



2018/0106(COD)

6.9.2018

AMENDMENTS

23 - 206

Draft opinion
Miguel Viegas
(PE625.343v01-00)

Protection of persons reporting on breaches of Union law

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

Amendment 23

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Citation 1

Text proposed by the Commission

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

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, **19**, 33, 43, 50, 53(1), 62, **77, 78, 79, 83(1)**, 91, 100, 103, 109, 114, **153, 157**, 168, 169, 192, 207 and 325(4) thereof and to the Treaty establishing the European Atomic Energy Community, and in particular Article 31 thereof,

Or. en

Amendment 24

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 1

Text proposed by the Commission

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

Amendment

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

Amendment 25
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 26
Roberts Zīle

Proposal for a directive
Recital 1

Text proposed by the Commission

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

Amendment

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

Amendment 27
Roberts Zile

Proposal for a directive
Recital 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 28
Notis Marias

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) In certain policy areas, breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified in those areas, and whistleblowers are in a privileged position to disclose breaches, it is necessary to enhance enforcement by ensuring *effective* protection *of* whistleblowers from retaliation and introducing effective reporting channels.

Amendment

(3) In certain policy areas, breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the 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 *effectively* ensuring *real* protection *for* whistleblowers from retaliation and introducing *more* effective reporting channels.

Or. el

Amendment 29
Roberts Zile

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) In certain policy areas, breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified in those areas, and whistleblowers are in a privileged position to disclose breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and introducing effective reporting channels.

Amendment

(3) In certain policy areas, breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified in those areas, and whistleblowers are in a privileged position to disclose **such** breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and introducing effective reporting channels.

Or. en

Amendment 30
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) ***In certain policy areas***, breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified ***in those areas***, and whistleblowers are in a privileged position to disclose breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and ***introducing*** effective reporting channels.

Amendment

(3) Breaches of Union law may cause serious harm to the public interest, in the sense of creating significant risks for the welfare of society. Where weaknesses of enforcement have been identified, and whistleblowers are in a privileged position to disclose breaches, it is necessary to enhance enforcement by ensuring effective protection of whistleblowers from retaliation and ***to ensure that there are*** effective reporting channels.

Or. en

Amendment 31
Notis Marias

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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 ***unfortunately*** 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.

Or. el

Amendment 32
Roberts Zile

Proposal for a directive
Recital 5

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 33
Notis Marias

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) **Stricter** common standards ensuring effective whistleblower protection should, **however**, apply, **particularly** 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.

Or. el

Amendment 34

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 5

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 35

Pirkko Ruohonen-Lerner

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Whistleblower protection is necessary to enhance the enforcement of Union law on public procurement. In

Amendment

(6) Whistleblower protection is necessary to enhance the enforcement of Union law on public procurement. In

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

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

Or. en

Amendment 36

Notis Marias

Proposal for a directive

Recital 6

Text proposed by the Commission

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

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Amendment

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

9/99

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uneven level playing field for all businesses across Europe, thus affecting the proper functioning of the internal market.

uneven level playing field for all businesses across Europe, thus affecting the proper functioning of the internal market.

Or. el

Amendment 37
Jeppe Kofod

Proposal for a directive
Recital 7

Text proposed by the Commission

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

Amendment

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

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

³⁵ Directive 2013/36/EU of the European

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

³⁵ Directive 2013/36/EU of the European

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

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

Or. en

Justification

From LuxLeaks to the on-going Danske Bank-scandal whistleblowers holding information of vital public interest have stated their fears of coming forward. This has demonstrably slowed and hindered proper investigation by relevant Member State authorities and placed heavy personal burdens on the whistleblowers.

Amendment 38 **Roberts Zile**

Proposal for a directive **Recital 7**

Text proposed by the Commission

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

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

³⁵ Directive 2013/36/EU of the European Parliament and of the Council of 26 June AM\1162066EN.docx

Amendment

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

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

³⁵ Directive 2013/36/EU of the European Parliament and of the Council of 26 June

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

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

Or. en

Amendment 39

Notis Marias

Proposal for a directive

Recital 9

Text proposed by the Commission

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

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

³⁹ Directive 2013/54/EU, of the European Parliament and of the Council, of 20 November 2013, concerning certain flag State responsibilities for compliance with

Amendment

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

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).

Or. el

Amendment 40

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 10

Text proposed by the Commission

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

⁴⁰ COM(2018) 10 final.

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

Amendment

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

⁴⁰ COM(2018) 10 final.

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

Or. en

Amendment 41

Notis Marias

Proposal for a directive

Recital 10

Text proposed by the Commission

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

⁴⁰ COM(2018) 10 final.

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

Amendment

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

Or. el

Amendment 42

Jeppe Kofod

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Similar considerations warrant the
PE627.591v01-00

Amendment

(11) Similar considerations warrant the

14/99

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introduction of whistleblower protection to build upon existing provisions and prevent breaches of EU rules in the area of food chain and in particular on food and feed safety as well as on animal health and welfare. The different Union rules developed in these areas are closely interlinked. Regulation (EC) No 178/2002⁴² sets out the general principles and requirements which underpin all Union and national measures relating to food and feed, with a particular focus on food safety, in order to ensure a high level of protection of human health and consumers' interests in relation to food as well as the effective functioning of the internal market. This Regulation provides, amongst others, that food and feed business operators are prevented from discouraging their employees and others from cooperating with competent authorities where this may prevent, reduce or eliminate a risk arising from food. The Union legislator has taken a similar approach in the area of 'Animal Health Law' through Regulation (EU) 2016/429 establishing the rules for the prevention and control of animal diseases which are transmissible to animals or to humans⁴³.

