States shall ensure that any findings or reports resulting from an assessment or an investigation of, or prompted by, one or more protected disclosure(s) does not unjustly prejudice any individual, whether directly or indirectly. The right to a fair hearing or trial shall also be fully respected.***

Or. en

#### **Amendment 212**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 17 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) breach the duty of maintaining the confidentiality of the identity of reporting persons.

*Amendment*

(d) breach the duty of maintaining the confidentiality ***or the anonymity*** of the identity of reporting persons.

Or. en

**Amendment 213**

**Dennis de Jong**

**Proposal for a directive**

**Article 17 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) (e) do not fulfil their obligation to follow-up on a report;***

***(f) do not fulfil their obligation to provide feedback to the reporting person about the follow-up to the report.***

Or. en

**Amendment 214**

**Marco Valli**

**Proposal for a directive**

**Article 17 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) do not fulfil their obligation to follow- up on a report;***

Or. en

**Amendment 215**  
**Marco Valli**

**Proposal for a directive**  
**Article 17 – paragraph 1 – point d b (new)**

*Text proposed by the Commission*

*Amendment*

*(db) do not fulfil their obligation to provide feedback to the reporting person about the follow up to the report.*

Or. en

**Amendment 216**  
**Marco Valli**

**Proposal for a directive**  
**Article 17 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. Member States shall provide for effective, proportionate and dissuasive penalties applicable to persons making malicious or abusive reports or disclosures, including measures for compensating persons who have suffered damage from malicious or abusive reports or disclosures.**

*deleted*

Or. en

**Amendment 217**  
**Benedek Jávor**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 17 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. Member States shall provide for effective, proportionate and dissuasive penalties applicable to persons making**

**2. Member States shall provide for effective, proportionate and dissuasive penalties applicable to persons making**

malicious or abusive reports or disclosures,  
*including measures for compensating  
persons who have suffered damage from  
malicious or abusive reports or  
disclosures.*

malicious or abusive reports or disclosures  
*by retaining the protection and applying  
the rules of general law.*

Or. en

**Amendment 218**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 17 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 17a**

***No Waiver of Rights and Remedies***

***The rights and remedies provided for  
under this Directive may not be waived or  
limited by any agreement, policy, form or  
condition of employment, including by  
any pre-dispute arbitration agreement.  
Any attempt to waive or limit these  
rights and remedies shall be considered  
void and unenforceable and may be  
subject to penalty or sanction.***

Or. en

**Amendment 219**

**Marco Valli**

**Proposal for a directive**

**Article 19 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Member States may introduce or retain  
provisions more favourable to the rights of  
the reporting persons than those set out in

Member States may introduce or retain  
provisions more favourable to the rights of  
the reporting persons than those set out in  
this Directive, without prejudice to Article

this Directive, without prejudice to Article 16 and Article 17(2).

16 and Article 17(2). *In particular, it is possible to establish a reward system that can offer a fair compensation in the event that the report involves the prevention of considerable pecuniary damage or a recovery of significant sums by the European Union.*

Or. en

**Amendment 220**

**Benedek Jávor**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 22 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 22a**

**Updating the Annexes**

*Whenever a new EU legal act falls into the material scope laid down in Article 1 (1) (a) or Article 1 (2), the Commission shall update the Annexes accordingly via a delegated act.*

Or. en

**Amendment 221**

**Marco Valli**

**Proposal for a directive**

**Annex I – part II – subpart C a (new)**

*Text proposed by the Commission*

*Amendment*

**Ca D.– protection of the Union's financial interests;**

**(i) Regulation (EU, EURATOM) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of**



***Officials of the European Union and the  
Conditions of Employment of Other  
Servants of the European Union***

Or. en