



2018/0106(COD)

12.7.2018

AMENDMENTS

102 - 336

Draft opinion
Curzio Maltese
(PE623.815v01-00)

Protection of persons reporting on breaches of Union law

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

Amendment 102
Damian Drăghici, Silvia Costa

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 on Freedom of expression and information,

Or. en

Amendment 103
Damian Drăghici, Silvia Costa

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,

Or. en

Amendment 104
Damian Drăghici, Silvia Costa

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

Amendment 105
Dominique Bilde

Proposal for a directive
Recital 1

Text proposed by the Commission

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

Amendment

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

Amendment 106
Damian Drăghici, Silvia Costa

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 **and policies**: they feed national and Union enforcement systems with information leading to effective detection, investigation and prosecution of breaches of Union law.

Amendment 107
Stelios Kouloglou, Curzio Maltese

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Acknowledging that all major scandals that have been made public since 2014, like LuxLeaks and Panama Papers, are all thanks to whistleblowers.

Or. en

Amendment 108
Damian Drăghici

Proposal for a directive
Recital 3

Text proposed by the Commission

Amendment

(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.

(3) In certain policy areas, breaches of Union law may cause 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 *safe and* effective reporting channels.

Or. en

Amendment 109
Dominique Bilde

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) 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 *common good*. 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.

Or. fr

Amendment 110 Damian Drăghici

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 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 harm to the public interest.

Or. en

Amendment 111 Isabella Adinolfi

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 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 harm to the public interest.

Or. en

Amendment 112

Isabella Adinolfi

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. ***In most of the cases such breaches place the trust of citizens in public institutions under a serious threat,***

thus jeopardising the proper functioning of democracy.

Or. en

Amendment 113
Dominique Bilde

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) As regards the safety of products placed into the internal market, the primary source of evidence-gathering are businesses involved in the manufacturing and distribution chain, so that reporting by whistleblowers has a high added value, since they are much closer to the source of possible unfair and *illicit* manufacturing, import or distribution practices of unsafe products. This warrants the introduction of whistleblower protection in relation to the safety requirements applicable both to ‘harmonised products’³⁶ and to ‘non-harmonised products’³⁷. Whistleblower protection is also instrumental in avoiding diversion of firearms, their parts and components and ammunition, as well as defence-related products, by encouraging the reporting of breaches, such as document fraud, altered marking or false declarations of import or export and fraudulent intra-communitarian acquisition of firearms where violations often imply a diversion from the legal to the illegal market. Whistleblower protection will also help prevent the *illicit* manufacture of homemade explosives by contributing to the correct application of restrictions and controls regarding explosives precursors.

³⁶ The body of relevant ‘Union harmonisation legislation’ is circumscribed

Amendment

(8) As regards the safety of products placed into the internal market, the primary source of evidence-gathering are businesses involved in the manufacturing and distribution chain, so that reporting by whistleblowers has a high added value, since they are much closer to the source of possible unfair and *illegal* manufacturing, import or distribution practices of unsafe products. This warrants the introduction of whistleblower protection in relation to the safety requirements applicable both to ‘harmonised products’³⁶ and to ‘non-harmonised products’³⁷. Whistleblower protection is also instrumental in avoiding diversion of firearms, their parts and components and ammunition, as well as defence-related products, by encouraging the reporting of breaches, such as document fraud, altered marking or false declarations of import or export and fraudulent intra-communitarian acquisition of firearms where violations often imply a diversion from the legal to the illegal market. Whistleblower protection will also help prevent the *illegal* manufacture of homemade explosives by contributing to the correct application of restrictions and controls regarding explosives precursors.

³⁶ The body of relevant ‘Union harmonisation legislation’ is circumscribed

and listed in Regulation [XXX] laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation, 2017/0353 (COD).

³⁷ Regulated by Directive (EC) 2001/95 of the European Parliament and of the Council, of 3 December 2001, on general product safety (OJ L 11, p. 4).

and listed in Regulation [XXX] laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation, 2017/0353 (COD).

³⁷ Regulated by Directive (EC) 2001/95 of the European Parliament and of the Council, of 3 December 2001, on general product safety (OJ L 11, p. 4).

Or. fr

Amendment 114 **Damian Drăghici**

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

Amendment

(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 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).

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Or. en

Amendment 115
Dominique Bilde

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).

Amendment

(10) Evidence-gathering, detecting and addressing environmental crimes and **illegal** 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).

Or. fr

Amendment 116
Damian Drăghici

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

(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 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.

Or. en

Amendment 117
Dominique Bilde

Proposal for a directive
Recital 14

Text proposed by the Commission

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 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.

(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 *ensure* the continuity of services which are essential for the functioning of the internal market and the *common good*.

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.

Or. fr

Amendment 118
Dominique Bilde

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Combating the illegal trafficking in stolen cultural goods is a concern of the Union. The introduction of whistleblower protection would increase the ability of the European Commission

and of the competent authorities in the Member States to detect this illegal trafficking and put an end to it.

Or. fr

Amendment 119
Dominique Bilde

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Acts which breach the rules of corporate tax and arrangements whose purpose is to obtain a tax advantage and to evade legal obligations, defeating the object or purpose of the applicable corporate tax law, negatively affect the proper functioning of the internal market. They can give rise to unfair tax competition and extensive tax evasion, distorting the level-playing field for companies and resulting in loss of tax revenues for Member States and for the Union budget as a whole. Whistleblower protection adds to recent Commission initiatives aimed at improving transparency and the exchange of information in the field of taxation⁴⁷ and creating a fairer corporate tax environment within the Union⁴⁸, with a view to increasing Member States' effectiveness in identifying evasive and/or abusive arrangements that could otherwise go undetected and will help deter such arrangements.

⁴⁷ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (as amended).

Amendment

(17) Acts which breach the rules of corporate tax and arrangements whose purpose is to obtain a tax advantage and to evade legal obligations, defeating the object or purpose of the applicable corporate tax law, negatively affect the proper functioning of the internal market. They can give rise to unfair tax competition and extensive tax evasion, distorting the level-playing field for companies and resulting in loss of tax revenues for Member States and for the Union budget as a whole, ***which will have a detrimental effect on taxpayers.*** Whistleblower protection adds to recent Commission initiatives aimed at improving transparency and the exchange of information in the field of taxation⁴⁷ and creating a fairer corporate tax environment within the Union⁴⁸, with a view to increasing Member States' effectiveness in identifying evasive and/or abusive arrangements that could otherwise go undetected and will help deter such arrangements.

⁴⁷ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (as amended).

⁴⁸ Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (as amended); Proposal for a Council Directive on a Common Consolidated Corporate Tax Base, COM/2016/0683 final — 2016/0336; Proposal for a Council Directive on a Common Corporate Tax Base, COM/2016/0685 final — 2016/0337.

⁴⁸ Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (as amended); Proposal for a Council Directive on a Common Consolidated Corporate Tax Base, COM/2016/0683 final — 2016/0336; Proposal for a Council Directive on a Common Corporate Tax Base, COM/2016/0685 final — 2016/0337.

Or. fr

Amendment 120
Dominique Bilde

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) This Directive shall not facilitate disclosure of confidential medical information or information covered by lawyer-client confidentiality.

Or. fr

Amendment 121
Damian Drăghici, Silvia Costa

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

(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 media freedom and pluralism.

Article 10 of the European Convention on Human Rights (ECHR), encompasses *the right to receive and impart information as well as* media freedom and pluralism.

Or. en

Amendment 122
Damian Drăghici

Proposal for a directive
Recital 24

Text proposed by the Commission

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

Amendment

(24) Persons need specific legal protection where they acquire the information they report through their work-related activities and therefore run the risk of work-related retaliation (for instance, for breaching the duty of confidentiality or loyalty). The underlying reason for providing them with protection is their position of vulnerability vis-à-vis the person on whom they de facto depend for work.