⁴² Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, p. 1).

⁴³ OJ L 84, p. 1

introduction of whistleblower protection to build upon existing provisions and prevent breaches of EU rules in the area of food chain and in particular on food and feed safety as well as on animal health and welfare. The different Union rules developed in these areas are closely interlinked. Regulation (EC) No 178/2002⁴² sets out the general principles and requirements which underpin all Union and national measures relating to food and feed, with a particular focus on food safety, in order to ensure a high level of protection of human health and consumers' interests in relation to food as well as the effective functioning of the internal market. This Regulation provides, amongst others, that food and feed business operators are prevented from discouraging their employees and others from cooperating with competent authorities where this may prevent, reduce or eliminate a risk arising from food. The Union legislator has taken a similar approach in the area of 'Animal Health Law' through Regulation (EU) 2016/429 establishing the rules for the prevention and control of animal diseases which are transmissible to animals or to humans⁴³. ***Systematic breaches of Union law as regards animal welfare remains a significant issue across Member States, however, the number of whistleblowers in this field is very low, which indicates a need to further strengthen protections of would-be whistleblowers and ensuring safe and effective reporting channels for them to disclose their information.***

⁴² Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, p. 1).

⁴³ OJ L 84, p. 1

Or. en

Justification

Systematic breaches of EU animal welfare standards and regulation, especially related to the pig directive and live animal transports, remain an issue in a number of Member States and have done so for decades. Despite this fact, the number of whistleblowers in this field remain suspiciously low indicating a strong need for better protection of potential whistleblowers and better avenues for them to report on their knowledge of breaches of EU law.

Amendment 43

Notis Marias

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Similar considerations warrant the introduction of whistleblower protection to build upon existing provisions and prevent breaches of EU rules in the area of food chain and in particular on food and feed safety as well as on animal health and welfare. The different Union rules developed in these areas are closely interlinked. Regulation (EC) No 178/2002⁴² sets out the general principles and requirements which underpin all Union and national measures relating to food and feed, with a particular focus on food safety, in order to ensure a high level of protection of human health and consumers' interests in relation to food as well as the effective functioning of the internal market. This Regulation provides, amongst others, that food and feed business operators are prevented from discouraging their employees and others from cooperating with competent authorities where this may prevent, reduce or eliminate a risk arising from food. The Union legislator has taken a similar approach in the area of 'Animal Health Law' through Regulation (EU) 2016/429 establishing the rules for the prevention and control of animal diseases which are transmissible to animals or to humans⁴³.

Amendment

(11) Similar considerations warrant the introduction of whistleblower protection to build upon existing provisions and ***in practice effectively*** prevent breaches of EU rules in the area of food chain and in particular on food and feed safety as well as on animal health and welfare. The different Union rules developed in these areas are closely interlinked. Regulation (EC) No 178/2002⁴² sets out the general principles and requirements which underpin all Union and national measures relating to food and feed, with a particular focus on food safety, in order to ensure a high level of protection of human health and consumers' interests in relation to food as well as the effective functioning of the internal market. This Regulation provides, amongst others, that food and feed business operators are prevented from discouraging their employees and others from cooperating with competent authorities where this may prevent, reduce or eliminate a risk arising from food. The Union legislator has taken a similar approach in the area of 'Animal Health Law' through Regulation (EU) 2016/429 establishing the rules for the prevention and control of animal diseases which are transmissible to animals or to humans⁴³.

⁴² Regulation (EC) No 178/2002 of the

European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, p. 1).

⁴³ OJ L 84, p. 1

Or. el

Amendment 44
Roberts Zile

Proposal for a directive
Recital 13

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 45
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In the same vein, whistleblowers' reports can be key to detecting and preventing, reducing or eliminating risks to

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17/99

Amendment

(13) In the same vein, whistleblowers' reports can be key to detecting and preventing, reducing or eliminating risks to

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public health and to consumer protection resulting from breaches of Union rules which might otherwise remain hidden. In particular, consumer protection is also strongly linked to cases where unsafe products can cause *considerable* harm to consumers. Whistleblower protection should therefore be introduced in relation to relevant Union rules adopted pursuant to Articles 114, 168 and 169 TFEU.

public health and to consumer protection resulting from breaches of Union rules which might otherwise remain hidden. In particular, consumer protection is also strongly linked to cases where unsafe products can cause harm to consumers. Whistleblower protection should therefore be introduced in relation to relevant Union rules adopted pursuant to Articles 114, 168 and 169 TFEU.

