



**2018/0106(COD)**

8.11.2018

## **OPINION**

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Legal Affairs

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

Rapporteur for opinion (\*): Maite Pagazartundúa Ruiz

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

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## AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a directive Citation 1

*Text proposed by the Commission*

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

*Amendment*

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles **9, 10, 11, 12, 15**, 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 114, 168, 169, 192, 207, 325(4) **and 352** thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

### Amendment 2

#### 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,***

### Amendment 3

#### 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,***

#### Amendment 4

##### Proposal for a directive Citation 6 c (new)

*Text proposed by the Commission*

*Amendment*

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

#### Amendment 5

##### Proposal for a directive Citation 6 d (new)

*Text proposed by the Commission*

*Amendment*

*Having regard to the European Convention on Human Rights,*

#### Amendment 6

##### Proposal for a directive Recital 1

*Text proposed by the Commission*

*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 welfare of society. However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation.

(1) Persons who work ***or have worked*** for an organisation or are ***or were*** in contact with it are often the first to know about threats, ***criminal or illegal activities*** 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 in safeguarding the welfare of society ***and in protecting fundamental right, including freedom of expression and information.*** ***Whistleblowers play a crucial role in unveiling wrongdoing or unethical and dishonest conduct to the public interest. It is often difficult for them to assess the lawfulness of facts, but according to the European Court of Human Rights the***

***legal assessment is not the task of the whistleblowers, as long as they act in good faith and the facts are correct.*** However, potential whistleblowers are often discouraged from reporting their concerns or suspicions for fear of retaliation, ***when they expose irregularities, mismanagement, misuse of funds, maladministration or potential corruption related to the activity of public and private bodies within the Union; they are not truly protected and do not feel protected.***

## Amendment 7

### 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 ***and investigative journalists*** 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 8

### 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

*Amendment*

(3) Breaches of Union law may cause serious harm to the public interest ***and the enjoyment of human rights and fundamental freedoms***. It is necessary to ***ensure*** effective protection of whistleblowers from retaliation and ***introduce*** effective ***and confidential*** reporting channels.

reporting channels.

## Amendment 9

### Proposal for a directive

#### Recital 4

*Text proposed by the Commission*

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

*Amendment*

(4) Whistleblower protection currently provided in the European Union is fragmented across Member States and uneven across policy areas. Whistleblowers ***shall be protected if they disclose breaches of law or wrongdoing or misconduct in the public interest.*** Insufficient protection in one Member State not only negatively impacts on the functioning of EU policies in that Member State but can also spill over into other Member States and the Union as a whole.

## Amendment 10

### 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 ***legal*** standards ensuring effective whistleblower protection ***with a general and comprehensive approach*** should apply in ***all Union and national*** 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 ***or national*** law cause serious harm to the public interest.

## Amendment 11

### Proposal for a directive

#### Recital 9

*Text proposed by the Commission*

(9) The importance of whistleblower protection in terms of preventing and deterring breaches of Union rules on transport safety which can endanger human lives has been already acknowledged in sectorial Union instruments on aviation safety<sup>38</sup> and maritime transport safety<sup>39</sup>, which provide for tailored measures of protection to whistleblowers as well as specific reporting channels. These instruments also include the protection from retaliation of the workers reporting on their own honest mistakes (so called ‘just culture’). It is necessary to complement the existing elements of whistleblower protection in these two sectors as well as to provide such protection to enhance the enforcement of safety standards for other transport modes, namely road and railway transport.

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<sup>38</sup> Regulation (EU) No 376/2014 of the European Parliament and of the Council, of 3 April 2014, on the reporting, analysis and follow-up of occurrences in civil aviation (OJ L 122, p. 18).

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

**Amendment 12**  
**Proposal for a directive**  
**Recital 14**

*Text proposed by the Commission*

(14) The protection of privacy and personal data is another area where

*Amendment*

(9) The importance of whistleblower protection in terms of preventing and deterring breaches of Union rules on transport safety which can endanger human lives has been already acknowledged in sectorial Union instruments on aviation safety<sup>38</sup> and maritime transport safety<sup>39</sup>, which provide for tailored measures of protection to whistleblowers as well as specific reporting channels. These instruments also include the protection from retaliation of the workers reporting on their own honest mistakes (so called ‘just culture’). *Inter alia* it is necessary to complement the existing elements of whistleblower protection in these two sectors as well as to provide such protection to enhance the enforcement of safety standards for other transport modes, namely road and railway transport.

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<sup>38</sup> Regulation (EU) No 376/2014 of the European Parliament and of the Council, of 3 April 2014, on the reporting, analysis and follow-up of occurrences in civil aviation (OJ L 122, p. 18).

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

*Amendment*

(14) The protection of privacy and personal data, *enshrined in articles 7 and*

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 systems<sup>45</sup>, 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.

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<sup>45</sup> 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.

*8 of the Charter of Fundamental Rights and article 8 of the European Convention on Human Rights (ECHR)*, 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 systems<sup>45</sup>, 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. 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, *as well as to prevent any infringement of the Union data protection legislation*. It helps ensuring the continuity of services which are essential for society.

