



2018/0106(COD)

27.9.2018

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

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

Rapporteur for opinion (*): Miguel Viegas

(*) Associated committee – Rule 54 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

The ECON draftsperson fully welcomes this proposal from the Commission for an EU-wide protection of whistle-blowers, as the Parliament already requested for a long time, among others in its PANA committee report and the previous JURI INI report, to which ECON contributed.

The proposal also builds upon the sectoral whistle-blowers protection measures which ECON introduced in previous legislation, such as the Anti-Money Laundering Directive (AMLD4-5) and the Market Abuse Regulation (MAR).

In his amendments, the ECON draftsperson aims to

- improve the definition (Article 3)
- extend the scope of workers' rights (Article 1)
- ensure material support (Article 15)
- delete Recital 21
- introduce the idea that a whistle-blower cannot replace the operational capacity of state surveillance services
- introduce a clear mechanism to assign a whistle-blower status for legal certainty
- introduce the possibility of anonymity
- facilitate the use of external channels without going through the internal channels

AMENDMENTS

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

Amendment 1

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 and threats to 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 legal consequences, or due to the lack of confidence in the usefulness of reporting.*

Amendment 2

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 *often* leading to effective detection, investigation and prosecution of breaches of Union law.

Amendment 3

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 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.

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 to disclose *such* breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and *to ensure that there are* effective reporting channels.

Amendment 4

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 should **only** apply in those acts, policy areas **and Member States** where **there is evidence that** 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

**Proposal for a directive
Recital 6**

Text proposed by the Commission

(6) Whistleblower protection is necessary to enhance the enforcement of Union law on public procurement. In addition to the need of preventing and detecting fraud and corruption in the context of the implementation of the EU budget, including procurement, it is necessary to tackle insufficient enforcement of rules on public procurement by national public authorities and certain public utility operators when purchasing goods, works and services. Breaches of such rules create distortions of competition, increase costs for doing business, violate the interests of investors and shareholders and, overall, lower attractiveness for investment and create an uneven level playing field for all businesses across Europe, thus affecting the proper functioning of the internal market.

Amendment

(6) Whistleblower protection is necessary to enhance the enforcement of Union law on public procurement. In addition to the need of preventing and detecting fraud and corruption in the context of the implementation of the EU budget, including procurement, it is necessary to tackle insufficient enforcement of rules on public procurement by national public authorities and certain public utility operators when purchasing goods, works and services. Breaches of such rules create distortions of competition, increase costs for doing business, violate the interests of investors and shareholders and, overall, lower attractiveness for investment and create an uneven level playing field for all businesses across Europe, thus affecting the proper functioning of the internal market. ***Attention must also be paid to protecting those reporting misuse or misconduct regarding the EU budget and EU institutions.***

Amendment 6

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) A regime for the protection of persons reporting on breaches of Union law does not replace the need to strengthen the means of supervision of each Member State and their public structures, which must be increasingly capable of fighting tax fraud and money laundering, nor the need to participate in international cooperation in those areas.

Amendment 7

Proposal for a directive

Recital 7

Text proposed by the Commission

Amendment

(7) In the area of financial services, the added value of whistleblower protection was already acknowledged by the Union legislator. In the aftermath of the financial crisis, which exposed serious shortcomings in the enforcement of the relevant rules, measures for the protection of whistleblowers were introduced in a significant number of legislative instruments in this area³⁴. In particular, in the context of the prudential framework applicable to credit institutions and investment firms, Directive 2013/36/EU³⁵ provides for protection of whistleblowers, which extends also to Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

(7) In the area of financial services, the added value of **sectoral** whistleblower protection was already acknowledged by the Union legislator. In the aftermath of the financial crisis, which exposed serious shortcomings in the enforcement of the relevant rules, measures for the protection of whistleblowers were introduced in a significant number of legislative instruments in this area³⁴. In particular, in the context of the prudential framework applicable to credit institutions and investment firms, Directive 2013/36/EU³⁵ provides for protection of whistleblowers, which extends also to Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms. **However, a number of high profile cases involving European financial institutions have proven, that protection of whistleblowers within the full range of financial institutions still remain unsatisfactory and that fears of reprisals from both employers and authorities still**

prevent whistleblowers from coming forward with information on breaches of law.