Or. en

Amendment 123
Francis Zammit Dimech

Proposal for a directive
Recital 24

Text proposed by the Commission

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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.***

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Or. en

Amendment 124 **Isabella Adinolfi**

Proposal for a directive **Recital 24**

Text proposed by the Commission

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

Amendment

(24) Persons need specific protection ***(legal, economic, social and psychological)*** 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, ***amongst others,*** their position of vulnerability vis-à-vis the person on whom they de facto depend for work. ***Furthermore, the protection should be granted to incentive citizens to report breaches of law in order to safeguard the public interest and proper functioning of democracy.***

Or. en

Amendment 125
Dominique Bilde

Proposal for a directive
Recital 25

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 126
Damian Drăghici, Silvia Costa

Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Effective **enforcement of Union law requires that** protection **is** granted to the broadest possible range of categories of persons, who, irrespective of whether they are EU citizens or third-country nationals, by virtue of work-related activities (irrespective of the nature of these

Amendment

(25) Effective protection **needs to be** granted to the broadest possible range of categories of persons, who, irrespective of whether they are EU citizens or third-country nationals, by virtue of work-related activities (irrespective of the nature of these activities, whether they are paid or not),

activities, whether they are paid or not), have privileged access to information about breaches that would be in the public's interest to report and who may suffer retaliation if they report them. Member States should ensure that the need for protection is determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship, so as to cover the whole range of persons connected in a broad sense to the organisation where the breach has occurred.

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Or. en

Amendment 127
Damian Drăghici, Silvia Costa

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

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, ***paid trainees*** 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-413/13; and 17 November 2016, Ruhrlandklinik, Case C-216/15.

Syndicale Solidaires Isère, Case C-428/09; 9 July 2015, Balkaya, Case C-229/14; 4 December 2014, FNV Kunsten, Case C-413/13; and 17 November 2016, Ruhrlandklinik, Case C-216/15.

Or. en

Amendment 128
Damian Drăghici, Silvia Costa

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Protection should also extend to further categories of natural or legal persons, who, whilst not being 'workers' within the meaning of Article 45 TFEU, can play a key role in exposing breaches of the law and may find themselves in a position of *economic* vulnerability in the context of their work-related activities. For instance, in areas such as product safety, suppliers are much closer to the source of possible unfair and illicit manufacturing, import or distribution practices of unsafe products; in the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, including self-employed persons providing services, freelance, contractors, sub-contractors and suppliers, are typically subject to retaliation in the form of early termination or cancellation of contract of services, licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting/business boycotting or damage to their reputation. Shareholders and persons in managerial bodies, may also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or

Amendment

(27) Protection should also extend to further categories of natural or legal persons, who, whilst not being 'workers' within the meaning of Article 45 TFEU, can play a key role in exposing breaches of the law and may find themselves in a position of vulnerability in the context of their work-related activities. For instance, in areas such as product safety, suppliers are much closer to the source of possible unfair and illicit manufacturing, import or distribution practices of unsafe products; in the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, including self-employed persons providing services, freelance, contractors, sub-contractors and suppliers, are typically subject to retaliation in the form of early termination or cancellation of contract of services, licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting/business boycotting or damage to their reputation. Shareholders and persons in managerial bodies, may also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their

damage to their reputation. Protection should also be granted to candidates for employment or for providing services to an organisation who acquired the information on breaches of law during the recruitment process or other pre-contractual negotiation stage, and may suffer retaliation for instance in the form of negative employment references or blacklisting/business boycotting.

reputation. Protection should also be granted to candidates for employment or for providing services to an organisation who acquired the information on breaches of law during the recruitment process or other pre-contractual negotiation stage, and may suffer retaliation for instance in the form of negative employment references or blacklisting/business boycotting.

Or. en

Amendment 129
Isabella Adinolfi

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) Protection should also extend to further categories of natural or legal persons, who, whilst not being 'workers' within the meaning of Article 45 TFEU, can play a key role in exposing breaches of the law and may find themselves in a position of *economic* vulnerability in the context of their work-related activities. For instance, in areas such as product safety, suppliers are much closer to the source of possible unfair and illicit manufacturing, import or distribution practices of unsafe products; in the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, including self-employed persons providing services, freelance, contractors, sub-contractors and suppliers, are typically subject to retaliation in the form of early termination or cancellation of contract of services, licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting/business

Amendment

(27) Protection should also extend to further categories of natural or legal persons, who, whilst not being 'workers' within the meaning of Article 45 TFEU, can play a key role in exposing breaches of the law and may find themselves in a position of vulnerability in the context of their work-related activities. For instance, in areas such as product safety, suppliers are much closer to the source of possible unfair and illicit manufacturing, import or distribution practices of unsafe products; in the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, including self-employed persons providing services, freelance, contractors, sub-contractors and suppliers, are typically subject to retaliation in the form of early termination or cancellation of contract of services, licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting/business boycotting or damage

boycotting or damage to their reputation. Shareholders and persons in managerial bodies, may also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their reputation. Protection should also be granted to candidates for employment or for providing services to an organisation who acquired the information on breaches of law during the recruitment process or other pre-contractual negotiation stage, and may suffer retaliation for instance in the form of negative employment references or blacklisting/business boycotting.

to their reputation. Shareholders and persons in managerial bodies, may also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their reputation. Protection should also be granted to candidates for employment or for providing services to an organisation who acquired the information on breaches of law during the recruitment process or other pre-contractual negotiation stage, and may suffer retaliation for instance in the form of negative employment references or blacklisting/business boycotting.

Or. en

Amendment 130
Damian Drăghici

Proposal for a directive
Recital 29

Text proposed by the Commission

(29) Effective detection and prevention of *serious* harm to the public interest requires that the information reported which qualifies for protection covers not only unlawful activities but also abuse of law, namely acts or omissions which do not appear to be unlawful in formal terms but defeat the object or the purpose of the law.

Amendment

(29) Effective detection and prevention of harm to the public interest requires that the information reported which qualifies for protection covers not only unlawful activities but also abuse of law, namely acts or omissions which do not appear to be unlawful in formal terms but defeat the object or the purpose of the law.

Or. en

Amendment 131
Isabella Adinolfi

Proposal for a directive
Recital 29

Text proposed by the Commission

(29) Effective detection and prevention of *serious* harm to the public interest requires that the information reported which qualifies for protection covers not only unlawful activities but also abuse of law, namely acts or omissions which do not appear to be unlawful in formal terms but defeat the object or the purpose of the law.

Amendment

(29) Effective detection and prevention of harm to the public interest requires that the information reported which qualifies for protection covers not only unlawful activities but also abuse of law, namely acts or omissions which do not appear to be unlawful in formal terms but defeat the object or the purpose of the law.

Or. en

Amendment 132
Isabella Adinolfi

Proposal for a directive
Recital 30

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 133
Damian Drăghici

Proposal for a directive
Recital 30

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 134
Dominique Bilde

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) 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 ***or student*** context which causes them detriment.

Or. fr

Amendment 135

Isabella Adinolfi

**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) 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, ***amongst others***, 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.

Or. en

**Amendment 136
Francis Zammit Dimech**

**Proposal for a directive
Recital 32 a (new)**

Text proposed by the Commission

Amendment

(32a) Potential whistleblowers should seek wherever possible to inform internal reporting systems or agencies but wherever they deem that such course of action will be inadequate, they should be free to decide that 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 137
Damian Drăghici, Silvia Costa

Proposal for a directive
Recital 33

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 138
Damian Drăghici, Silvia Costa

Proposal for a directive
Recital 34

Text proposed by the Commission

(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,

Amendment

(34) It is for the Member States to identify the authorities competent to receive and give appropriate follow up to the reports on breaches falling within the scope of this Directive. These may be regulatory or supervisory bodies in the areas concerned, law enforcement agencies, anti-corruption bodies and ombudsmen. The authorities designated as competent shall **be independent and impartially and objectively** assess the accuracy of the allegations made in the report and to address the breaches reported,

prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate.

including by launching an investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate.

Or. en

Amendment 139
Isabella Adinolfi

Proposal for a directive
Recital 34

Text proposed by the Commission

(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.

