



21.6.2018

DRAFT OPINION

of the Committee on Culture and Education

for the Committee on Legal Affairs

on the proposal for a directive of the European Parliament and of the Council
on protection of persons reporting on breaches of Union law
(COM(2018)0218 – C8-0159/2018 – 2018/0106(COD))

Rapporteur for opinion: Curzio Maltese

PA_Legam

SHORT JUSTIFICATION

Whistle-blowers have played a leading role in nearly all the major scandals that have come to light over the last few years. Thanks to their courage in coming forward and to the zeal of investigative journalists, the public has been alerted to cases of fraud committed on a massive scale at the expense of taxpayers and consumers, as well as civil rights violations and threats to the life and health of millions. In certain countries, however, instead of being recognised and protected by the community whose interests they were seeking to uphold, it is the whistle-blowers, rather than the powerful wrongdoers they have exposed, who are actually ending up in the dock. In other cases, they have been forced by legal contradictions and shortcomings to engage in long and complex court proceedings.

In the wake of recent scandals, the new EU directive proposed by the Commission accordingly seeks the adoption of a joint set of strong and clear legislative framework provisions ensuring adequate protection for whistle-blowers throughout the Union.

To achieve this, it is necessary to establish the legal bases, the principles and the priorities from which the Commission can and must draw its inspiration. Why is joint European framework necessary when it comes to laws protecting whistle-blowers?

It is no secret that, in many cases, whistle-blowers' revelations have shed light on cases of fraud at the expense of the Union, avoiding massive outlays of public funds, not to mention market distortions. However, financial interest cannot be the only motive, just as it was not the only motive for whistle-blowers and journalists. None of them, in the face of reprisals, retaliation or intimidation, risked their careers or even, in certain cases, their lives simply in order to save money for the the Union.

Other values are at stake here. Here, as elsewhere, it is the European Courts that help us find our way. In its rulings on whistle-blowing cases, the European Court of Human Rights refers to the freedom of information guaranteed under Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which upholds the freedom 'to receive and impart information and ideas without interference by public authority

and regardless of frontiers.' However, this is touched on only marginally in the Commission proposal for a directive.

If, on the other hand, the fundamental right to information is upheld as a core precept, it suggests a scale of values and priorities with which the public can readily identify, giving paramount importance to defence of the public interest, the very principle that that inspired the actions of whistle-blowers and journalists, who therefore deserve every protection. Therefore there is little point in limiting protection to the workplace, as if threats and risks that are just as serious, if not more so, could not occur outside it. It is equally futile to rule on which informants and whistle-blowers are entitled to a greater or lesser degree of protection on the basis of highly questionable sets of criteria. Under the Commission proposal, a good whistle-blower should inform his or her own company first of all and only after that the institutional watchdog bodies, while going public should be the last resort after every other option has failed. Rather than protecting whistle-blowers, this seems a sure-fire way of discouraging them. The rapporteur has sought to guarantee the fundamental right to

information by ensuring more comprehensive protection for informants and removing the obstacles to disclosure.

AMENDMENTS

The Committee on Culture and Education calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Citation 6 a (new)

Text proposed by the Commission

Amendment

Having regard to the Charter of Fundamental Rights of the European Union, in particular Article 11,

Or. en

Amendment 2

Proposal for a directive

Citation 6 b (new)

Text proposed by the Commission

Amendment

Having regard to the European Parliament resolution of 14 February 2017 on the role of whistleblowers in the protection of EU's financial interests (2016/2055(INI)),

Or. en

Amendment 3

Proposal for a directive

Citation 6 c (new)

Text proposed by the Commission

Amendment

Having regard to the European Parliament resolution of 24 October 2017 on legitimate measures to protect whistleblowers acting in the public interest when disclosing the confidential information of companies and public bodies (2016/2224(INI),

Or. en

Amendment 4

Proposal for a directive Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) Whistleblowing guarantees freedom of expression and information, a fundamental value of the European Union as enshrined in the Charter of Fundamental Rights of the EU; whistleblowers often take on high personal risk and the absence of effective protection can discourage potential whistleblowers from reporting their concerns or suspicions for fear of unfair treatment, including retaliation, discrimination or disadvantage, which ultimately reduce the likelihood that wrongdoing is uncovered and penalised.