Or. en

Amendment 46 **Roberts Zile**

Proposal for a directive **Recital 14**

Text proposed by the Commission

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

⁴⁵ Directive (EU) 2016/1148 of the European Parliament and of the Council of PE627.591v01-00

Amendment

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

⁴⁵ Directive (EU) 2016/1148 of the European Parliament and of the Council of

6 July 2016 concerning measures for a high common level of security of network and information systems across the Union.

6 July 2016 concerning measures for a high common level of security of network and information systems across the Union.

Or. en

Amendment 47

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 14

Text proposed by the Commission

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

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

Amendment

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

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

Or. en

Amendment 48
Roberts Zile

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) **Acts which breach the rules of corporate tax and arrangements** whose purpose is to obtain a tax advantage and to evade legal obligations, defeating the object or purpose of the applicable corporate tax law, negatively affect the proper functioning of the internal market. They can give rise to **unfair tax competition and** extensive tax evasion, distorting the level-playing field for companies and resulting in loss of tax revenues for Member States and for the Union budget as a whole. Whistleblower protection adds to recent Commission initiatives aimed at improving transparency and the exchange of information in the field of taxation⁴⁷ **and creating a fairer corporate tax environment within the Union**⁴⁸, with a view to increasing Member States' effectiveness in identifying evasive and/or abusive arrangements that could otherwise go undetected and will help deter such arrangements.

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

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

Amendment

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

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

Amendment 49
Jeppe Kofod

Proposal for a directive
Recital 18

Text proposed by the Commission

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

⁴⁹ OJ L 173, p. 1.

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

Amendment

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

⁴⁹ OJ L 173, p. 1.

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

Amendment 50
Ramon Tremosa i Balcells

Proposal for a directive
Recital 18

Text proposed by the Commission

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

⁴⁹ OJ L 173, p. 1.

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

Amendment

(18) Certain Union acts, in particular in the area of financial services, such as Regulation (EU) No 596/2014 on market abuse, and Commission Implementing Directive 2015/2392, adopted on the basis of that Regulation 50, already contain detailed rules on whistleblower protection. Such existing Union legislation, including the list of Part II of the Annex, should be complemented by the present Directive, so that these instruments are fully aligned with its minimum standards whilst maintaining any specificities they provide for, tailored to the relevant sectors. This is of particular importance to ascertain which legal entities in the area of financial services, the prevention of money laundering, *the proper implementation of the Late Payments Directive 2011/7/EU*, terrorist financing *and cyber-crime* are currently obliged to establish internal reporting channels.

Or. en

Amendment 51
Jeppe Kofod

Proposal for a directive
PE627.591v01-00

Recital 19

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 52

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 19

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 53

Jeppe Kofod

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

Amendment

(20) This Directive should be without prejudice to the protection afforded to employees when reporting on breaches of Union employment law. In particular, in the area of occupational safety and health, Article 11 of Framework Directive

89/391/EEC already requires Member States to ensure that workers or workers' representatives shall not be placed at a disadvantage because of their requests or proposals to employers to take appropriate measures to mitigate hazards for workers and/or to remove sources of danger. Workers and their representatives are entitled to raise issues with the competent national 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.

89/391/EEC already requires Member States to ensure that workers or workers' representatives shall not be placed at a disadvantage because of their requests or proposals to employers to take appropriate measures to mitigate hazards for workers and/or to remove sources of danger. Workers and their representatives are entitled to raise issues with the competent national *or European Union* authorities if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health.

Or. en

Amendment 54

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 20

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 55

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) This Directive should be without prejudice to the protection of national security and other classified information which Union law or the laws, regulations or administrative provisions in force in the Member State concerned require, for 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. In particular, the provision of this Directive should **be read together with** 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.

Or. en

Amendment 56

Roberts Zile

Proposal for a directive

Recital 21

Text proposed by the Commission

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

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. 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.

information or Council Decision of 23 September 2013 on the security rules for protecting EU classified information.

Or. en

Amendment 57

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Persons who report information about threats or harm to the public interest ***obtained in the context of their work-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, ***particularly*** about threats or harm to the public interest, 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 ***freedom of information as well as*** media freedom and pluralism.

Or. en

Amendment 58

Jeppe Kofod

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

Amendment

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

depend for work. *When there is no such work-related power imbalance (for instance in the case of ordinary complainants or citizen bystanders) there is no need for protection against retaliation.*

depend for work.

Or. en

Amendment 59
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 24

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 60
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) Persons need specific legal protection *where they acquire* the

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Amendment

(24) Persons need specific legal protection *concerning* the information they

27/99

PE627.591v01-00

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

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

Or. en

Amendment 61

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 25

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 62
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) Protection should, firstly, apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union⁵², i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration. Protection should thus also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply.

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

Amendment

(26) Protection should, firstly, apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union⁵², i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration. Protection should thus also be granted to workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply. ***Considering the report by Transparency International published in the summer of 2018 underscoring the need for whistleblower protection within EU institutions as well, protection should extend similarly to EU staff.***

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

Or. en

Amendment 63
Jonás Fernández

Proposal for a directive

Recital 26

Text proposed by the Commission

(26) Protection should, **firstly**, apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union⁵², i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration. **Protection should thus also be granted to** workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply.

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

Amendment

(26) Protection should apply to persons having the status of 'workers', within the meaning of Article 45 TFEU, as interpreted by the Court of Justice of the European Union⁵², i.e. persons who, for a certain period of time, perform services for and under the direction of another person, in return of which they receive remuneration, **including** workers in non-standard employment relationships, including part-time workers and fixed-term contract workers, as well as persons with a contract of employment or employment relationship with a temporary agency, which are types of relationships where standard protections against unfair treatment are often difficult to apply.