³⁴ Communication of 8.12.2010
"Reinforcing sanctioning regimes in the financial services sector".

³⁵ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

³⁴ Communication of 8.12.2010
"Reinforcing sanctioning regimes in the financial services sector".

³⁵ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

Amendment 8

Proposal for a directive Recital 9

Text proposed by the Commission

(9) The importance of whistleblower protection in terms of preventing and deterring breaches of Union rules on transport safety which can endanger human lives has been already acknowledged in sectorial Union instruments on aviation safety³⁸ and maritime transport safety³⁹, which provide for tailored measures of protection to whistleblowers as well as specific reporting channels. These instruments also include the protection from retaliation of the workers reporting on their own honest mistakes (so called 'just culture'). It is necessary to complement the existing elements of whistleblower protection in these two sectors as well as to provide such protection to enhance the enforcement of safety standards for other transport modes, namely road and railway transport.

³⁸ Regulation (EU) No 376/2014 of the European Parliament and of the Council, of

Amendment

(9) The importance of whistleblower protection in terms of preventing and deterring breaches of Union rules on transport safety which can endanger human lives has been already acknowledged in sectorial Union instruments on aviation safety³⁸ and maritime transport safety³⁹, which provide for tailored measures of protection to whistleblowers as well as specific reporting channels. These instruments also include the protection from retaliation of the workers reporting on their own honest mistakes (so called 'just culture'). It is necessary to complement the existing elements of whistleblower protection in these two sectors as well as to provide such protection to enhance ***immediately*** the enforcement of safety standards for other transport modes, namely road and railway transport.

³⁸ Regulation (EU) No 376/2014 of the European Parliament and of the Council, of

3 April 2014, on the reporting, analysis and follow-up of occurrences in civil aviation (OJ L 122, p. 18).

³⁹ Directive 2013/54/EU, of the European Parliament and of the Council, of 20 November 2013, concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention (OJ L 329, p. 1), Directive 2009/16/EC of the European Parliament and of the Council, of 23 April 2009, on port State control (OJ L 131, p. 57).

Amendment 9

Proposal for a directive Recital 10

Text proposed by the Commission

(10) Evidence-gathering, detecting and addressing environmental crimes and unlawful conduct against the protection of the environment remain a challenge and need to be reinforced as acknowledged in the Commission Communication "EU actions to improve environmental compliance and governance" of 18 January 2018⁴⁰. Whilst whistleblower protection rules exist at present only in one sectorial instrument on environmental protection⁴¹, the introduction of such protection appears necessary to ensure effective enforcement of the Union environmental acquis, whose breaches can cause serious harm to the public interest with possible spill-over impacts across national borders. This is also relevant in cases where unsafe products can cause environmental harm.

⁴⁰ COM(2018) 10 final.

⁴¹ Directive 2013/30/EU of the European Parliament and of the Council, of 12 June 2013, on safety of offshore oil and gas operations (OJ L 178, p. 66).

3 April 2014, on the reporting, analysis and follow-up of occurrences in civil aviation (OJ L 122, p. 18).

³⁹ Directive 2013/54/EU, of the European Parliament and of the Council, of 20 November 2013, concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention (OJ L 329, p. 1), Directive 2009/16/EC of the European Parliament and of the Council, of 23 April 2009, on port State control (OJ L 131, p. 57).