Or. en

Amendment 5

Proposal for a directive Recital 1

Text proposed by the Commission

Amendment

(1) Persons who work for an

(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.*

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, preventing breaches of the law and *revealing dangers that may harm the public interest*.

Or. en

Amendment 6

Proposal for a directive Recital 2

Text proposed by the Commission

(2) At Union level, reports by whistleblowers are one upstream component of enforcement of Union law: they feed national and Union enforcement systems with information leading to effective detection, investigation and prosecution of breaches of Union law.

Amendment

(2) At Union level, reports by whistleblowers are one upstream component of enforcement of Union law: they feed national and Union enforcement systems with information leading to effective detection, investigation and prosecution of breaches of Union law, *thus enhancing transparency and accountability*.

Or. en

Amendment 7

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*

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. *As* whistleblowers are *usually* in a privileged position *to disclose*

been identified in those areas, and 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.*

breaches, it is necessary, *in order* to enhance enforcement *of Union law, to guarantee safe and effective disclosure of the information and to ensure* effective protection of whistleblowers from retaliation.

Or. en

Amendment 8

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Whistleblower protection currently provided in the European Union is fragmented across Member States and uneven across policy areas. *The consequences* of breaches of Union law with cross-border dimension uncovered by whistleblowers illustrate how insufficient protection *in one Member State not only negatively impacts* on the functioning of EU policies *in that Member State but can also spill over into other Member States and the Union as a whole.*

Amendment

(4) Whistleblower protection currently provided in the European Union is fragmented across Member States and uneven across policy areas. *Cases* of breaches of Union law with cross-border dimension uncovered by whistleblowers illustrate how insufficient *or different* protection *levels among Member States can have a negative impact* on the functioning of EU policies.

Or. en

Amendment 9

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

Amendment

(5) Accordingly, common minimum standards ensuring effective whistleblower protection should apply, *particularly* in those acts and policy areas where i) there is a *potential threat to the public interest ii) there is a* need to strengthen enforcement

enforcement, *and iii) breaches of Union law cause serious harm to the public interest.*

iii) under-reporting by whistleblowers is a key factor affecting enforcement.

Or. en

Amendment 10

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) Whistleblower protection should be enforced to foster an environment conducive to freedom of information and of the media; this requires firstly that journalists and their sources, including whistleblowers, be given effective protection against any violation of their safety and their mental and physical integrity, and that any attempt to intimidate them or to put any undue pressure on their independence be prevented.

Or. en

Amendment 11

Proposal for a directive Recital 22

Text proposed by the Commission

Amendment

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

(22) Persons who report information about threats or harm to the public interest ***are acting under the right of freedom of information and*** 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), ***which*** encompasses media freedom and pluralism.

media freedom and pluralism.

Or. en

Amendment 12

Proposal for a directive Recital 24

Text proposed by the Commission

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). 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.

deleted

Or. en

Amendment 13

Proposal for a directive Recital 27 a (new)

Text proposed by the Commission

Amendment

(27 a) Protection should also extend to people facilitating the reporting, intermediaries and investigative journalists whom, with their activities guarantees the effective disclosure of the potential or occurred breach.

Or. en

Amendment 14

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 ***or for supporting whistleblowers reporting***. 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.

Or. en

Amendment 15

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 ***as well as to persons complementing information to issues already in the public domain***. At the same time, protection should not apply to the reporting of unsubstantiated rumours and hearsay.

Amendment 16

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 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.

Amendment

(31) Effective 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 which causes them detriment. ***Once someone is recognised as a whistleblower, measures ,including legal protection, should be taken to protect him or her, to bring to an end any retaliation measures taken against him or her, and to grant the whistleblower full compensation for the prejudice and damage incurred.***

Or. en

Amendment 17

Proposal for a directive

Recital 32 a (new)

Text proposed by the Commission

Amendment

(32 a) Potential whistleblowers should decide themselves whether they first inform internal reporting systems or agencies or whether the public should be informed directly, for example through the media. Whistleblowers should be protected no matter what their choice of reporting channel is.

Or. en

Amendment 18

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 important sources for journalists, ***therefore it is essential to create a safe environment***, providing ***them and the media*** effective protection from retaliation. In this respect protection of whistleblowers is crucial ***to ensure quality journalism which ultimately contributes to transparency, accountability and the safeguard of fundamental democratic values***.