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

Or. en

Amendment 64

Pirkko Ruohonen-Lerner

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

Amendment

(27) Protection should also extend to **people facilitating the reporting, such as intermediaries, NGO activists and investigative journalists, who disclose potential or actual breaches, as well as** further categories of natural or legal persons, who, whilst not being 'workers'

context of their work-related activities. For instance, in areas such as product safety, suppliers are much closer to the source of possible unfair and illicit manufacturing, import or distribution practices of unsafe products; in the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, including self-employed persons providing services, freelance, contractors, sub-contractors and suppliers, are typically subject to retaliation in the form of early termination or cancellation of contract of services, licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting/business boycotting or damage to their reputation. Shareholders and persons in managerial bodies, may also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their 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.

within the meaning of Article 45 TFEU, can play a key role in exposing breaches of the law and may find themselves in a position of economic vulnerability in the context of their work-related activities. For instance, in areas such as product safety, suppliers are much closer to the source of possible unfair and illicit manufacturing, import or distribution practices of unsafe products; in the implementation of Union funds, consultants providing their services are in a privileged position to draw attention to breaches they witness. Such categories of persons, including self-employed persons providing services, freelance, contractors, sub-contractors and suppliers, are typically subject to retaliation in the form of early termination or cancellation of contract of services, licence or permit, loss of business, loss of income, coercion, intimidation or harassment, blacklisting/business boycotting or damage to their reputation. Shareholders and persons in managerial bodies, may also suffer retaliation, for instance in financial terms or in the form of intimidation or harassment, blacklisting or damage to their reputation. ***In the case of such whistleblowers as NGOs, journalists, investigators and human rights defenders, there is a risk of being targeted with strategic lawsuits against public participation (SLAPP).*** Protection should also be granted to candidates for employment or for providing services to an organisation who acquired the information on breaches of law during the recruitment process or other pre-contractual negotiation stage, and may suffer retaliation for instance in the form of negative employment references or blacklisting/business boycotting.

Or. en

Amendment 65

Roberts Zile

Proposal for a directive
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Recital 27

Text proposed by the Commission

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

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

Or. en

Amendment 66
Molly Scott Cato

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32/99

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on behalf of the Verts/ALE Group

Proposal for a directive
Recital 27

Text proposed by the Commission

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

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

Or. en

Amendment 67
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 28

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 68
Roberts Zile

Proposal for a directive
Recital 28

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 69

Notis Marias

Proposal for a directive

Recital 28

Text proposed by the Commission

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

Amendment

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

Or. el

Amendment 70

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 29

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 71

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 30

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 72
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

Amendment

(30 a) Protection should be given to individuals working at institutions within the Union, but also to individuals working in European entities located outside Union territory. It should also apply to officials as well as other employees and interns working at the institutions, agencies and bodies of the Union.

Or. en

Amendment 73
Jeppe Kofod

Proposal for a directive

PE627.591v01-00

36/99

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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, ***to ensure proper implementation and to ensure full, loyal and expeditious cooperation between competent authorities both within the Member State itself and with relevant authorities in other Member States.*** These may be regulatory or supervisory bodies in the areas concerned, law enforcement agencies, anti-corruption bodies and ombudsmen. The authorities designated as competent shall have the necessary capacities and powers to assess the accuracy of the allegations made in the report and to address the breaches reported, including by launching an investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate.

Or. en

Amendment 74

Notis Marias

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

Amendment

(34) It is for the Member States to identify the authorities competent to receive and give appropriate follow up to the reports on breaches falling within the scope of this Directive. These may be regulatory or supervisory bodies in the areas concerned, law enforcement agencies, anti-corruption bodies and ombudsmen. The authorities designated as competent shall have, ***in addition to*** the necessary capacities and powers, ***suitably qualified staff*** to assess the accuracy of 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.

allegations made in the report and to address the breaches reported, including by launching an investigation, prosecution or action for recovery of funds, or other appropriate remedial action, in accordance with their mandate.

Or. el

Amendment 75
Roberts Zile

Proposal for a directive
Recital 37

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 76
Roberts Zile

Proposal for a directive
Recital 39

Text proposed by the Commission

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

Amendment

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

financial services.

Or. en

Justification

i.e. Small public notaries

Amendment 77

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 42

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 78

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 43

Text proposed by the Commission

(43) Third parties may also be authorised to receive reports on behalf of private and public entities, provided they offer appropriate guarantees of respect for

Amendment

(43) Third parties may also be authorised to receive reports on behalf of private and public entities, provided they offer appropriate guarantees of respect for

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

independence, confidentiality, data protection, secrecy *and the possibility for anonymity*. These can be external reporting platform providers, external counsel or auditors or trade union representatives.

Or. en

Amendment 79

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 44

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 80

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 47

Text proposed by the Commission

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

Amendment

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

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

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.

Or. en

Amendment 81

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 48

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 82
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 48 a (new)

Text proposed by the Commission

Amendment

(48 a) In all cases, the reporting person should be informed of the investigation's progress and should be able to access the draft report so as to be able to comment on it and correct it if necessary, albeit with no obligation to do so. The reporting person should also be informed of the investigation's outcome.

Or. en

Amendment 83
Jeppe Kofod

Proposal for a directive
Recital 50

Text proposed by the Commission

Amendment

(50) Follow up and feedback should take place within a reasonable timeframe; this is warranted by the need to promptly address the problem that may be the subject of the report, as well as to ***avoid unnecessary public disclosures***. Such timeframe should not exceed 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.