Amendment

(10) Evidence-gathering, detecting and addressing environmental crimes and unlawful conduct against the protection of the environment **unfortunately** remain a challenge and need to be reinforced as acknowledged in the Commission Communication "EU actions to improve environmental compliance and governance" of 18 January 2018⁴⁰. Whilst whistleblower protection rules exist at present only in one sectorial instrument on environmental protection⁴¹, the introduction of such protection appears necessary to ensure effective enforcement of the Union environmental acquis, whose breaches can cause serious harm to the public interest with possible spill-over impacts across national borders. This is also relevant in cases where unsafe products can cause environmental harm.

⁴⁰ COM(2018) 10 final.

⁴¹ Directive 2013/30/EU of the European Parliament and of the Council, of 12 June 2013, on safety of offshore oil and gas operations (OJ L 178, p. 66).

Amendment 10

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) The protection of privacy and personal data is another area where whistleblowers are in a privileged position to disclose breaches of Union law which can seriously harm the public interest. Similar considerations apply for breaches of the Directive on the security of network and information systems⁴⁵, which introduces notification of incidents (including those that do not compromise personal data) and security requirements for entities providing essential services across many sectors (e.g. energy, health, transport, banking, etc.) and providers of key digital services (e.g. cloud computing services). Whistleblowers' reporting in this area is particularly valuable to prevent security incidents that would affect key economic and social activities and widely used digital services. It helps ensuring the continuity of services which are essential for the functioning of the internal market and the wellbeing of society.

⁴⁵ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union.

Amendment 11

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Certain Union acts, in particular in

Amendment

(14) The protection of privacy and personal data is another area where whistleblowers are in a privileged position to disclose breaches of Union law which can seriously harm the public interest. Similar considerations apply for breaches of the Directive on the security of network and information systems⁴⁵, which introduces notification of incidents (including those that do not compromise personal data) and security requirements for entities providing essential services across many sectors (e.g. energy, health, transport, banking, etc.) and providers of key digital services (e.g. cloud computing services). Whistleblowers' reporting in this area is particularly valuable *in order to* prevent security incidents that would affect key economic and social activities and widely used digital services. It helps ensuring the continuity of services which are essential for the functioning of the internal market and the wellbeing of society.

⁴⁵ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union.

(18) Certain Union acts, in particular in

Amendment

the area of financial services, such as Regulation (EU) No 596/2014 on market abuse⁴⁹, and Commission Implementing Directive 2015/2392, adopted on the basis of that Regulation⁵⁰, already contain detailed rules on whistleblower protection. Such existing Union legislation, including the list of Part II of the Annex, should be complemented by the present Directive, so that these instruments are fully aligned with its minimum standards whilst maintaining any specificities they provide for, tailored to the relevant sectors. This is of particular importance to ascertain which legal entities in the area of financial services, the prevention of money laundering *and* terrorist financing are currently obliged to establish internal reporting channels.

⁴⁹ OJ L 173, p. 1.

⁵⁰ Commission Implementing Directive (EU) 2015/2392 of 17 December 2015 on Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards reporting to competent authorities of actual or potential infringements of that Regulation (OJ L 332, p. 126).

Amendment 12

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Each time a new Union act for which whistleblower protection is relevant

PE625.343v02-00

the area of financial services, such as Regulation (EU) No 596/2014 on market abuse⁴⁹, and Commission Implementing Directive 2015/2392, adopted on the basis of that Regulation⁵⁰, already contain detailed rules on whistleblower protection. Such existing Union legislation, including the list of Part II of the Annex, should be complemented by the present Directive, so that these instruments are fully aligned with its minimum standards whilst maintaining any specificities they provide for, tailored to the relevant sectors. This is of particular importance to ascertain which legal entities in the area of financial services, the prevention of money laundering, *the proper implementation of the Late Payments Directive 2011/7/EU*, terrorist financing *and cyber-crime* are currently obliged to establish internal reporting channels. *As these cases often involve highly complex international corporate and financial constructions, which are likely to be within the remit of differing jurisdictions, provisions for a unified point of contact for whistleblowers should be adopted.*

⁴⁹ OJ L 173, p. 1.