Or. en

Amendment 19

Proposal for a directive Recital 37

Text proposed by the Commission

(37) For the effective detection and prevention of breaches of Union law it ***is vital*** that the relevant information reaches swiftly those closest to the source of the problem, most able to investigate and with powers to remedy it, where possible. This requires that legal entities in the private and the public sector establish appropriate internal procedures for receiving and following-up on reports.

Amendment

(37) For the effective detection and prevention of breaches of Union law it ***could in some cases be appropriate*** that the relevant information reaches swiftly those closest to the source of the problem, most able to investigate and with powers to remedy it, where possible. This requires that legal entities in the private and the public sector establish appropriate internal procedures for receiving and following-up on reports.

Or. en

Amendment 20

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) Reporting persons should ***always have the option*** to report directly externally, ***including*** to competent authorities ***or the media***. Such persons should enjoy the protection against retaliation provided by this Directive.

Or. en

Amendment 21

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) ***Effective protection should include the safeguard of the whistleblower's identity. This should be the minimum requirement of any disclosure, if the whistleblower wishes to remain anonymous.*** 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.

Or. en

Amendment 22

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, data protection and secrecy. These can be **journalists**, external reporting platform providers, external counsel or auditors or trade union representatives.

Or. en

Amendment 23

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 **composition and working procedures** should ensure absence of conflict of interest and independence.

Or. en

Amendment 24

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 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.

Amendment

(47) Persons who are considering reporting breaches of Union law should be able to make an informed decision on whether, how, **including which kind of channel**, 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. 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 **relevant information on potential or occurred breaches**. 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 25

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 bring the information they possess to the attention of the **public and of** relevant competent authorities which are able to investigate **and/or** to remedy the problem, where possible.

Amendment 26**Proposal for a directive****Recital 50***Text proposed by the Commission*

(50) Follow up and feedback should take place within *a reasonable* timeframe; this is warranted by the need to promptly address the problem that may be the subject of the report, *as well as to avoid unnecessary public disclosures*. Such timeframe should not exceed three months, but could be extended to six months, where necessary due to the specific circumstances of the case, in particular the nature and complexity of the subject of the report, which may require a lengthy investigation.

Amendment

(50) Follow up and feedback should take place within *the shortest possible* timeframe; this is warranted by the need to promptly address the problem that may be the subject of the report. Such timeframe should not exceed three months, but could be extended to six months, where necessary due to the specific circumstances of the case, in particular the nature and complexity of the subject of the report, which may require a lengthy investigation.

Or. en

Amendment 27**Proposal for a directive****Recital 54***Text proposed by the Commission*

(54) Persons intending to report should be able to make an informed decision on whether, how and when to report. Competent authorities should therefore publicly disclose and make easily accessible information about the available reporting channels with competent authorities, about the applicable procedures and about the dedicated staff members within these authorities. All information regarding reports should be transparent, easily understandable and reliable in order to promote and not deter reporting.

Amendment

(54) Persons intending to report should be able to make an informed decision on whether, how and when to report. Competent authorities should therefore publicly disclose and make easily accessible information about the available reporting channels with competent authorities, about the applicable procedures and about the dedicated staff members within these authorities. All information regarding reports should be transparent, easily understandable and reliable in order to promote and not deter reporting.
Potential whistleblowers should always be able to decide themselves whether to use

internal or external reporting channels or whether they directly reach out to the public.

Or. en

Amendment 28

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 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.***

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 should be presumed unless and until proven otherwise, ***and the burden of proof should not lay on the whistleblower.***

Or. en

Amendment 29

Proposal for a directive Recital 60 a (new)

Text proposed by the Commission

Amendment

(60 a) It is essential to safeguard against

malicious and frivolous or abusive reports, ensuring that those who deliberately and knowingly report wrong or misleading information do not enjoy protection under this Directive.

Or. en

Amendment 30

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 criteria developed in the case-law of the European Court of Human Rights⁵⁷.*

⁵⁷ 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

Amendment

(61) *It 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. The reporting person should choose the most appropriate channel depending on the individual circumstances of the case. Transparency, accountability and fundamental rights such as freedom of expression and media freedom must be guaranteed, 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.*

⁵⁷ 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.

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 31

Proposal for a directive Recital 62

Text proposed by the Commission

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).

deleted

Or. en

Amendment 32

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

deleted

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.