(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 ***ensure swift action by competent authorities and safeguard evidence needed for further investigation and prosecution***. 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. ***In such cases a reasoned argument for such a prolongation must be provided. In all cases an initial reply should be provided no later than 4 weeks from the date of the initial reporting and updates on actions taken and relevant new information should be provided monthly***

hereafter.

Or. en

Amendment 84
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 55

Text proposed by the Commission

(55) Member States should ensure that competent authorities have in place adequate protection procedures for the processing of reports of infringements and for the protection of the personal data of the persons referred to in the report. Such procedures should ensure that the identity of every reporting person, concerned person, and third persons referred to in the report (e.g. witnesses or colleagues) is protected at all stages of the procedure. This obligation should be without prejudice to the necessity and proportionality of the obligation to disclose information when this is required by Union or national law and subject to appropriate safeguards under such laws, including in the context of investigations or judicial proceedings or to safeguard the freedoms of others, including the rights of defence of the concerned person.

Amendment

(55) Member States *and EU institutions* should ensure that competent authorities have in place adequate protection procedures for the processing of reports of infringements and for the protection of the personal data of the persons referred to in the report. Such procedures should ensure that the identity of every reporting person, concerned person, and third persons referred to in the report (e.g. witnesses or colleagues) is protected at all stages of the procedure. This obligation should be without prejudice to the necessity and proportionality of the obligation to disclose information when this is required by Union or national law and subject to appropriate safeguards under such laws, including in the context of investigations or judicial proceedings or to safeguard the freedoms of others, including the rights of defence of the concerned person.

Or. en

Amendment 85
Jeppe Kofod

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

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.

retrievable within the competent authority and that information received through reports could be used as evidence in enforcement actions where appropriate *and made available to other Member States' or European Union authorities where relevant. It remains the responsibility of both the transmitting and receiving authorities to ensure full protection of whistleblowers and to ensure full, loyal and expeditious cooperation.*

Or. en

Amendment 86
Pirkko Ruohonen-Lerner

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 *and EU institutions* 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.

Or. en

Amendment 87
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 58

Text proposed by the Commission

(58) Protection of personal data of the reporting and concerned person is crucial in order to avoid unfair treatment or reputational damages due to disclosure of personal data, in particular data revealing

Amendment

(58) Protection of personal data of the reporting and concerned person, *as well as of the report itself*, is crucial in order to avoid unfair treatment or reputational damages due to disclosure of personal data,

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.

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

Or. en

Amendment 88

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 59

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 89

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 61

Text proposed by the Commission

Amendment

(61) *The requirement of a tiered use of reporting channels, as a general rule, is necessary to ensure that the information gets to the persons who can contribute to the early and effective resolution of risks to the public interest as well as to prevent unjustified reputational damage from public disclosure. At the same time, some exceptions to its application are necessary, allowing the reporting person to choose the most appropriate channel depending on the individual circumstances of the case. Moreover, it is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights⁵⁷.*

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

(61) It is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights⁵⁷.

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

Or. en

Amendment 90
Jeppe Kofod

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
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Amendment

(61) The requirement of a tiered use of reporting channels, as a general rule, is

necessary to ensure that the information gets to the persons who can contribute to the early and effective resolution of risks to the public interest *as well as to prevent unjustified reputational damage from public disclosure*. At the same time, some exceptions to its application are necessary, allowing the reporting person to choose the most appropriate channel depending on the individual circumstances of the case. Moreover, it is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights⁵⁷.

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

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 exceptions to its application are necessary, allowing the reporting person to choose the most appropriate channel depending on the individual circumstances of the case. Moreover, it is necessary to protect public disclosures taking into account democratic principles such as transparency and accountability, and fundamental rights such as freedom of expression and media freedom, whilst balancing the interest of employers to manage their organisations and to protect their interests with the interest of the public to be protected from harm, in line with the criteria developed in the case-law of the European Court of Human Rights⁵⁷.

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

Or. en

Amendment 91
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 62

Text proposed by the Commission

(62) As a rule, reporting persons should first use the internal channels at their disposal and report to their

Amendment

deleted

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

Or. en

Amendment 92
Roberts Zile

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

Or. en

Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 63

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 94
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive

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49/99

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EN

Recital 65

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 95 Jeppe Kofod

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

Amendment

(65) Reporting persons should be protected against any form of retaliation, whether direct or indirect, taken by their employer or customer/recipient of services and by persons working for or acting on

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

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

Or. en

Amendment 96

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 67

Text proposed by the Commission

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

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Amendment

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

51/99

PE627.591v01-00

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

to such advice can help ensure that reports are made through the appropriate channels, in a responsible manner and that breaches and wrongdoings are detected in a timely manner or even prevented.

Or. en

Amendment 97

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 74

Text proposed by the Commission

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

⁵⁸ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of

Amendment

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

⁵⁸ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of

undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

Or. en

Amendment 98

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 75

Text proposed by the Commission

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

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

Amendment

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

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

Or. en

Amendment 99

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 77

Text proposed by the Commission

(77) Any person who suffers prejudice, whether directly or indirectly, as a consequence of the reporting or disclosure of inaccurate or misleading information should retain the protection and the remedies available to him or her under the rules of general law. Where such inaccurate or misleading report or disclosure was made deliberately and knowingly, the concerned persons should be entitled to compensation in accordance with national law.