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<sup>45</sup> 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 13

### Proposal for a directive Recital 16

#### *Text proposed by the Commission*

(16) The protection of the financial interests of the Union, which relates to the fight against fraud, corruption and any other illegal activity affecting the use of Union expenditures, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union also

#### *Amendment*

(16) The protection of the financial interests of the Union, which relates to the fight against fraud, corruption and any other illegal activity affecting the use of Union expenditures, the collection of Union revenues and funds or Union assets, is a core area in which enforcement of Union law needs to be strengthened. The strengthening of the protection of the financial interests of the Union also



encompasses implementation of the Union budget related to expenditures made on the basis of the Treaty establishing the European Atomic Energy Community. Lack of effective enforcement in the area of the financial interests of the Union, including fraud and corruption at national level, causes a decrease of the Union revenues and a misuse of EU funds, which can distort public investments and growth and undermine citizens' trust in EU action. Whistleblower protection *is* necessary to facilitate the detection, prevention and deterrence of relevant fraud and illegal activities.

encompasses implementation of the Union budget related to expenditures made on the basis of the Treaty establishing the European Atomic Energy Community. Lack of effective enforcement in the area of the financial interests of the Union, including fraud and corruption at national level, causes a decrease of the Union revenues and a misuse of EU funds, which can distort public investments and growth and undermine citizens' trust in EU action. ***Investigative journalists also play a crucial role in revealing wrongdoing connected to all these areas; they represent a very exposed group of professionals, often paying with their jobs, freedom and even with their lives disclosure of massive irregularities and corruption schemes; therefore, special measures to protect investigative journalists should be included in a horizontal legislative proposal for the protection of whistle-blowers. Investigative journalism and whistleblower protection are necessary to facilitate the detection, prevention and deterrence of relevant fraud and illegal activities.***

## **Amendment 14**

### **Proposal for a directive Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18a) Whistleblowers who report misconduct and violations of labour and social law are key to ensuring safe and just workplaces. Breaches of rules in an organisation that are reported by persons who work or worked there or by persons who were in contact with it, shall be ensured full protection under this regulation.***

## **Amendment 15**

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

*Text proposed by the Commission*

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

**Amendment 16**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

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

**Amendment 17**

**Proposal for a directive**  
**Recital 21**

*Amendment*

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

*Amendment*

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

*Text proposed by the Commission*

(21) This Directive should be without prejudice to the protection of national security and other classified information which Union law or the laws, regulations or administrative provisions in force in the Member State concerned require, for security reasons, to be protected from unauthorised access. ***In particular,*** Moreover, the provision of this Directive should not affect the obligations arising from Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information or Council Decision of 23 September 2013 on the security rules for protecting EU classified information.

*Amendment*

(21) This Directive should be without prejudice to the protection of national security and other classified information which Union law or the laws, regulations or administrative provisions in force in the Member State concerned require, for security reasons, to be protected from unauthorised access. ***Limitations on the use of national security information should be limited and clearly defined.*** Moreover, the provision of this Directive should not affect the obligations arising from Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information or Council Decision of 23 September 2013 on the security rules for protecting EU classified information.

**Amendment 18**  
**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

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

*Amendment*

(22) Persons who report information about threats or harm to the public interest make use of their right to freedom of expression. Freedom of expression, ***which is essential in a democratic society and is*** 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.

**Amendment 19**  
**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

(23) Accordingly, this Directive draws upon the case law of the European Court of Human Rights on the right to freedom of expression, and the principles developed on this basis by the Council of Europe in its 2014 Recommendation on Protection of Whistleblowers<sup>51</sup>.

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<sup>51</sup> CM/Rec(2014)7.

*Amendment*

(23) Accordingly, this Directive draws upon the case law of the European Court of Human Rights on the right to freedom of expression, ***and in particular its judgment of 12 February 2008 in the case of Guja v. Moldova***, and the principles developed on this basis by the Council of Europe in its 2014 Recommendation on Protection of Whistleblowers<sup>51</sup>.

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<sup>51</sup> CM/Rec(2014)7.

**Amendment 20**  
**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 21**  
**Proposal for a directive**  
**Recital 25**

*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. 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. ***No employment relationship should restrict someone's right to freedom of expression.***

*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 22**  
**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

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

*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 **their** 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*

(26) Protection should, firstly, apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union<sup>52</sup>, i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration, **including public and civil servants**. 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.

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

### **Amendment 23**

#### **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

to apply. ***Finally, protection should also be granted to persons whose employment contract has ended, as well as paid and unpaid trainees.***

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

##### *Amendment*

(27) Protection should also extend ***to persons facilitating the reporting and to investigative journalists who acquire and publish information on breaches, as well as*** 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 ***or other type 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,

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.

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 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.

## Amendment 24

### Proposal for a directive Recital 27 a (new)

*Text proposed by the Commission*

*Amendment*

***(27a) Protection should also extend to people facilitating the reporting, intermediaries, investigative journalists, civil society organisations who, through their activities, guarantee the effective disclosure of the potential or occurred breach.***

## Amendment 25

### Proposal for a directive Recital 28

*Text proposed by the Commission*

*Amendment*

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

(28) Effective whistleblower protection implies protecting also further categories of persons who, whilst not relying on their work-related activities economically, may nevertheless suffer retaliation for exposing breaches ***or for supporting whistleblowers reporting***. Retaliation against volunteers and unpaid trainees may take the form of no longer making use of their services, or

employment or otherwise damaging their reputation.

of giving a negative reference for future employment or otherwise damaging their reputation. ***Retaliation against investigators or reporters could take the form of strategic litigation suits, for example regarding libel or defamation.***

## **Amendment 26**

### **Proposal for a directive Recital 28 a (new)**

*Text proposed by the Commission*

*Amendment*

***(28a) Protection should be also afforded to all individuals working within all the institutions, bodies and agencies of the Union as well as to individuals working in the European entities located outside the Union territory. European Union institutions, agencies and bodies should adopt and implement internal rules protecting whistleblowers in accordance with Articles 22a, 22b and 22c of Regulation No 31 (EEC), 11 (EAEC), ('the Staff Regulations').***

## **Amendment 27**

### **Proposal for a directive Recital 28 b (new)**

*Text proposed by the Commission*

*Amendment*

***(28b) Effective protection implies adequate training and a resource office available to inform whistleblowers on their rights, disclosure options, and limitations so they are aware of their rights and responsibilities. This should not constitute a replacement for access to independent legal advice which should also be available.***