Or. en

Amendment 33

Proposal for a directive

Recital 64

Text proposed by the Commission

Amendment

(64) Persons making a public disclosure directly should also qualify for protection in cases where a breach remains unaddressed (for example, it was not properly assessed or investigated or no remedial action was taken) despite having been reported internally and/or externally

deleted

following a tiered use of available channels; or in cases where reporting persons have valid reasons to believe that there is collusion between the perpetrator of the breach and the competent authority is reasonably suspected, that evidence may be concealed or destroyed, or that the effectiveness of investigative actions by competent authorities might be jeopardised; or in cases of imminent and manifest danger for the public interest, or where there is a risk of irreversible damage, including, inter alia, harm to physical integrity.

Or. en

Amendment 34

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

Amendment

(65) Reporting persons *and people who assist them in disclosing breaches or potential breaches* 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 *or people bound by bonds of affection or friendship with* the reporting person,

provided support to the reporting person.

colleagues or customer/recipient of services and workers' representatives who have provided support to the reporting person. ***There should be sanctions for harassing whistleblowers, or their family or colleagues as a result of a disclosure.***

Or. en

Amendment 35

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. Access to such advice can help ensure that reports are made through ***safe and confidential*** channels and that breaches and wrongdoings are detected in a timely manner or even prevented.

Or. en

Amendment 36

Proposal for a directive Recital 73

Text proposed by the Commission

(73) Of particular importance for reporting persons are interim remedies pending the resolution of legal proceedings that can be protracted. Interim relief can be in particular necessary in order to stop threats, attempts or continuing acts of retaliation, such as harassment at the workplace, or to prevent forms of retaliation such as dismissal, which might be difficult to reverse after the lapse of lengthy periods and which can ruin financially the individual — a perspective which can seriously discourage potential whistleblowers.

Amendment

(73) Of particular importance for reporting persons are interim remedies pending the resolution of legal proceedings that can be protracted. Interim relief can be in particular necessary in order to stop threats, attempts or continuing acts of retaliation, such as harassment ***outside and*** at the workplace, or to prevent forms of retaliation such as ***verbal abuse or physical violence***, dismissal, which might be difficult to reverse after the lapse of lengthy periods and which can ruin financially the individual — a perspective which can seriously discourage potential whistleblowers.

Or. en

Amendment 37

**Proposal for a directive
Recital 75**

Text proposed by the Commission

(75) A significant cost for reporting persons contesting retaliation measures taken against them in legal proceedings can be the relevant legal fees. Although they could recover these fees at the end of the proceedings, they might not be able to cover them up front, especially if they are unemployed and blacklisted. Assistance for criminal legal proceedings, particularly in accordance with the provisions of Directive (EU) 2016/1919 of the European Parliament and of the Council⁵⁹ and more generally support to those who are in serious financial need might be key, in certain cases, for the effective enforcement of their rights to protection.

Amendment

(75) A significant cost for reporting persons contesting retaliation measures taken against them in legal proceedings can be the relevant legal fees. Although they could recover these fees at the end of the proceedings, they might not be able to cover them up front, especially if they are unemployed and blacklisted. Assistance for criminal legal proceedings, particularly in accordance with the provisions of Directive (EU) 2016/1919 of the European Parliament and of the Council⁵⁹ and more generally support to those who are in serious financial need might be key, in certain cases, for the effective enforcement of their rights to protection.
Whistleblowers should also be able to claim compensation for any harassment suffered or the loss of current or future

livelihood, if the damage occurred in retaliation.

⁵⁹ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297 4.11.2016, p. 1).

⁵⁹ Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297 4.11.2016, p. 1).

Or. en

Amendment 38

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 safeguarding freedom of information and*** to enhancing the enforcement of Union law and policies, this Directive lays down common minimum ***standard*** for the protection of persons ***disclosing information, such as breaches of the law or any wrongful act which undermines or endangers the public interest in all fields of EU competence, including:***

Or. en

Amendment 39

Proposal for a directive Article 1 – paragraph 1 – point a – point -i (new)

Text proposed by the Commission

(-i) fundamental rights and values of the EU;

Amendment

Or. en

Amendment 40

Proposal for a directive

Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

d a) civil servants;

Or. en

Justification

Civil servants may not have the status of a 'worker' (no of a self-employed) according to national laws. The amendment clarifies that the civil servant category should falls under the scope of the Directive.