Amendment

(77) Any person who suffers prejudice, whether directly or indirectly, as a consequence of the reporting or disclosure of inaccurate or misleading information should retain the protection and the remedies available to him or her under the rules of general law. Where ***sufficient evidence has been produced demonstrating that*** such inaccurate or misleading report or disclosure was made deliberately and knowingly, the concerned persons should be entitled to compensation in accordance with national law.

Or. en

Amendment 100
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 78

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 101

Molly Scott Cato

on behalf of the Verts/ALE Group

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.

Or. en

Amendment 102

Molly Scott Cato

on behalf of the Verts/ALE Group

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 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,

Amendment

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

this Directive does not go beyond what is necessary in order to achieve this objective.

this Directive does not go beyond what is necessary in order to achieve this objective.

Or. en

Amendment 103

Roberts Zile

Proposal for a directive

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

1. ***In cases where Member States do not already have sufficient protection in place and*** with a view to enhancing the enforcement of Union law and policies in specific areas, this Directive lays down common minimum standards for the protection of persons reporting on the following unlawful activities or abuse of law ***which Member States may adopt:***

Or. en

Amendment 104

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 105

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Molly Scott Cato
on behalf of the Verts/ALE Group

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

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:

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

Or. en

Amendment 106
Ramon Tremosa i Balcells

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

Text proposed by the Commission

Amendment

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

(ii) financial services, prevention of ***tax evasion, tax avoidance, moneylaundering*** and terrorist financing, ***also cyber-terrorism and cyber-crime***;

Or. en

Amendment 107
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 108

Jeppe Kofod

Proposal for a directive

Article 1 – paragraph 1 – point a – point ii

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 109

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point a – point v

Text proposed by the Commission

(v) protection of the environment;

Amendment

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

Or. en

Amendment 110

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point a – point viii

Text proposed by the Commission

(viii) public health;

Amendment

(viii) public health ***or public safety***;

Or. en

Amendment 111
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(x a) employment and working conditions;

Or. en

Amendment 112
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(x b) tax fraud, tax evasion and tax avoidance;

Or. en

Amendment 113
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(x c) violations of human rights or of the rights enshrined in the European Charter of Fundamental Rights;

Or. en

Amendment 114
Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(x d) company law;

Or. en

Amendment 115

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(x e) asylum and migration law;

Or. en

Amendment 116

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point b

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 117

Molly Scott Cato

on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 118
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 119
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 120
Jonás Fernández

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

Text proposed by the Commission

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

Amendment

a) persons having the status of worker, with the meaning of Article 45 TFEU, **including part-time workers and fixed-term contract workers**;

Or. en

Amendment 121
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 122
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

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.

Amendment

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

Or. en

Amendment 123
Molly Scott Cato
on behalf of the Verts/ALE Group

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.

Or. en

Amendment 124
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(1) ‘breaches’ means actual or potential

(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**;

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

Or. en

Amendment 125

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 126

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 127

Molly Scott Cato

on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 128
Molly Scott Cato
on behalf of the Verts/ALE Group

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;

Or. en

Amendment 129
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 1 – point 9

Text proposed by the Commission

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

Amendment

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

Amendment 130

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point 12

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 131

Molly Scott Cato

on behalf of the Verts/ALE Group

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***;

Or. en

Amendment 132

Molly Scott Cato

on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 133
Jeppe Kofod

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 134
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission

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

Amendment

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

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

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

Or. en

Amendment 135

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 3 – point b – paragraph 1

Text proposed by the Commission

Amendment

private legal entities with an annual business turnover or annual balance sheet

private legal entities with an annual business *or group* turnover or annual balance sheet

Or. en

Amendment 136

Ramon Tremosa i Balcells

Proposal for a directive

Article 4 – paragraph 3 – point c

Text proposed by the Commission

Amendment

c) private legal entities of any size operating in the area of financial services or vulnerable to money laundering *or* terrorist financing, as regulated under the Union acts referred to in the Annex.

c) private legal entities of any size operating in the area of financial services or vulnerable to money laundering, terrorist financing *or cyber-crime*, as regulated under the Union acts referred to in the Annex

Or. en

Amendment 137

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

**d a) European Union institutions,
agencies and bodies;**

Or. en

Amendment 138

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 139

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – point c

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 140

Jeppe Kofod

Proposal for a directive

Article 5 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

d) a reasonable timeframe, not exceeding three months following the report, to provide **substantive** feedback to the reporting person about the follow-up to the report, **4 weeks to provide initial feedback and 1 week to provide a confidential note of receipt**;

Or. en

Amendment 141

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

d) a reasonable timeframe, not exceeding **30 days** following the report to provide feedback to the reporting person about the follow-up to the report;

Or. en

Amendment 142

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

d a) the opportunity for the reporting person, with no obligation to do so, to look over, examine and comment on the final report at the end of the investigation;

Amendment 143

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 144

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 145

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 146
Jeppe Kofod

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. The person or department referred to in point (b) of paragraph 1 may be the same person who is competent for receiving the reports. Additional persons may be designated as “trusted persons” from whom reporting persons and those considering reporting may seek confidential advice.

3. The person or department referred to in point (b) of paragraph 1 may be the same person who is competent for receiving the reports. Additional persons may be designated as “trusted persons” from whom reporting persons and those considering reporting may seek confidential advice. ***These persons may, in particular, be workers' representatives.***

Or. en

Amendment 147
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. The person or department referred to in point (b) of paragraph 1 may be the same person who is competent for receiving the reports. Additional persons may be designated as “trusted persons” from whom reporting persons and those considering reporting may seek

3. The person or department referred to in point (b) of paragraph 1 may be the same person who is competent for receiving the reports. Additional persons may be designated as “trusted persons” from whom reporting persons and those considering reporting may seek

confidential advice.

confidential advice *including trade union representatives*.