Amendment

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

Or. en

Amendment 140
Dominique Bilde

Proposal for a directive
Recital 36

Text proposed by the Commission

(36) Some bodies, offices and agencies

Amendment

(36) Some bodies, offices and agencies

of the Union, such as the European Anti-Fraud Office (OLAF), the European Maritime Safety Agency (EMSA), the European Aviation Safety Agency (EASA) and the European Medicines Agency (EMA), have in place external channels and procedures for receiving reports on breaches falling within the scope of this Directive, which mainly provide for confidentiality of the identity of the reporting persons. This Directive does not affect such external reporting channels and procedures, where they exist, but will ensure that persons reporting to those bodies, offices or agencies of the Union benefit from common minimum standards of protection throughout the Union.

of the Union, such as the European Anti-Fraud Office (OLAF), the European Maritime Safety Agency (EMSA), the European Aviation Safety Agency (EASA) and the European Medicines Agency (EMA), have in place external channels and procedures for receiving reports on breaches falling within the scope of this Directive, which mainly provide for confidentiality of the identity of the reporting persons ***and of the natural persons concerned by the reports***. This Directive does not affect such external reporting channels and procedures, where they exist, but will ensure that persons reporting to those bodies, offices or agencies of the Union benefit from common minimum standards of protection throughout the Union.

Or. fr

Amendment 141
Isabella Adinolfi

Proposal for a directive
Recital 38

Text proposed by the Commission

(38) For legal entities in the private sector, the obligation to establish internal channels is commensurate with their size and the level of risk their activities pose to the public interest. It should apply to all medium-sized and large entities irrespective of the nature of their activities, based on their obligation to collect VAT. As a general rule small and micro undertakings, as defined in Article 2 of the Annex of the Commission Recommendation of 6 May 2003, as amended⁵⁶, should be exempted from the obligation to establish internal channels. However, following an appropriate risk assessment, Member States may require

Amendment

deleted

small undertakings to establish internal reporting channels in specific cases (e.g. due to the significant risks that may result from their activities).

⁵⁶ *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 142
Isabella Adinolfi

Proposal for a directive
Recital 39

Text proposed by the Commission

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 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.* **deleted**

Or. en

Amendment 143
Dominique Bilde

Proposal for a directive
Recital 40

Text proposed by the Commission

Amendment

(40) *It should be clear that, in the case of private legal entities which do not provide* **(Does not affect the English version.)**

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.

Or. fr

Amendment 144
Isabella Adinolfi

Proposal for a directive
Recital 40

Text proposed by the Commission

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

Amendment

(40) It should be clear that, in the case of private legal entities which **fail to** 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.

Or. en

Amendment 145
Isabella Adinolfi

Proposal for a directive
Recital 41

Text proposed by the Commission

(41) To ensure in particular, the respect of the public procurement rules in the public sector, the obligation to put in place internal reporting channels should apply to all public legal entities, at local, regional and national level, whilst being commensurate with their size. ***In cases where internal channels are not provided***

Amendment

(41) To ensure in particular, the respect of the public procurement rules in the public sector, the obligation to put in place internal reporting channels should apply to all public legal entities, at local, regional and national level, whilst being commensurate with their size.

in small public entities, Member States may provide for internal reporting within a higher level in the administration (that is to say at regional or central level).

Or. en

Amendment 146
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 147
Damian Drăghici, Silvia Costa

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,

Amendment

(45) The most appropriate persons or departments within a private legal entity to be designated as competent to receive and follow up on reports depend on the structure of the entity, but, in any case,

their function should ensure absence of conflict of interest and independence. 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.

they shall be designated in close collaboration with the employees or employee representatives and 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.

Or. en

Amendment 148
Dominique Bilde

Proposal for a directive
Recital 46

Text proposed by the Commission

(46) In the context of internal reporting, the quality and transparency of information provided on the follow up procedure to the report is crucial to build trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further unnecessary reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow up to the report (for instance, closure based on lack of sufficient evidence or other grounds, launch of an internal enquiry and possibly its findings and/or measures taken to address the issue raised, referral to a competent authority for further investigation) as far as such information would not prejudice the enquiry or investigation or affect the rights of the concerned person. Such reasonable timeframe should not exceed in total three months. Where the appropriate follow up is

Amendment

(Does not affect the English version.)

still being determined, the reporting person should be informed about this and about any further feedback he/she should expect.

Or. fr

Amendment 149
Damian Drăghici

Proposal for a directive
Recital 46

Text proposed by the Commission

(46) In the context of internal reporting, the quality and transparency of information provided on the follow up procedure to the report is crucial to build trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further *unnecessary* reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow up to the report (for instance, closure based on lack of sufficient evidence or other grounds, launch of an internal enquiry and possibly its findings and/or measures taken to address the issue raised, referral to a competent authority for further investigation) as far as such information would not prejudice the enquiry or investigation or affect the rights of the concerned person. Such reasonable timeframe should not exceed in total three months. Where the appropriate *follow up* is still being determined, the reporting person should be informed about this and about any further feedback he/she should expect.

Amendment

(46) In the context of internal reporting, the quality and transparency of information provided on the follow up procedure to the report is crucial to build trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further *unjustified* reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow up to the report (for instance, closure based on lack of sufficient evidence or other grounds, launch of an internal enquiry and possibly its findings and/or measures taken to address the issue raised, referral to a competent authority for further investigation) as far as such information would not prejudice the enquiry or investigation or affect the rights of the concerned person. Such reasonable timeframe should not exceed in total three months. Where the appropriate *follow-up* is still being determined, the reporting person should be informed about this and about any further feedback he/she should expect.

Or. en

Amendment 150

Yana Toom

**Proposal for a directive
Recital 46**

Text proposed by the Commission

(46) In the context of internal reporting, the quality and transparency of information provided on the follow up procedure to the report is crucial to build trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further unnecessary reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow up to the report (for instance, closure based on lack of sufficient evidence or other grounds, launch of an internal enquiry and possibly its findings and/or measures taken to address the issue raised, referral to a competent authority for further investigation) as far as such information would not prejudice the enquiry or investigation or affect the rights of the concerned person. Such reasonable timeframe should not exceed in total **three** months. Where the appropriate follow up is still being determined, the reporting person should be informed about this and about any further feedback he/she should expect.

Amendment

(46) In the context of internal reporting, the quality and transparency of information provided on the follow up procedure to the report is crucial to build trust in the effectiveness of the overall system of whistleblower protection and reduces the likelihood of further unnecessary reports or public disclosures. The reporting person should be informed within a reasonable timeframe about the action envisaged or taken as follow up to the report (for instance, closure based on lack of sufficient evidence or other grounds, launch of an internal enquiry and possibly its findings and/or measures taken to address the issue raised, referral to a competent authority for further investigation) as far as such information would not prejudice the enquiry or investigation or affect the rights of the concerned person. Such reasonable timeframe should not exceed in total **two** months. Where the appropriate follow up is still being determined, the reporting person should be informed about this and about any further feedback he/she should expect.

Or. en

**Amendment 151
Isabella Adinolfi**

**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

Amendment

(47) Persons who are considering reporting breaches of Union law should be able to make an informed decision on

whether, how and when to report. Private and public entities *having in place internal reporting procedures* shall provide information on *these* procedures as well as on procedures to report externally to relevant competent authorities. Such information must be easily understandable and easily accessible, including, to any extent possible, also to other persons, beyond employees, who come in contact with the entity through their work-related activities, such as service-providers, distributors, suppliers and business partners. For instance, such information may be posted at a visible location accessible to all these persons and to the web of the entity and may also be included in courses and trainings on ethics and integrity.

whether, how and when to report. Private and public entities shall provide information on *internal reporting* 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.

Or. en

Amendment 152
Dominique Bilde

Proposal for a directive
Recital 49

Text proposed by the Commission

(49) Lack of confidence in the usefulness of reporting is one of the main factors discouraging potential whistleblowers. This warrants imposing a clear obligation on competent authorities to diligently follow-up on the reports received, and, within a reasonable timeframe, give feedback to the reporting persons about the action envisaged or taken as follow-up (for instance, closure based on lack of sufficient evidence or other grounds, launch of an investigation and possibly its findings and/or measures taken to address the issue raised; referral to another authority competent to give follow-up) to the extent that such information

Amendment

(Does not affect the English version.)

would not prejudice the investigation or the rights of the concerned persons.

Or. fr

Amendment 153
Damian Drăghici

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 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 *unjustified* 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.

Or. en

Amendment 154
Yana Toom

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

Amendment

(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 *two* months, but could be extended to *four* 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.