Amendment 41

Proposal for a directive

Article 2 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

**d b) to European Union staffmembers,
as defined within the EU Staff
Regulation;**

Or. en

Justification

European Union staff members should be equally protected under the scope of the Directive, and the EU institutions, agencies, and bodies must have the same obligations for public sector entities set forth in the Directive.

Amendment 42

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. This Directive shall also apply to

persons facilitating the reporting such as intermediaries and journalists.

Or. en

Amendment 43

Proposal for a directive

Article 3 – paragraph 1 – point 1

Text proposed by the Commission

(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;

Amendment

(1) ‘breaches’ means actual or potential unlawful activities or abuse of law ***or other forms of misconduct and wrongdoing that may cause harm to the public interest*** relating to the Union acts and areas falling within the scope referred to in Article 1 and in the Annex;

Or. en

Amendment 44

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;

Or. en

Amendment 45

Proposal for a directive

Article 3 – paragraph 1 – point 7

Text proposed by the Commission

(7) ‘external reporting’ means provision of information on breaches to the competent authorities;

Amendment

(7) ‘external reporting’ means provision of information on breaches to the competent authorities ***or to the media***;

Or. en

Amendment 46

Proposal for a directive

Article 3 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9 a) ‘intermediary’ means a natural or legal person who facilitates the report or disclosure;

Or. en

Amendment 47

Proposal for a directive

Article 3 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

(10) ‘work-related context’ means current or past work activities in the public or private sector through which, irrespective of their nature, persons may acquire information on breaches ***and within which these persons may suffer retaliation if they report them.***

(10) ‘work-related context’ means current or past work activities in the public or private sector through which, irrespective of their nature, persons may acquire information on breaches;

Or. en

Amendment 48

Proposal for a directive

Article 3 – paragraph 1 – point 11

Text proposed by the Commission

(11) ‘concerned person’ means a natural or legal person who is referred to in the report or disclosure as a person to whom the breach is attributed or with which he or she is associated;

Amendment

(11) ‘concerned person’ means a natural or legal person who is referred to in the report or disclosure as a person to whom the breach is attributed or with which he or she is ***or was*** associated;

Or. en

Amendment 49

**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 causes or may cause unjustified detriment to the reporting person, ***to his or her colleagues, personal contacts and to persons facilitating the reporting and disclosure;***

Or. en

Amendment 50

**Proposal for a directive
Article 3 – paragraph 1 – point 14**

Text proposed by the Commission

(14) ‘competent authority’ means any ***national*** authority entitled to receive reports in accordance with Chapter III and designated to carry out the duties provided for in this Directive, in particular as regards the follow up of reports.

Amendment

(14) ‘competent authority’ means any authority entitled to receive reports in accordance with Chapter III and designated to carry out the duties provided for in this Directive, in particular as regards the follow up of reports.

Or. en

Amendment 51

Proposal for a directive

Article 4 – title

Text proposed by the Commission

Obligation to establish internal channels and procedures for reporting and follow-up of reports

Amendment

Internal channels and procedures for reporting and follow-up of reports

Or. en

Amendment 52

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 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.***

Amendment

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

Or. en

Amendment 53

Proposal for a directive

Article 4 – paragraph 4

Text proposed by the Commission

4. Following an appropriate risk assessment taking into account the nature of activities of the entities and the ensuing level of ***risk***, Member States may require small private legal entities, as defined in Commission Recommendation of 6 May 2003⁶², other than those referred to in

Amendment

4. Following an appropriate risk assessment taking into account the nature of activities of the entities and the ensuing level of ***relevance and risk for the public***, Member States may require small private legal entities, as defined in Commission Recommendation of 6 May 2003⁶², other

paragraph 3(c) to establish internal reporting channels and procedures.

than those referred to in paragraph 3(c) to establish internal reporting channels and procedures.

⁶² Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises OJ L 124, 20.5.2003, p. 36.

⁶² Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises OJ L 124, 20.5.2003, p. 36.

Or. en

Amendment 54

Proposal for a directive Article 4 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. European Union institutions, agencies and bodies;

Or. en

Justification

European Union staff members should be equally protected under the scope of the Directive, and the EU institutions, agencies, and bodies must have the same obligations for public sector entities set forth in the Directive.