## **Amendment 28**



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

**Amendment 29**

**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 which causes them detriment.

## Amendment 30

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

*Text proposed by the Commission*

*Amendment*

*(32a) Potential whistleblowers should be free to rely on the reporting channel of their choice, be it internal or external, or to decide to disclose information to the public domain, for example through the media, provided that the confidentiality and anonymity of their disclosure are fully safeguarded, that data protection is ensured and that the journalists, bloggers or media in general are never compelled to reveal the identity of their sources. Whistleblowers should be protected no matter what their choice of reporting channel is.*

## Amendment 31

### Proposal for a directive Recital 33

*Text proposed by the Commission*

*Amendment*

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

(33) Whistleblowers are, in particular, important sources for investigative journalists. Providing effective protection to whistleblowers *as well as to investigative journalists* from retaliation *and any form of harassment* 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 32

### 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, ***and which also guarantee the highest possible level of independence and impartiality.*** These may be regulatory or supervisory bodies in the areas concerned, law enforcement agencies, anti-corruption bodies and ombudsmen. The authorities designated as competent shall have the necessary capacities and powers to assess the accuracy of the allegations made in the report and to address the breaches reported, including by launching an investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate. ***The staff of those authorities shall be specialised and have proper training and formation regarding European and national data protection legislation. At the same time, an independent advisory and referral Unit within the European Ombudsman should be established with a view to coordinating with Member States and advising on specific measures for the protection of whistleblowers and investigative journalists.***

**Amendment 33**

**Proposal for a directive  
Recital 39 a (new)**

*Text proposed by the Commission*

*Amendment*

***(39a) Reporting persons should be allowed to freely choose the most appropriate channel of reporting and disclosure of information, be it internal or external, without any strict hierarchy among them.***

## Amendment 34

### Proposal for a directive Recital 40

*Text proposed by the Commission*

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

*Amendment*

(40) Reporting persons should be able to report to the competent authorities and should enjoy the protection against retaliation provided by this Directive.

## Amendment 35

### Proposal for a directive Recital 42

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 36

### Proposal for a directive Recital 43

*Text proposed by the Commission*

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

*Amendment*

(43) ***Upon an assessment to be conducted on a case-by-case basis***, third parties may also be authorised to receive reports on behalf of private and public entities, provided they offer appropriate guarantees of respect for independence, ***anonymity***, confidentiality, data protection and secrecy. These can be external reporting platform providers, external counsel or auditors or trade union representatives.

**Amendment 37**

**Proposal for a directive**

**Recital 44**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 38**

**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.

their function should ensure absence of conflict of interest, *proper know-how* and independence. In smaller entities, this function could be a dual function held by a company officer well placed to report directly to the organisational head, such as a chief compliance or human resources officer, a legal or privacy officer, a chief financial officer, a chief audit executive or a member of the board.

## Amendment 39

### Proposal for a directive

#### Recital 47

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

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

##### *Amendment*

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

integrity.

**Amendment 40**  
**Proposal for a directive**  
**Recital 48**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 41**  
**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. 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 42**  
**Proposal for a directive**  
**Recital 54**

*Text proposed by the Commission*

(54) Persons intending to report should

*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.

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

***Potential whistleblowers should always be able to freely decide whether to use internal or external reporting channels.***

### Amendment 43

#### Proposal for a directive Recital 57

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

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

##### *Amendment*

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

### Amendment 44

#### 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

##### *Amendment*

(58) Protection of personal data of the reporting and concerned person, ***as well as confidentiality of information,*** is crucial in order to avoid unfair treatment, ***any harassment or intimidation,*** or reputational damages due to disclosure of personal data, in particular data revealing



(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.

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 45**

### **Proposal for a directive Recital 59**

*Text proposed by the Commission*

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

*Amendment*

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

## **Amendment 46**

### **Proposal for a directive Recital 60**

*Text proposed by the Commission*

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

*Amendment*

(60) To enjoy protection, the reporting persons should reasonably believe, in light of the circumstances and the information available to them at the time of the reporting, that the matters reported by them are true. This reasonable belief 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 47

##### Proposal for a directive Recital 61

*Text proposed by the Commission*

(61) The *requirement of a tiered* use of reporting channels, *as a general rule, is* necessary to ensure that the information gets to the persons who can contribute to the early and effective resolution of risks to the public interest *as well as to prevent unjustified reputational damage from public disclosure*. At the same time, some *exceptions* to its application are necessary, allowing the reporting person to choose the most appropriate channel depending on the individual circumstances of the case. Moreover, it is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, *whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights*<sup>57</sup>.

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<sup>57</sup> *One of the criteria for determining whether retaliation against whistleblowers*

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 *good faith*. 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*

(61) The use of *the different* reporting channels 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. At the same time, some *rules* 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.

*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.*

## Amendment 48

### 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) Reporting persons *can* first use the internal channels at their disposal and report to their employer.

## Amendment 49

### 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

*Amendment*

(63) In other cases, internal channels could not reasonably be expected to function properly, for instance, where the reporting persons have valid reasons to believe that they would suffer retaliation in connection with the reporting; that their

confidentiality would not be protected; that the ultimate responsibility holder within the work-related context is involved in the breach; that the breach might be concealed; that evidence may be concealed or destroyed; that the effectiveness of investigative actions by competent authorities might be jeopardised or that urgent action is required (for instance because of an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment. In all such cases, persons reporting 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.

confidentiality would not be protected *or their anonymous report would not be investigated*; 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 *and anonymous reports shall be investigated upon, if well evidenced*. 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 50

### Proposal for a directive Recital 64

#### *Text proposed by the Commission*

(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

#### *Amendment*

(64) Persons making a public disclosure directly should also qualify for protection *where the public has an overriding interest in being informed directly or* 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

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.

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.