⁵⁰ Commission Implementing Directive (EU) 2015/2392 of 17 December 2015 on Regulation (EU) No 596/2014 of the European Parliament and of the Council as regards reporting to competent authorities of actual or potential infringements of that Regulation (OJ L 332, p. 126).

Amendment

(19) Each time a new Union act for which whistleblower protection is relevant

AD\1163252EN.docx

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 13

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 14

Proposal for a directive Recital 21

Text proposed by the Commission

(21) This Directive should be without prejudice to the protection of national security and other classified information which Union law or the laws, regulations or administrative provisions in force in the Member State concerned require, for

and can contribute to more effective enforcement is adopted, the Annex to the present Directive ***should be amended*** in order to place it under its scope.

Amendment

(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 ***or European Union*** 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

(21) This Directive should be without prejudice to the protection of national security and other classified information which Union law or the laws, regulations or administrative provisions in force in the Member State concerned require, for

security reasons, to be protected from unauthorised access. *In particular*, Moreover, the provision of this Directive should not affect the obligations arising from Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information or Council Decision of 23 September 2013 on the security rules for protecting EU classified information.

security reasons, to be protected from unauthorised access. Moreover, the provision of this Directive should not affect the obligations arising from Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information or Council Decision of 23 September 2013 on the security rules for protecting EU classified information.

Amendment 15

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 Union⁵², 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.

⁵² 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-

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 Union⁵², 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. ***Considering the report by Transparency International published in the summer of 2018 underscoring the need for whistleblower protection within EU institutions as well, protection should extend similarly to EU staff.***

⁵² 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-

Amendment 16

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 ***or career prospects.***

Amendment 17

Proposal for a directive Recital 30 a (new)

Text proposed by the Commission

Amendment

(30 a) 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.

Amendment 18

Proposal for a directive Recital 34

Text proposed by the Commission

Amendment

(34) It is for the Member States to

(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.

identify the authorities competent to receive and give appropriate follow up to the reports on breaches falling within the scope of this Directive, ***to ensure proper implementation and to ensure full, loyal and expeditious cooperation between competent authorities both within the Member State itself and with relevant authorities in other Member States***. 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, ***in addition to*** the necessary capacities and powers, ***suitably qualified staff*** 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.

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 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, ***analysing*** and following-up on reports.

Amendment 20

Proposal for a directive Recital 39

Text proposed by the Commission

(39) The exemption of small and micro undertakings from the obligation to establish internal reporting channels should not apply to private undertakings active in the area of financial services. Such undertakings should remain obliged to establish internal reporting channels, in line with the current obligations set forth in the Union acquis on financial services.

Amendment

(39) The exemption of small and micro undertakings from the obligation to establish internal reporting channels should not apply to private undertakings active in ***or closely linked to*** the area of financial services. Such undertakings should remain obliged to establish internal reporting channels, in line with the current obligations set forth in the Union acquis on financial services.

Amendment 21

**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 ***and made available to other Member States' or European Union authorities where relevant. It remains the responsibility of both the transmitting and receiving authorities to ensure full protection of whistleblowers and to ensure full, loyal and expeditious cooperation.***

Amendment 22

**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).

Amendment 23

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

Amendment

(80) This Directive introduces minimum standards and Member States should have the power **and be encouraged** 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.

Amendment 24

Proposal for a directive Recital 84

Text proposed by the Commission

(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

Amendment

(84) The objective of this Directive, namely to strengthen enforcement in certain policy areas and acts where breaches of Union law can cause 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.

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.

Amendment 25

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:***

Amendment 26

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 ***in*** the following areas:

Amendment 27

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, tax fraud, tax avoidance**, money laundering and terrorist financing, **cyber-terrorism and cyber-crime, corruption and organised crime**;

Amendment 28

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;

Amendment 29

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.

Amendment 30

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

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.