Amendment 55

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) 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, **or his/her anonymity**, and prevents access to non-authorised **persons**;

Or. en

Amendment 56

Proposal for a directive Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) clear and easily accessible information regarding the procedures and information on how ***and under what conditions reports can be made*** externally ***to competent authorities pursuant to Article 13(2) and, where relevant, to bodies, offices or agencies of the Union.***

Amendment

e) clear and easily accessible information regarding the procedures and information on how ***to report*** externally.

Or. en

Amendment 57

Proposal for a directive Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Reporting channels may be operated internally by a person or department designated for that purpose ***or provided externally by a third party, provided that the safeguards and requirements referred to in point (a) of paragraph 1 are respected.***

Amendment

Reporting channels may be operated internally by a person or department designated for that purpose.

Or. en

Amendment 58

Proposal for a directive Article 5 – paragraph 3

Text proposed by the Commission

3. The person or department referred to in point (b) of paragraph 1 may be the same person who is competent for

Amendment

3. The person or department referred to in point (b) of paragraph 1 may be the same person who is competent for

receiving the reports. ***Additional persons may be designated as “trusted persons” from whom reporting persons and those considering reporting may seek confidential advice.***

receiving the reports.

Or. en

Justification

"Trusted persons" are not defined in art. 3, and this reference may create legal uncertainty to the reporting person and the person who is competent for receiving and following-up of the report.

Amendment 59

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

1. Member States shall designate the authorities competent to receive and handle reports.

Amendment

1. Member States shall designate the authorities competent to receive and handle reports, ***which should be either a new dedicated authority or an existing agency whose competences should be extended and which must be independent and have sufficient power and resources to operate effectively;***

Or. en

Amendment 60

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 ***or anonymity***, for receiving and handling information provided by the reporting person ***or intermediaries***;

Amendment 61

Proposal for a directive Article 6 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

a a) guarantee advice and legal support for reporting persons and intermediaries;

Or. en

Amendment 62

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

Or. en

Amendment 63

Proposal for a directive Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

c a) raise public awareness so to ensure the report of breaches;

Or. en

Amendment 64

Proposal for a directive

Article 6 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

c b) collect and publish data and information regarding the functioning of whistleblowing laws and frameworks;

Or. en

Amendment 65

Proposal for a directive

Article 6 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Member States shall ensure that competent authorities are entitled to receive, investigate and address complaints of unfair treatments and improper investigation on persons reporting the breaches.

Or. en

Amendment 66

Proposal for a directive

Article 7 – paragraph 1 – point b

Text proposed by the Commission

Amendment

b) they are designed, set up and operated in a manner that ensures the completeness, integrity and confidentiality of the information and ***prevents access to non-authorized staff members*** of the ***competent authority***;

b) they are designed, set up and operated in a manner that ensures the completeness, integrity and confidentiality of ***the identity and/or the anonymity*** of the ***reporting person or intermediaries***;

Or. en

Amendment 67

Proposal for a directive Article 7 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

***b a) they prevent access to non-
authorised persons;***

Or. en

Amendment 68

Proposal for a directive Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

a) providing any interested person with information on the procedures for reporting;

a) providing any interested person with information on the procedures for reporting ***and on the protection to which he or she is entitled;***

Or. en

Amendment 69

Proposal for a directive Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

c) maintaining contact with the reporting person for the purpose of informing ***the reporting person*** of the progress and the outcome of the investigation.

c) maintaining contact with the reporting person ***or the intermediary*** for the purpose of informing ***them*** of the progress and the outcome of the investigation.

Or. en

Amendment 70

Proposal for a directive

Article 9 – paragraph 1 – point a

Text proposed by the Commission

a) the manner in which the competent authority may require the reporting person to clarify the information reported or to provide additional information that is available to the reporting person;

Amendment

a) the manner in which the competent authority may require the reporting person **or the intermediary** to clarify the information reported or to provide additional information that is available to the reporting person;

Or. en

Amendment 71

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

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. ***When identifying information must be disclosed, reporting persons and intermediaries should be given notice sufficiently in advance and potentially provided with additional protection measures.***

Or. en

Amendment 72

Proposal for a directive

Article 9 – paragraph 3

Text proposed by the Commission

3. The detailed description referred to in point (c) of paragraph 1 must be written in clear and easy to understand language

Amendment

3. The detailed description referred to in point (c) of paragraph 1 must be written in clear and easy to understand language

and be easily accessible to the reporting persons.

and be easily accessible to the reporting persons *or intermediaries*.