## Amendment 51

### Proposal for a directive

#### Recital 65

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

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

##### *Amendment*

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

*Protection should also be afforded in case of direct and/or indirect retaliation taken by third parties.*

## **Amendment 52**

### **Proposal for a directive**

#### **Recital 67**

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

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

##### *Amendment*

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

## **Amendment 53**

### **Proposal for a directive**

#### **Recital 69**

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

(69) It should not be possible to waive the rights and obligations established by this Directive by contractual means. Individuals' legal or contractual obligations, such as loyalty clauses in

##### *Amendment*

(69) It should not be possible to waive the rights and obligations established by this Directive by contractual means. Individuals' legal or contractual obligations, such as loyalty clauses in

contracts or confidentiality/non-disclosure agreements, cannot be relied on to preclude **workers** from reporting, to deny protection or to penalise them for having done so. At the same time, this Directive should not affect the protection of legal and other professional privilege as provided for under national law.

contracts or confidentiality/non-disclosure agreements, cannot be relied on to preclude **individuals** from reporting, to deny protection or to penalise them for having done so. At the same time, this Directive should not affect the protection of legal and other professional privilege as provided for under national law.

## **Amendment 54**

### **Proposal for a directive**

#### **Recital 71**

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

(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).

##### *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 **and psychological** treatment, and for intangible damage (pain and suffering).

## **Amendment 55**

### **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

##### *Amendment*

(75) A significant cost for reporting persons contesting retaliation measures taken against them in legal proceedings can

be the relevant legal fees. Although they could recover these fees at the end of the proceedings, they might not be able to cover them up front, especially if they are unemployed and blacklisted. Assistance for criminal legal proceedings, particularly in accordance with the provisions of Directive (EU) 2016/1919 of the European Parliament and of the Council<sup>59</sup> 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.

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<sup>59</sup> 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).

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 Council<sup>59</sup> and more generally support to those who are in serious financial need ***is key*** for the effective enforcement of their rights to protection.

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<sup>59</sup> 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 56**

### **Proposal for a directive Recital 80**

#### *Text proposed by the Commission*

(80) This Directive introduces minimum standards and Member States should have the power to introduce or maintain more favourable provisions to the reporting person, provided that such provisions do not interfere with the measures for the protection of concerned persons.

#### *Amendment*

(80) This Directive introduces minimum standards and Member States should have the power ***and be encouraged*** to introduce or maintain more favourable provisions to the reporting person, provided that such provisions do not interfere with the measures for the protection of concerned persons.

## **Amendment 57**

### **Proposal for a directive Recital 81**

#### *Text proposed by the Commission*

(81) In accordance with Article 26(2)

#### *Amendment*

(81) In accordance with Article 26(2)



TFEU, the internal market needs to comprise an area without internal frontiers in which the free and safe movement of goods and services is ensured. The internal market should provide Union citizens with added value in the form of better quality and safety of goods and services, ensuring high standards of public health and environmental protection as well as free movement of personal data. Thus, Article 114 TFEU is the appropriate legal basis to adopt the measures necessary for the establishment and functioning of the internal market. In addition to Article 114 TFEU, this Directive should have additional specific legal bases in order to cover the fields that rely on Articles 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 168, 169 **and 207** TFEU and Article 31 of the Euratom Treaty for the adoption of Union measures. Since this Directive also aims at better protecting the financial interests of the Union, Article 325(4) TFEU should be included as a legal basis.

TFEU, the internal market needs to comprise an area without internal frontiers in which the free and safe movement of goods and services is ensured. The internal market should provide Union citizens with added value in the form of better quality and safety of goods and services, ensuring high standards of public health and environmental protection as well as free movement of personal data. Thus, Article 114 TFEU is the appropriate legal basis to adopt the measures necessary for the establishment and functioning of the internal market. In addition to Article 114 TFEU, this Directive should have additional specific legal bases in order to cover the fields that rely on Articles **9, 10, 11, 12, 15**, 16, 33, 43, 50, 53(1), 62, 91, 100, 103, 109, 168, 169, **207 and 352** TFEU and Article 31 of the Euratom Treaty for the adoption of Union measures. Since this Directive also aims at better protecting the financial interests of the Union, Article 325(4) TFEU should be included as a legal basis.

**Amendment 58**  
**Proposal for a directive**  
**Recital 84**

*Text proposed by the Commission*

(84) The objective of this Directive, namely to strengthen enforcement in certain policy areas and acts where breaches of Union law can cause serious harm to the public interest through effective whistleblower protection, cannot be sufficiently achieved by the Member States acting alone or in an uncoordinated manner, but can rather be better achieved by Union action providing minimum standards of harmonisation on 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

*Amendment*

(84) The objective of this Directive, namely to strengthen enforcement in certain policy areas and acts where ***misconduct or wrongdoing or*** breaches of Union law can cause serious harm to the public interest through effective whistleblower protection, cannot be sufficiently achieved by the Member States acting alone or in an uncoordinated manner, but can rather be better achieved by Union action providing minimum standards of harmonisation on whistleblower protection. Moreover, only Union action can provide coherence and align the existing Union rules on whistleblower protection. Therefore, the

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.

Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

## Amendment 59

### Proposal for a directive

#### Recital 85

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

(85) This Directive respects fundamental rights and *observes* the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Accordingly, this Directive must be implemented in accordance with those rights and principles. ***In particular, this Directive seeks to ensure*** full respect for freedom of expression and information, the right to protection of personal data, the freedom to conduct a business, the right to a high level of consumer protection, the right to an effective remedy and the rights of defence.

##### *Amendment*

(85) This Directive respects fundamental rights and the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Accordingly, this Directive must be implemented in accordance with those rights and principles ***by ensuring*** full respect for, ***inter alia***, freedom of expression and information, the right to protection of personal data, the freedom to conduct a business, the right to a high level of consumer protection, the right to ***fair and just working conditions, the right to a high level of human health protection, the right to a high level of environmental protection, the right to good administration, the right to*** an effective remedy and the rights of ***the*** defence.