Or. en

Amendment 148
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the competent authorities:

Amendment

2. Member States *and EU institutions* shall ensure that the competent authorities:

Or. en

Amendment 149
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 150
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Or. en

Amendment 151

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

b a) gives the reporting person the opportunity, without compelling him/her, to look over, examine and comment on the draft report over the course of the investigation, and the final report before it is published at the end of the investigation;

Or. en

Amendment 152

Jeppe Kofod

Proposal for a directive

Article 6 – paragraph 2 – point c

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 153

Jeppe Kofod

Proposal for a directive

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

Text proposed by the Commission

Amendment

c a) cooperate fully, loyally and expeditiously with other Member States and EU authorities.

Or. en

Amendment 154

Jeppe Kofod

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 155

Pirkko Ruohonen-Lerner

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that competent authorities follow up on the reports by taking the necessary measures

3. Member States ***and EU institutions*** shall ensure that competent authorities follow up on the reports by taking the

and investigate, to the extent appropriate, the subject-matter of the reports. The competent authorities shall communicate to the reporting person the final outcome of the investigations.

necessary measures and investigate, to the extent appropriate, the subject-matter of the reports. The competent authorities shall communicate to the reporting person the final outcome of the investigations.

Or. en

Amendment 156

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 6 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 157

Jeppe Kofod

Proposal for a directive

Article 6 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 158
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Member States **and EU institutions** 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.

Or. en

Amendment 159
Jeppe Kofod

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

Text proposed by the Commission

Amendment

a a) they are designed, set up and operated in a manner that ensures the confidentiality of the personal information of the reporting person or persons and effectively prevents access to non-authorised staff members of the competent authority and keeps information on which staff members have accessed this information and when;

Or. en

Amendment 160
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

c a) they guarantee free and independent advice and legal support for reporting persons and intermediaries.

Or. en

Amendment 161

Molly Scott Cato

on behalf of the Verts/ALE Group

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 his/her legal representative.***

Or. en

Amendment 162

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 4

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 163
Pirkko Ruohonen-Lerner

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

Or. en

Amendment 164
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 165
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 166
Jeppe Kofod

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 **confidential** contact with the reporting person **and/or their trusted representatives** for the purpose of informing the reporting person of the progress and the outcome of the investigation.

Or. en

Amendment 167
Jeppe Kofod

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

Text proposed by the Commission

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

Amendment

b) a reasonable timeframe, not exceeding three months or six months in duly justified cases, for giving **substantive** feed-back to the reporting person about the follow-up of the report and the type and content of this feed-back, **4 weeks to provide initial feedback and 1 week to provide a confidential note of receipt.**

Or. en

Amendment 168

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 – point b

Text proposed by the Commission

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

Amendment

b) a reasonable timeframe, not exceeding *two months, forgiving* feed-back to the reporting person about the follow-up of the report and the type and content of this feed-back;

Or. en

Amendment 169

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

c a) giving the reporting person the opportunity, without compelling him/her, to look over, examine and comment on the draft report over the course of the investigation, and the final report before it is published at the end of the investigation.

Or. en

Amendment 170

Pirkko Ruohonen-Lerner

Proposal for a directive

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 171

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 172

Pirkko Ruohonen-Lerner

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Member States *and EU institutions* shall ensure that competent authorities keep records of every report received.

Or. en

Amendment 173

Pirkko Ruohonen-Lerner

Proposal for a directive

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that competent authorities review their procedures for receiving reports and their follow-up regularly, and at least once every two years. In reviewing such procedures competent authorities shall take account of their experience and that of other competent authorities and adapt their procedures accordingly.

Member States **and EU institutions** shall ensure that competent authorities review their procedures for receiving reports and their follow-up regularly, and at least once every two years. In reviewing such procedures competent authorities shall take account of their experience and that of other competent authorities and adapt their procedures accordingly.

Or. en

Amendment 174

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 175

Ramon Tremosa i Balcells

Proposal for a directive

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Natural persons shall address the permanent representations of the European Union in their municipalities, or in the closest municipalities to their municipality, in order to report on breaches of Union law. The representations of the EU shall assist

these persons.

Or. en

Amendment 176
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 177
Molly Scott Cato
on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

Amendment

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

deleted

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

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

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

person, in accordance with Article 4(2);

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

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

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

Or. en

Amendment 178

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

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

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

Or. en

Amendment 179
Pirkko Ruohonen-Lerner

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

Text proposed by the Commission

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

Amendment

Member States **and EU institutions** 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:

Or. en

Amendment 180
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

g) coercion, intimidation, harassment, **discrimination** or ostracism;

Or. en

Amendment 181
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

n) cancellation of a licence or permit.

Amendment

n) cancellation of a licence or permit;

Or. en

Amendment 182
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

n a) loss of benefits or status;

Or. en

Amendment 183
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

n b) retaliatory investigations;

Or. en

Amendment 184
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

n c) cancellation of duties;

Or. en

Amendment 185
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

n d) suspension of revocation of security clearance;

Or. en

Amendment 186

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 14 – paragraph 1 – point n e (new)

Text proposed by the Commission

Amendment

n e) obstruction or cancellation of retirement benefits;

Or. en

Amendment 187

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 14 – paragraph 1 – point n f (new)

Text proposed by the Commission

Amendment

n f) initiation of retaliatory lawsuits or prosecutions.