2. Where **higher protection** 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 31

Proposal for a directive

Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Directive shall apply to reporting persons **working** in the private or public sector who acquired information on breaches **in a work-related context** including, at least, the following:

Amendment

1. This Directive shall apply to reporting persons **and facilitators** in the private or public sector who acquired information on breaches including, at least, the following:

Amendment 32

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, with the meaning of Article 45 TFEU, **including part-time workers and fixed-term contract workers, as well as persons having the status of civil servants;**

Amendment 33

Proposal for a directive

Article 2 – paragraph 1 – point d

Text proposed by the Commission

d) any persons working under the supervision and direction of contractors, subcontractors and suppliers.

Amendment

d) any persons working under the supervision and direction of contractors, subcontractors, **service providers** and

suppliers.

Amendment 34

Proposal for a directive

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

Text proposed by the Commission

Amendment

da) persons facilitating the reporting, such as intermediaries or journalists.

Amendment 35

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 **and to work-based relationships that have terminated.**

Amendment 36

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Without prejudice to Articles 22a, 22b and 22c of Regulation No 31 (EEC), 11 (EAEC), this Directive shall also apply to the officials and the other servants of the European Union and the European Atomic Energy Community who report information on any of the breaches referred to in Article 1.

Amendment 37

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, **omissions** or abuse of law relating to the Union acts, **in** areas falling within the scope referred to in Article 1;

Amendment 38

Proposal for a directive

Article 3 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘abuse of law’ means acts or omissions falling within the scope of Union law which do not appear to be unlawful in formal terms but defeat the object or the purpose pursued by the applicable rules;

Amendment

(3) ‘abuse of law’ means acts or omissions falling within the scope of Union law which do not appear to be unlawful in formal terms but defeat the object or the purpose pursued by the applicable rules **or represent a danger to the public interest**;

Amendment 39

Proposal for a directive

Article 3 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘information on breaches’ means evidence about actual breaches as well as **reasonable** suspicions about potential breaches which have not yet materialised;

Amendment

(4) ‘information on breaches’ means evidence about actual breaches as well as suspicions about potential breaches which have not yet materialised;

Amendment 40

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 in the ***event of a serious, imminent threat or where there is a risk of irreversible damage;***

Amendment 41

**Proposal for a directive
Article 3 – paragraph 1 – point 8**

Text proposed by the Commission

(8) ‘disclosure’ means making information on breaches ***acquired within the work-related context*** available to the public domain;

Amendment

(8) ‘disclosure’ means making information on breaches available to the public domain;

Amendment 42

**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 is at risk of retribution; that includes individuals who are outside the traditional employee-employer relationship, such as consultants, contractors, trainees, interns, volunteers, student workers, temporary workers and former employees;***

Amendment 43

**Proposal for a directive
Article 3 – paragraph 1 – point 12**

Text proposed by the Commission

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 and* causes or may cause unjustified detriment to the reporting person;

(12) ‘retaliation’ means any threatened or actual act or 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*;

Amendment 44

Proposal for a directive Article 3 – paragraph 1 – point 13

Text proposed by the Commission

(13) ‘follow-up’ means any action taken by the recipient of the report, made internally or externally, to assess the accuracy of the allegations made in the report and, where relevant, to address the breach reported, including actions such as internal enquiry, investigation, prosecution, action for recovery of funds and closure;

Amendment

(13) ‘follow-up’ means any action taken by the recipient of the report, made internally or externally, to assess the accuracy of the allegations made in the report and, where relevant, to address the breach reported, including actions such as internal enquiry, investigation, prosecution, action for recovery of funds and closure *as well as any other appropriate remedial or mitigation action*;

Amendment 45

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 *legally responsible Union or Member State* 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 46

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, following consultations with social partners.