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 155
Dominique Bilde

Proposal for a directive
Recital 51

Text proposed by the Commission

(51) Where provided for under national or Union law, the competent authorities should refer cases or relevant information to relevant bodies, offices or agencies of the Union, including, for the purposes of this Directive, the European Anti-Fraud Office (OLAF) and the European Public Prosecutor Office (EPPO), without prejudice to the possibility for the reporting person to refer directly to such bodies, offices or agencies of the Union.

Amendment

(Does not affect the English version.)

Or. fr

Amendment 156
Damian Drăghici, Silvia Costa

Proposal for a directive
Recital 53

Text proposed by the Commission

(53) Dedicated staff members of the competent authorities, who are professionally trained, including on applicable data protection rules, would be necessary in order to handle reports and to ensure communication with the reporting person, as well as following up on the

Amendment

(53) Dedicated staff members of the competent authorities, who are professionally trained ***on a regular basis***, including on applicable data protection rules, would be necessary in order to ***receive and*** handle reports and to ensure communication with the reporting person,

report in a suitable manner.

as well as following up on the report in a suitable manner.

Or. en

Amendment 157
Dominique Bilde

Proposal for a directive
Recital 53

Text proposed by the Commission

(53) Dedicated staff members of the competent authorities, who are professionally trained, including on applicable data protection rules, would be necessary in order to handle reports and to ensure communication with the reporting person, as well as following up on the report in a suitable manner.

Amendment

(Does not affect the English version.)

Or. fr

Amendment 158
Francis Zammit Dimech

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

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.

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, provided that whistleblowers should in their discretion determine before resorting to external channels whether internal reporting mechanisms would be effective enough to provide a remedy against the breach that would be the subject of their report.

Or. en

Amendment 159
Dominique Bilde

Proposal for a directive
Recital 58

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 160
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 161
Isabella Adinolfi

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

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. 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.

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

Or. en

Amendment 162
Dominique Bilde

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

Amendment

(Does not affect the English version.)

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 disclosure had at their disposal alternative channels for making the disclosure; see, for instance, *Guja v. Moldova* [GC], no 14277/04, ECHR 2008.

Or. fr

Amendment 163 **Isabella Adinolfi**

Proposal for a directive **Recital 62**

Text proposed by the Commission

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

Amendment

(62) As a rule, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry).

Or. en

Amendment 164
Francis Zammit Dimech

Proposal for a directive
Recital 62

Text proposed by the Commission

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

Amendment

(62) ***Without prejudice to the other provisions of this Directive, as a general*** rule, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities which are not under an obligation to establish such channels by virtue of this Directive or applicable national law) or that their use is not mandatory (which may be the case for persons who are not in an employment relationship), or that they were used but did not function properly (for instance the report was not dealt with diligently or within a reasonable timeframe, or no action was taken to address the breach of law despite the positive results of the enquiry).

Or. en

Amendment 165
Dominique Bilde

Proposal for a directive
Recital 62

Text proposed by the Commission

(62) As a rule, reporting persons should first use the internal channels at their disposal and report to their employer. However, it may be the case that internal channels do not exist (in case of entities which are not under an obligation to establish such channels by virtue of this

Amendment

(Does not affect the English version.)

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

Or. fr

Amendment 166
Damian Drăghici

Proposal for a directive
Recital 62

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 167
Dominique Bilde

Proposal for a directive
Recital 63

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 168
Dominique Bilde

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 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.

(Does not affect the English version.)

Or. fr

Amendment 169
Dominique Bilde

Proposal for a directive
Recital 65

Text proposed by the Commission

Amendment

(65) Reporting persons should be protected against any form of retaliation, whether direct or indirect, taken by their employer or customer/recipient of services and by persons working for or acting on behalf of the latter, including co-workers and managers in the same organisation or in other organisations with which the reporting person is in contact in the context of his/her work-related activities, where retaliation is recommended or tolerated by the concerned person. Protection should be

(Does not affect the English version.)

provided against retaliatory measures taken vis-à-vis the reporting person him/herself but also those that may be taken vis-à-vis the legal entity he/she represents, such as denial of provision of services, blacklisting or business boycotting. Indirect retaliation also includes actions taken against relatives of the reporting person who are also in a work-related connection with the latter's employer or customer/recipient of services and workers' representatives who have provided support to the reporting person.

Or. fr

Amendment 170

Damian Drăghici, Silvia Costa

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 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 *or other*

provided support to the reporting person.

persons and organisations who have provided support to the reporting person.

Or. en

Amendment 171
Dominique Bilde

Proposal for a directive
Recital 68

Text proposed by the Commission

(68) Under certain national frameworks and in certain cases, reporting persons suffering retaliation may benefit from forms of certification of the fact that they meet the conditions of the applicable rules. Notwithstanding such possibilities, they should have effective access to judicial review, whereby it falls upon the courts to decide, based on all the individual circumstances of the case, whether they meet the conditions of the applicable rules.

Amendment

(Does not affect the English version.)

Or. fr

Amendment 172
Isabella Adinolfi

Proposal for a directive
Recital 70

Text proposed by the Commission

(70) Retaliatory measures are likely to be presented as being justified on grounds other than the reporting and it can be very difficult for reporting persons to prove the link between the two, whilst the perpetrators of retaliation may have greater power and resources to document the action taken and the reasoning. Therefore, *once the reporting person demonstrates*

Amendment

(70) Retaliatory measures are likely to be presented as being justified on grounds other than the reporting and it can be very difficult for reporting persons to prove the link between the two, whilst the perpetrators of retaliation may have greater power and resources to document the action taken and the reasoning. Therefore, the burden of proof should shift to the

prima facie that he/she made a report or disclosure in line with this Directive and suffered a detriment, the burden of proof should shift to the person who took the detrimental action, who should then demonstrate that their the action taken was not linked in any way to the reporting or the disclosure.

person who took the detrimental action, who should then demonstrate that their the action taken was not linked in any way to the reporting or the disclosure.

Or. en

Amendment 173
Dominique Bilde

Proposal for a directive
Recital 70

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 174
Dominique Bilde

Proposal for a directive
Recital 71

Text proposed by the Commission

Amendment

(71) Beyond an explicit prohibition of retaliation provided in law, it is crucial that reporting persons who do suffer retaliation have access to legal remedies. The appropriate remedy in each case will be determined by the kind of retaliation suffered. It may take the form of actions for reinstatement (for instance, in case of dismissal, transfer or demotion, or of withholding of training or promotion) or for restoration of a cancelled permit, licence or contract; compensation for actual and future financial losses (for lost past wages, but also for future loss of income, costs linked to a change of occupation); compensation for other economic damage such as legal expenses and costs of medical treatment, and for intangible damage (pain and suffering).

(Does not affect the English version.)

Or. fr

Amendment 175
Dominique Bilde

Proposal for a directive
Recital 73

Text proposed by the Commission

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 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

(Does not affect the English version.)

whistleblowers.

Or. fr

Amendment 176
Dominique Bilde

Proposal for a directive
Recital 74

Text proposed by the Commission

(74) Action taken against reporting persons outside the work-related context, through proceedings, for instance, related to defamation, breach of copyright, trade secrets, confidentiality and personal data protection, can also pose a serious deterrent to whistleblowing. Directive (EU) 2016/943 of the European Parliament and of the Council⁵⁸ exempts reporting persons from the civil redress measures, procedures and remedies it provides for, in case the alleged acquisition, use or disclosure of the trade secret was carried out for revealing misconduct, wrongdoing or illegal activity, provided that the respondent acted for the purpose of protecting the general public interest. Also in other proceedings, reporting persons should be able to rely on having made a report or disclosure in accordance with this Directive as a defence. In such cases, the person initiating the proceedings should carry the burden to prove any intent on the part of the reporting person to violate the law.

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

Amendment

(74) Action taken against reporting persons outside the work-related context, through proceedings, for instance, related to defamation, breach of copyright, trade secrets, confidentiality and personal data protection, ***or through interference in their studies***, can also pose a serious deterrent to whistleblowing. Directive (EU) 2016/943 of the European Parliament and of the Council⁵⁸ exempts reporting persons from the civil redress measures, procedures and remedies it provides for, in case the alleged acquisition, use or disclosure of the trade secret was carried out for revealing misconduct, wrongdoing or illegal activity, provided that the respondent acted for the purpose of protecting the general public interest. Also in other proceedings, reporting persons should be able to rely on having made a report or disclosure in accordance with this Directive as a defence. In such cases, the person initiating the proceedings should carry the burden to prove any intent on the part of the reporting person to violate the law.