Or. en

Amendment 73

Proposal for a directive

Article 10 – paragraph 1 – point a

Text proposed by the Commission

a) the *conditions* under which reporting persons qualify for protection under this Directive;

Amendment

a) the *existing framework* under which reporting persons *or intermediaries* qualify for protection under this Directive;

Or. en

Amendment 74

Proposal for a directive

Article 10 – paragraph 1 – point b – point i

Text proposed by the Commission

i) the phone numbers, indicating whether conversations are recorded or unrecorded when using those phone lines;

Amendment

i) the phone numbers, indicating whether conversations are recorded or unrecorded *and anonymity settings* when using those phone lines;

Or. en

Amendment 75

Proposal for a directive

Article 11 – paragraph 2

Text proposed by the Commission

2. Competent authorities shall promptly acknowledge the receipt of written reports to the postal or electronic address indicated by the reporting person,

Amendment

2. Competent authorities shall promptly acknowledge the receipt of written reports to the postal or electronic address indicated by the reporting person

unless **the reporting person** explicitly requested otherwise or the competent authority reasonably believes that acknowledging receipt of a written report would jeopardise the protection of the reporting person's identity.

or intermediaries, unless **they** explicitly requested otherwise or the competent authority reasonably believes that acknowledging receipt of a written report would jeopardise the protection of the reporting person's **or intermediaries'** identity.

Or. en

Amendment 76

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Where a recorded telephone line is used for reporting, subject to the consent of the reporting person, the competent authority shall have the right to document the oral reporting in one of the following ways:

Amendment

Where a recorded telephone line is used for reporting, subject to the consent of the reporting person **or the intermediary**, the competent authority shall have the right to document the oral reporting in one of the following ways:

Or. en

Amendment 77

Proposal for a directive

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The competent authority shall offer the possibility to the reporting person to check, rectify and agree the transcript of the call by signing it.

Amendment

The competent authority shall offer the possibility to the reporting person **or intermediary** to check, rectify and agree the transcript of the call by signing it.

Or. en

Amendment 78

Proposal for a directive Article 11 – paragraph 4

Text proposed by the Commission

4. Where an unrecorded telephone line is used for reporting, the competent authority shall have the right to document the oral reporting in the form of accurate minutes of the conversation prepared by the dedicated staff members. The competent authority shall offer the possibility to the reporting person to check, rectify and agree with the minutes of the call by signing them.

Amendment

4. Where an unrecorded telephone line is used for reporting, the competent authority shall have the right to document the oral reporting in the form of accurate minutes of the conversation prepared by the dedicated staff members. The competent authority shall offer the possibility to the reporting person **or intermediary** to check, rectify and agree with the minutes of the call by signing them.

Or. en

Amendment 79

Proposal for a directive Article 11 – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission

Where a person requests a meeting with the dedicated staff members of the competent authority for reporting according to Article 7(2)(c), competent authorities shall ensure, subject to the consent of the reporting person, that complete and accurate records of the meeting are kept in a durable and retrievable form. A competent authority shall have the right to document the records of the meeting in one of the following ways:

Amendment

Where a person requests a meeting with the dedicated staff members of the competent authority for reporting according to Article 7(2)(c), competent authorities shall ensure, subject to the consent of the reporting person **or intermediary**, that complete and accurate records of the meeting are kept in a durable and retrievable form. A competent authority shall have the right to document the records of the meeting in one of the following ways:

Or. en

Amendment 80

Proposal for a directive

Article 11 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The competent authority shall offer the possibility to the reporting person to check, rectify and agree with the minutes of the meeting by signing them.

Amendment

The competent authority shall offer the possibility to the reporting person **or intermediaries** to check, rectify and agree with the minutes of the meeting by signing them.

Or. en

Amendment 81

Proposal for a directive

Article 13 – title

Text proposed by the Commission

Conditions for the protection of reporting persons

Amendment

Framework for the protection of reporting persons **and intermediaries**

Or. en

Amendment 82

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 **or intermediary** 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.

Or. en

Amendment 83

Proposal for a directive Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. *A person reporting externally shall qualify for protection under this Directive where one of the following conditions is fulfilled :*
- 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;*
 - 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;*
 - c) *the use of internal reporting channels was not mandatory for the reporting person, in accordance with Article 4(2);*
 - d) *he or she could not reasonably be expected to use internal reporting channels in light of the subject-matter of the report;*
 - 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;*
 - 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

Justification

There should be no restrictions or extra burden for reporting persons who wish to report directly to regulators and national authorities.