Amendment 47

**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 *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.

Amendment 48

**Proposal for a directive
Article 4 – paragraph 3 – point b**

Text proposed by the Commission

private legal entities with an annual business turnover or annual balance sheet total of EUR 10 million or more

Amendment

private legal entities with an annual business *or group* turnover or annual balance sheet total of EUR 10 million or more

Amendment 49

**Proposal for a directive
Article 4 – paragraph 3 – point c**

Text proposed by the Commission

c) private legal entities of any size

Amendment

c) private legal entities of any size

operating in the area of financial services or vulnerable to money laundering **or** terrorist financing, as regulated under the Union acts referred to in the Annex.

operating in the area of financial services or vulnerable to money laundering, terrorist financing **or cyber-crime**, as regulated under the Union acts referred to in the Annex

Amendment 50

Proposal for a directive

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

Text proposed by the Commission

Amendment

d a) European Union institutions, agencies and bodies;

Amendment 51

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 **an acknowledgement of the receipt of a report, that ensures** the confidentiality **or anonymity** of the identity of the reporting person and prevents access to non-authorised staff members;

Amendment 52

Proposal for a directive

Article 5 – paragraph 1 – point d

Text proposed by the Commission

Amendment

d) a reasonable timeframe, not exceeding three months following the report, to provide feedback to the reporting person about the follow-up to the report;

d) a reasonable timeframe, not exceeding three months following the report, to provide **substantive** feedback to the reporting person about the follow-up to the report;

Amendment 53

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;***

Amendment 54

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 or his/her legal representative;***

Amendment 55

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, ***allow for anonymous reporting and safeguard the whistle-blower personal data;***

Amendment 56

Proposal for a directive

Article 6 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(a a) promote free and independent advice and legal support for reporting persons and intermediaries;

Amendment 57

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***, 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;

Amendment 58

Proposal for a directive

Article 6 – paragraph 2 – point c

Text proposed by the Commission

Amendment

c) transmit the information contained in the report to competent bodies, offices or agencies of the Union, as appropriate, for further investigation, ***where provided for under national or Union law***.

c) transmit the information contained in the report to competent bodies, offices or agencies of the Union ***or other Member States***, as appropriate, for further investigation.

Amendment 59

Proposal for a directive

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

Text proposed by the Commission

Amendment

c a) cooperate fully, loyally and

expeditiously with other Member States and EU authorities.

Amendment 60

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that competent authorities follow up on the reports by taking the necessary measures and investigate, to the extent appropriate, the subject-matter of the reports. The competent authorities shall communicate to the reporting person the final outcome of the investigations.

Amendment

3. Member States shall ensure that competent authorities follow up on the reports by taking the necessary measures and investigate, to the extent appropriate, the subject-matter of the reports. The competent authorities shall communicate to the reporting person ***and all relevant other Member States and competent EU competent authorities, offices and agencies*** the final outcome of the investigations.

Amendment 61

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 and to confidentiality.***

Amendment 62

Proposal for a directive

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

Text proposed by the Commission

Amendment

c a) they promote free and independent advice and legal support for reporting persons and intermediaries;

Amendment 63

Proposal for a directive

Article 7 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

c) physical meeting with dedicated staff members of the competent authority ***accompanied, if the reporting person requests it, by a union representative or his/her legal representative, while ensuring confidentiality and anonymity is respected.***

Amendment 64

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

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.

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.

Amendment 65

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

c) maintaining ***confidential*** contact with the reporting person for the purpose of

informing the reporting person of the progress and the outcome of the investigation.

informing the reporting person of the progress and the outcome of the investigation.

Amendment 66

Proposal for a directive

Article 9 – paragraph 1 – point b

Text proposed by the Commission

b) a reasonable timeframe, not exceeding three months or six months in duly justified cases, for giving feed-back to the reporting person about the follow-up of the report and the type and content of this feed-back;

Amendment

b) a reasonable timeframe, not exceeding three months or six months in duly justified cases, for giving **substantive** feed-back to the reporting person about the follow-up of the report and the type and content of this feed-back.

Amendment 67

Proposal for a directive

Article 10 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

g a) contact information of civil society organisations where legal advice can be obtained free of charge.

Amendment 68

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

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.