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

Amendment 177
Dominique Bilde

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

(Does not affect the English version.)

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).

Amendment 178
Silvia Costa

Proposal for a directive
Recital 76

Text proposed by the Commission

(76) The rights of the concerned person should be protected in order to avoid reputational damages or other negative consequences. Furthermore, the rights of defence and access to remedies of the concerned person should be fully respected at every stage of the procedure following the report, in accordance with Articles 47 and 48 of the Charter of Fundamental Rights of the European Union. Member States should ensure the right of defence of the concerned person, including the right to access to the file, the right to be heard and the right to seek effective remedy against a decision concerning the concerned person under the applicable procedures set out in national law in the context of investigations or subsequent judicial proceedings.

Amendment

(76) The rights of the concerned person should be protected in order to avoid reputational damages or other negative consequences. Furthermore, the rights of defence and access to remedies of the concerned person should be fully respected at every stage of the procedure following the report, in accordance with Articles 47 and 48 of the Charter of Fundamental Rights of the European Union. Member States should ensure the right of defence of the concerned person, including the right to access to the file, the right to be heard and the right to seek effective remedy against a decision concerning the concerned person under the applicable procedures set out in national law in the context of investigations or subsequent judicial proceedings, ***and to this end suitable measures should be employed to make individuals and civil society more aware of this.***

Or. it

Amendment 179
Damian Drăghici

Proposal for a directive
Recital 78

Text proposed by the Commission

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

Amendment

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

proportionality of such penalties should ensure that they do not have a dissuasive effect on potential whistleblowers.

proportionality of such penalties should ensure that they do not have a dissuasive effect on potential whistleblowers.

Or. en

Amendment 180
Dominique Bilde

Proposal for a directive
Recital 78

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 181
Dominique Bilde

Proposal for a directive
Recital 80

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

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

Or. fr

Amendment 182
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Recital 82

Text proposed by the Commission

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

Amendment

(82) The material scope of this Directive is based on Union *law as a whole*.

Or. en

Amendment 183
Damian Drăghici

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

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

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.

acting alone or in an uncoordinated manner, but can rather be better achieved by Union action providing minimum standards of harmonisation on whistleblower protection. Moreover, only Union action can provide coherence and align the existing Union rules on whistleblower protection. Therefore, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

Or. en

Amendment 184
Yana Toom

Proposal for a directive
Recital 85 a (new)

Text proposed by the Commission

Amendment

(85a) This Directive is a new standard for protecting the rights of persons reporting on breaches of Union law and should serve as an example for the candidate countries, associated countries and other countries that have committed to bring their legislation closer to the European acquis, especially in the context of reporting on abuse of EU funding and EU macro-financial assistance provided to these countries.

Or. en

Amendment 185
Damian Drăghici, Silvia Costa

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 ***protecting the public interest, safeguarding freedom of expression and*** 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:

Or. en

Amendment 186

Curzio Maltese, Stelios Kouloglou

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 ***legislation, for example those*** acts set out in the Annex (Part I and Part II) as regards the following areas:

Or. en

Amendment 187

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

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

Text proposed by the Commission

Amendment

(aa) ***freedom of expression and information as referred to in Article 11 of the Charter of Fundamental Rights of the European Union, and case-law based on that Article;***

Amendment 188
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 189
Dominique Bilde

Proposal for a directive
Article premier – paragraph 2

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Amendment 190
Dominique Bilde

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 **natural or legal** persons working in the private or public sector who acquired **in a direct manner** information on breaches in a work-related context **and disclose said information**, including, at least, the following:

Or. fr

Amendment 191
Yana Toom

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 **as well as former workers**;

Or. en

Amendment 192
Dominique Bilde

Proposal for a directive
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) shareholders and persons belonging to the management body of an undertaking, including non-executive members, **as well**

Amendment

(c) shareholders and persons belonging to the management body of an undertaking,

as volunteers and unpaid trainees;

including non-executive members;

Or. fr

Amendment 193
Dominique Bilde

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

Text proposed by the Commission

Amendment

(ca) volunteers, students and trainees (paid or unpaid) who have a relationship with the enterprise or institution that breaches Union law;

Or. fr

Amendment 194
Francis Zammit Dimech

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 195
Dominique Bilde

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. This Directive shall also apply to

(Does not affect the English version.)

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

Or. fr

Amendment 196
Curzio Maltese, Stelios Kouloglou

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 or the general interest of the Union, or which run contrary to the objectives of Union law;**

Or. en

Amendment 197
Dominique Bilde

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 **illegal** 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;

Or. fr

Amendment 198
Isabella Adinolfi

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 (***confidential or otherwise***) about actual breaches as well as reasonable suspicions about potential breaches which have not yet materialised;

Or. en

Amendment 199
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 200
Yana Toom

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

Amendment

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

public domain;

public domain;

Or. en

Amendment 201
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 202
Dominique Bilde

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

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 203
Damian Drăghici

Proposal for a directive

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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 **or a public disclosure** which occurs in a work-related context and causes or may cause unjustified detriment to the reporting person;

Or. en

Amendment 204 Yana Toom

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 internal or external reporting **or a public disclosure** which occurs in a work-related context and causes or may cause detriment to the reporting person;

Or. en

Amendment 205 Isabella Adinolfi

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

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 **direct or**

reporting person;

indirect detriment to the reporting person;

Or. en

Amendment 206

Jill Evans

Proposal for a directive

Article 3 – paragraph 1 – point 14 a (new)

Text proposed by the Commission

Amendment

(14a) 'public disclosure' means a disclosure to media, civil society organizations or another institutional body which does not fall under (14) of this article;

Or. en

Amendment 207

Damian Drăghici, Silvia Costa

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

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, *if appropriate*.

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.

Or. en

Amendment 208

Isabella Adinolfi

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 ***and by any*** other persons who are in contact with ***such*** entity in the context of their work-related activities referred to in Article 2(1)(b),(c) and (d).

Or. en

Amendment 209

Isabella Adinolfi

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

Text proposed by the Commission

3. ***The legal entities in the private sector referred to in paragraph 1 are the following:***

(a) private legal entities with 50 or more employees;

(b) private legal entities with an annual business turnover or annual balance sheet

total of EUR 10 million or more;

(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.

Amendment

deleted

Or. en

Amendment 210

Isabella Adinolfi

Proposal for a directive
Article 4 – paragraph 4

Text proposed by the Commission

Amendment

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

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 211
Isabella Adinolfi

Proposal for a directive
Article 4 – paragraph 5

Text proposed by the Commission

Amendment

5. *Any decision taken by a Member State pursuant to paragraph 4 shall be notified to the Commission, together with a justification and the criteria used in the risk assessment. The Commission shall communicate that decision to the other Member States.* **deleted**

Or. en

Amendment 212
Isabella Adinolfi

Proposal for a directive
Article 4 – paragraph 6 – point c

Text proposed by the Commission

(c) municipalities *with more than 10 000 inhabitants*;

Amendment

(c) municipalities;

Or. en

Amendment 213
Stelios Kouloglou, Curzio Maltese

Proposal for a directive
Article 4 – paragraph 6 – point c

Text proposed by the Commission

(c) municipalities with more than **10 000** inhabitants;

Amendment

(c) municipalities with more than **5000** inhabitants;

Or. en

Amendment 214
Isabella Adinolfi

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

Text proposed by the Commission

Amendment

(ca) private entities providing a public service or under public control;

Or. en

Amendment 215
Francis Zammit Dimech

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 216

Jill Evans

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, ***allows for anonymous disclosures through the use of appropriate computerised systems*** and prevents access to non-authorised staff members;

Or. en

Amendment 217

Isabella Adinolfi

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, ***and where necessary the anonymity***, of the identity of the reporting person, ***also in the digital environment***, and prevents access to non-authorised staff members;

Or. en

Amendment 218
Dominique Bilde

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

Text proposed by the Commission

(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;

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 of the natural persons concerned by the report** and prevents access to non-authorised staff members;

Or. fr

Amendment 219
Damian Drăghici

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

Text proposed by the Commission

(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**;

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 **persons**;

Or. en

Amendment 220
Damian Drăghici

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

Text proposed by the Commission

Amendment

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

(b) designation, *in close collaboration with employees or employee representatives*, of a person or department competent for following up on the reports;

Or. en

Amendment 221

Jill Evans

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

(b) the designation of a person, department *or a trade union representative* competent for following up on the reports;

Or. en

Amendment 222

Dominique Bilde

Proposal for a directive

Article 5 – paragraph 1 – point d

Text proposed by the Commission

(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;

Amendment

(Does not affect the English version.)