## Amendment 60

### 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

##### *Amendment*

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

law:

*to the public interest:*

## **Amendment 61**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

*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:*

*deleted*

*(i) public procurement;*

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

*(iii) product safety;*

*(iv) transport safety;*

*(v) protection of the environment;*

*(vi) nuclear safety;*

*(vii) food and feed safety, animal health and welfare;*

*(viii) public health;*

*(ix) consumer protection;*

*(x) protection of privacy and personal data, and security of network and information systems.*

## **Amendment 62**

### **Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

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

applicable corporate tax law.

law.

### **Amendment 63**

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

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

*Text proposed by the Commission*

*Amendment*

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

### **Amendment 64**

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

#### **Article 2 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

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:

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

### **Amendment 65**

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

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

*Text proposed by the Commission*

*Amendment*

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

a) persons having the status of worker ***or former worker*** with the meaning of Article 45 TFEU ***as interpreted by the Court of Justice of the European Union regardless of whether they are paid or unpaid;***

### **Amendment 66**

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

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

*Text proposed by the Commission*

*Amendment*

*da) European Union staff members, as defined within the Staff Regulation;*

#### **Amendment 67**

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

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

*Text proposed by the Commission*

*Amendment*

*db) consultants, trainees, student workers, temporary workers and former employees;*

#### **Amendment 68**

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

##### **Article 2 – paragraph 1 – point d c (new)**

*Text proposed by the Commission*

*Amendment*

*dc) investigative journalists;*

#### **Amendment 69**

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

##### **Article 2 – paragraph 1 – point d d (new)**

*Text proposed by the Commission*

*Amendment*

*dd) persons who are or were in contact with organisations.*

#### **Amendment 70**

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

##### **Article 2 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

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

other pre-contractual negotiation.

*reporting persons whose working relationship has terminated.*

## **Amendment 71**

### **Proposal for a directive**

#### **Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 72**

### **Proposal for a directive**

#### **Article 2 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

*2b. This Directive shall also apply to persons facilitating the reporting such as intermediaries and any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication.*

## **Amendment 73**

### **Proposal for a directive**

#### **Article 2 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

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

## Amendment 74

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

*Text proposed by the Commission*

*Amendment*

**2d. This Directive shall apply to officials as well as to other employees and interns working within the institutions, agencies and bodies of the European Union.**

## Amendment 75

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

*Text proposed by the Commission*

*Amendment*

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

(1) ‘breaches’ means actual or potential unlawful activities or abuse of Union *law*;

## Amendment 76

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 77

### Proposal for a directive Article 3 – paragraph 1 – point 5

*Text proposed by the Commission*

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

*Amendment*

(5) ‘report’ means the provision, ***in good faith,*** of information relating to a breach which has occurred or is likely to occur;

**Amendment 78**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 79**

**Proposal for a directive  
Article 3 – paragraph 1 – point 9 a (new)**

*Text proposed by the Commission*

*Amendment*

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

**Amendment 80**

**Proposal for a directive  
Article 3 – paragraph 1 – point 10**

*Text proposed by the Commission*

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

*Amendment*

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



*retaliation if they report them.*

### **Amendment 81**

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

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

*Text proposed by the Commission*

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

*Amendment*

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

### **Amendment 82**

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

#### **Article 3 – paragraph 1 – point 13**

*Text proposed by the Commission*

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

*Amendment*

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

### **Amendment 83**

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

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

*Text proposed by the Commission*

*Amendment*

***(14 a) ‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an***

*identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person, in accordance with Regulation (EU) 2016/679;*

**Amendment 84**  
**Proposal for a directive**  
**Article 3 – paragraph 1 – point 14 b (new)**

*Text proposed by the Commission*

*Amendment*

*(14b) ‘processing’ means any operation or set of operations which is performed on personal data or onsets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction, in accordance with Regulation (EU) 2016/679;*

**Amendment 85**

**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, ***and protecting reporting persons***, following consultations with social partners, if appropriate.

**Amendment 86**

**Proposal for a directive**  
**Article 4 – paragraph 2**

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*Text proposed by the Commission*

2. Such channels and procedures shall allow for reporting by employees of the entity. They may allow for reporting by other persons who are in contact with the entity in the context of their ***work-related*** activities, referred to in Article 2(1)(b),(c) and (d), ***but the use of internal channels for reporting shall not be mandatory for these categories of persons.***

*Amendment*

2. Such channels and procedures shall allow for reporting by employees of the entity. They may allow for reporting by other persons who are in contact with the entity in the context of their activities, referred to in Article 2(1)(b), (c) and (d).

**Amendment 87**

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

*Text proposed by the Commission*

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*

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 Union ***law;***

**Amendment 88**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 89**

**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;

## Amendment 90

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

*da) European Union institutions, bodies, offices and agencies set up by, or on the basis of, the Treaty on European Union, the Treaty on the Functioning of the European Union or the Euratom Treaty;*

## Amendment 91

### 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*** and prevents access to non-authorised staff members;

## Amendment 92

### Proposal for a directive

#### Article 5 – paragraph 1 – point e

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 93

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

## Amendment 94

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

(a) written reports in electronic or paper format, ***including options for anonymous disclosures, as well as disclosures employing cryptographic methods***, and/or oral report through telephone lines, whether recorded or unrecorded; ***in case the phone conversation is recorded, the prior consent of the reporting person is necessary***;

## Amendment 95

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

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

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

## Amendment 96

### Proposal for a directive

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

***(ba) reporting channels, including digital mechanisms, and institutional arrangements shall provide for safe, secure, confidential and anonymous disclosures.***

## **Amendment 97**

### **Proposal for a directive Article 6 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

1. Member States shall designate the authorities competent to receive and handle reports. ***This includes designating specific, independent competent authorities entitled to receive and proceed reports on classified or sensitive information.***

## **Amendment 98**

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

*Text proposed by the Commission*

*Amendment*

***1a. The European Court of Auditors and the European Ombudsman shall publish, every year:***

***a) Special Reports containing statistics and a clear track record of whistle-blowing cases identified in the European institutions;***