1. A reporting person shall qualify for protection **and be granted the status of a reporting person** 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 **regardless of the reporting channel chosen. Protection extends to those who make inaccurate disclosures in**

good faith and protection to reporting persons should be in effect while the accuracy of a disclosure is being assessed.

Amendment 69

Proposal for a directive

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. 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.

Amendment 70

Proposal for a directive

Article 13 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1 b. Member States shall establish clear criteria for granting the rights and protection provided for in this Directive to reporting persons from the moment of reporting.

Amendment 71

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 :

deleted

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.

Amendment 72

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 73

Proposal for a directive

Article 14 – paragraph 1 – point g

Text proposed by the Commission

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

Amendment

g) coercion, intimidation, harassment, or ostracism;

Amendment 74

Proposal for a directive

Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14 a

Support for the reporting person or persons from an independent third party

1. Member States may provide for the person reporting or intending to make a report or a public disclosure to be given support in the procedure. Such support shall ensure the identity of the persons referred to in this paragraph remains confidential and may, in particular, take the form of:

(a) free, impartial and confidential advice, especially on the scope of this Directive, the reporting channels and the protection granted to the reporting person and the rights of the concerned person;

(b) legal advice in the event of a legal dispute;

(c) psychological support;

2. This support may be provided by an independent administrative authority, trade unions or other organisations

representing workers or an accredited body designated by the Member State, provided that it fulfils the following criteria:

(a) it is properly constituted according to the law of a Member State;

(b) it has a legitimate interest in ensuring compliance with the provisions laid down in this Directive; and

(c) it is a not-for-profit entity.

Amendment 75

Proposal for a directive Article 15 – paragraph 8

Text proposed by the Commission

8. In addition to providing legal aid to reporting persons in criminal and in cross-border civil proceedings in accordance with Directive (EU) 2016/1919 and Directive 2008/52/EC of the European Parliament and of the Council⁶³, and in accordance with national law, Member States may provide for further measures of legal and financial assistance and support for reporting persons in the framework of legal proceedings.

⁶³ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (OJ L 136, 24.5.2008, p. 3).

Amendment

8. In addition to providing legal aid to reporting persons in criminal and in cross-border civil proceedings in accordance with Directive (EU) 2016/1919 and Directive 2008/52/EC of the European Parliament and of the Council⁶³, and in accordance with national law, Member States may ***decide to*** provide for further measures of legal and financial assistance and support for reporting persons in the framework of legal proceedings, ***as well as financial support in cases of temporary loss of income.***

⁶³ Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (OJ L 136, 24.5.2008, p. 3).

Amendment 76

Proposal for a directive Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Duty to preserve the confidentiality of the identity of the reporting person

- 1. The identity of the reporting person or persons may not be disclosed without their express consent. This duty of confidentiality also includes information which may be used to identify the reporting person.*
- 2. A person who possesses or obtains the information referred to in paragraph 1 shall be duty-bound not to disclose it.*
- 3. The circumstances in which, by way of derogation from paragraph 2, information germane to the identity of the reporting person may be disclosed shall be limited to exceptional cases where disclosure of such information is a necessary and proportionate obligation required by Union or national law in the context of subsequent investigations or 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. In such cases appropriate and effective steps must be taken to ensure the safety and well-being of the reporting person or persons.*
- 4. In the cases referred to in paragraph 3, the person designated to receive the report shall inform the reporting person in due time before disclosing his or her identity and consult with them on other possible alternative courses of action.*
- 5. The internal and external reporting channels shall be designed in such a way as to ensure the identity of the reporting person remains confidential and to prevent access by non-authorised persons. Information shall be kept on which staff members have accessed confidential information, including time and dates of such access.*

Amendment 77

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.

Amendment 78

Proposal for a directive

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

Text proposed by the Commission

Amendment

d a) repeat the infringement reported by the reporting person once the case is closed.

Amendment 79

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 malicious or abusive reports or disclosures.