Or. fr

Amendment 223

Yana Toom

Proposal for a directive

Article 5 – paragraph 1 – point d

Text proposed by the Commission

(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;

Amendment

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

Or. en

Amendment 224
Jill Evans

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

Text proposed by the Commission

(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;

Amendment

(d) a reasonable timeframe, not exceeding **60 days** following the report, to provide feedback to the reporting person about the follow-up to the report;

Or. en

Amendment 225
Jill Evans

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, **including options for anonymous disclosures, as well as disclosures employing cryptographic methods**;

Or. en

Amendment 226
Yana Toom

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 *recorded* telephone lines;

Or. en

Amendment 227

Jill Evans

Proposal for a directive

Article 5 – paragraph 2 – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) *oral report through telephone lines, whether recorded or unrecorded*;

Or. en

Amendment 228

Damian Drăghici, Silvia Costa

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

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.

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, *in close collaboration with employees or employee representatives*, as “trusted persons” from whom reporting persons and those considering reporting may seek confidential advice.

Amendment 229
Dominique Bilde

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 230
Isabella Adinolfi

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 authorities competent to receive and handle reports. *Such authorities shall have adequate financial and human resources to enable them to exercise the competences assigned to them.*

Or. en

Amendment 231
Francis Zammit Dimech

Proposal for a directive
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States are also to ensure that persons requiring protection as whistleblowers will be entitled to the right of appeal before independent and impartial Courts of Justice wherever such persons are denied recognition or protection as whistleblowers by the relevant authority that would be tasked with the recognition or grant of status to a person requesting to be considered as a whistleblower, and that under no circumstances can the authority tasked to grant such status or protection have an actual or potential conflict of interest with regard to whether or not to grant such status or protection.

Or. en

Amendment 232

Jill Evans

**Proposal for a directive
Article 6 – paragraph 2 – point a**

Text proposed by the Commission

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;

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

Or. en

Amendment 233

Isabella Adinolfi

**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, autonomous, **clear and transparent** external reporting channels, which are both secure and ensure confidentiality, for receiving and handling information provided by the reporting person;

Or. en

Amendment 234
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 235
Damian Drăghici, Silvia Costa

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

Text proposed by the Commission

(aa) are independent and dispose over adequately qualified and trained staff and appropriate funding;

Amendment

Or. en

Amendment 236
Dominique Bilde

Proposal for a directive
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(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;

Amendment

(Does not affect the English version.)

Or. fr

Amendment 237
Yana Toom

Proposal for a directive
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(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;

Amendment

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

Or. en

Amendment 238
Jill Evans

Proposal for a directive
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(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

Amendment

(b) give feedback to the reporting person about the follow-up of the report within a reasonable timeframe not exceeding *60 days or 120 days* in duly

duly justified cases;

justified cases;

Or. en

Amendment 239
Jill Evans

Proposal for a directive
Article 6 – paragraph 2 – point c

Text proposed by the Commission

(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.

Amendment

(c) transmit, ***while further ensuring confidentiality and/or anonymity of the reporting person***, 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.

Or. en

Amendment 240
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 241
Jill Evans

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 the outcome of the investigations.

Or. en

Amendment 242
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 243
Isabella Adinolfi

Proposal for a directive
Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Dedicated external reporting

PE625.365v01-00

Amendment

1. Dedicated external reporting

78/117

AM\1158338EN.docx

channels shall be considered independent **and** autonomous, if they meet all of the following criteria:

channels shall be considered independent, autonomous, **clear and transparent** if they meet all of the following criteria:

Or. en

Amendment 244
Damian Drăghici

Proposal for a directive
Article 7 – paragraph 1 – point b

Text proposed by the Commission

(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-authorised **staff members of the competent authority**;

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-authorised **persons**;

Or. en

Amendment 245
Isabella Adinolfi

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

Text proposed by the Commission

Amendment

(ca) **they are easily accessible, also to people with disabilities**;

Or. en

Amendment 246
Jill Evans

Proposal for a directive
Article 7 – paragraph 2 – point a

Text proposed by the Commission

(a) written report in electronic or paper format;

Amendment

(a) written report in electronic or paper format, ***including options for anonymous disclosures, as well as disclosures employing cryptographic methods;***

Or. en

Amendment 247

Yana Toom

Proposal for a directive

Article 7 – paragraph 2 – point b

Text proposed by the Commission

(b) oral report through telephone lines, ***whether recorded or unrecorded;***

Amendment

(b) oral report through ***recorded*** telephone lines;

Or. en

Amendment 248

Dominique Bilde

Proposal for a directive

Article 7 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. fr

Amendment 249
Damian Drăghici, Silvia Costa

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 250
Damian Drăghici, Silvia Costa

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 251
Dominique Bilde

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

Text proposed by the Commission

(c) maintaining contact with the reporting person for the purpose of informing the reporting person of the progress and the outcome of the

Amendment

(Does not affect the English version.)

investigation.

Or. fr

Amendment 252
Damian Drăghici

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 reporting person, may request*** to clarify the information reported or to provide additional information that is available to the reporting person;

Or. en

Amendment 253
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 254
Isabella Adinolfi

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 to clarify the information reported or to provide additional information that is available to the reporting person;

Or. en

Amendment 255

Jill Evans

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 *60 days or 120 days* in duly justified cases, for giving *updates* to the reporting person *on the actual and forthcoming status* of the report *as well as a description of the form* and content of this *feed-back*;

Or. en

Amendment 256

Dominique Bilde

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

(Does not affect the English version.)

Amendment 257
Yana Toom

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 *two* months or *four* 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;

Or. en

Amendment 258
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 259
Jill Evans

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

Text proposed by the Commission

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.

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

Or. en

Amendment 260

Jill Evans

Proposal for a directive

Article 9 – paragraph 2

Text proposed by the Commission

2. The detailed description referred to in point (c) of paragraph 1 shall include the exceptional cases in which confidentiality of personal data may *not be ensured*, including where the disclosure of data is a necessary and proportionate obligation required under Union or national law in the context of investigations or subsequent judicial proceedings or to safeguard the freedoms of others including the right *of* defence *of the concerned person*, and in each case subject to appropriate safeguards under such laws.

Amendment

2. The detailed description referred to in point (c) of paragraph 1 shall include the exceptional cases in which confidentiality of personal data may *be breached*, including where the disclosure of data is a necessary and proportionate obligation required under Union or national law in the context of investigations or subsequent judicial proceedings or to safeguard the freedoms of others including the right *to* defence, and in each case subject to appropriate safeguards under such laws.

Or. en

Amendment 261

Dominique Bilde

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 and be easily accessible to the reporting

Amendment

(Does not affect the English version.)

persons.

Or. fr

Amendment 262
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 263
Yana Toom

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 ***that*** conversations are recorded;

Or. en

Amendment 264
Dominique Bilde

Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. Competent authorities shall promptly acknowledge the receipt of

Amendment

(Does not affect the English version.)

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. fr

Amendment 265
Dominique Bilde

Proposal for a directive
Article 11 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

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:

(Does not affect the English version.)

Or. fr

Amendment 266
Dominique Bilde

Proposal for a directive
Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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

(Does not affect the English version.)

Or. fr

Amendment 267
Yana Toom

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

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 to check, rectify and agree with the minutes of the call by signing them.* **deleted**

Or. en

Amendment 268
Dominique Bilde

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

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 to check, rectify and agree with the minutes of the call by signing them.* *(Does not affect the English version.)*

Or. fr

Amendment 269
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 270
Dominique Bilde

Proposal for a directive
Chapter 4 – title

Text proposed by the Commission

PROTECTION OF REPORTING AND
CONCERNED PERSONS

Amendment

(Does not affect the English version.)