***b) the follow-up of the institutions concerned in relation to the cases revealed, according to the provisions set therein;***

***c) the outcome of each investigation open as a result of the information received from whistle-blowers;***

***d) the measures foreseen in every case for the whistle-blowers' protection.***

**Amendment 99**  
**Proposal for a directive**  
**Article 6 – paragraph 2 – point a**

*Text proposed by the Commission*

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

*Amendment*

a) establish independent and autonomous external reporting channels, which are both secure and ensure confidentiality **and allow for anonymous disclosures**, for receiving and **processing** information provided by the reporting person, **regardless of the country where he or she resides**;

**Amendment 100**

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

**Amendment 101**

**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.

## Amendment 102

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

*Text proposed by the Commission*

*Amendment*

**2a. Reporting channels, including digital mechanisms, and institutional arrangements shall provide for safe, secure, confidential and anonymous disclosures.**

## Amendment 103

### Proposal for a directive Article 6 – paragraph 4

*Text proposed by the Commission*

*Amendment*

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

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 **promptly** informed. **Member States shall ensure that competent authorities receiving reports they do not have competence to address have clear procedures for handling all disclosed information securely with due regard to confidentiality or anonymity.**

## Amendment 104

### Proposal for a directive Article 7 – title

*Text proposed by the Commission*

*Amendment*

7 **Design** of external reporting channels

7 **Structure and functioning** of external reporting channels

## Amendment 105

### 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, ***including the identity of the reporting person, the intermediaries as well as the concerned person, allows for anonymous disclosures as well as disclosures employing cryptographic methods***, and prevents access to non-authorised staff members of the competent authority;

**Amendment 106**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

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

**Amendment 107**

**Proposal for a directive**

**Article 7 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 108**

**Proposal for a directive**

**Article 7 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 109**

**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 investigation.

*Amendment*

c) maintaining contact with the reporting person **and, whenever relevant, with those persons facilitating the reporting, such as intermediaries and investigative journalists**, for the purpose of informing **them** of the progress and the outcome of the investigation.

**Amendment 110**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 111**

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

*Text proposed by the Commission*

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

*Amendment*

c) the confidentiality regime applicable to reports ***and its conditions***, including a detailed description of the circumstances under which the confidential data of a reporting person may be disclosed; ***the same confidentiality regime and protection measures shall be applicable to whistle blowers who initially reported anonymously, if they ask for such measures.***

**Amendment 112**

**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 of defence, and in each case subject to appropriate safeguards under such laws.

**Amendment 113**

**Proposal for a directive  
Article 10 – paragraph 1 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that competent authorities publish on their websites in a separate, easily identifiable and accessible section at least the following information:

*Amendment*

Member States shall ensure that competent authorities publish on their websites ***in at least two official languages of the European Union*** in a separate, easily identifiable and accessible section at least

the following information:

*Justification*

*There's the possibility of the reporting person not knowing the official language of the Member State he or she resides in.*

**Amendment 114**

**Proposal for a directive  
Article 10 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 115**

**Proposal for a directive  
Article 10 – paragraph 1 – point d**

*Text proposed by the Commission*

d) the confidentiality regime applicable to reports, and in particular the information in relation to the processing of personal data in accordance with Article 13 of Regulation (EU) 2016/679, Article 13 of Directive (EU) 2016/680 and Article 11 of Regulation (EC) 45/2001, as applicable.

*Amendment*

d) the confidentiality regime applicable to reports, and in particular the information in relation to the processing of personal data in accordance with Article ***5 and Article*** 13 of Regulation (EU) 2016/679, Article 13 of Directive (EU) 2016/680 and Article 11 of Regulation (EC) 45/2001, as applicable.

**Amendment 116**

**Proposal for a directive  
Article 10 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

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

**Amendment 117**  
**Proposal for a directive**  
**Article 11 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that competent authorities keep records of every report received.

*Amendment*

1. Member States shall ensure that competent authorities keep records of every report received. ***The reports will be stored for no longer than is necessary and proportionate for the reporting procedure and shall be deleted as soon as this procedure is closed. The personal data contained in those reports shall be processed in accordance with the European data protection laws.***

**Amendment 118**

**Proposal for a directive**  
**Article 11 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

2. Competent authorities shall promptly acknowledge the receipt of written reports to the postal or electronic address indicated by the reporting person ***or the intermediary***, unless ***they*** explicitly requested otherwise or the competent authority reasonably believes that acknowledging receipt of a written report would jeopardise the protection of the reporting person's ***or intermediaries'*** identity.

**Amendment 119**

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

*Text proposed by the Commission*

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

*Amendment*

Where a recorded telephone line is used for reporting, subject to the consent of the reporting person ***or the intermediary***, the competent authority shall have the right to

reporting in one of the following ways:

document the oral reporting in one of the following ways:

### **Amendment 120**

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

#### **Article 11 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

### **Amendment 121**

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

#### **Article 11 – paragraph 4**

*Text proposed by the Commission*

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

*Amendment*

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

### **Amendment 122**

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

#### **Article 11 – paragraph 5 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

Where a person requests a meeting with the dedicated staff members of the competent authority for reporting according to Article 7(2)(c), competent authorities shall ensure, subject to the consent of the reporting

*Amendment*

Where a person requests a meeting with the dedicated staff members of the competent authority for reporting according to Article 7(2)(c), competent authorities shall ensure, subject to the consent of the reporting

person, that complete and accurate records of the meeting are kept in a durable and retrievable form. A competent authority shall have the right to document the records of the meeting in one of the following ways:

person *or the intermediary*, that complete and accurate records of the meeting are kept in a durable and retrievable form. A competent authority shall have the right to document the records of the meeting in one of the following ways:

### **Amendment 123**

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

#### **Article 11 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

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

*Amendment*

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

### **Amendment 124**

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

#### **Article 11 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a. The competent authority shall inform in every case the reporting person of the circumstances described in point c) of paragraph 1 of Article 9 if they take place, and send to the reporting person a written justification for the disclosure of the confidential data. The reporting person shall be offered the possibility to check, rectify and agree that these circumstances take place.**

### **Amendment 125**

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

#### **Article 13 – title**

*Text proposed by the Commission*

Conditions for the protection of reporting

*Amendment*

Conditions for the protection of reporting

persons

persons *and intermediaries*

## Amendment 126

### 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 the intermediary* shall qualify for protection under this Directive provided he or she has reasonable grounds to believe that the information reported was true at the time of reporting, *he or she has acted in good faith* and that this information falls within the scope of this Directive.