Or. en

Amendment 188

Jeppe Kofod

Proposal for a directive

Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14 a

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

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

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

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

(c) psychological support;

2. This support may be provided by an independent administrative authority, trade unions or other organisations representing workers or an accredited body designated by the Member State, provided that it fulfils the following criteria:

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

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

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

Or. en

Justification

As included in JURI draft report, with slight amendments to widen protections included.

Amendment 189
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Member States *and EU institutions* 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.

Or. en

Amendment 190
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 15 – paragraph 8

Text proposed by the Commission

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

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

Amendment

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

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

Or. en

Amendment 191
Jeppe Kofod

Proposal for a directive
Article 15 a (new)

Article 15 a

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

1. The identity of the reporting person or persons may not be disclosed without their express consent. This duty of confidentiality also includes information which may be used to identify the reporting person.

2. A person who possesses or obtains the information referred to in paragraph 1 shall be duty-bound not to disclose it.

3. The circumstances in which, by way of derogation from paragraph 2, information germane to the identity of the reporting person may be disclosed shall be limited to exceptional cases where disclosure of such information is a necessary and proportionate obligation required by Union or national law in the context of subsequent investigations or judicial proceedings or to safeguard the freedoms of others including the right of defence of the concerned person, and in each case subject to appropriate safeguards under such laws. In such cases appropriate and effective steps must be taken to ensure the safety and well-being of the reporting person or persons.

4. In the cases referred to in paragraph 3, the person designated to receive the report shall inform the reporting person in due time before disclosing his or her identity and consult with them on other possible alternative courses of action.

5. The internal and external reporting channels shall be designed in such a way as to ensure the identity of the reporting person remains confidential and to prevent access by non-authorized persons. Information shall be kept on which staff members have accessed confidential information, including time and dates of such access.

Justification

Strengthening provision in proposed Article 15a of JURI draft.

Amendment 192

Pirkko Ruohonen-Lerner

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the concerned persons fully enjoy the right to an effective remedy and to a fair trial as well as the presumption of innocence and the rights of defence, including the right to be heard and the right to access their file, in accordance with the Charter of Fundamental Rights of the European Union.

Amendment

1. Member States **and EU institutions** shall ensure that the concerned persons fully enjoy the right to an effective remedy and to a fair trial as well as the presumption of innocence and the rights of defence, including the right to be heard and the right to access their file, in accordance with the Charter of Fundamental Rights of the European Union.

Or. en

Amendment 193

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16 a

Rights of Persons Implicated

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

Or. en

Amendment 194
Pirkko Ruohonen-Lerner

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 195
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 196
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 197

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 17 – paragraph 2

Text proposed by the Commission

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

Amendment

2. Member States shall provide for effective, proportionate and dissuasive penalties applicable to persons making malicious or abusive reports or disclosures ***by retaining the protection and applying the rules of general law.***

Or. en

Amendment 198

Jeppe Kofod

Proposal for a directive

Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

Obligation to cooperate

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

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

contact for further cooperation.

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

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

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

Or. en

Justification

The reports of both TAXE, TAX2 and PANA have all documented failings in the cooperation between competent Member States' authorities in cases of international financial crimes. Therefore a specific article on the obligation to cooperate is needed to ensure that complex cross-border cases are not hindered or needlessly delayed from being investigated and prosecuted due to ineffective cooperation between authorities.

Amendment 199

Molly Scott Cato

on behalf of the Verts/ALE Group

Proposal for a directive

Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17 a

No Waiver of Rights and Remedies

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

unenforceable.

Or. en

Amendment 200
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 20 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 201
Molly Scott Cato
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 202
Pirkko Ruohonen-Lerner

Proposal for a directive
Article 21 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 203

Pirkko Ruohonen-Lerner

Proposal for a directive

Article 21 – paragraph 2 – introductory part

Text proposed by the Commission

2. Without prejudice to reporting obligations laid down in other Union legal acts, Member States shall, on an annual basis, submit the following statistics on the reports referred to in Chapter III to the Commission, if they are available at a central level in the Member State concerned:

Amendment

2. Without prejudice to reporting obligations laid down in other Union legal acts, Member States **and EU institutions** shall, on an annual basis, submit the following statistics on the reports referred to in Chapter III to the Commission, if they are available at a central level in the Member State concerned:

Or. en

Amendment 204

Pirkko Ruohonen-Lerner

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

Amendment

3. The Commission shall, by 15 May 2027, taking into account its report submitted pursuant to paragraph 1 and the Member States' statistics submitted pursuant to paragraph 2, submit a report to

the European Parliament and to the Council assessing the impact of national law transposing this Directive. The report shall evaluate the way in which this Directive has operated and consider the need for additional measures, including, where appropriate, amendments with a view to extending the scope of this Directive to further areas or Union acts.

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.
Statistics and reports related to whistleblowing within EU institutions are published.

Or. en

Amendment 205

Molly Scott Cato

on behalf of the Verts/ALE Group

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.

Or. en

Amendment 206

Jeppe Kofod

Proposal for a directive

Annex I – part I – subpart G – point 4 – point iii a (new)

Text proposed by the Commission

Amendment

(iii a) Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs.