Or. fr

Amendment 271
Dominique Bilde

Proposal for a directive
Article 13 – title

Text proposed by the Commission

Conditions for the protection of reporting
persons

Amendment

(Does not affect the English version.)

Or. fr

Amendment 272
Jill Evans

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 *or disclosed* was true at the time of reporting *or disclosure* and that this information falls within the scope of this Directive.

Or. en

Amendment 273
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 274
Jill Evans

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

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

deleted

Amendment

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.

Or. en

Amendment 275

Isabella Adinolfi

Proposal for a directive

Article 13 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) the use of internal reporting channels was not mandatory for the reporting person, in accordance with Article 4(2);

deleted

Amendment 276
Isabella Adinolfi

Proposal for a directive
Article 13 – paragraph 2 – point a

Text proposed by the Commission

(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;

Amendment

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

Or. en

Amendment 277
Dominique Bilde

Proposal for a directive
Article 13 – paragraph 2 – point b

Text proposed by the Commission

(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;

Amendment

(Does not affect the English version.)

Or. fr

Amendment 278
Dominique Bilde

Proposal for a directive
Article 13 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

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

Or. fr

Amendment 279

Jill Evans

**Proposal for a directive
Article 13 – paragraph 3**

Text proposed by the Commission

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.

Amendment

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

Or. en

Amendment 280

Curzio Maltese, Stelios Kouloglou

**Proposal for a directive
Article 13 – paragraph 4**

Text proposed by the Commission

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

(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

Amendment

deleted

(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.

Or. en

Amendment 281

Jill Evans

Proposal for a directive

Article 13 – paragraph 4 – introductory part

Text proposed by the Commission

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

Amendment

4. A person **making a public disclosure** on breaches falling within the scope of this Directive shall qualify for protection under this Directive where **any of the following are met**:

Or. en

Amendment 282

Jill Evans

Proposal for a directive

Article 13 – paragraph 4 – point a

Text proposed by the Commission

(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**

Amendment

(a) he or she first reported internally and/or externally in accordance with Chapters II and III and paragraph 1 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. en

Amendment 283
Jill Evans

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

Text proposed by the Commission

(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

(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, ***urgent threat to public health, safety or the environment***, or to the particular circumstances of the case, or where there is a risk of irreversible damage.

Or. en

Amendment 284
Francis Zammit Dimech

Proposal for a directive
Article 13 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) a person making a report or a disclosure anonymously and who subsequently has been identified shall qualify for protection as laid down in this directive under the same conditions as a person who identified oneself when making a report or a disclosure;

Or. en

Amendment 285
Dominique Bilde

Proposal for a directive
Article 14 – title

Text proposed by the Commission

Amendment

Prohibition of retaliation against reporting persons

(Does not affect the English version.)

Or. fr

Amendment 286
Curzio Maltese, Stelios Kouloglou

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

Text proposed by the Commission

Amendment

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:*

Member States shall take the necessary measures to prohibit any *threatened, attempted or implemented action that could undermine the exercise of rights protected by the present Directive. This includes, but is not limited to* retaliation measures such as:

Or. en

Justification

While the proposal has a long list of prohibited reprisals, any list inherently is incomplete and the tactics to harass whistleblowers might take many forms. Protection should be given wherever it is needed.

Amendment 287
Dominique Bilde

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

Text proposed by the Commission

Amendment

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

(Does not affect the English version.)

in particular in the form of:

Or. fr

Amendment 288
Dominique Bilde

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

Text proposed by the Commission

Amendment

(d) withholding of training;

(d) withholding of training *or interference in studies*;

Or. fr

Amendment 289
Damian Drăghici, Silvia Costa

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

Text proposed by the Commission

Amendment

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

(j) failure to renew or early termination of the temporary employment *or voluntary work* contract;

Or. en

Amendment 290
Dominique Bilde

Proposal for a directive
Article 15 – title

Text proposed by the Commission

Amendment

Measures for the protection of reporting persons against retaliation

(Does not affect the English version.)

Amendment 291
Dominique Bilde

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

Amendment

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.

(Does not affect the English version.)

Or. fr

Amendment 292
Dominique Bilde

Proposal for a directive
Article 15 – paragraph 3

Text proposed by the Commission

Amendment

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.

(Does not affect the English version.)

Or. fr

Amendment 293
Isabella Adinolfi

Proposal for a directive

Article 15 – paragraph 5

Text proposed by the Commission

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

Amendment

5. In judicial proceedings relating to a detriment suffered by the reporting person, 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 294 Damian Drăghici

Proposal for a directive Article 15 – paragraph 5

Text proposed by the Commission

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

Amendment

5. In judicial proceedings relating to a detriment suffered by the reporting person, and subject to him or her providing reasonable grounds to believe that the detriment was in retaliation for having made the report or **public** 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 **or public disclosure** but was exclusively based on duly justified grounds.

Or. en

Amendment 295 Dominique Bilde

Proposal for a directive
Article 15 – paragraph 5

Text proposed by the Commission

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

Amendment

(Does not affect the English version.)

Or. fr

Amendment 296
Dominique Bilde

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

(Does not affect the English version.)

Or. fr

Amendment 297
Dominique Bilde

Proposal for a directive
Article 15 – paragraph 7

Text proposed by the Commission

Amendment

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

(Does not affect the English version.)

Or. fr

Amendment 298
Dominique Bilde

Proposal for a directive
Article 15 – paragraph 8

Text proposed by the Commission

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 provide for further measures of legal and financial assistance and support for reporting persons in the framework of legal proceedings.

(Does not affect the English version.)

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).

Or. fr

Amendment 299

Jill Evans

**Proposal for a directive
Article 16 – paragraph 2**

Text proposed by the Commission

Amendment

2. *Where the identity of the concerned persons is not known to the public, competent authorities shall ensure that their identity is protected for as long as the investigation is ongoing.*

deleted

Or. en

**Amendment 300
Silvia Costa**

**Proposal for a directive
Article 16 – paragraph 2**

Text proposed by the Commission

Amendment

2. Where the identity of the concerned persons is not known to the public, competent authorities shall ensure that their identity is protected for as long as the investigation is ongoing.

2. Where the identity of the concerned persons is not known to the public, competent authorities shall ensure that their identity is protected for as long as the investigation is ongoing *and in no case after the start of the criminal trial.*

Or. it

**Amendment 301
Dominique Bilde**

**Proposal for a directive
Article 17 – title**

Text proposed by the Commission

Amendment

Penalties

Criminal penalties

Or. fr

Amendment 302
Dominique Bilde

Proposal for a directive
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall provide for effective, proportionate and dissuasive penalties applicable to natural or legal persons that:

Amendment

1. Member States shall provide for effective, proportionate and dissuasive ***criminal*** penalties applicable to natural or legal persons that:

Or. fr

Amendment 303
Dominique Bilde

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

Text proposed by the Commission

(b) take retaliatory measures against reporting persons;

Amendment

(Does not affect the English version.)

Or. fr

Amendment 304
Dominique Bilde

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

Text proposed by the Commission

(c) bring vexatious proceedings against reporting persons;

Amendment

(Does not affect the English version.)

Or. fr

Amendment 305
Dominique Bilde

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 of the identity of reporting persons *or of natural persons concerned by the report.*

Or. fr

Amendment 306
Jill Evans

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

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.

Amendment

deleted

Or. en

Amendment 307
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted

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

Or. en

Justification

This provision is duplicative and unnecessary: Member States already have criminal accountability for lying to the government or civil misconduct such as defamation. In addition, the proposed Directive already addresses this issue as part of the definition of “reasonable belief” as a prerequisite for legal protection (art. 12). Whistleblowers should not have to explain their thoughts, justify their reasons and demonstrate their moral purity to escape liability.

Amendment 308
Dominique Bilde

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

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.

Amendment

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

- (a) **make** malicious or abusive reports or disclosures, including measures for compensating persons who have suffered damage from malicious or abusive reports or disclosures;
- (b) **spread false information claiming to have been so informed by a whistleblower.**

Or. fr

Amendment 309
Isabella Adinolfi

Proposal for a directive

Article 17 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. Member States shall provide for effective, proportionate and dissuasive penalties applicable to persons **proven having intentionally made** malicious or abusive reports or disclosures, including measures for compensating persons who have suffered **unjustified direct** damage from **intentional** malicious or abusive reports or disclosures.