Amendment 80

Proposal for a directive

Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

Obligation to cooperate

1. Member States' authorities who are made aware of breaches of Union law, as covered by this directive, are obliged to expeditiously inform all other relevant Member States' authorities and/or EU offices and agencies and to cooperate with these in a loyal, effective and expeditious manner.

2. Member States' authorities who are notified by other Member States' authorities of potential breaches of union law, as covered by this directive, are required to provide a substantive response on actions taken in connection with said notification as well as an official notification of receipt and a point of contact for further cooperation.

3. Member States' authorities are obliged to safeguard confidential information received, especially as related to the identity and other personal information of reporting persons.

4. Member States' authorities are obliged to provide confidential access to the information received from reporting persons and to facilitate requests for further information in a timely manner.

5. Member States' authorities are obliged to share all relevant information with other competent Member States authorities pertaining to breaches of Union or national law in international cases and to do so in a timely manner.

Amendment 81

Proposal for a directive Article 17 b (new)

Text proposed by the Commission

Amendment

Article 17 b

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.

Amendment 82

Proposal for a directive

Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *When transposing this directive, Member States may consider the establishment of an independent whistleblower protection authority.*

Amendment 83

Proposal for a directive

Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22 a

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.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Protection of persons reporting on breaches of Union law
References	COM(2018)0218 – C8-0159/2018 – 2018/0106(COD)
Committee responsible Date announced in plenary	JURI 28.5.2018
Opinion by Date announced in plenary	ECON 28.5.2018
Rapporteur Date appointed	Miguel Viegas 31.5.2018
Discussed in committee	29.8.2018 24.9.2018
Date adopted	24.9.2018
Result of final vote	+ : 24 - : 15 0 : 7
Members present for the final vote	Pervenche Berès, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Sven Giegold, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Barbara Kappel, Philippe Lamberts, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Marisa Matias, Gabriel Mato, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Pirkko Ruohonen-Lerner, Anne Sander, Martin Schirdewan, Pedro Silva Pereira, Ernest Urtasun, Marco Valli, Tom Vandenkendelaere, Miguel Viegas, Steven Woolfe, Marco Zanni, Esther de Lange
Substitutes present for the final vote	Doru-Claudian Frunzulică, Ramón Jáuregui Atondo, Rina Ronja Kari, Jeppe Kofod, Marcus Pretzell, Michel Reimon, Romana Tomc, Lieve Wierinck, Roberts Ziļe, Sophia in 't Veld
Substitutes under Rule 200(2) present for the final vote	Edouard Martin, Julia Pitera, Virginie Rozière, Sabine Verheyen, Anna Záborská

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

24	+
ECR	Pirkko Ruohonen-Lerner
EFDD	Bernard Monot, Marco Valli
GUE/NGL	Rina Ronja Kari, Marisa Matias, Martin Schirdewan, Miguel Viegas
PPE	Anne Sander, Tom Vandenkendelaere
S&D	Pervenche Berès, Jonás Fernández, Giuseppe Ferrandino, Doru-Claudian Frunzulică, Roberto Gualtieri, Ramón Jáuregui Atondo, Jeppe Kofod, Olle Ludvigsson, Edouard Martin, Virginie Rozière, Pedro Silva Pereira
Verts/ALE	Sven Giegold, Philippe Lamberts, Michel Reimon, Ernest Urtasun

15	-
ECR	Sander Loones
ENF	Barbara Kappel, Marcus Pretzell
NI	Steven Woolfe
PPE	Markus Ferber, Brian Hayes, Gunnar Hökmark, Werner Langen, Ivana Maletić, Gabriel Mato, Luděk Niedermayer, Julia Pitera, Romana Tomc, Sabine Verheyen, Anna Záborská

7	0
ALDE	Lieve Wierinck, Sophia in 't Veld
ECR	Bernd Lucke, Stanisław Ożóg, Roberts Zīle
ENF	Marco Zanni
PPE	Esther de Lange

Key to symbols:

+ : in favour

- : against

0 : abstention