Amendment 84

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.*

deleted

Or. en

Amendment 85

Proposal for a directive Article 13 – paragraph 4 – point b

Text proposed by the Commission

Amendment

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.

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

Or. en

Amendment 86

Proposal for a directive Article 14 – title

Text proposed by the Commission

Amendment

Prohibition of retaliation against reporting persons

Prohibition of retaliation against reporting persons ***and intermediaries***

Amendment 87

Proposal for a directive Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall take the necessary measures to prohibit any form of retaliation, whether direct or indirect, against reporting persons ***meeting the conditions set out in Article 13***, including in particular in the form of:

Amendment

Member States shall take the necessary measures to prohibit any form of retaliation, whether direct or indirect, against reporting persons ***or intermediaries***, including in particular in the form of:

Or. en

Amendment 88

Proposal for a directive Article 14 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

-a) harassment, physical and verbal violence, including coercion, intimidation or ostracism;

Or. en

Amendment 89

Proposal for a directive Article 14 – paragraph 1 – point g

Text proposed by the Commission

Amendment

g) coercion, intimidation, harassment or ostracism at the workplace;

deleted

Or. en

Amendment 90

Proposal for a directive

Article 14 – paragraph 1 – point i

Text proposed by the Commission

i) failure to convert a temporary employment contract into a permanent one;

Amendment

i) failure to convert ***an internship or*** a temporary employment contract into a permanent one;

Or. en

Amendment 91

Proposal for a directive

Article 14 – paragraph 1 – point j

Text proposed by the Commission

j) failure to renew or early termination of the temporary employment contract;

Amendment

j) failure to renew or early termination of the temporary employment contract ***or the traineeship agreement;***

Or. en

Amendment 92

Proposal for a directive

Article 15 – title

Text proposed by the Commission

15 Measures for the protection of reporting persons against retaliation

Amendment

Measures for the protection of reporting persons ***and intermediaries*** against retaliation

Or. en

Amendment 93

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

1. Member States shall take the necessary measures to ensure the protection of reporting persons ***meeting the conditions*** set out in Article 13 against retaliation. Such measures shall include, in particular, those set out in paragraphs 2 to 8.

Amendment

1. Member States shall take the necessary measures to ensure the protection of reporting persons ***and intermediaries according to the framework*** set out in Article 13 against retaliation. Such measures shall include, in particular, those set out in paragraphs 2 to 8.

Or. en

Amendment 94

**Proposal for a directive
Article 15 – paragraph 3**

Text proposed by the Commission

3. Reporting persons shall have access to effective assistance from competent authorities before any relevant authority involved in their protection against retaliation, including, where provided for under national law, certification of the fact that they qualify for protection under this Directive.

Amendment

3. Reporting persons ***and intermediaries*** shall have access to effective assistance from competent authorities before any relevant authority involved in their protection against retaliation, including, where provided for under national law, certification of the fact that they qualify for protection under this Directive.

Or. en

Amendment 95

**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

Amendment

5. In judicial proceedings relating to a detriment suffered by the reporting person ***or the intermediary***, and subject to him or her providing reasonable grounds to believe that the detriment was in retaliation

made the report or disclosure, it shall be 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.

for having made the report or disclosure, it shall be 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.

Or. en

Amendment 96

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 **and intermediaries** 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.

Or. en

Amendment 97

Proposal for a directive Article 17 – paragraph 1 – point b

Text proposed by the Commission

b) take retaliatory measures against reporting persons;

Amendment

b) take retaliatory measures against reporting persons **or intermediaries**;

Or. en

Amendment 98

Proposal for a directive Article 17 – paragraph 1 – point c

Text proposed by the Commission

Amendment

c) bring vexatious proceedings against reporting persons;

c) bring vexatious proceedings against reporting persons *or intermediaries*;

Or. en

Amendment 99

Proposal for a directive

Article 17 – paragraph 1 – point d

Text proposed by the Commission

Amendment

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

d) breach the duty of maintaining the confidentiality of the identity of reporting persons *and intermediaries*.

Or. en

Amendment 100

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.

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

Or. en

Amendment 101

Proposal for a directive

Annex I – part II – subpart C a (new)

Text proposed by the Commission

Amendment

C a. 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