Or. en

Amendment 310 Damian Drăghici

Proposal for a directive Article 17 – paragraph 2

Text proposed by the Commission

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.

Amendment

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

Or. en

Amendment 311 Dominique Bilde

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

Member States may introduce or retain provisions more favourable to the rights of

Amendment

(Does not affect the English version.)

the reporting persons than those set out in this Directive, without prejudice to Article 16 and Article 17(2).

Or. fr

Amendment 312
Isabella Adinolfi

Proposal for a directive
Article 20 – paragraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by **15 May 2021**, at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by **1 January 2020**, at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Amendment 313
Isabella Adinolfi

Proposal for a directive
Article 21 – paragraph 1

Text proposed by the Commission

1. Member States shall provide the Commission with all relevant information regarding the implementation and application of this Directive. On the basis of the information provided, the Commission shall, by **15 May 2023**, submit a report to the European Parliament and the Council on the implementation and application of this Directive.

Amendment

1. Member States shall provide the Commission with all relevant information regarding the implementation and application of this Directive. On the basis of the information provided, the Commission shall, by **1 January 2022**, submit a report to the European Parliament and the Council on the implementation and application of this Directive.

Or. en

Amendment 314
Isabella Adinolfi

Proposal for a directive
Article 21 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

*(ca) the ascertained number of
retaliatory measures against reporting
persons;*

Or. en

Amendment 315
Isabella Adinolfi

Proposal for a directive
Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall, by **15 May 2027**, taking into account its report submitted pursuant to paragraph 1 and the Member States' statistics submitted pursuant to paragraph 2, submit a report to the European Parliament and to the Council assessing the impact of national law transposing this Directive. The report shall evaluate the way in which this Directive has operated and consider the need for additional measures, including, where appropriate, amendments with a view to extending the scope of this Directive to further areas or Union acts.

3. The Commission shall, by **1 January 2026**, taking into account its report submitted pursuant to paragraph 1 and the Member States' statistics submitted pursuant to paragraph 2, submit a report to the European Parliament and to the Council assessing the impact of national law transposing this Directive. The report shall evaluate the way in which this Directive has operated and consider the need for additional measures, including, where appropriate, amendments with a view to extending the scope of this Directive to further areas or Union acts.

Or. en

Amendment 316
Isabella Adinolfi

Proposal for a directive
Article 21 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Such reports shall be made public and easily accessible.

Or. en

Amendment 317
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Annex I – part I – subpart A – point 1 – introductory part

Text proposed by the Commission

Amendment

1. Procedures for procurement relating to supplies contracts for defence products and supplies and services contracts for water, energy, transport and postal services and any other contract or service as regulated under Union legislation:

1. Procedures for procurement relating to supplies contracts for defence products and supplies and services contracts for water, energy, transport and postal services and any other contract or service as regulated under Union legislation, **including:**

Or. en

Amendment 318
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Annex I – part I – subpart A – point 2 – introductory part

Text proposed by the Commission

Amendment

2. Review procedures regulated by:

2. Review procedures regulated, **in particular,** by:

Or. en

Amendment 319

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart B – paragraph 1 – introductory part

Text proposed by the Commission

Rules establishing a regulatory and supervisory framework and consumer and investor protection in the Union financial services and capital markets, banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice and the services listed in Annex I to 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), as regulated by:

Amendment

Rules establishing a regulatory and supervisory framework and consumer and investor protection in the Union financial services and capital markets, banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice and the services listed in Annex I to 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), as regulated *in particular* by:

Or. en

Amendment 320

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart C – point 1 – introductory part

Text proposed by the Commission

1. General safety requirements of products placed in the Union market as defined and regulated by:

Amendment

1. General safety requirements of products placed in the Union market as defined and regulated *for example* by:

Or. en

Amendment 321

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart C – point 2 – introductory part

Text proposed by the Commission

2. Marketing and use of sensitive and dangerous products, as regulated by:

Amendment

2. Marketing and use of sensitive and dangerous products, as regulated **for example** by:

Or. en

Amendment 322

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart D – point 1

Text proposed by the Commission

1. Safety requirements in the railway sector as regulated by Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

Amendment

1. Safety requirements in the railway sector as regulated **in particular** by Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

Or. en

Amendment 323

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart D – point 2

Text proposed by the Commission

2. Safety requirements in the civil aviation sector as regulated by Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive

Amendment

2. Safety requirements in the civil aviation sector as regulated **in particular** by Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive

Or. en

Amendment 324
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Annex I – part I – subpart D – point 3 – introductory part

Text proposed by the Commission

Amendment

3. Safety requirements in the road sector as regulated by:

3. Safety requirements in the road sector as regulated *for example* by:

Or. en

Amendment 325
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Annex I – part I – subpart D – point 4 – introductory part

Text proposed by the Commission

Amendment

4. Safety requirements in the maritime sector as regulated by:

4. Safety requirements in the maritime sector as regulated *in particular* by:

Or. en

Amendment 326
Curzio Maltese, Stelios Kouloglou

Proposal for a directive
Annex I – part I – subpart E – point i

Text proposed by the Commission

Amendment

(i) Any criminal offence against the protection of the environment as regulated by Directive 2008/99/EC of the European Parliament and of the Council of 19

(i) Any criminal offence against the protection of the environment as regulated *for example* by Directive 2008/99/EC of the European Parliament and of the

November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28) or any unlawful conduct infringing the legislation set out in the Annexes of the Directive 2008/99/EC;

Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28) or any unlawful conduct infringing the legislation set out in the Annexes of the Directive 2008/99/EC;

Or. en

Amendment 327

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart F – paragraph 1 – introductory part

Text proposed by the Commission

Rules on nuclear safety as regulated by:

Amendment

Rules on nuclear safety as regulated *for example* by:

Or. en

Amendment 328

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart G – point 1

Text proposed by the Commission

1. Union food and feed law governed by the general principles and requirements as defined by Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

Amendment

1. Union food and feed law governed by the general principles and requirements as defined *in particular* by Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

Or. en

Amendment 329

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart G – point 2

Text proposed by the Commission

2. Animal health as regulated by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

Amendment

2. Animal health as regulated ***in particular*** by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1).

Or. en

Amendment 330

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart G – point 4 – introductory part

Text proposed by the Commission

4. Protection of animal welfare as regulated by:

Amendment

4. Protection of animal welfare as regulated ***for example*** by:

Or. en

Amendment 331

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart H – point 1 – introductory part

Text proposed by the Commission

1. Measures setting high standards of quality and safety of organs and substances

Amendment

1. Measures setting high standards of quality and safety of organs and substances of human origin, as regulated ***for example***

of human origin, as regulated by:

by:

Or. en

Amendment 332

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart H – point 2 – introductory part

Text proposed by the Commission

2. Measures setting high standards of quality and safety for medicinal products and devices of medical use as regulated by:

Amendment

2. Measures setting high standards of quality and safety for medicinal products and devices of medical use as regulated **for example** by:

Or. en

Amendment 333

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart H – point 3

Text proposed by the Commission

3. Serious cross-border threats to health as regulated by Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC (OJ L 293, 5.11.2013, p. 1).

Amendment

3. Serious cross-border threats to health as regulated **in particular** by Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC (OJ L 293, 5.11.2013, p. 1).

Or. en

Amendment 334

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart H – point 4

Text proposed by the Commission

4. Patients' rights as regulated by Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).

Amendment

4. Patients' rights as regulated ***in particular*** by Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).

Or. en

Amendment 335

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart H – point 5

Text proposed by the Commission

5. Manufacture, presentation and sale of tobacco and related products regulated by Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).

Amendment

5. Manufacture, presentation and sale of tobacco and related products regulated ***in particular*** by Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).

Or. en

Amendment 336

Curzio Maltese, Stelios Kouloglou

Proposal for a directive

Annex I – part I – subpart I – paragraph 1 – introductory part

Text proposed by the Commission

Consumer rights and consumer protection as regulated by:

Amendment

Consumer rights and consumer protection as regulated ***for example*** by:

