



2016/2055(INI)

21.10.2016

OPINION

of the Committee on Constitutional Affairs

for the Committee on Budgetary Control

on the role of whistle-blowers in the protection of the EU's financial interests
(2016/2055(INI))

Rapporteur: Morten Messerschmidt

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SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Maintains that whistle-blowers play an essential role in helping Member State and EU institutions and bodies to prevent and tackle any breaches of the principle of integrity and misuse of power that threaten or violate public health and safety, financial integrity, the economy, human rights, the environment or the rule of law at European and national levels, or that raise unemployment, restrict or distort fair competition and undermine the trust of citizens in democratic institutions and processes; stresses that, in this regard, whistle-blowers contribute greatly to increasing the democratic quality of, and the trust in, public institutions by making them directly accountable to citizens and more transparent;
2. Notes that both the whistle-blowers and the public body or institution involved should be ensured the legal protection of rights guaranteed by the European Charter of Fundamental Rights and by national legal provisions;
3. Recalls that Article 22(c) of the Staff Regulations requires EU institutions to introduce internal whistle-blowing rules providing protection for whistle-blowers who report suspected abuses, and for their rights and interests, and to provide for protection and prevention policies, as well as for adequate remedies against possible retaliation by the institution for which they work;
4. Regrets that not all EU institutions and bodies have adopted the rules; calls, therefore, on them to adopt and apply such rules to protect whistle-blowers without delay;
5. Recalls that the Member States, as first consignees of EU funds, have an obligation to scrutinise the legality of how they are spent;
6. Considers it necessary to foster an ethical culture helping to ensure that whistle-blowers will not suffer retaliation or face internal conflicts;
7. Takes note that the Commission, in its EU Anti-Corruption report, stated that while the Member States have in place most of the necessary anti-corruption legal instruments and institutions, the results they deliver are not satisfactory across the EU; calls, therefore, on the Member States to make concrete efforts to ensure adequate capacity to these instruments and institutions, and to improve their efficiency; notes with concern that anti-corruption rules are not always vigorously enforced, that systemic problems are not tackled effectively enough, that relevant institutions do not always have sufficient capacity to enforce the rules, that declared intentions are still too distant from concrete results, and that genuine political will to eradicate corruption often appears to be missing; calls, therefore, on the Member States to enforce effective anti-corruption rules and, at the same time, to properly implement European and international standards and guidelines concerning whistle-blowers' protection in their national laws;
8. Calls on the Commission to take legislative action, with the aim of improving transparency, to provide full access to documents, and to combat corruption, including mafia-related activities; regards it as essential that legislative provisions designed to

guarantee greater transparency and traceability of financial flows, in particular as far as EU funds are concerned, are strengthened, including by means of final audits to check that the funds have been used properly;

9. Regrets that many Member States have yet to put in place dedicated whistle-blower protection rules, notwithstanding the essential need of whistle-blower protection in the prevention of, and fight against, corruption, and despite the fact that whistle-blower protection is recommended in Article 33 of the UN Convention against Corruption;
10. Recalls that Commission Directive 2015/2392 sets out the procedures for reporting, record-keeping requirements, and protection measures for whistle-blowers; underlines the importance in guaranteeing that whistle-blowers can report infringements in a confidential way and that their anonymity is properly and fully safeguarded, also in the digital environment, but regrets that this is one of the few pieces of sectorial legislation that includes provisions for whistle-blowers;
11. Calls on the Commission to set up an EU legal framework on the protection of whistle-blowers in order to improve their protection in the Member States;
12. Encourages the Commission to study best practices from whistle-blower programmes already in place in other countries around the world; draws attention to the fact that some existing schemes provide financial rewards to whistle-blowers (such as a percentage of the sanctions ordered); considers that although this needs to be managed carefully to prevent potential abuse, such rewards could provide important income to persons who have lost their jobs as a result of whistle-blowing;
13. Calls on the Member States to refrain from criminalising the actions of whistle-blowers in disclosing information about illegal activities or irregularities harmful to the EU's financial interests;
14. Regrets the Commission's decision to withdraw a chapter on the EU institutions from its report on corruption in the Member States, and calls, therefore, on the Commission to reintroduce a chapter on this important aspect;
15. Calls on all EU institutions to address the Ombudsman's own initiative report of 24 July 2014, in compliance with Article 22(c) of the new Staff Regulation, inviting all EU bodies to adopt ethical alert mechanisms and whistle-blowing legal frameworks directly based on the internal rules of the Ombudsman's office; reiterates its determination to do so;
16. Calls on the Commission and the Member States to develop and put in place specific policies and programmes to raise awareness of the social importance of whistle-blowers in ensuring respect for the principle of integrity, detecting violations of fundamental rights and the rule of law, and avoiding the misuse of power within our societies;
17. Calls for accessible, secure and direct channels to be set up that allow information about possible irregularities affecting the EU's financial interests to be shared while ensuring confidentiality where such information and whistle-blowers are concerned;
18. Believes that, in order to avoid any conflicts of interests that could undermine public perception as far as the integrity of the EU institutions is concerned, the Commission

should swiftly revise its Code of Conduct for Commissioners by strengthening its transparency and aligning it with the Treaty rules.

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	20.10.2016
Result of final vote	+: 17 -: 1 0: 0
Members present for the final vote	Mercedes Bresso, Pascal Durand, Danuta Maria Hübner, Diane James, Ramón Jáuregui Atondo, Jo Leinen, György Schöpflin, Pedro Silva Pereira, Barbara Spinelli, Kazimierz Michał Ujazdowski
Substitutes present for the final vote	Isabella Adinolfi, Max Andersson, Gerolf Annemans, Charles Goerens, Sylvia-Yvonne Kaufmann, Jiří Pospíšil
Substitutes under Rule 200(2) present for the final vote	Godelieve Quisthoudt-Rowohl, Csaba Sógor