## Amendment 127

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

*Text proposed by the Commission*

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

*Amendment*

2. A person reporting externally *or internally* shall qualify for protection under this Directive.

## Amendment 128

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 129

### Proposal for a directive



## Article 13 – paragraph 2 – point e

*Text proposed by the Commission*

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;

*Amendment*

e) he or she had reasonable grounds to believe that the use of internal reporting channels could **result in retaliation or** jeopardise the effectiveness of investigative actions by competent authorities **or when use of the internal channel has previously resulted in retaliation or jeopardised the effectiveness of investigative actions by competent authorities;**

## Amendment 130

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

## Amendment 131

### 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 publicly disclosing information on breaches falling within the scope of this Directive shall qualify for protection under this Directive.

## Amendment 132

### Proposal for a directive

## Article 13 – paragraph 4 – point a

*Text proposed by the Commission*

*Amendment*

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* **deleted**

## Amendment 133

### Proposal for a directive

#### Article 13 – paragraph 4 – point b

*Text proposed by the Commission*

*Amendment*

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

## Amendment 134

### Proposal for a directive

#### Article 14 – title

*Text proposed by the Commission*

*Amendment*

Prohibition of retaliation against reporting persons

Prohibition of retaliation against reporting persons, *investigative journalists and intermediaries*

## Amendment 135

### Proposal for a directive

#### Article 14 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

Member States shall take the necessary

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:

measures to prohibit any form of retaliation, whether direct or indirect, against reporting persons, ***intermediaries and relatives of the reporting person*** meeting the conditions set out in Article 13, including in particular in the form of:

**Amendment 136**  
**Proposal for a directive**  
**Article 14 – paragraph 1 – point g**

*Text proposed by the Commission*

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

*Amendment*

g) coercion, intimidation, ***physical and verbal violence***, harassment, ***discrimination*** or ostracism;

**Amendment 137**

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

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 138**

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

*Text proposed by the Commission*

k) damage, including to the person's reputation, or financial loss, including loss of business and loss of income;

*Amendment*

k) damage, including to the person's reputation ***and particularly on social media***, or financial loss, including loss of business and loss of income;

**Amendment 139**  
**Proposal for a directive**  
**Article 14 – paragraph 1 – point k a (new)**

*Text proposed by the Commission*

*Amendment*

*k a) abusive legal actions and disproportionate financial claims;*

## **Amendment 140**

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

*Text proposed by the Commission*

*Amendment*

#### **Article 14 a**

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

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

*reporting person, and prevents access to non-authorized staff members.*

#### **Amendment 141**

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

##### **Article 15 – title**

*Text proposed by the Commission*

Measures for the protection of reporting persons against retaliation

*Amendment*

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

#### **Amendment 142**

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

##### **Article 15 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

#### **Amendment 143**

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

##### **Article 15 – paragraph 2**

*Text proposed by the Commission*

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

*Amendment*

2. Comprehensive and independent information and advice shall be easily accessible to the public, free of charge, on procedures and remedies available on protection against retaliation *in at least two official languages of the European Union. This independent role could be performed, for example, by civil society organisations and/or trade unions.*

## Amendment 144

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

*Text proposed by the Commission*

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

*Amendment*

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

## Amendment 145

### Proposal for a directive Article 15 – paragraph 6

*Text proposed by the Commission*

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

*Amendment*

6. Reporting persons shall have access to remedial measures against retaliation **covering all direct, indirect, and future consequences of any detriment, including**, as appropriate:

**a) making any provision to act taken in breach of Article 14 void;**

**b) the reinstatement of the reporting person with equal salary, status, duties and working conditions;**

**c) the transfer of the reporting person to a new department or supervisor;**

**d) compensation for pain, suffering and any economic loss linked to the retaliation;**

**e) interim relief pending the resolution of legal proceedings.**

## Amendment 146

### Proposal for a directive

## Article 15 – paragraph 8

*Text proposed by the Commission*

8. In addition to providing legal aid to reporting persons in criminal and in cross-border civil proceedings in accordance with Directive (EU) 2016/1919 and Directive 2008/52/EC of the European Parliament and of the Council<sup>63</sup>, 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.

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

*Amendment*

8. In addition to providing legal aid to reporting persons in criminal and in cross-border civil proceedings in accordance with Directive (EU) 2016/1919 and Directive 2008/52/EC of the European Parliament and of the Council<sup>63</sup>, and in accordance with national law, Member States may provide for further measures of legal, **social** and financial assistance and support for reporting persons in the framework of legal proceedings, **including legal advice from a lawyer, trade union representative or other relevant person or body**.

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

## Amendment 147

### Proposal for a directive Article 16 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Under no circumstances can the person accused in a report obtain information about the identity of the whistleblower. The whistleblower's confidentiality shall always be guaranteed.**

*Justification*

*Additional protection for the whistleblower.*

## Amendment 148

**Proposal for a directive**  
**Article 16 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a.** *The protection of the personal data of the concerned person is essential to avoid any unfair treatment or reputational harm following the public disclosure of personal data, in particular those revealing the identity of a concerned person. Consequently, the competent authorities should, in accordance 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, establish adequate procedures of data protection, in order to protect the reporting person, the concerned person as well as any other person targeted in the reporting. The authorities shall ensure a secured system among the competent authorities to allow the access to authorised persons only.*

**Amendment 149**

**Proposal for a directive**  
**Article 16 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**3b.** *Any person affected by the reporting or the misleading or malicious disclosure should benefit from a legal protection, including the right to an effective remedy against an abusive reporting.*

**Amendment 150**

**Proposal for a directive**  
**Article 16 a (new)**

*Text proposed by the Commission*

*Amendment*



*Article 16a*

*Rights of persons implicated*

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

**Amendment 151**

**Proposal for a directive**

**Article 17 – paragraph 1 – point b**

*Text proposed by the Commission*

b) take retaliatory measures against reporting persons;

*Amendment*

b) take retaliatory measures against reporting persons, *also outside the work-related relation*;

**Amendment 152**

**Proposal for a directive**

**Article 17 – paragraph 1 – point c**

*Text proposed by the Commission*

c) bring vexatious proceedings against reporting persons;

*Amendment*

c) bring vexatious proceedings against reporting persons *or investigative journalists revealing wrongdoing*;

**Amendment 153**

**Proposal for a directive**

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

*Text proposed by the Commission*

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

*Amendment*

d) breach the duty of maintaining the confidentiality *or the anonymity* of the identity of reporting persons *without having obtained their consent*;

**Amendment 154**  
**Proposal for a directive**  
**Article 17 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*da) do not fulfil their obligation to follow-up on a report and/or do not provide feedback to the reporting person about such follow-up.*

**Amendment 155**  
**Proposal for a directive**  
**Article 18 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, shall be made in accordance with Regulation (EU) 2016/679 and Directive (EU) 2016/680. Any exchange or transmission of information by competent authorities at Union level should be undertaken in accordance with Regulation (EC) No 45/2001. Personal data which are not relevant for the handling of a specific case shall be immediately deleted.

Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, shall be made in accordance with Regulation (EU) 2016/679 and Directive (EU) 2016/680. Any exchange or transmission of information by competent authorities at Union level should be undertaken in accordance with Regulation (EC) No 45/2001. Personal data which are not relevant for the handling of a specific case shall ***not be collected or, if accidentally collected, shall*** be immediately deleted.

**Amendment 156**

**Proposal for a directive**  
**Article 20 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

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

**Amendment 157**

**Proposal for a directive**  
**Article 21 – paragraph 3**

*Text proposed by the Commission*

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.

*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, ***the possible impact on fundamental rights such as privacy, the right to the presumption of innocence and the right to a fair trial***, 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.

**Amendment 158**

**Proposal for a directive**  
**Article 22 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 22 a**

***Updating the Annexes***

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

**Amendment 159**

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

*Text proposed by the Commission*

*Amendment*

***C a protection of the Union's financial***

*interests:*

*(i) Regulation (EU, EURATOM) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Protection of persons reporting on breaches of Union law
<b>References</b>	COM(2018)0218 – C8-0159/2018 – 2018/0106(COD)
<b>Committee responsible</b> Date announced in plenary	JURI 28.5.2018
<b>Opinion by</b> Date announced in plenary	LIBE 28.5.2018
<b>Associated committees - date announced in plenary</b>	13.9.2018
<b>Rapporteur</b> Date appointed	Maite Pagazaurtundúa Ruiz 25.6.2018
<b>Discussed in committee</b>	3.9.2018
<b>Date adopted</b>	5.11.2018
<b>Result of final vote</b>	+: 26 –: 8 0: 4
<b>Members present for the final vote</b>	Heinz K. Becker, Monika Beňová, Michał Boni, Caterina Chinnici, Frank Engel, Cornelia Ernst, Laura Ferrara, Ana Gomes, Monika Hohlmeier, Sophia in 't Veld, Eva Joly, Dietmar Köster, Barbara Kudrycka, Cécile Kashetu Kyenge, Juan Fernando López Aguilar, Roberta Metsola, Claude Moraes, Ivari Padar, Judith Sargentini, Giancarlo Scottà, Birgit Sippel, Csaba Sógor, Sergei Stanishev, Helga Stevens, Traian Ungureanu, Marie-Christine Vergiat, Josef Weidenholzer, Kristina Winberg, Auke Zijlstra
<b>Substitutes present for the final vote</b>	Carlos Coelho, Pál Csáky, Sylvia-Yvonne Kaufmann, Jeroen Lenaers, Maite Pagazaurtundúa Ruiz, Morten Helveg Petersen, Barbara Spinelli
<b>Substitutes under Rule 200(2) present for the final vote</b>	Rupert Matthews, Martina Michels

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

26	+
ALDE	Sophia in 't Veld, Maite Pagazaurtundúa Ruiz, Morten Helveg Petersen
EFDD	Laura Ferrara
GUE/NGL	Cornelia Ernst, Martina Michels, Barbara Spinelli, Marie-Christine Vergiat
PPE	Michał Boni, Barbara Kudrycka, Roberta Metsola, Csaba Sógor
S&D	Monika Beňová, Caterina Chinnici, Ana Gomes, Sylvia-Yvonne Kaufmann, Dietmar Köster, Cécile Kashetu Kyenge, Juan Fernando López Aguilar, Claude Moraes, Ivari Padar, Birgit Sippel, Sergei Stanishev, Josef Weidenholzer
VERTS/ALE	Eva Joly, Judith Sargentini

8	-
ECR	Rupert Matthews, Helga Stevens, Kristina Winberg
ENF	Giancarlo Scottà, Auke Zijlstra
PPE	Pál Csáky, Frank Engel, Traian Ungureanu

4	0
PPE	Heinz K. Becker, Carlos Coelho, Monika Hohlmeier, Jeroen Lenaers

Key to symbols:

+ : in favour

- : against

0 : abstention